

2016-UNAT-707, Krioutchkov

UNAT Held or UNDT Pronouncements

UNAT rejected the request that the Secretary-General produced the underlying job description for the post, to verify if a typing requirement had been introduced since the last revision, finding that it would be neither necessary nor useful for the fair and expeditious resolution of the case. UNAT held that the Appellant had failed to demonstrate that the contested decision fulfilled objective criteria of UNAT's competence. UNAT held that, considering that the test was to be taken online, with the Appellant being based in Bangkok and the test being administered from New York, it was normal to expect that the candidate would have to use a Russian keyboard to type his answers. UNAT rejected the Appellant's claim that the Organisation should have provided formal typing training since other candidates could take and pass the test without such training. UNAT rejected the Appellant's claim that typing is obsolete, or a competency required in a different job category, noting that all the other candidates involved in the selection process successfully typed their answers and submitted their exercises. UNAT held, regarding the argument of long-term and system-wide discrimination, that in the present case the Appellant had been given the opportunity to extensively present his arguments before this system of justice, albeit unsuccessfully. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to select him for a post of Russian Reviser at P-4 level. UNDT rejected the application. UNDT identified the core issue as, whether it was lawful to require the Applicant to type in Russian as part of the competitive selection exercise. UNDT answered this question affirmatively. UNDT found that the Administration's decision requiring senior specialists in the Russian language to be able to type in Russian is within the discretion allowed by the Administration and, absent irrationality or perversity, it was not for UNDT to interfere.

Legal Principle(s)

The competence of UNAT is limited to certain issues. For a first instance decision to be vacated or overturned, an appellant must provide proof that the first instance tribunal, in rendering its judgment, exceeded its jurisdiction or competence, failed to exercise jurisdiction vested in it, erred on a question of law, committed an error in procedure such as to affect the decision of the case, or erred on a question of fact, resulting in a manifestly unreasonable decision. It follows that it is not enough for an appellant to disagree with the findings of fact or the conclusions of law made by the trial court. Rather, for an appeal to succeed, an appellant must persuade this Tribunal that the contested decision fulfills the objective criteria of its competence.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Krioutchkov

Entity

DGACM

Case Number(s)

2016-941

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Oct 2016

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Written test

Applicable Law

GA Resolutions

- A/RES/61/261

UNAT Statute

- Article 2

Related Judgments and Orders

UNDT/2016/041

2010-UNAT-051

2010-UNAT-045

2014-UNAT-416