

# **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