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Cases Nos. UNDT/GVA/2016/065,
067 and 068

Judgment No. UNDT/2016/201

n  **on**

1.

- a. 23,511 applicable to staff members for whom the allowance becomes payable on or after one November 2014;
 - b. 27,156 applicable to staff members for whom the allowance becomes payable prior to one November 2014;
- (2) First language
- a. 29,532 applicable to staff members for whom the allowance becomes payable on or after one November 2014;
 - b. 34,104 applicable to staff members for whom the allowance becomes payable prior to one November 2014;
- (3) Second language
- a. 14,766 applicable to staff members for whom the allowance becomes payable on or after one November 2014;
 - b. 17,052 applicable to staff members for whom the allowance becomes payable prior to one November 2014.

Concl on

3. As a preliminary matter, the Tribunal finds appropriate to adj

(i) In cases where a management evaluation of the contested decision is required:

a. Within 90 calendar days of the applicant's receipt of the response by management to his or her submission; or

b. Within 90 calendar days of the expiry of the relevant response period for the management evaluation if no response to the request was provided. The response period shall be 30 calendar days after the submission of the decision to management evaluation for disputes arising at Headquarters and 45 calendar days for other offices;

(ii) In cases where a management evaluation of the contested decision is not required, within 90 calendar days of the applicant's receipt of the administrative decision.

5. The Tribunal notes that none of the Applicants has provided the Tribunal with any management evaluation request submitted by them against the decisions they intend to contest, nor did any of them at least mention having taken such a step. As a matter of fact, their applications not only contain no information on whether and when they requested management evaluation, but they indicate in relevant part that such information is not applicable ("N/A").

6. According to staff rule 11.2 (Management evaluation):

(a) A staff member wishing to formally contest an administrative decision alleging non-compliance with his or her contract of employment or terms of appointment ... shall, as a first step, submit to the Secretary-General in writing a request for a management of the administrative decision.

(b) A staff member wishing to formally contest an administrative decision *ta n pursuant to a v' o ta n ro t n'a o 's as t r n y t r tay G n ra* or of a decision taken at Headquarters in New York to impose a disciplinary or non-disciplinary measure pursuant to staff rule 10.2 following the completion of a disciplinary process is not required to request management evaluation. (emphasis added)

(c) A request for a management evaluation shall not be receivable by the Secretary-General unless it is sent within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.

7. It follows from this provision that requesting management evaluation is mandatory regarding any administrative decision, with the exception of two very specific categories of administrative decisions, to wit:

- a. Those taken pursuant to advice obtained from technical bodies; and
- b. Measures taken further to a disciplinary process.

8. Unless the decisions under review fall within one of these two categories, the Applicants should have put them to management evaluation. Absent this request, any subsequent application with the Tribunal will be irreceivable. Moreover, such request must be submitted no later than 60 days after said decisions were notified to the Applicants. The impugned decisions in these cases were rendered public more than two years ago (on 1 October 2014). In other words, if the impugned decisions do not belong to one of the two categories of

