



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2010/074

Judgment No.: UNDT/2010/163

Date: 9 September 2010

Original: English

**Before:** Judge Ebrahim-Carstens  
**Registry:** New York  
**Registrar:** Morten Michelsen, Officer-in-Charge

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v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for applicant:**  
Self-represented

**Counsel for respondent:**  
Alan Gutman, ALS/OHRM, UN Secretariat

## **Introduction**

1. On 1 June 2010 the applicant filed a request with the New York Registry of the Dispute Tribunal for an extension of time to file an application contesting the decision not to select her for the position of a P-5 level Senior Reviser in the Chinese Translation Service, Department of General Assembly Affairs and Conference Management. The applicant was informed of the contested decision on or about 4 January 2010 and received a response to her request for management evaluation on 11 March 2010. In her request for an extension of time the applicant specified that the reasons for the request were “the change of counsel and pursuit of informal solution”.

2. On 17 June 2010 the Tribunal granted the applicant until 23 July 2010 to file her application.

3. On 19 July 2010 the applicant filed another request for an extension of time, requesting 90 days from 23 July 2010. In the email by which the applicant transmitted her submission, she stated:

I understand that staff members are strongly encouraged to first try and solve a dispute through informal channels, and it has always been my intention too. As the effort of seeking informal solution is still [ongoing], filing the application at this time may not be conducive to the effort, even have some negative impact. The process took longer time than had been expected for various reasons, and I will be away for some time for family matters. I need to request a further extension of 90 days for the filing of the application. As I have already asked once for the extension, I just changed the date on the form I submitted last time.

4. On 22 July 2010 the respondent filed a reply in opposition to the applicant’s request of 19 July 2010, stating, in effect, that no mediation proceedings were afoot such as to suspend the proceedings before the Tribunal, and that it was therefore incumbent upon the applicant to present facts indicating that this was an exceptional case justifying an extension or waiver of the time limits for filing an appeal.

5. On 22 July 2010 the Tribunal issued Order No. 177 (NY/2010), granting a limited extension of time and directing the applicant to file her application “on or before **Thursday, 12 August 2010**” (emphasis in original). The Order further stated: “It is unlikely that the applicant will be granted any further extensions of time to file her application”. The applicant confirmed receipt of the Order on 22 July 2010 and stated in her email to the Tribunal that “the new deadline for filing the application” happened to coincide with her birthday.

6. As at the date of this Judgment, no application or further correspondence has been received by the Registry from the applicant or anyone on her behalf. Furthermore, the applicant has not sought a further extension of time or a suspension of the proceedings before the Tribunal to pursue mediation.

7. This Tribunal has on several occasions enunciated the cardinal principle of procedural law that the right to institute and pursue legal proceedings is predicated upon the condition that the person exercising this right has a legitimate interest in initiating and maintaining legal action and that access to the court has to be denied to those who are no longer interested in the proceedings or no longer in need of judicial remedy (*Bimo and Bimo* UNDT/2009/061, *Saab-Mekkour* UNDT/2010/047). The applicant has failed to comply with the deadline provided by the Tribunal in Order No. 177, thus demonstrating lack of vigilance and diligence and must be deemed to have abandoned the proceedings. Therefore, this matter stands to be dismissed.

**Order**

8. This matter is hereby dismissed for want of prosecution, without determination on the merits.

*(Signed)*

Judge Ebrahim-Carstens

Dated this 9<sup>th</sup> day of September 2010

Entered in the Register on this 9<sup>th</sup> day of September 2010

*(Signed)*

Morten Michelsen, Officer-in-Charge, UNDT, New York Registry