

UNDT/2024/084, Kisumiro

Décisions du TANU ou du TCNU

The Tribunal found that in this case, the evidence adduced by the Respondent was neither clear nor convincing. Accordingly, the Tribunal held that the Respondent had failed to show that it was highly probable that the Applicant had committed the alleged misconduct and thus had failed to meet its burden of proof. Accordingly, the Tribunal decided to:

- a. Rescind the decision to separate the Applicant from service;
- b. Set the amount of compensation that the Respondent may elect to pay in lieu of implementing the rescission at two years net salary with interest at the US prime rate from the date of the improper termination;
- c. Implore the Administration not to elect payment of compensation in lieu of reinstating the Applicant to the position from which he was wrongfully terminated; and
- d. Deny all other claims for relief in the case.

Décision Contestée ou Jugement Attaqué

The Applicant contested MONUSCO's decision to separate him from service with compensation in lieu of notice and without termination indemnity.

Principe(s) Juridique(s)

Pursuant to the jurisprudence of the Tribunal, the role of the UNDT in disciplinary cases is to perform a judicial review of the case and assess the following elements:

- i. Whether the facts on which the disciplinary measure was based were established by clear and convincing evidence;
- ii. Whether the facts established amount to misconduct;
- iii. Whether the staff member's due process rights were guaranteed during the entire proceeding; and
- iv. Whether the sanction is proportionate to the gravity of the offence.

Résultat

Jugement rendu en faveur du requérant en intégralité ou en partie

Texte Supplémentaire du Résultat

The Tribunal:

- a. Set the amount of compensation that the Respondent may elect to pay in lieu of implementing the rescission at two years net salary with interest at the US prime rate from the date of the improper termination; and
- b. Implored the Administration not to elect payment of compensation in lieu of reinstating the Applicant to the position from which he was wrongfully terminated.

Texte intégral du jugement

[Texte intégral du jugement](#)

Applicants/Appellants

Kisumiro

Entité

MONUSCO

Numéros d'Affaires

UNDT/NBI/2023/055

Tribunal

TCNU

Lieu du Greffe

Nairobi

Date of Judgement

23 Oct 2024

Duty Judge

Judge Wallace

Language of Judgment

Anglais

Type de Décision

Jugement

Catégories/Sous-catégories

Disciplinary matters/ misconduct

Droit Applicable

Instructions Administratives

- ST/IA/2017/1

Statut du personnel

- Chapitre X

Jugements Connexes

2023-UNAT-1370

2015-UNAT-550
2020-UNAT-1024
2010-UNAT-084
2023-UNAT-1368
2019-UNAT-899
UNDT/2018/086
2017-UNAT-712
2012-UNAT-247
2011-UNAT-188