



Judgment No. 2016-UNAT-707



Counsel for Mr. Krioutchkov: Self-represented

Counsel for Secretary-General: Carla Hoe

**JUDGE MARTHA HALFELD, PRESIDING.**

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Vladislav Krioutchkov against Judgment No. UNDT/2016/041, rendered by the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Geneva on 26 April 2016 in the case of *Krioutchkov v. Secretary-General of the United Nations*. Mr. Krioutchkov filed the appeal on 24 June 2016, and the Secretary-General filed an answer on 23 August 2016.

**Facts and Procedure**

2. Mr. Krioutchkov was a Russian Translator at the P-3 level at the Economic and Social Commission for Asia and the Pacific in Bangkok at the material time.

3. On 17 December 2013, the post of Russian Reviser (P-4), Russian Translation Service, with the Department for General Assembly and Conference Management, at the United Nations Headquarters, was advertised under Job Opening (JO) 13-LAN-DGACM-31928-R-NEW YORK (L). Mr. Krioutchkov applied, was shortlisted, and was invited to take a technical evaluation test.

4. In an e-mail dated 5 April 2014, the Chief of the Russian Translation Service and the Hiring Manager asked Mr. Krioutchkov to confirm his availability for the technical evaluation test between 11 and 14 April 2014. The Chief explained that the test would be administered through a testing web site and the link to the test would be e-mailed to him. “Once you get access to the test through the link that you received you will have 12 hours to paste your translation and revision texts on the test web site.” Mr. Krioutchkov and the Hiring Manager continued their e-mail exchanges on the logistics of the written test. The test was rescheduled to accommodate Mr. Krioutchkov’s conflicting commitments. To Mr. Krioutchkov’s query on whether any special equipment and/or skills were required, the Hiring Manager replied, by e-mail dated 17 April 2014, that no specific equipment was required “but naturally [he] need[ed] a computer with internet connection, a web browser and [his] favourite text editor”.<sup>1</sup>

5. On 30 April 2014, Mr. Krioutchkov opened the online link to the two-question written test. On the same day, he wrote to the Hiring Manager stating that the test required special equipment, such as a Russian keyboard and a printer, and special skills, i.e. typing, and added

---

<sup>1</sup> Impugned Judgment, para. 3.

that the Hiring Manager's "misleading statements prevented [him] from taking the test".<sup>2</sup> Mr. Krioutchkov did not answer either of the two questions of the test.

6. On 27 August 2014, Mr. Krioutchkov was notified of his non-selection for the post.

7. Mr. Krioutchkov appealed. In Judgment No. UNDT/2016/041 now under appeal, the Dispute Tribunal rejected his application. The UNDT identified the core issue from the manner in which Mr. Krioutchkov argued his case as "whether it was lawful to require [Mr. Krioutchkov] to type in Russian as part of the competitive selection exercise".<sup>3</sup> It answered the question in the affirmative. "The administration of a written test is a lawful and [...] common means of assessing the technical skills of candidates in a selection process", as long as it is "fair and reasonable, and not designed deliberately to confer an advantage on a preferred candidate or, alternatively, to disadvantage a particular candidate".<sup>4</sup> In the present





18. 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.<sup>9</sup> In the present case, however, this did not occur.

19. In his appeal, Mr. Krioutchkov argues that the job opening did not mention

22. Considering the fact that the test was to be taken online, with the Appellant being based in Bangkok and the test being administered from New York, it would have been normal to expect that the candidate would use a Russian keyboard to type his answers.

23. With respect to the provision that “[a]pplicants work on paper” stipulated in the *Compendium of administrative policies, practices and procedures of conference services*,<sup>13</sup> the Appeals Tribunal notes that this provision is directed to candidates *in loco* who would receive the papers “in a sealed envelope that may be opened or closed only with two signatures” “in all centres” “at the same time”.<sup>14</sup> This also explains why the test in the Bangkok Exam Centre also stated that it was “a paper based test”.

24. Therefore, Mr. Krioutchkov’s submissions do not convince this Tribunal. In the present case, the conditions of the examination were different from those envisaged in the *Compendium*, as the exam was administered online taking into account the time difference between New York and Bangkok, where the Appellant was based. There was thus no manner in which the Appellant could have participated in the examination other than by typing his answers to the exercise, uploading the text and submitting it by e-mail. There was, in the very

Organization. Moreover, it is generally expected that experienced translators, like the Appellant, are also experienced in typing, just as it can be expected that they are able to “draft ... summary records”, prepare “terminological bulletins and glossaries, technical vocabularies” and, furthermore, are able to “correctly interpret messages from others and respond appropriately”, as well as “ask questions to clarify”, as mentioned in the concerned job opening.

27. Turning to Mr. Krioutchkov’s argument that typing was obsolete or a competency required in a different job category, we note that all the other candidates involved in the selection process successfully typed their answers and submitted their exercises. Therefore, it does not respond to the requirements of equal treatment to provide the Appellant with special conditions for the exercise, which was, furthermore, a pe



30. Moreover, and contrary to Mr. Krioutchkov's contention, when the Organization invites rostered candidates to a technical evaluation, it does not avoid the "best qualified candidates"; it rather creates conditions so that these candidates can compete on equal terms.

31. As to the argument of "long term and system[-]wide discrimination", the Appeals Tribunal notes that, in the present case, the Appellant has been given the opportunity to extensively present his arguments before this system of justice, albeit unsuccessfully. We also note his submission that he has brought previous cases to the attention of this system of justice.

32. The Appeals Tribunal finds no reason to overturn the impugned decision, particularly since the Appellant did not complete the evaluation exercise, all candidates having been afforded equal treatment. Thus, the challenged decision is far from being absurd or perverse; in fact, the opposite is true: it is manifestly reasonable.

33. Having carefully examined the case, the Appeals Tribunal finds no merit in Mr. Krioutchkov's appeal.

### **Judgment**

34. For the foregoing reasons, the appeal is dismissed and Judgment No. UNDT/2016/041 is affirmed.

Original and Authoritative Version: English

Dated this 28<sup>th</sup> day of October 2016 in New York, United States.

*(Signed)*

Judge Halfeld, Presiding

*(Signed)*

Judge Thomas-Felix

*(Signed)*

Judge Knierim

Entered in the Register on 20<sup>th</sup> December 2016 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar