



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2017-UNAT-711

**Krioutchkov
(Appellant)**

v.

Secretary-General of the United Nations

Counsel for Mr. Krioutchkov: Self-represented

Counsel for Secretary-General: Carla Hoe

(typing in Russian). He also complained that the JO did not mention typing in Russian as a requirement.

6. By e-mail dated 27 November 2014, Mr. Krioutchkov was notified of his non-selection for the P-4 post. On 22 January 2015, he filed a request for management evaluation of the 27 November 2014 decision and was informed on 23 February 2015 that the Secretary-General had decided to uphold the contested decision.

7. On 20 May 2015, Mr. Krioutchkov applied to the Dispute Tribunal to contest the decision not to select him for the P-4 post. In Judgment No. UNDT/2016/042 now under appeal, the Dispute Tribunal found Mr. Krioutchkov's application to be without merit and rejected it.

Submissions

Mr. Krioutchkov's Appeal

8. By unofficially making typing in Russian a disqualifying requirement, when not a single official document lists typing in Russian as a requirement, the Administration undermined Mr. Krioutchkov's selection chances and denied him the protection of his conditions of service. The fact that the Administration allowed hand writing in some tests while banning it in others created unequal conditions and undermined the objectivity of the selection process. And to make somebody type under the threat of being disqualified from the selection process "means to intimidate, discriminate against and demonstrate bias and prejudice".

9. It is manifestly unreasonable for the Administration to conduct one test after another, when "the best qualified candidates" such as Mr. Krioutchkov due to his roster status are already available, causing considerable duplication of evaluation activities and waste of human and financial resources.

10. Mr. Krioutchkov has been on the P-4 roster since 2008 and his repeated non-selection does not serve the interest of the Organization to use rosters as the primary means of filling vacancies so as to ensure significant gains in time. This treatment is not a valid exercise of the Administration's discretion in the roster usage, but is the result of a biased approach of a particular manager. The fact that these restrictive practices have been used for P-3 to P-4 promotions for Russian translators does not make them legitimate since they do not serve the best interest of the Organization and contradict Staff Regulation 4.2.

11. Mr. Krioutchkov requests that the Appeals Tribunal modify the UNDT Judgment and award him appropriate relief.

The Secretary-General's Answer

12. The Dispute Tribunal correctly upheld the contested decision. Requiring candidates to type their answers to the questions in the test was lawful, reasonable and rational. As the majority of the tests are administered online and through e-mail submissions, it is necessary for the test takers to type both answers to the test questions and the accompanying correspondence. It was reasonable for the Administration, within its discretion, to decide to administer a written test to assess the shortlisted candidates, including Mr. Krioutchkov.

13. In the present case, all shortlisted candidates were invited to take the written test, and the clear implication of the JO and the e-mail invitation from the test administrator was that the completion of the test would require a word processor and thus typed answers. Mr. Krioutchkov's candidacy was removed from further consideration after the test because he had failed to answer the questions and to complete the test. The Administration thus acted validly within its discretion and Mr. Krioutchkov's candidacy was given full and fair consideration.

14. Mr. Krioutchkov asserts generally and vaguely that the UNDT erred in law and in fact, without establishing any ground for appeal as set forth in Article 2(1) of the Statute of the Appeals Tribunal (Statute) or specifying how or in what way the UNDT Judgment is defective.

15. In his appeal, Mr. Krioutchkov either reiterates the arguments he advanced before the Dispute Tribunal or the comments he made on the Secretary-General's reply before the Dispute Tribunal. He is essentially rearguing his case.

16. The Secretary-General requests that the Appeals Tribunal uphold the Dispute Tribunal Judgment and dismiss the appeal in its entirety.

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2017-UNAT-711

Original and Authoritative Version: English

Dated this 31st day of March 2017 in Nairobi, Kenya.

(Signed)

Judge Raikos, Presiding

(Signed)

Judge Chapman

(Signed)

Judge Halfeld

Entered in the Register on this 26th day of May 2017 in New York, United States.

(Signed)

Weicheng Lin, Registrar