

# 2016-UNAT-698, Nyasulu

## UNAT Held or UNDT Pronouncements

UNAT considered the Secretary-General's appeal, which was limited to a challenge of UNDT's method of calculating the compensation awarded to Mr Nyasulu as an alternative to the rescission. UNAT noted that Mr Nyasulu presumably had no objection to the compensation being re-calculated, as he did not rebut the appeal. UNAT found that it had no option but to remand the case as, in order to rule on the Secretary-General's request, it would first need to be satisfied that UNDT's calculation of compensation in lieu of rescission was not correct. UNAT held that that could not be done because UNDT gave no reasons for applying the impugned exchange rate. UNAT remanded UNDT's judgment to state the reasons, facts, and law on which its method of calculation the compensation in lieu of rescission was based.

## Decision Contested or Judgment/Order Appealed

Mr Nyasulu contested the decision not to renew his appointment and the decision to require him to go through a competitive recruitment process for the position of Principal Rule of Law Officer, United Nations Mission in Liberia (UNMIL) at the D-1 level. UNDT ordered rescission of the contested decision and reinstatement of the Applicant and his deployment to the next similar position as at the time of his separation. In the alternative, UNDT ordered one-year compensation as follows: (a) four months' net base salary for the period that Mr Nyasulu was not working, and (b) the "difference in pay for eight months between his last salary (a total of approximately USD 139,559) and his salary as a Special Prosecutor in Malawi (total of approx. USD 65,000)". UNDT also awarded Mr Nyasulu compensation for the "substantive and procedural irregularities occasioned to him by the failure of UNMIL Administration to conduct a comparative review to determine his suitability for reassignment to a new position" in the amounts of (a) one month's net base salary as compensation for the substantive irregularity and (b) one month's net base salary for the procedural irregularities.

## Legal Principle(s)

The judgments of the Dispute Tribunal shall be issued in writing and shall state the reasons, facts, and law on which they are based.

## Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Nyasulu

Entity

UNMIL

Case Number(s)

2016-928

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Oct 2016

Language of Judgment

English  
Issuance Type  
Judgment  
Categories/Subcategories  
Compensation  
In-lieu compensation  
Applicable Law  
UNDT Statute

- Article 11.1

Related Judgments and Orders  
UNDT/2016/020  
2011-UNAT-162  
2010-UNAT-059