



UNITED NATIONS STAFF UNION
SYNDICAT DU PERSONNEL DE L'ORGANISATION DES NATIONS UNIES
44th STAFF COUNCIL/ 44^{ème} CONSEIL DU PERSONNEL

Resolution/Résolution

Resolution No.: 25

Meeting No.: 67

Date: 14 February 2013

**Grievance Against the Post Adjustment Freeze in New York
 from 1 August 2012 to 31 January 2013**

The Staff Council,

Noting that in accordance with the methodology approved by the General Assembly, an increase of post adjustment multiplier from 65.5 to 68.0 had become due in New York on 1 August 2012;

Further noting that in July 2012 the International Civil Service Commission decided, after hearing a statement made by the Chef de Cabinet of the Office of the Secretary-General, to defer the implementation of this increase to 1 January 2013, with a retroactive effect as of 1 August 2012, unless the General Assembly acted otherwise¹;

Noting also that the Under-Secretary-General for Legal Affairs recognized that the International Civil Service Commission had no authority to implement a post adjustment freeze in contradiction to the methodology approved by the General Assembly²;

Noting also that the General Assembly decided, on the 24 December 2012, to 'maintain the current New York post adjustment multiplier to 31 January 2013' and to resume the normal operation of the post adjustment system on 1 February 2013³;

¹ Cf. ICSC/CIRC/PAC/452 and A/67/30, para. 121.

² Interoffice Memorandum to the Executive Secretary of the International Civil Service Commission dated 23 February 2012 (cf. also A/67/30 para. 18).

³ General Assembly decision 67/551 (cf. A/C.5/67/L.14 and A/67/PV.62, p. 10).

Noting also that in other duty stations the normal operation of the post adjustment system has not been discontinued from 1 August 2012 to 1 February 2013 and that in some of these duty stations post adjustment increases that reflected increases of the local cost of living, have been continuously granted⁴;

Concerned that the decision of the Administration to definitively withhold the post adjustment increase in New York for the period from 1 August 2012 to 1 February 2013 might have violated certain legal requirements, including principles of independence of the International Civil Service Commission from the executive heads of the United Nations system organizations, that of subordination of the Commission to the General Assembly, as well as those of non-retroactivity of law and equality of treatment;

Noting also that in the framework of the current United Nations justice system class nor collective action are not allowed;

The Staff Council hereby decides to

Strongly advise affected staff members to file individual requests for evaluation of this administrative decision through the Management Evaluation Unit, and

Make available to all affected staff members, the legal argument document prepared by the United Nations Staff Union for the purpose of filing a grievance procedure and the form to request a management review (cf. annexes).

Adopted	YES
For	12
Against	0
Abstention	1

⁴ The most significant examples of such corrections are increases made in December 2012 in Yemen and Russian Federation (from 132.7 to 134.2 and from 180.7 to 181.8, respectively; cf. ICSC/CIRC/PAC/456) and in January 2013 in Belgium, Denmark, Finland and the Netherlands (from 159.4 to 161.9, from 173.0 to 176.4, from 160.1 to 162.9, and from 152.8 to 155.5, respectively; cf. ICSC/CIRC/PAC/457).

ANNEX I

GRIEVANCE

Statement of the facts

1. I am a staff member of the United Nations Secretariat, appointed at the P-__ level on _____ and actually holding a fixed-term/continuing/permanent contract.

2. I am submitting this request for management evaluation pursuant to Staff Rule 11.2.

3. On 30 January 2013 I received a statement of emoluments and deductions for January 2013, containing the line 'Post adjustment (65.5)' (the same line with appropriate calculations is contained in each of the statements of the same nature I received for the months of August-December 2012).

4. The annex I to the Staff regulations (ST/SGB/2012/1) contains the following text:

"3. Except as provided in paragraph 5 of the present annex, the salary scales and the scales of post adjustment for staff members in the Professional and higher categories shall be as shown in the present annex.

...

8. In order to preserve equivalent standards of living at different offices, the Secretary-General may adjust the basic salaries set forth in paragraphs 1 and 3 of the present annex by the application of non-pensionable post adjustments based on relative costs of living, standards of living and related factors at the office concerned as compared to New York..."

5. On 1 August 2012 the International Civil Service Commission (ICSC) issued a consolidated post adjustment circular (ICSC/CIRC/PAC/452) which contained the following text:

"Based on the review of the post adjustment classification for New York, a revised post adjustment multiplier of 68.0 would become due in New York, effective 1 August 2012. However, at its seventy-fifth session, from 9 – 20 July 2012, the ICSC decided to defer the promulgation of this revised multiplier to 1 January 2013, with retro-active [effect] as of one August 2012, unless the United Nations General Assembly acted otherwise. The post adjustment multiplier of 65.5 therefore remains in effect for New York until further notice."

6. On 24 December 2012 the General Assembly took the decision A/67/551 (not yet published, cf. A/C.5/67/L.14 and A/67/PV.62, p. 10) which states:

"The General Assembly, having considered the report of the International Civil Service Commission for 2012, requests the Commission to maintain the current New York post adjustment multiplier to 31 January 2013, with the understanding that the normal operation of the post adjustment system would resume on 1 February 2013."

7. On 15 January 2013 the ICSC issued a consolidated post adjustment circular (ICSC/CIRC/PAC/457) which contained the following text:

“Based on General Assembly decision 67/551 of 24 December 2012, the current post adjustment multiplier for New York will be maintained at 65.5 until 31 January 2013. The normal operation of the post adjustment system will resume on 1 February 2013.”

8. Between August 2012 and January 2013 the ICSC issued consolidated post adjustment circulars every month, and in every one of these circulars it continued to apply the post adjustment methodology, established by the Commission and endorsed by the General Assembly, for the duty stations other than New York, including so-called adjustments on the cost-of-living basis. In particular, application of the same ‘twelve months rule’ which was initially deferred and subsequently suspended for New York, resulted in post adjustment increases for Yemen and Russian Federation in December 2012 (cf. ICSC/CIRC/PAC/456) and for Belgium, Denmark, Finland and the Netherlands in January 2013 (cf. ICSC/CIRC/PAC/457).

Grievance

9. I am contesting the administrative decision of the Secretary-General to implement the above-mentioned actions and recommendations of the ICSC and the General Assembly, i.e. the unlawful action of the Administration that resulted in denying staff members based in New York, the payment of post adjustment calculated on the basis of the multiplier value of 68.0 for the period from 1 August 2012 to 1 February 2013.

Merits of the case

10. As a matter of principle, the action to implement an unlawful decision or an unlawful interpretation of any decision is itself unlawful, and the implementation of any decision must not be unlawful.

I

11. The first issue to be addressed is the question of whether the International Civil Service Commission decision expressed in the consolidated post adjustment circular issued on 1 August 2012 is lawful or how it could be lawfully interpreted.

12. The Statute of the Commission contains the following provisions:

“Article 10

The Commission shall make recommendations to the General Assembly on:

...

(b) The scales of salaries and post adjustments for staff in the Professional and higher categories;

...

Article 11

The Commission shall establish:

...

(c) The classification of duty stations for the purpose of applying post adjustments.”

13. It should be concluded from the above that if the General Assembly endorses a recommendation made by the Commission relating to ‘the scales of salaries and post adjustments for staff in the Professional and higher categories’, the Commission, when establishing ‘the classification of duty stations for the purpose of applying the post adjustment’,

has no authority to act otherwise than as decided by the General Assembly. Indeed, the Commission is bound by the relevant decisions taken by the Assembly.

14. This conclusion is confirmed by the Under-Secretary-General for Legal Affairs and the Commission itself in relation to the very question of the ‘feasibility and suitability of reflecting the pay freeze of the comparator civil service in the administration of the post adjustment system’ which the General Assembly requested the Commission to consider in the section B.1 of resolution 66/235. Indeed, paragraph 18 report of the Commission for 2012 contains the following text:

“With regard to the General Assembly’s question of whether the implementation of such measures [i.e. pay freeze] fell under the authority of the Commission, the Commission reviewed the above-mentioned opinion of the Legal Counsel, who had concluded that “the International Civil Service Commission had the authority to take measures in the administration of the post adjustment system provided that such measures were consistent with the methodology and with the range and requisite level for the margin of United Nations net remuneration over that of the United States civil service that the General Assembly had established. Of course, the Commission also had the authority to make recommendations to the General Assembly about administering the post adjustment system in any manner that the General Assembly may determine to be in the best interests of the Organization.” It was therefore clear that, as long as the margin remained within the established limits, the Commission was not authorized to suspend the normal operation of the post adjustment system at its own discretion and that the Commission’s legal mandate in this regard was limited to making appropriate recommendations to the General Assembly. In addition, the introduction of such measures would contradict numerous judgements of tribunals which have repeatedly concluded that the Commission should follow its own methodologies, once established and approved.”

Therefore, the Commission , in paragraph 26 of its report, decided

“to report to the General Assembly that:

(a) The Commission did not have the authority to take measures in the administration of the post adjustment system that were not consistent with the United Nations/United States margin methodology, as established by the Assembly;

(b) The existing mechanisms for adjusting United Nations salaries were working well, and it was therefore not convinced of the suitability of introducing additional measures to reflect, in the administration of the post adjustment, the pay freeze in the comparator civil service;

(c) If the General Assembly decided that such additional measures were necessary, it would be technically possible to implement them in the post adjustment system on the basis of the margin management arrangements already in place. In that case, it would be desirable that any such measure be a one-time event, with a finite duration.”

This clearly demonstrates that the Commission, in its own view, had no authority to take the decision that it nevertheless adopted and first made public in the above-mentioned consolidated post adjustment circular issued on 1 August 2012 insofar as it contravened the established methodology.

15. In order to understand how this decision, independently of its intrinsic lawfulness, could be lawfully interpreted and implemented, it is also important to consider how the Commission justified this decision. It was, in fact, taken pursuant to a request by the Chef de Cabinet of the Office of the Secretary-General, who briefed the Commission on behalf of the Secretary-General “on the financial situation of the United Nations” and called for “a degree of flexibility in applying the current procedures” (A/67/30, paragraph 117).

The discussion that followed in the Commission is expressed in its report in the following terms:

“118. The Commission recalled its consideration at its seventy-fourth session of the request by the General Assembly in resolution 66/235 as well as its statutory responsibilities relating to the operation of the post adjustment system. It noted that a revised post adjustment multiplier would become due in August 2012, in accordance with the approved methodology. It further observed that the resulting net remuneration margin would remain within the established range and the five-year average of the margin would be just below the desirable midpoint of 115. In this connection, a view was expressed that a refusal to follow the established rules may have a devastating effect on the unbiased and independent nature of the Commission, and could be subject to legal challenge. In response, another member pointed out that Rule 33 of the Commission’s rules of procedure called for the Commission, before making other than routine decisions, to seek the views of the executive heads of the participating organizations concerned on the financial and administrative implications of implementing a decision. As the Commission was informed at its seventy-fourth session, decisions related to increases in the post adjustment were not considered routine in these times of financial crisis. Therefore, in this member’s view, the Commission was required by its rules of procedure to solicit the views of the organizations and that to do so would have no effect whatsoever on its independence in making decisions.

119. At the same time, a view was expressed that the promulgation of a revised post adjustment multiplier due in New York effective 1 August 2012 without delay would be fully consistent with the methodology approved by the General Assembly. In this context, the briefing by the Chef de Cabinet on the financial situation was seen by some members as an appeal to suspend its implementation. This appeal — conveyed to the Commission by the Secretary-General’s representatives through various channels and on a number of occasions during the session — was the reason for these members to consider joining the consensus on this matter and provided the only cogent rationale for delaying the implementation of a revised post adjustment multiplier for New York.

120. There was general agreement that in view of the budgetary constraints facing the United Nations, and possibly other organizations, it would be advisable to allow the Member States time to deliberate on the issues raised by the United Nations. Under the circumstances, the Commission concluded that the only remaining option would be to delay the promulgation of the increase in the post adjustment multiplier for New York until after the General Assembly had had the opportunity to discuss the issue. It was further agreed, in order to remain within the boundaries of the methodology, that the revised post adjustment multiplier should eventually be implemented with a retroactive effect to August 2012, unless the General Assembly acted otherwise. It was pointed out that delaying the promulgation of the post adjustment in New York would be an exceptional measure merited by the current budgetary situation. At the same time, it would not require any actions that were inconsistent with the operation of the post adjustment system. It would thus allow the Commission to remain fully compliant with the established methodologies while being sensitive to the budgetary concerns of the organizations and take into account any short- or long-term implications of its decisions on the organizations and staff.

Decisions of the Commission

121. The Commission:

(a) Noted that a post adjustment multiplier of 68.0 would become due in New York on 1 August 2012 in accordance with the approved methodology;

(b) Decided to defer the promulgation of the revised New York post adjustment multiplier in view of the financial situation of the United Nations as described by the Secretary-General;

(c) Also decided that, unless the General Assembly acted otherwise, the multiplier would be promulgated on 1 January 2013 with a retroactive effect as of 1 August 2012.”

16. The deferral of the publication of the revised post adjustment multiplier for New York is in clear violation of the mandate conferred upon the Commission by the General Assembly. Neither the Statute of the ICSC, nor the resolutions of the General Assembly refer to any possibility of such a delay in implementing the methodology.

17. Concerning the reasoning of those members of the Commission who invoked Rule 33 of the Rules of Procedure, it is clear that the consultations with the executive heads of the participating organizations, mentioned in this rule, can not be used as a pretext to avoid implementing the decisions of the General Assembly and substitute the General Assembly’s authority with the authority of any of the above-mentioned executive heads. On the contrary, according to the spirit of the Statute and the Rules of Procedure, these consultations were intended to facilitate the implementation by the Commission of the decisions made by the General Assembly.

18. It can be argued, however, that the Commission acted outside of its authority in order to take into account the financial situation of the United Nations. Indeed, during her briefing before the Commission the Chef de Cabinet (cf. the report of the Commission for 2012 (A/67/30) paragraph 115)

“indicated that the programme budget for the biennium 2012-2013 had been approved by the General Assembly after lengthy deliberations. Member States, however, had deferred the re-costing of the budget in the amount of \$220 million, while the vacancy rate applied could equate, based on current staffing, to another \$85 million in resource requirements. While the Organization was trying to absorb the associated impact of those measures within existing resources, it might be necessary to seek additional funding from Member States later in the biennium. There was, however, recognition that while Member States had been generous in their support for the expanding mandates of the Organization, the majority of them were now facing significant financial constraints. ... She further stated that while she could not speak for the broader United Nations system, it was known that some voluntarily funded organizations, as well as some specialized agencies, were confronted with similar financial constraints. She noted that the Secretariat recognized and remained respectful of the independent nature of the Commission, but it was hoped that the current budgetary situation would be contextualized in the deliberations of the Commission and that issues would be looked at in a holistic manner.”

19. According to the report of the Advisory Committee on Administrative and Budgetary Questions (ACABQ), entitled “Administrative and financial implications of the decisions and recommendations contained in the report of the International Civil Service Commission for the year 2012” (A/67/573), this statement of the Chef de Cabinet was factually incorrect in the part it suggested that ‘additional funding from Member States’ ‘might be necessary’ in order to provide for the above-mentioned post adjustment increase in New York. In paragraphs 9 and 10 of the above-mentioned ACABQ report it is stated that

“9. Upon enquiry as to the financial situation of the United Nations as described by the Secretary-General, the Advisory Committee was informed that as at September 2012, there was no financial crisis in the United Nations in terms of a current cash deficit, and therefore the United Nations Secretariat did not consult the intergovernmental bodies.

10. The Advisory Committee was informed, upon enquiry, that the Secretary-General supports the statement made by the Co-Chair of the Human Resources Network of the United Nations System Chief Executives Board for Coordination, as reflected in paragraph 9 of the report of the International Civil Service Commission. Paragraph 9 states that:

«Representatives of the Human Resources Network of CEB stressed that organizations of the United Nations common system fully recognized and appreciated the severity of the present economic situation, which was affecting Member States, organizations and staff alike, in both professional and personal contexts. In this regard, they outlined specific austerity measures that various organizations had taken and continued to take in order to manage with limited resources, to cut costs and to streamline organizational activities. The Network also pointed out that at the same time that Member States were demanding that organizations be transformational and deliver on results, the Commission had in fact been taking conservative and pragmatic decisions in adjusting allowances and benefits. While they recognized the need to respond to the financial pressures being experienced by Member States, they strongly believed that the technical soundness and integrity of the methodology developed by the Commission for calculating and adjusting salaries of United Nations system staff must be respected, adding that the reactive introduction of ad hoc solutions could result in long-term consequences that would jeopardize the competitiveness of the United Nations and the operational effectiveness of its organizations and their ability to deliver on their mandates.»

Placed in this context, the statement made by the Chef de Cabinet appears designed to mislead the members of the Commission and is at variance with prior commitments.

20. It should be noted that the decision by the Commission, which amounted to withholding payment of a part of the staff members' remuneration, contradicted not only the mandate given to the Commission by the General Assembly, but also the principles embodied in International Labor Organization Convention No. 95, which "provides that wages shall be paid regularly." As the Committee of Experts noted, "the delayed payment of wages or the accumulation of wage debts clearly contravene the letter and the spirit of the Convention and render the application of most of its other provisions simply meaningless." (Cf. *General Survey of the reports concerning the Protection of Wages Convention* (No. 95); *Protection of Wages Recommendation* (No. 85), 1949; and *Report of the Committee of Experts on the Application of Conventions and Recommendations*; 2003).

21. However, the fact that this statement by the Chef de Cabinet was the key factor in the Commission's decision, suggests the correct manner to interpret it. As their deliberations show, the members of the Commission did not intend to disobey the General Assembly by failing to implement the methodology endorsed by it. They were simply told that the organizations did not have the resources to implement it *at that time*. Therefore, they took a decision to postpone the implementation of the methodology until such time as it became possible, and requested that the Administration apply it retroactively to the date that it would have been implemented if the organizations had had the necessary resources.

22. Consequently, in accordance with the presumption of regularity of administrative acts and the plain meaning of the Commission's language, the decision taken by the Commission should be interpreted in a manner consistent with legal requirements and the contractual rights of staff as a request to the Administration to pay the post adjustment in New York with the multiplier 68.0 by January 2013 when, as the Commission seemed to believe, it would have obtained the necessary resources from Member States. This should have happened automatically for the period from 1 August 2012 to 1 January 2013, provided that the General Assembly did not take another decision in the interim to change the previously endorsed methodology. However, even if the General Assembly changed this methodology before 1 January 2013, given that its decision could not be applied retroactively, the post adjustment with multiplier 68.0 is owed, according to this interpretation, until the date on which the General Assembly changed the methodology. This is, according to the context, the only legally permissible interpretation the Administration could have given to the words "unless the United Nations General Assembly acted otherwise" contained in the decision of the Commission.

23. Furthermore, consistent with the methodology and the spirit of the decision of the Commission, in order to reimburse the staff members for the non-implementation of the obligations of the organizations resulting from the non-payment of the part of staff remuneration which became due on 1 August 2012, its late payment should include compound interest.

24. To summarize my position, I believe that the presumptive decision of the Commission was unlawful, given that it had no authority, according to its own report, to disregard the applicable methodology endorsed by the General Assembly. If we assume that the Commission took the decision to defer implementation for reasons of financial imperatives and with the intention of resuming implementation as soon as resources became available to do so, and accept the Secretary-General representative's misrepresentation of the facts as the motive for the Commission's action, the interpretation and the implementation of this decision as carried out by the Administration were unlawful.

II

25. The second issue is the question of the interpretation of the decision 67/551 of the General Assembly, taken on 24 December 2012.

26. As quoted above, it consists of the following paragraph:

“The General Assembly, having considered the report of the International Civil Service Commission for 2012, requests the Commission to maintain the current New York post adjustment multiplier to 31 January 2013, with the understanding that the normal operation of the post adjustment system would resume on 1 February 2013.”

27. In the light of the arguments presented above, the legal meaning or lawful interpretation of the decision remains unclear. Indeed, it does not contain any direct indication as to whether the General Assembly intended to modify or suspend the previously approved methodology, and it is not clear what the ‘current New York post adjustment multiplier’ as of 24 December 2012 should be considered to be.

28. If the reference made by the General Assembly to the ‘current multiplier’ is to be interpreted, contrary to the opinion of the Administration, as the reference to the multiplier value established in accordance with the approved methodology, it amounts to 68.0, and the decision of the General Assembly should be interpreted as *de facto* suspension of the normal operation of the post adjustment system during the period from 24 December 2012 to 1 February 2013.

29. In the arguments presented above, I have demonstrated the intentions and implications of the decision taken by the International Civil Service Commission in July 2012: its purpose was not to deny the staff members the payment of the remuneration calculated according to the methodology endorsed by the General Assembly, but to find a way to make this payment *a posteriori* for the simple reason that, according to the information provided to the Commission, the necessary resources were not available at that time. Therefore, it would be logical to interpret the then current multiplier value as 68.0.

30. Alternatively, if the reference made by the General Assembly to the ‘current multiplier’ is to be interpreted, in accordance to the interpretation of the Administration, as the reference to the *then used* value of post adjustment multiplier in New York, i.e. 65.5, the establishment of such a value is of dubious legality as it is inconsistent with the methodology in force at the time. Since the International Civil Service Commission and the Under-Secretary-General for Legal Affairs insisted that the Commission was required to comply with the methodology approved by the General Assembly, then this value of 65.5 must be corrected to 68.0.

31. It might be surmised that, despite the unfortunate choice of wording, the intention of the General Assembly was indeed to maintain the post adjustment multiplier value at 65.5, as the Administration seems to believe, and adjust it to the normal value on 1 February 2013, as determined within the framework of the approved methodology. However, such an intention on the part of the General Assembly cannot be lawful since it violates the principle of non-retroactivity. The multiplier value at 68.0 was automatically established in accordance with the methodology endorsed by the General Assembly itself, and therefore, had the General Assembly intended to maintain the multiplier value at 65.5, it was obliged to intervene in order to stop or amend the operation of the post adjustment system before 1 August 2012. Since the decision to suspend the operation of the methodology was only taken on 24 December 2012, the value

to be retained was 68.0. Indeed, according to the principle of non-retroactivity, the General Assembly could not, on 24 December 2012, take the decision to stop or amend the operation of the post adjustment mechanism retroactively as of 31 July 2012.

32. Therefore, the only lawful interpretation of General Assembly decision 67/551 is to maintain and pay the post adjustment in New York on the basis of the multiplier value of 68.0.

III

33. The third issue is violation of the principle of equal treatment. For the period from 24 December 2012 to 1 February 2012 there was arguably a suspension of the 'normal operation of the post adjustment system' by the General Assembly. On this point, the decision 67/511 of the General Assembly is clear.

34. However, the implementation of this decision by the Administration on the basis of the consolidated post adjustment circulars issued by the International Civil Service Commission effectively creates an inequality of treatment among the United Nations staff members (and, more broadly, of the staff members of the United Nations common system) at different duty stations.

35. Indeed, to freeze or suspend the post adjustment increase in New York is to refuse to modify the post adjustment multiplier in line with changes in the cost of living, which appears contrary to the contractual obligations of the organization towards the affected staff. In order to ensure equality of treatment of all United Nations staff members (and, more broadly, of all staff members of the United Nations common system), the correction of the post adjustment for this reason should have been suspended at all duty stations.

36. As revealed by the consolidated post adjustment circulars issued by the International Civil Service Commission in August 2012 – January 2013 (ICSC/CIRC/PAC/452, ICSC/CIRC/PAC/453, ICSC/CIRC/PAC/454, ICSC/CIRC/PAC/455, ICSC/CIRC/PAC/456, ICSC/CIRC/PAC/457), the application of the so-called 'twelve-month rule' implying the correction of the post adjustment in response to changes in the cost of living, and the correction of post adjustment in application of the results of place-to-place surveys (also taking into account the change of the cost of living), created *de facto* inequality of treatment and discrimination among the United Nations staff members (and, more broadly, among the staff members of the United Nations common system). In fact, instead of being determined by a common methodology, staff remuneration came to be determined by two different methodologies: while that implemented in New York excluded correction on the basis of the change of the cost of living, the other, implemented everywhere else, included such a correction. The most significant examples of such corrections are increases made in December 2012 in Yemen and Russian Federation (from 132.7 to 134.2 and from 180.7 to 181.8, respectively; cf. ICSC/CIRC/PAC/456) and in January 2013 in Belgium, Denmark, Finland and the Netherlands (from 159.4 to 161.9, from 173.0 to 176.4, from 160.1 to 162.9, and from 152.8 to 155.5, respectively; cf. ICSC/CIRC/PAC/457).

37. Therefore, independently from the question as to whether the above-mentioned actions of the International Civil Service Commission and their implementation by the Administration were lawful and whether the interpretation by the Administration of the above-mentioned decision taken by the General Assembly was lawful, the implementation by the Administration of these decisions was unlawful insofar as it violates the contractual rights of Headquarters staff to the correct application of the post adjustment system and, as such, justifies the measures of relief indicated below.

38. Indeed, in order to restore the equality of treatment of the United Nations staff members (and, more broadly, of staff members in the United Nations common system), the normal operation of post adjustment system should be restored at all duty stations with retroactive effect as of 1 August 2012.

Relief sought

39. In view of the above, as the Administration may not apply unlawful decisions or apply decisions in a manner inconsistent with legal requirements, irrespective of their source, and/or not to apply lawfully taken decisions in an unlawful manner, I request that:

- the contested decision be rescinded and that the Secretary-General undertake to revise his interpretation and implementation of the of the decisions taken by the International Civil Service Commission and the General Assembly in conformity with the legal requirements of the post adjustment system;
- appropriate relief be afforded to address the unlawful interpretation and implementation of the post adjustment system, including retroactive payment of all monies owed in connection with the proper application of the methodology from August 2012, adjusted to include compound interest.

40. To ensure equality of treatment, I respectfully request that, if my arguments prevail, these measures be deemed applicable to all similarly situated staff members.

If so, when?

UNITED NATIONS NATIONS UNIES

**OFFICE OF UNDER-SECRETARY-GENERAL FOR MANAGEMENT
Management Evaluation Unit**

Request for Management Evaluation

PERSONAL INFORMATION

Mr. / Mrs. / Ms.

Your Name (family name first) _____

E-mail address _____

Mailing Address _____

Work Phone _____

Home Phone _____

Cell Phone _____

Index Number _____

Type of Appointment _____ *Functional Title* _____

Dept./Office _____ *Duty Station* _____

ADMINISTRATIVE DECISION TO BE EVALUATED

Specify the decision you are requesting us to evaluate (please attach a copy of the decision, if any)

When was the decision taken/when did you become aware of it?

Who took the decision?

Have you discussed the matter with your supervisor(s)/ the decision maker?

If so, when?

Have you received a response?

PURPOSE OF YOUR REQUEST

What staff rights of yours have been violated by the decision at issue?

What remedy do you seek through management evaluation?

Would you be amenable to our efforts at an informal resolution of your grievance?

Please feel free to attach a letter containing your description of the context of the decision, relevant facts, documents and any other information you consider important in the context of your request for evaluation.

COUNSEL INFORMATION

If you have, or should you decide in the future to obtain legal counsel, please provide us with the following contact information:

Name of Counsel

Place of work

E-mail Address

Mailing address

Work Phone

Cell Phone

Fax

Signature: _____

Date: _____