

# 2012-UNAT-196, Odio-Benito

## UNAT Held or UNDT Pronouncements

UNAT held that the Appellant's application was submitted to UNDT after the expiration of the response period; the response period began on the date on which she received a letter from the Management Evaluation Unit informing her that her request for a management evaluation was not receivable because, as a judge, she was not a staff member or a former staff member within the meaning of the Staff Rules. UNAT held that the Appellant's claims that the UNDT judge erred on a question of fact, by considering the letter as the decision that concluded the management evaluation, and that it erred on a question of law by deducing that this reply triggered the time limit were unsubstantiated. UNAT held that UNDT did not err in a question of fact or of law in rejecting the application as not receivable. UNAT dismissed the appeal and upheld the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to retroactively suspend her pension. UNDT rejected her application on the grounds that it was filed late and, therefore, not receivable.

## Legal Principle(s)

When a person, whose right of access to the UN administration of justice system is doubtful, nevertheless chooses to submit a request for management evaluation and, subsequently, an appeal to the UNDT, that person must follow the logic of the procedure: if the Management Evaluation Unit replies that the request is not receivable, that reply, whatever its legal basis, constitutes a management evaluation, the date of receipt of which triggers the 90-day response period established in Article 8. 1 of the UNDT Statute.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Odio-Benito

## Entity

ICTY

## Case Number(s)

2011-199

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

16 Mar 2012

## President Judge

Judge Courtial

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

## Applicable Law

UNDT Statute

- Article 8.1

## Related Judgments and Orders

UNDT/2011/019

2010-UNAT-079