

# 2013-UNAT-310, Nasrallah

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that it was satisfied that the sanction was not disproportionate and noted that the Secretary-General could have chosen to summarily dismiss Mr Nasrallah or to separate him without compensation and indemnities. UNAT held that, although no investigation was necessary as the facts were not contested, the Organisation committed an egregious error in taking almost two years to finalise the disciplinary proceedings. UNAT noted that this delay worked in Mr Nasrallah's favour, permitting him to benefit from two years' further service. UNAT upheld the appeal and vacated the UNDT judgment in its entirety.

Accountability Referral: UNAT referred the case to the Secretary-General for possible action to enforce accountability regarding the severe delay in the disciplinary proceedings.

## Decision Contested or Judgment/Order Appealed

The Applicant contested his separation from service with compensation in lieu of notice and with termination indemnity, following his arrest and incarceration for the use of illegal drugs. UNDT found that the sanction imposed was disproportionate, ordered rescission of the decision or compensation in the alternative, with the restoration of lost earnings.

## Legal Principle(s)

When reviewing a disciplinary sanction imposed by the Administration, the role of the Tribunal is to examine whether the facts on which the sanction is based have been established, whether the established facts qualify as misconduct, and whether the sanction is proportionate to the offence. UNAT should not substitute its own

judgment for that of the Secretary-General. Having established misconduct and the seriousness of the incident, UNAT can only review the level of a sanction imposed in cases of obvious absurdity or flagrant arbitrariness.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Nasrallah

## Entity

UNIFIL

## Case Number(s)

2012-346

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

28 Mar 2013

## President Judge

Judge Weinberg de Roca

Judge Faherty

Judge Lussick

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Dismissal/separation

Violation of local laws

Referral for accountability

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Disciplinary sanction

## Applicable Law

Former Staff Rules

- Rule 110.4

UNAT Statute

- Article 9.5

## Related Judgments and Orders

UNDT/2012/072

2013-UNAT-292

2010-UNAT-040

2010-UNAT-089

2010-UNAT-024

2010-UNAT-028

2010-UNAT-098