

UNDT/2025/006, Likukela

UNAT Held or UNDT Pronouncements

The Tribunal held that the facts upon which the disciplinary sanction was issued were proven by clear and convincing evidence and very serious. The Applicant admitted the facts upon which the discipline was imposed. The Tribunal rejected the Applicant's various arguments for which she failed to return monies erroneously deposited to her personal account by UNFCU, holding that there was no evidence that the Applicant was entitled to Appendix D or separation benefits, that the failure by UNFCU to provide specifics of who had made the erroneous transfer was irrelevant. The Tribunal further held that it was bound by a decision of the Zambia High Court which found that the monies were erroneously transferred. The falsified documents submitted by the Applicant, purporting to be judgments of the Zambian court had no legal validity or effect.

The Applicant engaged in dishonest conduct. Her conduct is particularly egregious given her previous roles in the United Nations as an investigator and as Chief of the Special Investigations Unit.

The Tribunal further rejected the Applicant's argument that her due process rights had been violated, finding that the Applicant had been interviewed during an investigation and that she was provided an opportunity to respond to both the investigation report and the subsequent formal allegations of misconduct made by the Organization. The Tribunal also held that the Applicant did not present evidence of racial discrimination, harassment or abuse of authority to support her assertion in that regard.

Decision Contested or Judgment/Order Appealed

The Applicant filed an application to contest the decision to impose on her the disciplinary measure of separation from service with compensation *in lieu* of notice, and without termination indemnity, in accordance with staff rule 10.2(a)(viii) for her

refusal to return and/or make arrangements for the return to UNFCU of funds that had been erroneously transferred to her account.

Legal Principle(s)

The Tribunal was bound by a decision of the Zambia High Court in a matter brought by UNFCU against the Applicant in this matter, as the Appeals Tribunal has already held [in Benamar 2017-UNAT-797] that "a decision of a national court ... must be obeyed if and to the extent that it is enforceable."

The Applicant's reliance on the privileges and immunities accorded to UN staff members as a rationale for her failure to participate in the hearings before the Zambia High Court is misplaced, in that the staff regulation 1.1(f) specifically provides that the privileges and immunities clause does not "funish an excuse for non-performance of [a staff member's] private obligations".

Outcome

Dismissed on merits

Outcome Extra Text

In light of the foregoing, the Tribunal DECIDES to deny the application in its entirety.

Full judgment

[Full judgment](#)

Applicants/Appellants

Likukela

Entity

MONUSCO

Case Number(s)

UNDT/NBI/2024/037

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

7 Feb 2025

Duty Judge

Judge Wallace

Language of Judgment

English

Appeal Status

Appealed

Issuance Type

Judgment

Categories/Subcategories

Dismissal/separation

Disciplinary matters / misconduct

Applicable Law

Staff Regulations

- Regulation 1.1(f)

Staff Rules

- Rule 10.2(a)(viii)

UNDT Statute

- Article 9.4

Related Judgments and Orders

2017-UNAT-797

UNDT/2016/180

2020-UNAT-1033

2010-UNAT-084

2010-UNAT-084

2020-UNAT-1024

2015-UNAT-550