

From: [REDACTED]
To: [REDACTED]
SUPERVISION <supervision@edps.europa.eu>
EPSO DATA PROTECTION COORDINATOR (EC) <epso-
CC: [REDACTED] O
SECTEUR JURIDIQUE (EC) <epso-secteur-
juridique@ec.europa.eu>
Sent at: 03/05/24 22:15:34
Subject: RE: EPSO's reply to Complaint EDPS ref. 2022-1189 and
2024-0230 - the way forward- documents - for your
explanations please

Dear [REDACTED] and [REDACTED]

Further to our meeting, please find below the requested additional clarifications regarding the case of [REDACTED].

The complainant complains about the fact that EPSO deleted his data related to his applications EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG III, and EPSO/TA/IT/06 IT, after he had made an access request to said data on 18 June 2022. The complainant argues that this deletion of data constitutes a personal data breach. He also raises the assumption that the data might have been deleted by a *"dishonest employee that unlawfully deleted [his] data as due his/her unlawful behaviour has become a recipient (Case C-579/21)"*.

In reply to these allegations EPSO wishes to clarify that it did indeed delete the complainant's personal data related to the three abovementioned selection procedures after receiving his request of 18 June 2022, due to the fact that it has interpreted the request as a request for access *and erasure*, rather than a pure access request.

To put the above in context, we would like to explain EPSO's current practice for implementing data retention periods, and the erasure of personal data at the expiry of these periods.

EPSO stores candidates' personal data related to applications for selection procedures in a database called Talent, which is used to configure the selection process, manage applications, communication with candidates, and manage tests. Talent is a legacy IT tool that was not built in line with the "data protection by design and default" requirements valid today. (As a side note, EPSO would like to inform the EDPS that the replacement of Talent by a new, modern data management system compliant with the "data protection by design and default" principle is foreseen in the course of 2024.)

The legacy nature of Talent means, among other things, that it does not have a feature allowing the automatic deletion of data at the expiry of the applicable retention periods. For this reason, the identification and erasure of personal data for which the retention periods have passed needs to be performed by means of a manual operation. This manual "data cleaning" is carried out periodically, several times a year. Unfortunately, the non-automatic and periodical nature of this method means that in some cases data may be stored past the applicable legal retention periods, until the next "cleaning" operation is performed. This was, indeed, the case of the complainant's personal data related to his applications EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG III, and EPSO/TA/IT/06 IT.

The complainant's request of 18 June 2022 was phrased as follows:

"I would like to exercise my right of access by the data subject (under article 17) for the following application numbers in their correspondent selection procedure :

- 4220689
- 3921833
- 700311
- 539001

Specifically I would like to know:

- *If my personal data is still being processed.*
- *The recipients to whom my personal data have been disclosed."*

Upon receipt of the request, EPSO checked the complainant's file and realised that the data related to his applications EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG III, and EPSO/TA/IT/06 IT had been stored beyond the applicable retention periods. EPSO interpreted the lines *"I would like to exercise my right of access"* and *"Specifically I would like to know [...] If my personal data is still being processed"* as a request for access to the data where retention periods were still running and for erasure of the data where the retention periods had expired. Accordingly, it proceeded to the manual deletion of the complainant's data related to his applications EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG III, and EPSO/TA/IT/06 IT.

EPSO acknowledges that its above approach was not in line with the European Data Protection Board's "Guidelines 01/2022 on data subject rights - Right of access", quoted by the complainant in his correspondence (document "RequestForReview_2022-1189-signed.pdf"). However, it is important to underline that the said EDPB Guidelines were adopted on 28 March 2023, nearly a year after the complainant's request of 18 June 2022 and EPSO's reply of 5 August 2022 (ref. Ares(2022)5596112). Consequently, EPSO was not in a position to take the (not yet adopted) Guidelines into account when assessing and replying to the complainant's request.

EPSO furthermore confirms that the complainant's case was managed exclusively by authorised staff and the reply Ares(2022)5596112 was duly approved by hierarchy. Contrary to the complainant's assumptions, there was no question of "a dishonest employee acting in breach of the procedures established by the controller".

EPSO also considers that its handling of the complainant's request as described above does not constitute a data breach, which is defined in Regulation (EU) 2018/1725 as *"a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed"*. EPSO is of the opinion that deleting personal data stored past its retention period is not in breach of Regulation (EU) 2018/1725 or any other relevant rule laid down by an act of law.

I trust that you will find the above clarifications useful and sufficient.

Kind regards,





EPSO

From: 
Sent: Thursday, April 18, 2024 3:24 PM
To: 
Cc:  EPISO DATA
PROTECTION COORDINATOR <EPISO-DATA-PROTECTION-
COORDINATOR@ec.europa.eu>; SUPERVISION Xxx (EDPS)
<supervision@edps.europa.eu>
Subject: RE: EPISO's reply to Complaint EDPS ref. 2022-1189 and 2024-0230 - the
way forward- documents - for your explanations please

Dear colleagues,

I hope you are both well.

Following our webex meeting on 18 March 2024 regarding the implementation of the
EDPS order of 31 October 2023 in Complaint 2022-1189,
we were expecting to receive your written explanations to our doubts and questions
raised during that meeting.

In order to better understand and assess EPISO's reply sent to the complainant on 30
November 2023 in view of the EDPS order,
we would be grateful if you could provide us with the necessary explanations **by 3rd
May 2024**.

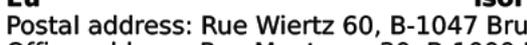
Please find attached the complainant's position following EPISO's reply of 30
November 2023 for your explanations (first attachment).
Please find also attached the complainant's allegations sent on 13 February 2024,
which are linked to his Complaint 2022-1189 for your comments (please scroll down
the second attachment).

Many thanks for your cooperation.

Kind regards,




 **orcement**

Eu  **isor**
Postal address: Rue Wiertz 60, B-1047 Brussels
Office address: Rue Montoyer 30, B-1000 Brussels
[@EU_EDPS](#) www.edps.europa.eu

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From: [REDACTED]
Sent: 15 March 2024 12:13
To: [REDACTED]
Cc: [REDACTED] EPSO DATA PROTECTION COORDINATOR (EC) <epso-data-protection-coordinator@ec.europa.eu>; SUPERVISION <supervision@edps.europa.eu>
Subject: RE: EPSO's reply to Complaint EDPS ref. 2022-1189 and 2024-0230 - the way forward- documents

Dear [REDACTED]

Many thanks for all this input, and for the Webex link.

Kind regards,

[REDACTED]

From: [REDACTED]
Sent: Thursday, March 14, 2024 8:43 PM
To: [REDACTED]
Cc: [REDACTED] EPSO DATA COORDINATOR@ec.europa.eu>; SUPERVISION Xxx (EDPS) <supervision@edps.europa.eu>
Subject: RE: EPSO's reply to Complaint EDPS ref. 2022-1189 and 2024-0230 - the way forward- documents

Dear [REDACTED]

I have already sent to you and Daniela a webex link for our meeting on Monday at 15h.

Please find attached his allegations and screenshots (most of which EPSO has already received from him directly) as well as two further access request complaints submitted by him in February 2024:

- 1) 'Request for Review': this is his reaction right after EPSO has provided him with the logs in view of implementing the EDPS order of 31 October 2023 (Although I have not attached your reply to him, we have some questions on EPSO's reply);
- 2) 'Manipulation with Videos': this was an Annex to his reaction alleging 'purges',
- 3) 'Request for access to personal data - Selection procedures...': he alleges unlawful breaches,

4) 'Webform submission form: Complaint form': he submitted a complaint on 13 February 2024 with attachments on alleged breaches,
5) 'Webform submission form: Complaint form sent on 18 February 2024': he submitted another complaint on 18 February with attachments on access to his personal data with a holding reply from EPSO.

The objective of the meeting is to better understand what he is alleging and seek clarifications from you in order to be able to assess and provide him with a comprehensive (definitive) position.

Many thanks for your availability.

Regards,

[REDACTED]

[REDACTED] **forcement**
[REDACTED]
Eu [REDACTED] **isor**
Postal address: Rue Wiertz 60, B-1047 Brussels
Office address: Rue Montoyer 30, B-1000 Brussels
[@EU_EDPS](mailto:EU_EDPS) www.edps.europa.eu

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From: [REDACTED]
Sent: 14 March 2024 18:12
To: [REDACTED]
Cc: [REDACTED]
SUPERVISION <supervision@edps.europa.eu>; EPSO DATA PROTECTION COORDINATOR (EC) <epso-data-protection-coordinator@ec.europa.eu>; EC DPO (EC) <ec-dpo@ec.europa.eu>; EPSO SECTEUR JURIDIQUE (EC) <epso-secteur-juridique@ec.europa.eu>
Subject: RE: EPSO's reply to Complaint EDPS ref. 2022-1189 - the way forward- some questions

Dear [REDACTED]

Thank you, I would appreciate it if you could send a Webex link. Also, I would be grateful if you could send us the complainant's allegations and screenshots tomorrow at the latest, so that we have time to

assess them before the meeting.

Kind regards,

[REDACTED]

From: [REDACTED]
Sent: Thursday, March 14, 2024 5:47 PM
To: [REDACTED]; SUPERVISION Xxx (EDPS) <supervision@edps.europa.eu>; EPSO DATA PROTECTION COORDINATOR <EPSO-DATA-PROTECTION-COORDINATOR@ec.europa.eu>; EC DPO <EC-DPO@ec.europa.eu>; EPSO SECTEUR JURIDIQUE <EPSO-SECTEUR-JURIDIQUE@ec.europa.eu>
Subject: RE: EPSO's reply to Complaint EDPS ref. 2022-1189 - the way forward- some questions

Dear [REDACTED]

Many thanks for your prompt reply.

If you want I can send you a webex link for Monday 18/03 for 45 mins at 15h.

I will send you later the complainant's allegations and screenshots.

Kind regards,

[REDACTED]

From: [REDACTED]
Sent: 14 March 2024 17:11
To: [REDACTED]
Cc: SUPERVISION <supervision@edps.europa.eu>; EPSO DATA PROTECTION COORDINATOR (EC) <epso-data-protection-coordinator@ec.europa.eu>; EC DPO (EC) <ec-dpo@ec.europa.eu>; EPSO SECTEUR JURIDIQUE (EC) <epso-secteur-juridique@ec.europa.eu>
Subject: RE: EPSO's reply to Complaint EDPS ref. 2022-1189 - the way forward- some questions

Dear [REDACTED]

Thank you for your message.

[REDACTED] and I would like to propose to meet online on Monday 15h; hopefully a 30-45' minute meeting should be sufficient. Please let us know if this suits you, and we'll send you

an invitation.

Kind regards,

[REDACTED]

From: [REDACTED]

Sent: Monday, March 11, 2024 1:18 PM

To: [REDACTED]

Cc: [REDACTED]

[REDACTED] SUPERVISION Xxx (EDPS)
<supervision@edps.europa.eu>; EPSO DATA PROTECTION
COORDINATOR <[EPSO-DATA-PROTECTION-
COORDINATOR@ec.europa.eu](mailto:EPSO-DATA-PROTECTION-COORDINATOR@ec.europa.eu)>; EC DPO <EC-DPO@ec.europa.eu>

Subject: FW: EPSO's reply to Complaint EDPS ref. 2022-1189 -
the way forward- some questions

Dear [REDACTED]

Dear [REDACTED]

I hope this e-mail finds you both well.

We would like to have a meeting with you, as we have some specific questions regarding EPSO's implementation of the EDPS order of 31 October 2023 regarding the complaint of [REDACTED], Case 2022-1189 (in attachment), [REDACTED] due to the fact that

- the complainant is not satisfied with EPSO's reply and the logs he was provided,
- he has sent screenshots and allegations that EPSO has unlawfully erased and 'purged' his data and
- he has submitted two more complaints v EPSO on access request and potential breaches (on 13th Feb and on 18 Feb 2024).

We would be grateful if you could suggest some dates from now until 26 March 2024, so that we can hopefully clarify all his allegations as soon as possible.

Once we find a specific date, I will send you his allegations and screenshots before the meeting.

Many thanks for your prompt reply.

Kind regards,

[REDACTED]

