

2019-UNAT-924, Krioutchkov

UNAT Held or UNDT Pronouncements

UNAT considered all the grounds of the appeal and held that the issue of whether the Appellant's application was pre-screened by a Human Resources Officer was irrelevant to determine whether his candidature received full and fair consideration. UNAT held that the main issue for its determination was whether, at the time of application, the Inspira system had provided all of the correct options to the Appellant. UNAT held that this was a factual determination which, without relevant evidence, could not be made. UNAT held that UNDT failed to enquire as to what options were available in the Inspira system. UNAT held that the UNDT's finding that Inspira did not reflect the variety of the educational systems of all the Member States equally and that therefore the Appellant had not been afforded full and fair consideration was not supported by the facts. UNAT held that the UNDT erred on a question of fact which resulted in a manifestly unreasonable decision. UNAT upheld the appeal, vacated the UNDT judgment, and remanded the matter back to UNDT for additional findings of fact.

Decision Contested or Judgment/Order Appealed

Following a previous application to UNDT and the corollary judgment, which was appealed to UNAT, this matter was remanded to UNDT. UNDT concluded that the Applicant's application had not been afforded full and fair consideration and that, as a result, his exclusion from the recruitment process was unlawful. UNDT considered that the Applicant's request for compensation for loss of opportunity to have been fully compensated and rejected his claim for moral damages on grounds that he did not meet the requisite standard of proof.

Legal Principle(s)

Without the relevant evidence, a factual determination cannot be made.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Krioutchkov

Entity

DGACM

Case Number(s)

2018-1217

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2019

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2010/3

Related Judgments and Orders

UNDT/2018/103