

UNDT/2010/054, Avina

UNAT Held or UNDT Pronouncements

The application is prima facie not receivable before the UN Dispute Tribunal as it was filed, without leave, on 2 February 2010 and relates to a decision taken on 10 January 2008. The application was not pending before the former UN Administrative Tribunal when it ceased operations on 31 December 2009 and accordingly, this is not a case transferred from the UN Administrative Tribunal. No extension or waiver is granted and the application is rejected in its entirety.

Decision Contested or Judgment/Order Appealed

The applicant sought to appeal an administrative decision taken on 10 January 2008 and advised to him on 15 January 2008 that the Secretary-General had decided to accept the recommendations of the Disciplinary Committee that the applicant be separated from service.

Legal Principle(s)

The Secretary-General's bulletin on Transitional Measures does not exclude any decisions made prior to 2 April 2009 from being challenged before the Tribunal, if properly before it. The case and the reasons outlined in a request for an extension or waiver of time limits must show circumstances which are out of the ordinary, quite unusual, special, or uncommon; they need not be unique, unprecedented or beyond the applicant's control. An applicant must show that he or she has not been negligent or forfeited the right to be heard by inaction or a lack of vigilance. A staff member cannot be said to hand over unreservedly the responsibility for ensuring the lodgment of an application upon the appointment of counsel. It is not necessarily unusual, special, or uncommon for a staff member to find that his rights have not been protected where he himself has not, fully aware of the consequences, taken any responsibility for them.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Avina

Entity

UNDP

Case Number(s)

UNDT/NY/2009/050

Tribunal

UNDT

Registry

New York

Date of Judgement

31 Mar 2010

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

Secretary-General's bulletins

- ST/SGB/2009/11

UNDT RoP

- Article 35
- Article 7.5

UNDT Statute

- Article 8.2
- Article 8.3

Related Judgments and Orders

UNDT/2009/052

UNDT/2010/037