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Rewards exercise 2022

What to do if you did not receive a step/promotion/bonus in July 2022



Agenda

- **Main lines of the rewards exercise 2022**
- Discretionary decision
- What can be done?
- FAQs
- ANNEX:
 - Overview of the means of redress - “official / legal route”
 - Documentation
- Contact

Main lines rewards exercise 2022

- Pensionable:
 - step / promotion: up to 60% of eligible staff
 - 2x step: up to 20 %
- Non-pensionable:
 - individual bonus: up to 30% of eligible staff
 - collaborative bonus: max 50% of the bonus budget
- Maternity & adoption leave “neutralized”, i.e. should not have positive or negative influence on rewarding exercise.
- Catch up mechanism: eligible staff, who did not receive a step advancement or promotion during the last 4 consecutive years (2018-2021) will advance one step in grade. These colleagues are included in the 60% quota.
- Problems (among others):
 - quota of staff rewarded is arbitrarily decided by the President every year
 - lack of transparency of how the decisions are taken – system is opaque by design, and seems to leave a lot of room for arbitrariness
- The Internal Appeal Committee (IAC) recently delivered opinions on individual rewarding cases which state that if a colleague’s performance report is satisfactory, the EPO should provide adequate, clear and coherent reasons for its decision not to grant a reward.

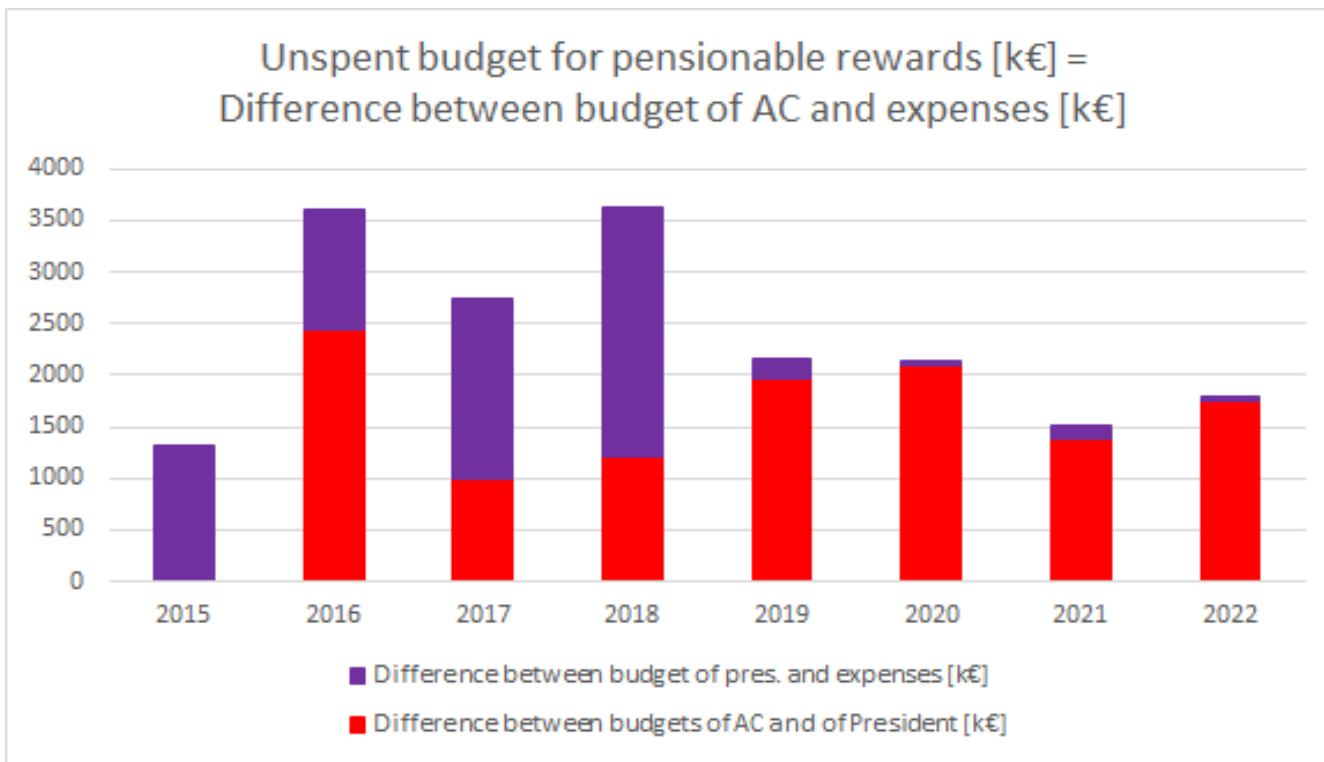
Source: “[General guidelines on Budget allocation and rewards distribution for 2022](#)”

Intermezzo: quiz

Was the budget for rewards:

- Underspent?
- Spent fully?
- Overspent?

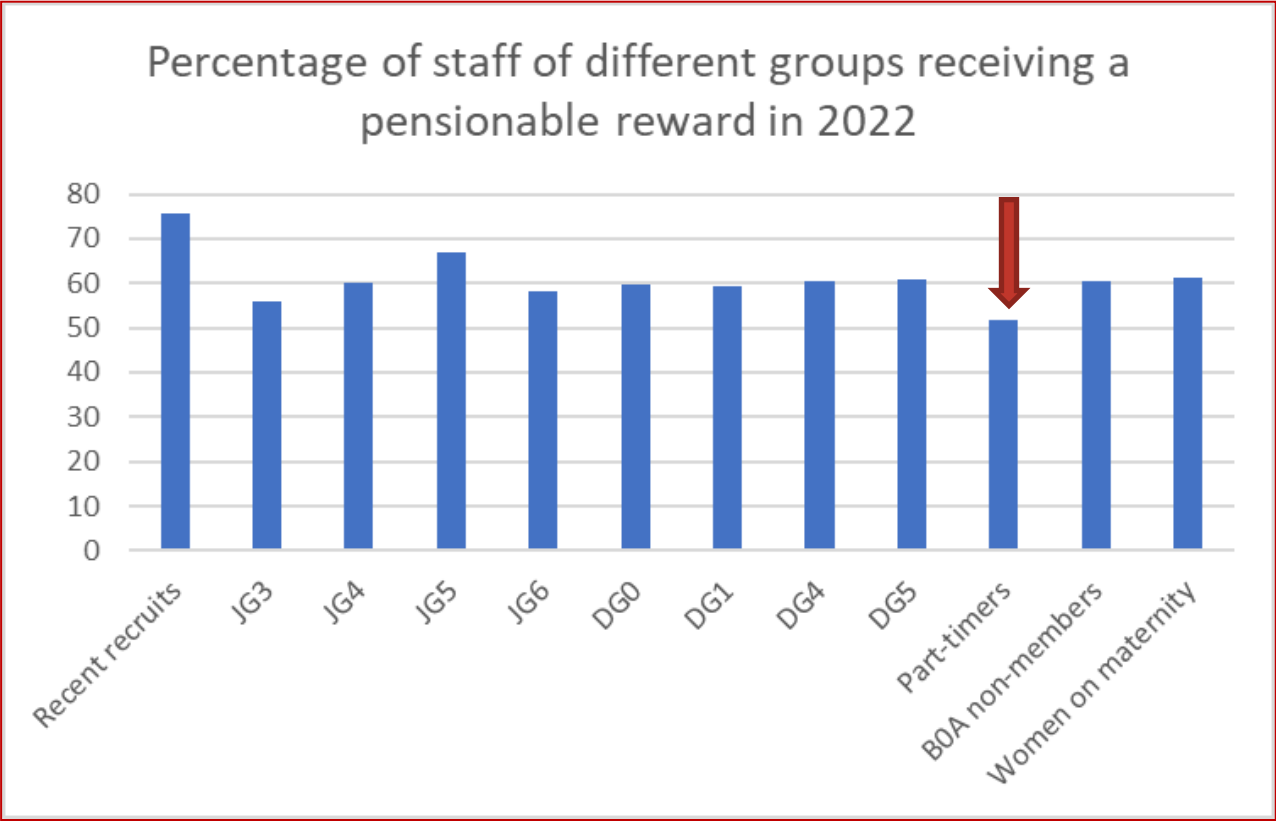
Snapshots rewards exercise 2022: underspending



The total budget withheld from staff since 2015 = **18,88 million EUR** = enough for 1 step to every eligible staff! The president has never explained why many staff members have been denied pensionable progression although the budget approved by the Administrative Council (AC) allows for it.

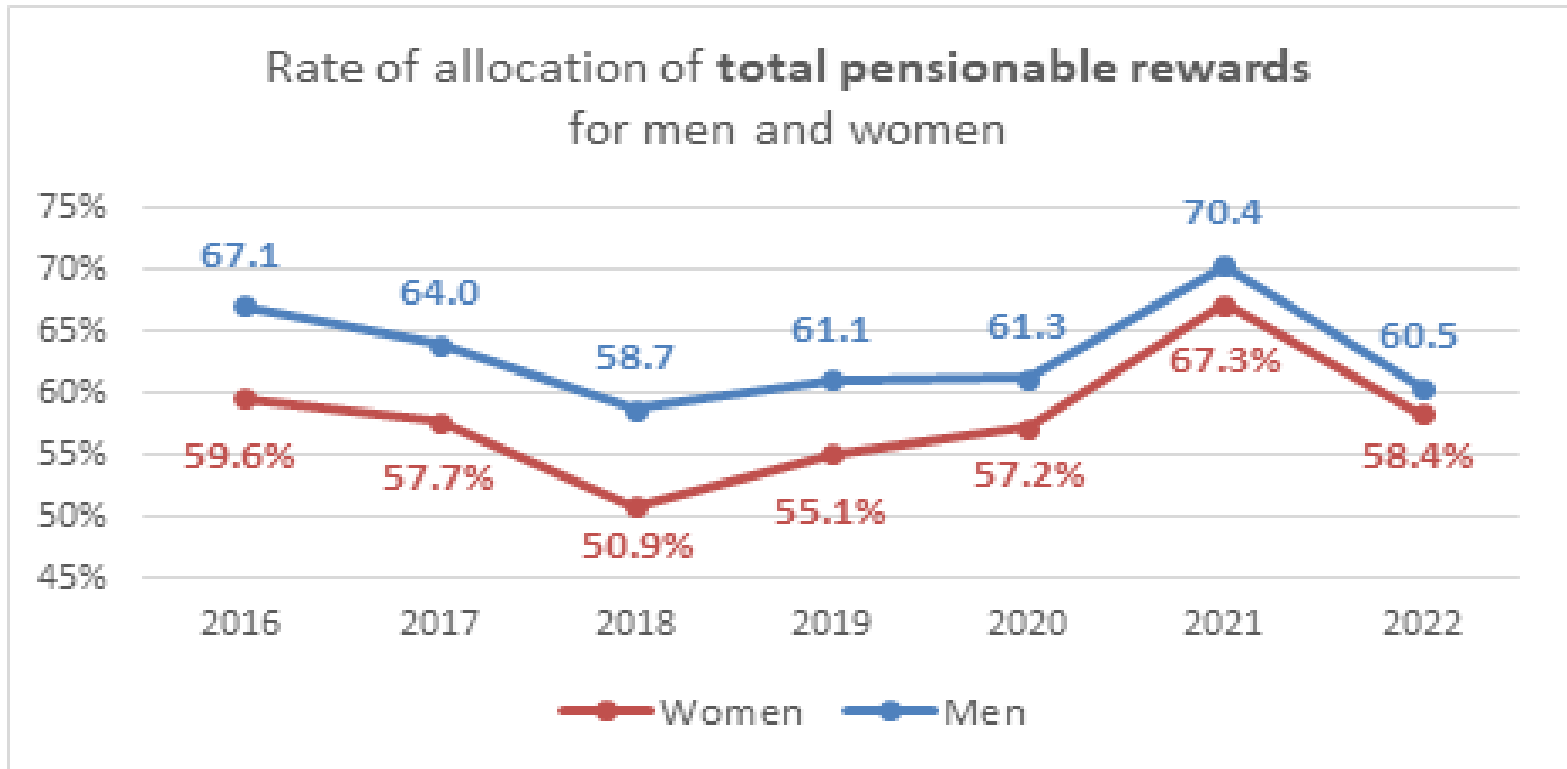
Sources: 2016 and 2017: CA/D 1/16, page 191; 2018: CA/D 1/17, page 193, 2019: CA/D 1/18, page 171, 2020: CA/D 1/19, page 177; 2021: CA/D 1/20, page 147; 2022: CA/D 1/21, page 163

Snapshots rewards exercise 2022: under rewarding



Part timers have been consistently under rewarded over the years.

Snapshots rewards exercise 2022: under rewarding



Over the last 7 years, for every step awarded to men, women received 0.88 steps. Cumulative effect: women have average slower career advancement, and this is even worse for women who have been on maternity leave (for specific years).

Despite claimed dedication to D&I on behalf of management, there is no sign that women will be compensated for their slower careers.

For more details on the 2022 rewards exercise, see CSC publication [here](#) (intranet) or [here](#) (MSTEAMS).

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Discretionary decision

Rewards process:

- Line Manager (LM) makes proposal
- Calibration – harmonization: opaque process, see also [here](#) or [here](#)
- President decides

-> Staff members are entitled to know the reasons why they were not rewarded

-> In order to assess the reasons given against the criteria for challenging discretionary decisions (according to ILOAT¹ in Geneva):

- Abuse of power
- Breach of procedure
- Error of law
- Error of relevant fact
- Consideration of irrelevant facts
- Discrimination
- Failure to consider relevant facts
- Manifestly wrong conclusion based on correct facts

1: *International Labour Organisation Administrative Tribunal*

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Intermezzo: quiz

Can your line manager (LM) change the outcome of the reward exercise 2022 now?

- Yes
- No

What can be done in case you didn't get a step / promotion / bonus?

Step 1: informal: communicate with line manager(s)

Step 2: official: file a request for management review (RfR)

Step 3: official: file an internal appeal (IA)

Step 1: communicate with line manager(s)

- Short email or conversation:
 - Summary of relevant facts
 - Express your perception and feelings (Disappointment ? Frustration? Breach of trust?...)
 - Once you have decided whether you will file a request for review (RfR), announce it to your line manager out of courtesy as they will be involved in the review process

- What to expect
 - Line manager (LM) cannot revert the decision (the decision power lies with the President)
 - Verbal explanation of why there was no reward
 - Verbal indication of how to get reward in future: LM cannot commit to it
 - Talking to LM does not extend the deadline for “official / legal” route (i.e. filing RfR)

 - We have observed a pattern of LMs trying to discourage colleagues from using the internal means of redress (i.e. filing RfR & internal appeal (IA)) -> please consult staff representation if you feel this is the case.
 - Remember that using the internal means of redress (i.e. filing RfR & IA):
 - Is a right (CODEX – Article 109 ServRegs.)
 - By design, it is the only way to have any chance at reverting the decision
 - At the EPO, if the problem is not officially recorded, it doesn't exist!

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Step 2: Request for review: filing

- Substep 2a: determine **deadline = 3 months** after the earliest of:
 - having been informed in writing by the line manager of not having received a reward
 - having been informed verbally¹ by the line manager
 - 26 July 2022 (salary slip)
- Substep 2b: Set a reminder for yourself of the above date;
- Substep 2d: Make a folder on your (personal) hard drive on the topic and copy the following documents to it:
 - a copy of the performance appraisal from 2021 (from successfactors);
 - all other documents related to the performance of 2021;
 - any other written traces deemed relevant: emails / files proving good collaboration / other contributions to the EPO and the team, proof of inequitable / difference in treatment, specific circumstances,...
- Substep 2c: Fill in the [template](#)² (written by a lawyer), follow accompanying instructions, save it in the above folder and send to managementreview@epo.org before the above deadline;
- Substep 2d: Reception of email from “MANAGEMENT REVIEW” with reference number – safeguard it;

1: this is prudent in case a written record of the conversation exists

2: also on MSTEAMS [here](#) and on the intranet [here](#)

Step 2: Request for review: management review meeting

Substep 2e:

- Usually with Reporting Officer (N+1 = LM) and Counter Signing Officer (N+2).
- Be accompanied by a 3rd party - staff representative or a trusted, experienced colleague -, announce who will accompany you beforehand. Why ?
 - Help with pertinent questions, procedure & legal framework
 - Can take notes & serve as a witness
 - Recover a “power balance”: it can be intimidating to be faced with 2 superiors, 3rd party “dials down the tone”, emotional support
 - Both up front for preparation, and during meeting
 - Clarify the role of the 3rd party beforehand: take notes ? does the talking ? only moral support ?
- Prepare facts & questions:
 - Documentation: source documents, records of performance / muse reporting sheets / written exchanges with manager/ ...
 - What was staff member’s (anonymized) ranking within the team? Within the directorate? Principal directorate? DG?
 - Factors and weights to achieve this ranking?
 - How were specific circumstance taken into account in ranking?
 - How was the examination work already performed on files transferred outwards taken into account in the ranking?
 - Why is there an inconsistency between a satisfactory performance report and the lack of rewards?
- Pen & paper : take notes
- Share notes in pdf format with attendees

Step 2: Request for review: “reviewed decision”

Substep 2f:

- Reception of written reviewed decision (email – **date C**); or
- No reply within 2 months (after sending RfR – **date C**) -> implied rejection

What can be done in case you didn't get a step / promotion / bonus?

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- Step 3: file internal appeal (IA):
 - before **date D** = **date C** + 3 months
 - Template generally distributed to all SUEPO members
 - 200€ registration fee
 - Exchanges: rejoinder, Q& A between the appellant, the EPO, and the Internal Appeals Committee (IAC)
 - Internal Appeal Committee (IAC) delivers a written opinion within +/- 3 years:
 - case 3.1: original decision upheld
 - case 3.2: IAC recommends reassessment

- Step 4: Presidential decision
 - **date E**
 - case 4.1: follows opinion of IAC -> go to step 5 (reassessment) or 7 (ILOAT in Geneva)
 - case 4.2: does not follow opinion of IAC -> go to step 7

Steps 5 - 7: Reassessment / ILOAT

- Step 5: Reassessment ¹ :
 - Case 5.1: appellant rewarded with retroactive effect: case won
 - Case 5.2: appellant not rewarded -> go to step 7

- Step 6: Presidential decision: **date F**
 - Follows reassessment panel recommendation

- Step 7: ILOAT (Geneva)
 - Within 90 days of **date E or date F**
 - Fill in and send complaint form (see [ILOAT website](#))
 - Paid legal representation recommended – SUEPO trade union can usually advise on this part ²
 - Re-evaluates the case

1: The “ad hoc” reassessment panel is nowhere to be found in the CODEX, and appears to comprise members of higher management (COO, PD)

2: See [SUEPO – legal support](#) – please contact your local SUEPO section for more information.

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- Q & A

To file or not to file RfR & IA ?

- Pros:
 - Some successful cases (after internal appeal): career advancement awarded with retroactive effect
 - Feedback for management that the decision making process needs improvement
 - Statistics of number of RfRs & IAs are recorded in the [social report](#) and are a recurring signal to the administration that the career system needs improvement
 - Procedure helps understand how the career system and EPO function
 - SUEPO has worked with a lawyer to provide improved templates for the whole procedure (RfR, IA, ILOAT)
 - “Psychological”:
 - engagement in career
 - standing up for oneself – professional pride of seeing one’s contribution rewarded
- Cons:
 - Takes time & energy: colleagues should be prepared to collect written evidence to support their case and put in the drafting effort
 - Staff representation & SUEPO committee members can assist with providing verbal opinions but cannot carry out the actual drafting
 - Paid legal representation sometimes necessary – SUEPO can usually advise¹
 - (very) limited success rate – until now

¹: See [SUEPO – legal support](#) – please contact your local SUEPO section for more information.

Does using the internal means of redress (i.e. filing RfR & IA) have consequences on future career advancements / opportunities?

- No pattern observed – in fact punitive damages have been awarded to complainants when it was proven that an organisation was showing retaliatory behaviour towards complainants for using the internal means of redress (i.e. filing RfR & IA) ¹.
- Successful cases all used the internal means of redress, i.e. filed a RfR followed by an internal appeal (IA).

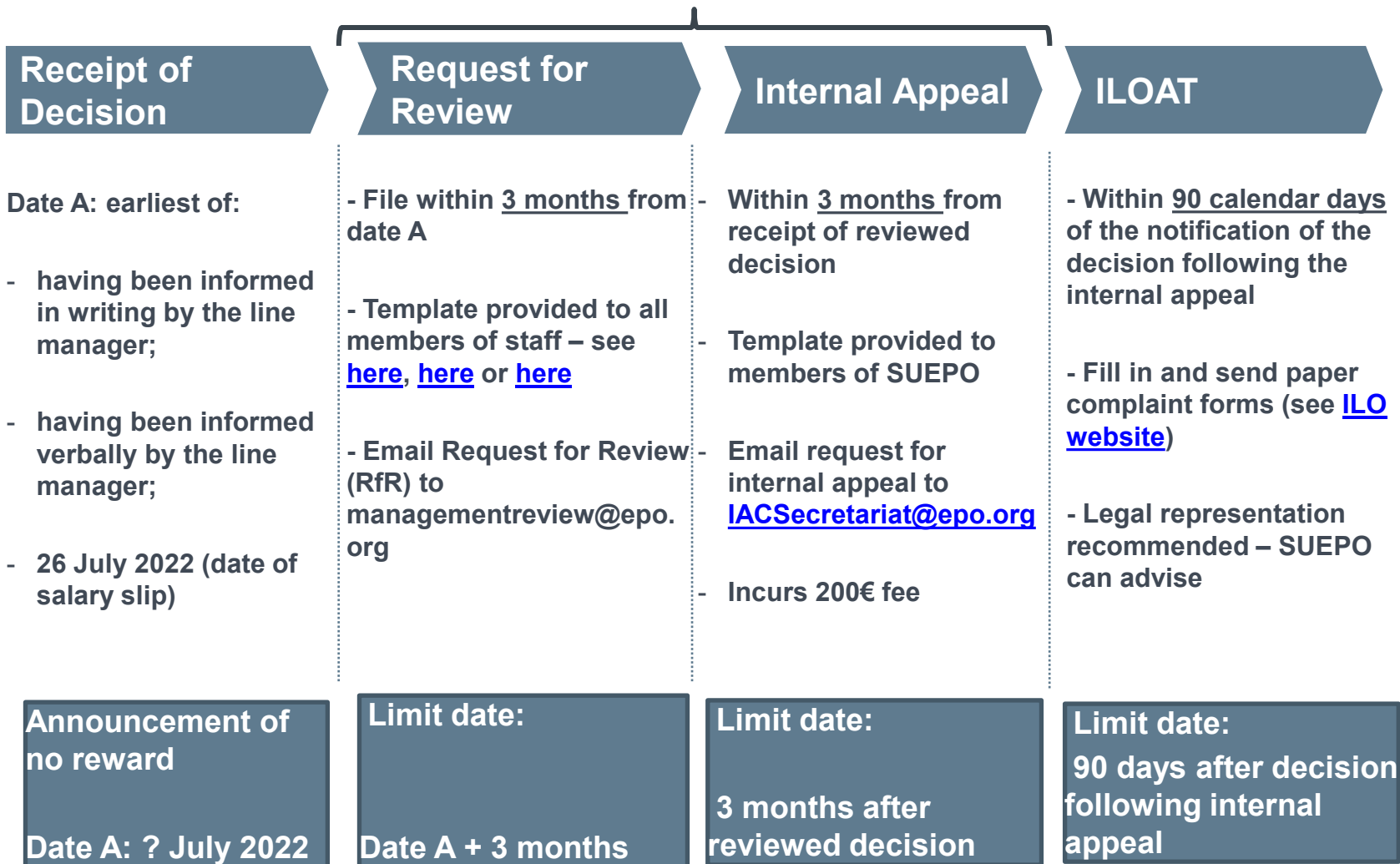
1: This is another reason why it is a good idea to be accompanied by a 3rd party at the management review meeting.

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Overview of the means of redress – “official / legal route”

Internal means of redress



Documentation

CODEX

Service Regulations:

- [Articles 48](#): Step Advancement, Bonus
- [Article 49](#): Promotions
- [Article 94\(c\)](#): Disciplinary measures
- [Circular 364](#): Implementation of the career System, Part IV: Decisions on step advancement, bonuses and promotions (rewards)

Intranet

Presidential communiqué: “[General guidelines on Budget allocation and rewards distribution for 2022](#)”, 01.03.2022

[EPO Intranet – Conflict Management/ Administrative disputes](#)

Rewards

Staff Committee Publications

Central Staff Committee:

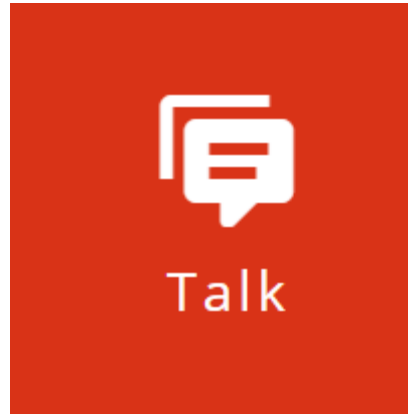
Rewards Exercise 2022 - Part 1: Overview & Part 2: Gender pay gap, [here](#) (intranet), [here](#) (MSTEAMS) and [here](#) (SUEPO website), 16.09.2022

Parts 3+ coming up – check [intranet](#) or [MSTEAMS](#)

Publications by the Unions

SUEPO Central:

[Contest lack of rewards: Request for Review](#), SUEPO, 05.09.2022



If you need assistance, please contact one of your [staff representatives](#):

- berlinstcomm@epo.org for Berlin
- DHSTCOM@epo.org for The Hague
- MNSTCOM@epo.org for Munich
- pwien@epo.org for Vienna