



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

Judgment No. 2019-UNAT-919

**Krioutchkov
(Respondent/Applicant)**

v.

Secretary-General of the United Nations

Counsel for Mr. Krioutchkov: Mohamed Abdou, OSLA

Counsel for Secretary-General: Francisca Lagos Pola

JUDGE DEBORAH THOMAS-FELIX, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNDT/2018/104, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 17 October 2018, in the case of *Krioutchkov v. Secretary-General of the United Nations*. The Secretary-General filed the appeal on 16 November 2018, and Mr. Vladislav Krioutchkov filed his answer on 15 January 2019.

Facts and Procedure

2. Mr. Krioutchkov is a Russian Translator (P-3), holding a permanent appointment at the Economic and Social Commission for Asia and the Pacific, based in Bangkok.

3. On 5 August 2016, he applied for the position of Russian Reviser/Self-Revising Translator (P-4) at the United Nations Office at Vienna advertised under Job Opening (JO) Number 63349. On 1 May 2017, he was notified of his non-selection.

4. On 18 May 2017, Mr. Krioutchkov requested management evaluation of the decision not to select him for the JO and on 25 July 2017, the Under-Secretary-General for Management replied to Mr. Krioutchkov upholding the non-consideration and non-selection decision. On 20 October 2017, Mr. Krioutchkov filed an application with the UNDT contesting his non-consideration and non-selection.

5. On 17 October 2018, the UNDT issued Judgment No. UNDT/2018/104. The UNDT found that Mr. Krioutchkov's application had been erroneously screened out by a Human Resources Officer on the basis that Mr. Krioutchkov did not hold a first level university degree as required by the JO.

6. The UNDT noted that Mr. Krioutchkov had indicated in his Personal History Profile (PHP) in *Inspira* that he had obtained a "certificate/diploma" because the degree he had obtained from his university in the former Soviet Union was commonly referred to as "diploma". Moreover, when selecting in *Inspira* the "degree/diploma" awarded, candidates for vacancy announcements could only choose between five options of the Anglo-Saxon educational system, to the apparent exclusion of the terminology used by other educational systems. The UNDT noted that, had Mr. Krioutchkov referred to his academic qualifications by something other than its actual title, he would have taken the risk of misrepresenting his academic qualifications.

Furthermore, there was no explanation as to why Mr. Krioutchkov's translation of his attainment into English had not been taken into consideration by the Administration.

7. The UNDT found that Mr. Krioutchkov held a permanent appointment at the P-3 level and had previously been placed on a roster of pre-approved candidates at the P-4 level, which indicated that his education attainment had been verified and cleared by a Central Review Body.

material to the case or required oral testimony on this point, it could have issued the appropriate orders to obtain this information.

11. The UNDT exceeded its competence and erred in fact when it found that a Human Resources Officer erroneously decided to pre-screen Mr. Krioutchkov's candidature as not meeting the minimal educational requirements, after noting that it was surprising that he had been previously rostered for a similar position using the same appli(pTc.21 ca2(for.4(e samT)-.5(o)-5.64

14. The Secretary-General requests that the Appeals Tribunal vacate the UNDT Judgment in its entirety.

Mr. Krioutchkov's Answer

15. The UNDT's finding that the pre-screening was not automated is neither manifestly unreasonable nor material to the outcome of the case. The UNDT found that *Inspira* was a partially automated system which ran on parameters fed into by staff members of the United Nations. The UNDT thus properly contemplated the possibility that Mr. Krioutchkov might have been automatically excluded by the system, but correctly pointed out that such exclusion would have been the result of parameters administered and introduced by Human Resources Officers. Hence, the fact that holders of "diplomas", such as Mr. Krioutchkov, were excluded from the recruitment process is clearly the product of parameters and settings applied by officials of the Organization.

16. Given that Mr. Krioutchkov had already submitted other applications containing the same information about his education through *Inspira*, there was sufficient evidence for the UNDT to conclude that the relevant information was not machine read. Contrary to the Secretary-General's assertion, the UNDT was under no obligation to seek further evidence to clarify whether the questions asked in respect of education were machine read, particularly given the limited relevance of the issue. Even if the UNDT had erred in its findings, the contested decision would still have been unlawful. It is the Organization's responsibility to ensure that the pre-screening of applications is conducted in a fair and equitable manner. Whether the information was machine read or not does not negate the fact that Mr. Krioutchkov was not given full and fair consideration. As Mr. Krioutchkov met the minimum requirements for the post, he must have passed the pre-screening phase.

17. The UNDT was correct in finding that *Inspira* did not reflect the variety of the educational systems of all Member States. The fact that Mr. Krioutchkov was screened out on the basis of correct and accurate information about his education reveals a clear flaw in the system. The selection system did not account for the possibility that during the former Soviet era university degrees were commonly referred to as "diplomas". The UNDT was therefore correct to conclude that the Organization did not properly exercise its duty of care or fair consideration of Mr. Krioutchkov's candidature.

