

From: [REDACTED]
To: SUPERVISION <supervision@edps.europa.eu>;
European Data Protection Supervisor
<EDPS@edps.europa.eu>
Sent at: 20/05/24 18:17:21
Subject: Your ref: 2022-1189 and emails of 14/05/2023 and
15/05/2023

Dear EDPS and Supervision,

Thanks for your emails of (attached):
14/05/2023 with subject: "Our ref.: 2022-1189 - D(2024) 1540 - Webform
submission from: Complaint form sent on 13 February 2024 - to be linked with
Case 2022-118"
15/05/2023 with subject: "Our ref.: 2022-1189 - D(2024) 1552 - Closure of Case
2022-1189"

On your email of 14/05/2023 you stated:
"[...]Thank you for your e-mail of 6 May 2024, informing us of the EPSO's reply of
3 May 2024, which follows up on the EDPS order of 31 October 2023 (Case 2022-
1189).

**EPSO's reply suggests that there might be additional potential
infringements under Regulation (EU) 2018/1725.**

The EDPS will therefore open a new complaint case and investigate the new
elements and potential violations brought to our attention.

In case you disagree, please inform us accordingly by 21 May 2024.[...] "
(bold added by me)

**I disagree with the EDPS opening a new complaint. I request that the
already existing case 2022-1189 is used instead as the EDPS shouldn't
have closed it (see below).**

On your email of 15/05/2023 you stated:
"We have carefully analysed EPSO's reply to you of 30 November 2023, and its
further clarifications provided by letter of 3 May 2024. The EDPS concludes that
EPSO has provided you with the logs generated by consultation operations of
your EPSO profile that it had in its possession. This means that EPSO has
complied with the EDPS order to grant you access to all your log data available in
the systems used for the purpose of managing selection procedures.

In light of the above, the EDPS has decided to close Case 2022-1189."

By filling a complaint form of 13/02/2024 I lodged a complaint that you linked
(your email of 7/03/2024) to the case number 2022-1189:
"[...]The file will be linked to your complaint case number 2022-1189.

The EDPS will assess your complaint of 13 February 2024 (below) as well as EPSO's reply sent to you on 30 November 2023 regarding the EDPS order of 31 October 2023 that EPSO provide you access to all your log data, the time and purpose of each access[...]"

On my complaint of 13/02/2024:

- I informed you (again) about the purge and provided logs and a video (I provided the video later by email as the complaint form didn't allow me to upload it)
- I informed the EDPS: "EPSO has ignored my request to inform me (as a data subject) and to the EDPS the two data breaches from my letter from 1/02/2023 (LetterAfterRevisedDecision-ANNEXES-signed.pdf EDPS was in CC)"

In the Letter LetterAfterRevisedDecision-ANNEXES-signed.pdf (attached), I thoroughly explained why EPSO's provided logs were not EUDPR compliant nor Pankki compliant and made some requests under the EUDPR that EPSO ignored.

Also, I thoroughly analysed EPSO's reply against its ROPA and demonstrated how EPSO's reply was not EUDPR nor Pankki nor ROPA compliant (see 4 LOGs provided in my letter LetterAfterRevisedDecision-ANNEXES-signed.pdf). EPSO's ROPA document the existence of more logs.

In paragraph 6.7 and 6.11 to 6.16 of his Review Decision of 31 October 2023, the EDPS stated the following:

"6.7. However, the EDPS notes that EPSO has not submitted any evidence or documentation to support its statement in the reply of 26 October 2023 that this type of logfile does not exist."

6.11. In this context, the EDPS draws the attention of EPSO to the principle of accountability laid down in Article 4(2) of the Regulation, which states that "the controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability')." Moreover, Article 26(1) EUDPR requires the controller "to implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with that Regulation, taking into account the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons. Those measures shall be reviewed and updated where necessary" (emphasis added).

6.12. In relation to Article 5(2) of the GDPR the Court has recently confirmed its case-law:

“The controller, in accordance with the principle of ‘accountability’ laid down in that provision, is responsible for compliance with paragraph 1 of that article and must be able to demonstrate its compliance with each of the principles set out in paragraph 1 of that article, the burden of such proof thus being placed on it”.¹⁰ On 4 July 2023, the Grand Chamber clarified even further that “in accordance with Article 5 of the GDPR, the controller bears the burden of proving that those data are collected, inter alia, for specified, explicit and legitimate purposes and that they are processed lawfully, fairly and in a transparent manner in relation to the data subject.” (emphasis added).¹¹*

6.13. In his Opinion of 27 April 2023 in Case C 340/21, Natsionalna agentsia za prihodite, Advocate General Pitruzella confirmed that “[t]he principle of accountability is one of the central pillars of the GDPR and one of its most significant innovations. It places responsibility firmly on the controller to take proactive action to ensure compliance and to be ready to demonstrate that compliance.”

6.14. The European Commission refers to the principle of accountability as one of the shared concepts and principles on which the GDPR, the EUDPR and Directive 2016/680¹² are based, resulting in the consistent interpretation and application of EU data protection rules.”

6.15. The principle of accountability therefore places on the controller the duty to prove its compliance with the Regulation. Any uncertainties in that regard must be borne by the responsible controller.

“6.16. In accordance with the principle of accountability, it is thus for EPSO to demonstrate its compliance with the complainant’s right to access in accordance with Article 17(1) of the Regulation and EPSO must bear the burden of proof that some of the logfiles that the complainant requested in his email of 20 November 2022 do not exist.”

EPSO's ROPA clearly states that the logs exist.
It is EPSO's task to demonstrate compliance.

EPSO:

- hasn't submitted yet any evidence or documentation to support all its statements
- hasn't provided any recipient. (see 3.2 Recipients of my letter LetterAfterRevisedDecision-ANNEXES-signed.pdf)
- has acknowledged the purge but hasn't provided the disloyal employee details.
- has acknowledged the purge but hasn't informed me nor the EDPS about this data breach.
- hasn't fulfilled any of my requests (pages 12-14 of my letter LetterAfterRevisedDecision-ANNEXES-signed.pdf).
- hasn't restored the unlawfully purged data (see 3.4 Backups and Logs of my letter LetterAfterRevisedDecision-ANNEXES-signed.pdf).

I would like to bring to your attention that EPSO and EUIPO were joint controllers on some of the purged selection procedures and both should share the responsibility of The Purge.

From your Monitoring and enforcing compliance with Regulation (EU) 2018/1725[1]:

"Example: a person complains that an EUI unlawfully withheld personal data it held about her when replying to a request for access to one's own personal data under Article 17 of the Regulation. Following an on-site check, the EDPS decision establishes that the EUI indeed unlawfully withheld the data and orders it to provide a complete reply to the complainant by a specified deadline. **The EUI fails to comply with the order by that deadline. This is a situation in which the EDPS may decide to impose a fine.**" (bold added by me)

From EDPB's guideline on right of access:

"Example 6: On the occasion of replying to an access request a controller realises, that an application of the data subject for a vacancy in the company of the controller has been stored beyond the retention period. **In this case the controller cannot delete first and then reply to the data subject that no data (concerning the application) is processed. It has to give access first and delete the data afterwards.** In order to prevent a subsequent request for erasure it would then be recommended to add information about the fact and time of the deletion. [...]" (bold added by me)

EDPS' closing decision lacks of any substance as EPSO hasn't granted "access to all your log data available in the systems" as clearly and thoroughly explained on my letter LetterAfterRevisedDecision-ANNEXES-signed.pdf and on EPSO's ROPA.

EDPS' closing decision ignores completely my complaint of 13/2/2024. It was

It was EDPS decision (not mine) to link my complaint to case 2022-1189 "**The file will be linked to your complaint case number 2022-1189.**" and has closed it without addressing the complaint and the Purge.

EDPS has recognized EPSO's non-compliances by its email of 14/05/2024: "**EPSO's reply suggests that there might be additional potential infringements under Regulation (EU) 2018/1725.**" but yet decides to close the 2021-1189.

Therefore I request:

1. that the EDPS reviews its decision to close the case 2022-1189 and keep it open and not open a new complaint. All investigations must be carried out under the already existing 2022-1189
2. that the EDPS orders EPSO to comply with all my request on my letter LetterAfterRevisedDecision-ANNEXES-signed.pdf
3. an on-the-spot investigation on EPSO's facilities to thoroughly investigate the purge and all EPSO non-compliances.
4. to be present in the on-the-spot investigation while the EDPS gathers all the evidence.

I would also like to bring your attention to your case 2024-0230 where EPSO ignored my all requests too.

Finally I would like to remind you of Article 22a of the staff regulations:

"Article 22a

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the ►M128 Union ◄, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the ►M128 Union ◄, shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct.[...]" (bold added by me).

Thanks for your time

Best regards



From: European Data Protection Supervisor <EDPS@edps.europa.eu>
To: [REDACTED]
Sent at: 15/05/24 12:16:22
Subject: Our ref.: 2022-1189 - D(2024) 1552 - Closure of Case 2022-1189

Dear [REDACTED]

We are writing to you with regard to the follow up on the Review Decision on your complaint against EPSO submitted on 16 November 2022 (Case 2022-1189).

In paragraph 6.17 of his Review Decision of 31 October 2023, the EDPS issued the following order to EPSO: **'Therefore, the EDPS under Article 58(2)(d) of the Regulation hereby ORDERS EPSO to comply with the complainant's request to be granted access to all his log data, the time and the purpose of each access generated by consultation operations of his EPSO profile in the context of the four EPSO selection procedures to which he participated, where available'.**

We have carefully analysed EPSO's reply to you of 30 November 2023, and its further clarifications provided by letter of 3 May 2024. The EDPS concludes that EPSO has provided you with the logs generated by consultation operations of your EPSO profile that it had in its possession. This means that EPSO has complied with the EDPS order to grant you access to all your log data available in the systems used for the purpose of managing selection procedures.

In light of the above, the EDPS has decided to **close Case 2022-1189**.

An action for annulment against this decision can be brought before the Court of Justice of the European Union, within two months from its adoption and according to the conditions laid down in Article 263 TFEU.

Kind regards,

EDPS Secretary General



| Tel. (+32) 228 31900 | Fax +32(0)22831950 |
Email edps@edps.europa.eu

European Data Protection Supervisor

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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Data Protection Notice

According to Articles 15 and 16 of Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, please be informed that your personal data will be processed by the EDPS, where proportionate and necessary, for the purpose of investigating your complaint. The legal basis for this processing operation is Article 57(1)(e) of Regulation (EU) 2018/1725. The data processed will have been submitted by you, or from other sources during the inquiry of your complaint, and this may include sensitive data. Your data will only be transferred to other EU institutions and bodies or to third parties when it is necessary to ensure the appropriate investigation or follow up of your complaint. Your data will be stored by the EDPS in electronic and paper files for up to ten years (five years for prima facie inadmissible complaints) after the case closure, unless legal proceedings

require us to keep them for a longer period. You have the right to access your personal data held by the EDPS and to obtain the rectification thereof, if necessary. Any such request should be addressed to the EDPS at edps@edps.europa.eu. Your data might be transferred to other EU institutions and bodies or to any third parties only where necessary to ensure the appropriate handling of your request. You may also contact the data protection officer of the EDPS (EDPS-DPO@edps.europa.eu), if you have any remarks or complaints regarding the way we process your personal data. You can find the full version of our data protection notice on complaint handling at: https://edps.europa.eu/data-protection/our-role-supervisor/complaints-handling-data-protection-notice_en

From: [REDACTED]
Sent: 06 May 2024 10:32
To: SUPERVISION <supervision@edps.europa.eu>; European Data Protection Supervisor <EDPS@edps.europa.eu>
Cc: ZERDICK Thomas <thomas.zerdick@edps.europa.eu>; ROSSIGNOL Olivier <olivier.rossignol@edps.europa.eu>; CERVERA NAVAS Leonardo <leonardo.cerveranavas@edps.europa.eu>; WIEWIOROWSKI Wojciech <wojciech.wiewiorowski@edps.europa.eu>
Subject: Re: Our ref.: 2022-1189 - D(2024) 1094 - Webform submission from: Complaint form sent on 13 February 2024 - to be linked with Case 2022-1189
Importance: High

Dear SUPERVISION and EDPS,

Please find attached EPSO's reply. Not a single one of my requests have been fulfilled

From your Monitoring and enforcing compliance with Regulation (EU) 2018/1725[1]:

Example: a person complains that an EUI unlawfully withheld personal data it held about her when replying to a request for access to one's own personal data under Article 17 of the Regulation. Following an on-site check, the EDPS decision establishes that the EUI indeed unlawfully withheld the data and orders it to provide a complete reply to the complainant by a specified deadline. **The EUI fails to comply with the order by that deadline. This is a situation in which the EDPS may decide to impose a fine.**

From EDPB's guideline on right of access[2]:

Example 6: On the occasion of replying to an access request a controller realises, that an application of the data subject for a vacancy in the company of the controller has been stored beyond the retention period. **In this case the controller cannot delete first and then reply to the data subject that no data (concerning the application) is processed. It has to give access first and delete the data afterwards.** In order to prevent a subsequent request for erasure it would then be recommended to add information about the fact and time of the deletion.

Can you please schedule a video conference to assess EPSO's reply? Not a single one of my requests have been fulfilled

Thanks for your time

Best regards

[1] https://www.edps.europa.eu/sites/edp/files/publication/20-05-08_monitoring_and_ensuring_compliance_en.pdf

[2] https://edpb.europa.eu/system/files/2023-04/edpb_guidelines_202201_data_subject_rights_access_v2_en.pdf

Juan Sierra Pons juan@elsotanillo.net
Linux User Registered: #257202
Web: <http://www.elsotanillo.net> Git: <http://www.github.com/juasiepo>
Key Fingerprint = 0AD3F3DB8DE5183394882263FC429375EF21B13F

El vie, 3 may 2024 a las 16:27, Juan Sierra Pons (<juan@elsotanillo.net>) escribió:

Dear Supervision, EDPS,

Thank you for your email of 03/4/2024:

"[...]The EDPS has contacted EPSO seeking clarifications on your allegations and on their reply to you of 30 November 2023 regarding Case 2022-1189.

We will inform you accordingly.[...]"

The deadline to reply to my DSR (after two holding replies) expired yesterday 2/5/2023.

Can you please inform me accordingly about your findings? My complaint is from 13/2/2024

Thanks for your time

Best regards

El mié, 3 abr 2024 a las 17:33, SUPERVISION (<supervision@edps.europa.eu>) escribió:

Dear 

Thank you for your email of 26 March 2024 regarding your complaint against EPSO submitted on 13 February 2024 concerning your access request and alleged data breaches (linked to Case 2022-1189).

The EDPS has contacted EPSO seeking clarifications on your allegations and on their reply to you of 30 November 2023 regarding Case 2022-1189.

We will inform you accordingly.

Kind regards,

S&E Secretariat on behalf of Thomas Zerdick, Head of Unit

	SUPERVISION & ENFORCEMENT UNIT Tel. (+32) 228 31900 Fax +32(0)22831950 ›
	Email Supervision@edps.europa.eu
European Data Protection Supervisor 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: 26 March 2024 11:35

To: SUPERVISION <supervision@edps.europa.eu>

Subject: Re: Webform submission from: Complaint form sent on 13 February 2024 - to be linked with Case 2022-1189

Importance: High

Dear SUPERVISION,

I provided you with the video (certified by a third party digital witness) by emails of 15/3/2023

I lodged this complaint on 13/2/2024 and I haven't received any meaningful information in accordance with Article 67, and investigate, to the extent appropriate, the subject matter of the complaint **and inform the complainant of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another supervisory authority is necessary;**"

I have been trying to get access to my logs since 20/06/2022 without success and EPSO has deleted my data (hereinafter, 'The purge') instead of providing me with the logs.

'The purge' is basically two personal data protection breaches that should have been thoroughly investigated:

1. EPSO was storing applicant's data far beyond any reasonable date. Some data was from 2006 as seen on the Request for review Eg: EPSO/TA/IT/06 IT Temporary Agents IT from 2006.
2. EPSO/EUIPO instead of providing the logs and the data decided to purge applicant's data and claim compliance.

*** Has EPSO informed the EDPS about the two data breaches?**

*** Has the EDPS informed already other competent EU bodies? eg: EUROPOL, EPPO, OLAF, ENISA, CJEU, etc.**

*** Is the EDPS investigating this data protection mess?** Please note that I haven't brought EPSO to court (yet) to allow the EDPS enough time to investigate the matter without triggering the Article 16(6) of the EDPS Rules of Procedure provides that the EDPS 'shall suspend the investigation of a complaint pending a ruling by a court or a decision of another judicial or administrative body on the same matter'.

*** Is the EDPS ordering EPSO to comply with all my requests as a data subject?** specially the restore of my deleted data and the object and restriction rights that are on my Letter sent by email of 1/02/2023 (LetterAfterRevisedDecision-ANNEXES-signed.pdf) to EPSO with the EDPS in CC and attached to the complaint. form.

*** As per Mr Zerdick comment on his LinkedIn** "Note that the [#EUDPR](#) does not allow the EDPS to immediately impose an administrative fine, but only when an EU institution, body, office, or agency fails to comply with an EDPS order." **Is EDPS fining EPSO for not complying with its order to comply with my request and providing me the logs?**

I requested the logs on 20/06/2022 to be used in my (future at that time) court applications against EUIPO. I have gone to court without any single line of logs:

*** Case T-221/23**

*** Case T-1138/23**

Please see Article 22a and 22b of the [Staff Regulations](#):
"Article 22

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the ► M128 Union ◀ , or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the ► M128 Union ◀ , shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct.[...]" (bold added by me).

I would like to remind you of https://anti-fraud.ec.europa.eu/olaf-and-you/report-fraud_en

"

[...] **EU staff members reporting fraud**

If you are an EU staff member you have an obligation to report possible cases of fraud, corruption, other illegal activity, or professional conduct which may constitute a serious failure to comply with the obligations of EU staff members.

You can either inform a member of management in your institution or OLAF about your suspicions. If you want to inform OLAF directly, please follow the steps described above, under the heading [How to report to OLAF](#).

[...]

Deleting personal data needed for two court cases (future at that time) is quite a possible case of **fraud, corruption, other illegal activity, or professional conduct which may constitute a serious failure to comply with the obligations of EU staff members.**

I have provided evidence of the manipulation of my personal data (certified by a third party digital witness) while EPSO has claimed compliance.

I will gladly have a video conference with the EDPS to provide more evidence of EUIPO's many wrongdoing

Thanks for your time.

Best regards

[Redacted signature]

El jue, 7 mar 2024 a las 16:30, [Redacted] escribió:

Dear SUPERVISION,

Please do not forget the two data breaches and the video certified by a third party witnessI provided by email of 21/02/2024

Thanks for your time.

Best regards

[Redacted signature]

El jue, 7 mar 2024 a las 15:38, SUPERVISION (<supervision@edps.europa.eu>) escribió:

Dear [REDACTED]

The EDPS acknowledges receipt of your complaint submitted through the online complaint form on 13 February 2024 against EPSO regarding your access request to your logs.

The file will be linked to your complaint case number 2022-1189.

The EDPS will assess your complaint of 13 February 2024 (below) as well as EPSO's reply sent to you on 30 November 2023 regarding the EDPS order of 31 October 2023 that EPSO provide you access to all your log data, the time and purpose of each access.

We will inform you accordingly in due time.

Yours sincerely,

SUPERVISION & ENFORCEMENT UNIT	
Tel. (+32) 228 31900 Fax +32(0)22831950 ›	
	Email Supervision@edps.europa.eu
	European Data Protection Supervisor
	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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According to Articles 15 and 16 of Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, please be informed that your personal data will be processed by the EDPS, where proportionate and necessary, for the purpose of investigating your complaint. The legal basis for this processing operation is Article 57(1)(e) of Regulation (EU) 2018/1725. The data processed will have been submitted by you, or from other sources during the inquiry of your complaint, and this may include sensitive data. Your data will only be transferred to other EU institutions and bodies or to third parties when it is necessary to ensure the appropriate investigation or follow up of your complaint. Your data will be stored by the EDPS in electronic and paper files for up to ten years (five years for prima facie inadmissible complaints) after the case closure, unless legal proceedings require us to keep them for a longer period. You have the right to access your personal data held by the EDPS and to obtain the rectification thereof, if necessary. Any such request should be addressed to the EDPS at edps@edps.europa.eu. Your data might be transferred to other EU institutions and bodies or to any third parties only where necessary to ensure the appropriate handling of your request. You may also contact the data protection officer of the EDPS (DPO@edps.europa.eu), if you have any remarks or complaints regarding the way we process your personal data. You can find the full version of our data protection notice on complaint handling at: https://edps.europa.eu/data-protection/our-role-supervisor/complaints-handling-data-protection-notice_en

From: European Data Protection Supervisor <edps-edps@fpis.tech.ec.europa.eu>

Sent: 13 February 2024 12:08

To: SUPERVISION <supervision@edps.europa.eu>

Subject: Webform submission from: Complaint form

<p>Submitted on Tue, 02/13/2024 - 12:00</p>

<p>Submitted values are:</p>

1. Are you:

(a) personally affected by the issue(s) at stake in your complaint

2. Which EU institution, body, office or agency do you wish to complain about?

European Personnel Selection Office

3. Please describe your complaint and specify which personal data protection rule(s) you believe have been infringed by the EU institution, body, office, or agency concerned.

EPSO, In the context of case 2022-1189 and court case T-546/23 hasn't provided any EUDPR or Pankki compliant logs.

By email of 1/02/2023 (LetterAfterRevisedDecision-ANNEXES-signed.pdf

EDPS was in CC) I informed EPSO that the provided logs were not compliant and also informed it about a Data Breach (hereinafter 'The purge'). 'The purge' is basically two personal data protection breaches that should have been thoroughly investigated:

1. EPSO was storing applicant's data far beyond any reasonable date. Some data was from 2006 as seen on the Request for review Eg: EPSO/TA/IT/06 IT Temporary Agents IT from 2006.

2. EPSO/EUIPO instead of providing the logs and the data decided to purge applicant's data and claim

compliance.

As a matter of fact I already informed the EDPS about the same very Data Breach by emails of 1/04/2023 , 21/04/2023 (Annexes 2023-04-01_Correo de elsotanillo.net - Our ref. 2022-1189 - D(2023) 0200.pdf

and 2023-04-21_Correo de elsotanillo.net - Our ref. 2022-1189 - D(2023) 0200.pdf

). It seems that the EDPS didn't understand the emails properly as no action was taken at that moment.

I also included the deletion of my personal data on my request for review but the EDPS ignored it again.

I have a certified (by a third party witness eGarante) web session from 15/05/2022 where the purged application EUIPO/CAST/1/16 - 6 – INFORMATION TECHNOLOGY/PROJECT MANAGEMENT SPECIALIST - Function Group IV (FG IV) can be seen. The log clearly state that the web session was from 15/05/2022

2022-05-15 09:49:39.820571 <https://europa.eu/epso/application/passport/login.cfm?islo=true>

2022-05-15 09:50:01.203219 <https://europa.eu/epso/application/base/index.cfm>

2022-05-15 09:50:01.203219 https://europa.eu/epso/application/cv_new/index.cfm

2022-05-15 09:50:04.413404 <https://europa.eu/epso/application/passport/index.cfm?action=pdplegal>

I cannot provide the PDF nor the video as the complaint form only allows me to upload 3 files with less than 3MB. I will provide them by email when I receive your reference number by email

4. Please explain what you would like the EU institution, body, office, or agency to do in order to remedy the alleged violation.

EPSO has ignored all my attempts to get access to the logs even after being ordered to comply with my request by the EDPS.

EPSO has ignored my request to inform me (as a data subject) and to the EDPS the two data breaches from my letter from 1/02/2023 (LetterAfterRevisedDecision-ANNEXES-signed.pdf EDPS was in CC)

5. When did you become aware of the alleged violation?

2023-04-01

6. If you have supporting documents to substantiate your claim, please upload them here.

•

https://www.edps.europa.eu/system/files/webform/complaint_form/11901/screenshot_before_afterthepurge_1.pdf

• https://www.edps.europa.eu/system/files/webform/complaint_form/11901/2023-04-21_correo-de-elsotanillo.net-our-ref.-2022-1189---d%282023-0200_0.pdf

• https://www.edps.europa.eu/system/files/webform/complaint_form/11901/2023-04-01_correo-de-elsotanillo.net-our-ref.-2022-1189---d%282023-0200_0.pdf

7. Have you already contacted the EU institution, body, office or agency you want to complain about concerning the alleged violation?

Yes

Please provide details, including the reply of the EU institution, body, office or agency.

EPSO has ignored all my attempts to get the logs and has deleted my data. The EDPS has already all the supporting documents and emails shared between me and the EPSO.

8. Have you submitted the same matter to other bodies (Court of Justice, European Ombudsman, etc.)?

No

9. Your Name

Please note:

If you are a lawyer acting on behalf of a client, please enter your client's name here, not yours - please enter your details under "contact information" below and attach a power of attorney.

If you are a not-for-profit body, organisation or association, please enter your client name here, not yours - please enter your details under "contact information" below and attach a mandate from the individual.

First name(s)

[REDACTED]

Family name(s)

[REDACTED]

10. Contact information

[REDACTED]

11. E-mail address

[REDACTED]

The EDPS treats all complaints confidentially. However, the investigation of your complaint may require disclosing your identity and the allegations you made to the EU institution, body, office, or agency against which you complained. If necessary for the investigation, the identity of the third parties involved, including national data protection authorities may be disclosed. The EDPS will also copy the Data Protection Officer (DPO) of the EU institution, body, office or agency concerned into all correspondence between the EDPS and the EU institution, body, office or agency concerned. Any public summaries of cases (e.g. in the Annual Reports of the EDPS) will be completely anonymous.

12. Do you accept this standard confidential treatment of your complaint?

Yes

13. Do you agree that your complaint may be passed to another institution, body, office or agency (European or national), if the EDPS is not competent?

Yes

14. I acknowledge having read and understood the Data protection notice.

Yes

From: SUPERVISION <supervision@edps.europa.eu>
To: [REDACTED]
Sent at: 14/05/24 18:05:06
Subject: Our ref.: 2022-1189 - D(2024) 1540 - Webform submission from:
Complaint form sent on 13 February 2024 - to be linked with Case
2022-1189

Dear [REDACTED]

Thank you for your e-mail of 6 May 2024, informing us of the EPSO's reply of 3 May 2024, which follows up on the EDPS order of 31 October 2023 (Case 2022-1189).

EPSO's reply suggests that there might be additional potential infringements under Regulation (EU) 2018/1725.

The EDPS will therefore **open a new complaint case** and investigate the new elements and potential violations brought to our attention.

In case you disagree, please inform us accordingly by 21 May 2024.

Kind regards,

SUPERVISION & ENFORCEMENT UNIT



| Tel. (+32) 228 31900 | Fax +32(0)22831950 |
Email Supervision@edps.europa.eu
European Data Protection Supervisor
Postal address: Rue Wiertz 60, B-1047 Brussels
Office address: Rue Montoyer 30, B-1000 Brussels
[@EU_EDPS](https://twitter.com/EU_EDPS) www.edps.europa.eu

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Data Protection Notice

According to Articles 15 and 16 of Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, please be informed that your personal data will be processed by the EDPS, where proportionate and necessary, for the purpose of investigating your complaint. The legal basis for this processing operation is Article 57(1)(e) of Regulation (EU) 2018/1725. The data processed will have been submitted by you, or from other sources during the inquiry of your complaint, and this may include sensitive data. Your data will only be transferred to other EU institutions and bodies or to third parties when it is necessary to ensure the appropriate investigation or follow up of your complaint. Your data will be stored by the EDPS in electronic and paper files for up to ten years (five years for prima facie inadmissible complaints) after the case closure, unless legal proceedings require us to keep them for a longer period. You have the right to access your personal data held by the EDPS and to obtain the rectification thereof, if necessary. Any such request should be addressed to the EDPS at edps@edps.europa.eu. Your data might be transferred to other EU institutions and bodies or to any third parties only where necessary to ensure the appropriate handling of your request. You may also contact the data protection officer of the EDPS (EDPS-DPO@edps.europa.eu), if you have any remarks or complaints regarding the way we process your personal data. You can find the full version of our data protection notice on complaint handling at: https://edps.europa.eu/data-protection/our-role-supervisor/complaints-handling-data-protection-notice_en.

From: [REDACTED]
Sent: 06 May 2024 10:32
To: SUPERVISION <supervision@edps.europa.eu>; European Data Protection Supervisor <EDPS@edps.europa.eu>
Cc: ZERDICK Thomas <thomas.zerdick@edps.europa.eu>; ROSSIGNOL Olivier <olivier.rossignol@edps.europa.eu>; CERVERA NAVAS Leonardo <leonardo.cerveranavas@edps.europa.eu>; WIEWIOROWSKI Wojciech <wojciech.wiewiorowski@edps.europa.eu>
Subject: Re: Our ref.: 2022-1189 - D(2024) 1094 - Webform submission from: Complaint form sent on 13 February 2024 - to be linked with Case 2022-1189
Importance: High

Dear SUPERVISION and EDPS,

Please find attached EPSO's reply. Not a single one of my requests have been fulfilled

From your Monitoring and enforcing compliance with Regulation (EU) 2018/1725[1]:

Example: a person complains that an EUI unlawfully withheld personal data it held about her when replying to a request for access to one's own personal data under Article 17 of the Regulation. Following an on-site check, the EDPS decision establishes that the EUI indeed unlawfully withheld the data and orders it to provide a complete reply to the complainant by a specified deadline. **The EUI fails to comply with the order by that deadline. This is a situation in which the EDPS may decide to impose a fine.**

From EDPB's guideline on right of access[2]:

Example 6: On the occasion of replying to an access request a controller realises, that an application of the data subject for a vacancy in the company of the controller has been stored beyond the retention period. **In this case the controller cannot delete first and then reply to the data subject that no data (concerning the application) is processed. It has to give access first and delete the data afterwards.** In order to prevent a subsequent request for erasure it would then be recommended to add information about the fact and time of the deletion.

Can you please schedule a video conference to assess EPSO's reply? Not a single one of my requests have been fulfilled

Thanks for your time

Best regards

[1] https://www.edps.europa.eu/sites/edp/files/publication/20-05-08_monitoring_and_ensuring_compliance_en.pdf

[2] https://edpb.europa.eu/system/files/2023-04/edpb_guidelines_202201_data_subject_rights_access_v2_en.pdf

[REDACTED]

El vie, 3 may 2024 a las 16:27, [REDACTED] escribió:

Dear Supervision, EDPS,

Thank you for your email of 03/4/2024:

"[...]The EDPS has contacted EPSO seeking clarifications on your allegations and on their reply to you of 30 November 2023 regarding Case 2022-1189.

We will inform you accordingly.[...]"

The deadline to reply to my DSR (after two holding replies) expired yesterday 2/5/2023.

Can you please inform me accordingly about your findings? My complaint is from 13/2/2024

Thanks for your time

Best regards

[Redacted signature block]

El mié, 3 abr 2024 a las 17:33, SUPERVISION (<supervision@edps.europa.eu>) escribió:

Dear [Redacted]

Thank you for your email of 26 March 2024 regarding your complaint against EPSO submitted on 13 February 2024 concerning your access request and alleged data breaches (linked to Case 2022-1189).

The EDPS has contacted EPSO seeking clarifications on your allegations and on their reply to you of 30 November 2023 regarding Case 2022-1189.

We will inform you accordingly.

Kind regards,

S&E Secretariat on behalf of Thomas Zerdick, Head of Unit

SUPERVISION & ENFORCEMENT UNIT	
Tel. (+32) 228 31900 Fax +32(0)22831950 ›	
Email Supervision@edps.europa.eu	
	European Data Protection Supervisor 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: 26 March 2024 11:35

To: SUPERVISION <supervision@edps.europa.eu>

Subject: Re: Webform submission from: Complaint form sent on 13 February 2024 - to be linked with Case 2022-1189

Importance: High

Dear SUPERVISION,

I provided you with the video (certified by a third party digital witness) by emails of 15/3/2023

I lodged this complaint on 13/2/2024 and I haven't received any meaningful information in accordance with Article 67, and investigate, to the extent appropriate, the subject matter of the complaint **and inform the complainant of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another supervisory authority is necessary;**"

I have been trying to get access to my logs since 20/06/2022 without success and EPSO has deleted my data (hereinafter, 'The purge') instead of providing me with the logs.

'The purge' is basically two personal data protection breaches that should have been thoroughly investigated:

1. EPSO was storing applicant's data far beyond any reasonable date. Some data was from 2006 as seen on the Request for review Eg: EPSO/TA/IT/06 IT Temporary Agents IT from 2006.
2. EPSO/EUIPO instead of providing the logs and the data decided to purge applicant's data and claim compliance.

*** Has EPSO informed the EDPS about the two data breaches?**

*** Has the EDPS informed already other competent EU bodies? eg: EUROPOL, EPPO, OLAF, ENISA, CJEU, etc.**

*** Is the EDPS investigating this data protection mess?** Please note that I haven't brought EPSO to court (yet) to allow the EDPS enough time to investigate the matter without triggering the Article 16(6) of the EDPS Rules of Procedure provides that the EDPS 'shall suspend the investigation of a complaint pending a ruling by a court or a decision of another judicial or administrative body on the same matter'.

*** Is the EDPS ordering EPSO to comply with all my requests as a data subject?** specially the restore of my deleted data and the object and restriction rights that are on my Letter sent by email of 1/02/2023 (LetterAfterRevisedDecision-ANNEXES-signed.pdf) to EPSO with the EDPS in CC and attached to the complaint. form.

*** As per Mr Zerdick comment on his LinkedIn** "Note that the #EUDPR does not allow the EDPS to immediately impose an administrative fine, but only when an EU institution, body, office, or agency fails to comply with an EDPS order." **Is EDPS fining EPSO for not complying with its order to comply with my request and providing me the logs?**

I requested the logs on 20/06/2022 to be used in my (future at that time) court applications against EUIPO. I have gone to court without any single line of logs:

*** Case T-221/23**

*** Case T-1138/23**

Please see Article 22a and 22b of the [Staff Regulations](#):
"Article 22

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the ► M128 Union ◄ , or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the ► M128 Union ◄ , shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct.[...]" (bold added by me).

I would like to remind you of https://anti-fraud.ec.europa.eu/olaf-and-you/report-fraud_en

"

[...] **EU staff members reporting fraud**

If you are an EU staff member you have an obligation to report possible cases of fraud, corruption, other illegal activity, or professional conduct which may constitute a serious failure to comply with the obligations of EU staff members.

You can either inform a member of management in your institution or OLAF about your suspicions. If you want to inform OLAF directly, please follow the steps described above, under the heading [How to report to OLAF](#).

[...]

Deleting personal data needed for two court cases (future at that time) is quite a possible case of **fraud, corruption, other illegal activity, or professional conduct which may constitute a serious failure to comply with the obligations of EU staff members.**

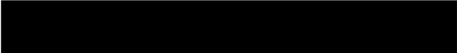
I have provided evidence of the manipulation of my personal data (certified by a third party digital witness) while EPSO has claimed compliance.

I will gladly have a video conference with the EDPS to provide more evidence of EUIPO's many wrongdoing

Thanks for your time.

Best regards



El jue, 7 mar 2024 a las 16:30,  escribió:

Dear SUPERVISION,

Please do not forget the two data breaches and the video certified by a third party witnessI provided by email of 21/02/2024

Thanks for your time.

Best regards



El jue, 7 mar 2024 a las 15:38, SUPERVISION (<supervision@edps.europa.eu>) escribió:

Dear 

The EDPS acknowledges receipt of your complaint submitted through the online complaint form on 13 February

2024 against EPSO regarding your access request to your logs.

The file will be linked to your complaint case number 2022-1189.

The EDPS will assess your complaint of 13 February 2024 (below) as well as EPSO's reply sent to you on 30 November 2023 regarding the EDPS order of 31 October 2023 that EPSO provide you access to all your log data, the time and purpose of each access.

We will inform you accordingly in due time.

Yours sincerely,

SUPERVISION & ENFORCEMENT UNIT Tel. (+32) 228 31900 Fax +32(0)22831950 ›	
	Email Supervision@edps.europa.eu European Data Protection Supervisor Postal address: Rue Wiertz 60, B-1047 Brussels Office address: Rue Montoyer 30, B-1000 Brussels @EU_EDPS www.edps.europa.eu
This email (and any attachment) may contain information that is internal or confidential. Unauthorised access, use or other processing is not permitted. If you are not the intended recipient please inform the sender by reply and then delete all copies. Emails are not secure as they can be intercepted, amended, and infected with viruses. The EDPS therefore cannot guarantee the security of correspondence by email.	



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appropriate investigation or follow up of your complaint. Your data will be stored by the EDPS in electronic and paper files for up to ten years (five years for prima facie inadmissible complaints) after the case closure, unless legal proceedings require us to keep them for a longer period. You have the right to access your personal data held by the EDPS and to obtain the rectification thereof, if necessary. Any such request should be addressed to the EDPS at edps@edps.europa.eu. Your data might be transferred to other EU institutions and bodies or to any third parties only where necessary to ensure the appropriate handling of your request. You may also contact the data protection officer of the EDPS (DPO@edps.europa.eu), if you have any remarks or complaints regarding the way we process your personal data. You can find the full version of our data protection notice on complaint handling at: https://edps.europa.eu/data-protection/our-role-supervisor/complaints-handling-data-protection-notice_en

From: European Data Protection Supervisor <edps-edps@fpis.tech.ec.europa.eu>

Sent: 13 February 2024 12:08

To: SUPERVISION <supervision@edps.europa.eu>

Subject: Webform submission from: Complaint form

<p>Submitted on Tue, 02/13/2024 - 12:00</p>

<p>Submitted values are:</p>

1. Are you:

(a) personally affected by the issue(s) at stake in your complaint

2. Which EU institution, body, office or agency do you wish to complain about?

European Personnel Selection Office

3. Please describe your complaint and specify which personal data protection rule(s) you believe have been infringed by the EU institution, body, office, or agency concerned.

EPSO, In the context of case 2022-1189 and court case T-546/23 hasn't provided any EUDPR or Pankki compliant logs.

By email of 1/02/2023 (LetterAfterRevisedDecision-ANNEXES-signed.pdf

EDPS was in CC) I informed EPSO that the provided logs were not compliant and also informed it about a Data Breach (hereinafter 'The purge'). 'The purge' is basically two personal data protection breaches that should have been thoroughly investigated:

1. EPSO was storing applicant's data far beyond any reasonable date. Some data was from 2006 as seen on the Request for review Eg: EPSO/TA/IT/06 IT Temporary Agents IT from 2006.

2. EPSO/EUIPO instead of providing the logs and the data decided to purge applicant's data and claim compliance.

As a matter of fact I already informed the EDPS about the same very Data Breach by emails of 1/04/2023 , 21/04/2023 (Annexes 2023-04-01_Correo de elsotanillo.net - Our ref. 2022-1189 - D(2023) 0200.pdf

and 2023-04-21_Correo de elsotanillo.net - Our ref. 2022-1189 - D(2023) 0200.pdf

). It seems that the EDPS didn't understand the emails properly as no action was taken at that moment.

I also included the deletion of my personal data on my request for review but the EDPS ignored it again.

I have a certified (by a third party witness eGarante) web session from 15/05/2022 where the purged application EUIPO/CAST/1/16 - 6 – INFORMATION TECHNOLOGY/PROJECT MANAGEMENT SPECIALIST - Function Group IV (FG IV) can be seen. The log clearly state that the web session was from 15/05/2022

2022-05-15 09:49:39.820571 <https://europa.eu/epso/application/passport/login.cfm?islo=true>

2022-05-15 09:50:01.203219 <https://europa.eu/epso/application/base/index.cfm>

2022-05-15 09:50:01.203219 https://europa.eu/epso/application/cv_new/index.cfm

2022-05-15 09:50:04.413404 <https://europa.eu/epso/application/passport/index.cfm?action=pdplegal>

I cannot provide the PDF nor the video as the complaint form only allows me to upload 3 files with less than 3MB. I will provide them by email when I receive your reference number by email

4. Please explain what you would like the EU institution, body, office, or agency to do in order to remedy the alleged violation.

EPSO has ignored all my attempts to get access to the logs even after being ordered to comply with my request by the EDPS.

EPSO has ignored my request to inform me (as a data subject) and to the EDPS the two data breaches from my letter from 1/02/2023 (LetterAfterRevisedDecision-ANNEXES-signed.pdf EDPS was in CC)

5. When did you become aware of the alleged violation?

2023-04-01

6. If you have supporting documents to substantiate your claim, please upload them here.

•

https://www.edps.europa.eu/system/files/webform/complaint_form/11901/screenshot_before_afterthepurge_1.pdf

• https://www.edps.europa.eu/system/files/webform/complaint_form/11901/2023-04-21_correo-de-elsotanillo.net--our-ref.-2022-1189---d%282023-0200_0.pdf

• https://www.edps.europa.eu/system/files/webform/complaint_form/11901/2023-04-01_correo-de-elsotanillo.net--our-ref.-2022-1189---d%282023-0200_0.pdf

7. Have you already contacted the EU institution, body, office or agency you want to complain about concerning the alleged violation?

Yes

Please provide details, including the reply of the EU institution, body, office or agency.

EPSO has ignored all my attempts to get the logs and has deleted my data. The EDPS has already all the supporting documents and emails shared between me and the EPSO.

8. Have you submitted the same matter to other bodies (Court of Justice, European Ombudsman, etc.)?

No

9. Your Name

Please note:

If you are a lawyer acting on behalf of a client, please enter your client's name here, not yours - please enter your details under "contact information" below and attach a power of attorney.

If you are a not-for-profit body, organisation or association, please enter your client name here, not yours - please enter your details under "contact information" below and attach a mandate from the individual.

First name(s)

[REDACTED]

Family name(s)

[REDACTED]

10. Contact information

[REDACTED]

11. E-mail address

[REDACTED]

The EDPS treats all complaints confidentially. However, the investigation of your complaint may require disclosing your identity and the allegations you made to the EU institution, body, office, or agency against which you complained. If necessary for the investigation, the identity of the third parties involved, including national data protection authorities may be disclosed. The EDPS will also copy the Data Protection Officer (DPO) of the EU institution, body, office or agency concerned into all correspondence between the EDPS and the EU institution, body, office or agency concerned. Any public summaries of cases (e.g. in the Annual Reports of the EDPS) will be completely anonymous.

12. Do you accept this standard confidential treatment of your complaint?

Yes

13. Do you agree that your complaint may be passed to another institution, body, office or agency (European or national), if the EDPS is not competent?

Yes

14. I acknowledge having read and understood the Data protection notice.

Yes

Brussels, 03/05/2024

EPSO.001 [REDACTED] ARES (2024)s. 3759372
[REDACTED]

Subject: Request for access to personal data ref. Case 2022-1189

Ref.: Your message of 01/02/2024

Dear [REDACTED]

I refer to your message of 01/02/2024 in which you make comments on EPSO's reply ARES(2023)s. 12304180 of 30/11/2023, following up on the EDPS decision in Case 2022-1189.

I would like to provide you with the following additional clarifications in reply to the issues you raise.

You complain about the fact that EPSO deleted your data related to your applications EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG III, and EPSO/TA/IT/06 IT, after you had made an access request to said data on 18 June 2022. You argue that this deletion of data constitutes a personal data breach. You also raise the assumption that the data might have been deleted by a "dishonest employee that unlawfully deleted [your] 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 your personal data related to the three abovementioned selection procedures after receiving your 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. 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 your personal data related to your applications EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG III, and EPSO/TA/IT/06 IT.

Your 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 your file and discovered that the data related to your 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 your data related to your 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 in your correspondence. However, it is important to underline that the said EDPB Guidelines were adopted on 28 March 2023, nearly a year after your 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 your request.

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

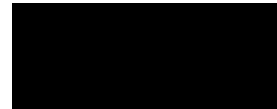
EPSO also considers that its handling of your request as described above does not constitute a data breach, which is defined in Regulation (EU) 2018/1725 as “a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data 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.

Finally, as regards any further log data beyond that already provided in our earlier replies, I regret that I can only confirm that no such data exists, due to the legacy nature and limited logging capabilities of the data management systems in which your data was stored.

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

Yours sincerely,

A solid black rectangular box used to redact a signature.



European Commission
B-1049 Brussel

1/02/2024

Ref.: Your letter of 30/11/2023

Your reference: EPSO.001 [REDACTED] ARES(2023)s. 12304180

1 Recipients:

To EPSO / EU-Commission:

Please forward this letter to the relevant office within the EPSO / the EU Commission.

TO: EPSO-SECTEUR-JURIDIQUE@ec.europa.eu, EPSO-DATA-PROTECTION-COORDINATOR@ec.europa.eu, [REDACTED]

[REDACTED], EC-DPO@ec.europa.eu, EPSO-DATA-PROTECTION-COORDINATOR@ec.europa.eu

Cc: edps@edps.europa.eu, mailsigned@pro.egarante.com

2 Subject: EPSO's reaction after EDPS Revised Decision of 31/10/2023 in Case 2022-1189

1. After EDPS Revised Decision of 31/10/2023, EPSO provided three files:
 1. EPSO reply - Follow-up to EDPS review decision of 31.10.2023 D12304180.pdf (**Annex 1**)
 2. EPSO reply - Follow-up to EDPS review decision of 31.10.2023 - Annex 1 - User visits by candidate.pdf (**Annex 2**)
 3. EPSO reply - Follow-up to EDPS review decision of 31.10.2023 - Annex 2 - WNC_LOG_VIEW_PROFILE (anonymised).pdf (**Annex 3**)

2. With the provided documents EPSO did not comply with EDPS' orders to comply with my request as a data subject (hereinafter 'the complainant') as no recipients data were provided and the controller's logs are not Pankki's compliant.

3 ROPA DPR-EC-01159.2

3.1 ROPA (*records of processing activities*)

3. Recital 52 of the EUDPR states: "(52) In order to demonstrate compliance with this Regulation, controllers should maintain records of processing activities under their responsibility and processors should maintain records of categories of processing activities under their responsibility. Union institutions and bodies should be obliged to cooperate with the European Data Protection Supervisor and make their records available to it on request, so that they might serve for monitoring those processing operations. Unless it is not appropriate taking into account the size of a Union institution or body, Union institutions and bodies should be able to establish a central register of records of their processing activities. For reasons of transparency, they should also be able to make such a register public.". Thus, EPSO has published register of records of its processing activities (hereinafter 'ROPA')¹ (**Annex 4**) that documents its processing activities related to the case at hand.

1 <https://ec.europa.eu/dpo-register/detail/DPR-EC-01159.2>

3.2 Recipients

4. EPSO's ROPA (**Annex 4**) clearly states that:

5. RECIPIENTS

Origin of the recipients of the data

The origin of the data recipients

- Within the EU organisation

A description of the indicated recipients of the data

Selection boards, statutory assessors (examiners serving in an advisory capacity) in the sense of Article 3 of Annex III SR, and EPSO staff:

For the purpose of assessing candidates' eligibility and comparative merits, and for providing assistance to the selection boards, respectively.

EU institutions and bodies:

For recruitment purposes (they do not receive any information concerning disability, unless the candidate has given explicit consent to the transfer of such data).

5. Thus, Selection boards and EUIPO that accessed my data are recipients.

3.3 Category of Recipients

6. EPSO's ROPA (**Annex 4**) clearly states that:

Categories of the data recipients

The categories (one or more) of the data recipients

- A natural or legal person
- Public authority

Description of the indicated category(ies) of data recipients

Selection boards, statutory assessors (examiners serving in an advisory capacity) in the sense of Article 3 of Annex III SR, and EPSO staff:

For the purpose of assessing candidates' eligibility and comparative merits, and for providing assistance to the selection boards, respectively.

EU institutions and bodies:

For recruitment purposes (they do not receive any information concerning disability, unless the candidate has given explicit consent to the transfer of such data).

7. Thus, EUIPO as a whole is a recipient, either in the category 'legal person' or in the category 'public authority'.

8. In EPSO's reply, there are no recipients nor any category of recipients.

3.4 Backups and Logs

9. EPSO's ROPA (**Annex 4**) "**8. SECURITY MEASURES**" states: "Data provided by candidates are stored in a database at the secured Data Centre of the Commission in Luxembourg, and are governed **by the Commission's standard IT security measures**. A Service Level

Agreement ensures that personal data are protected according to the rules applicable. [...]" (emphasis added by the complainant). Thus, backups of this database must exist and can be used for restoring purposes. "8. SECURITY MEASURES" further states: "[...] Access to the data is granted to the various categories of users on a need-to-know basis, according to their role during the specific stage of a competition. Any use of the database is logged by an audit trail system, thus ensuring that authorised users of the data processing system can only access personal data to which they have the right of access. [...] The roles of the users involved in the processing of the data are kept separate and are limited to what is strictly necessary. [...]"

10. Thus, the data and the logs must exist in the database or in a backup that can be easily restored.

4 LOGs provided

11. EPSO, in its reply of 30/11/2023 after EDPS' Revised Decision, provided two files with two logs:

4.1 EPSO reply - Follow-up to EDPS review decision of 31.10.2023 - Annex 1 - User visits by candidate.pdf

12. This log only contains the complainant's access logs and this log can be easily obtained by the complainant himself from his EPSO profile as stated in EPSO's reply footnote on page 3: "(2) This log is directly accessible to you in your EPSO account."
13. Not a single information to any recipient or category exists in this **Annex 1**.

4.2 EPSO reply - Follow-up to EDPS review decision of 31.10.2023 - Annex 2 - WNC_LOG_VIEW_PROFILE (anonymised).pdf

14. These logs only contain PERS_ID (the identity of the complainant) ADMIN_ID, CREATE_DATE, USER_ID.
15. There is no any information about the purposes of each access. The purpose of each access is a requirement of Pankki's case (C-579/21, tenor of the judgment):
 "[...] 2. Article 15(1) of Regulation 2016/679 must be interpreted as meaning that information relating to consultation operations carried out **on a data subject's personal data and concerning the dates and purposes of those operations constitutes information which that person has the right to obtain from the controller under that provision**. On the other hand, that provision does not lay down such a right in respect of information relating to the identity of the employees of that controller who carried out those operations under its authority and in accordance with its instructions, unless that information is essential in order to enable the person concerned effectively to exercise the rights conferred on him or her by that regulation and provided that the rights and freedoms of those employees are taken into account." (emphasis added by the complainant).

16. In its reply, EPSO stated on **page 2 Annex 1**:
"[...] As regards your personal data processed for the purposes of the selection procedures EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG II, and EPSO/TA/IT/06 IT, the retention periods had already expired at the time of your initial application of 18 June 2022. EPSO informed you of this in its reply of 5 August 2022, with regard to each of the three abovementioned procedures: "The processing period of your personal data within the framework of this selection procedure, including the retention period, ended." It follows that for these three procedures EPSO no longer processes any of your personal data. Consequently, I hereby confirm that for these procedures no log data exist, therefore EPSO is not in a position to communicate such data to you."
17. The complainant notes that there is only one access from 30/1/2014 prior to his DSR (Data Subject Request) of 18/6/2022 while there are many accesses to his personal information after the DSR.

PERS_ID	ADMIN_ID	CREATE_DATE	USER_ID	USERNAM	FIRST_NAN	LAST_NAME	EMAIL
363618	121	01-30-2014 10:14:09	121	removed	removed	removed	removed
363618	2.570	06-22-2022 09:33:51	2570	removed	removed	removed	removed
363618	2.570	06-22-2022 09:41:33	2570	removed	removed	removed	removed
363618	2.570	06-22-2022 09:45:23	2570	removed	removed	removed	removed
363618	3.580	07-12-2022 10:13:41	3580	removed	removed	removed	removed
363618	3.580	07-12-2022 14:38:18	3580	removed	removed	removed	removed
363618	3.580	07-13-2022 17:52:23	3580	removed	removed	removed	removed
363618	2.570	07-14-2022 10:23:15	2570	removed	removed	removed	removed
363618	3.180	08-01-2022 16:17:53	3180	removed	removed	removed	removed
363618	3.180	08-01-2022 16:26:14	3180	removed	removed	removed	removed
363618	59	12-01-2022 09:15:36	59	removed	removed	removed	removed
363618	3.301	12-01-2022 09:39:42	3301	removed	removed	removed	removed
363618	2.570	12-01-2022 09:55:12	2570	removed	removed	removed	removed
363618	59	12-01-2022 10:00:02	59	removed	removed	removed	removed
363618	59	12-01-2022 10:01:31	59	removed	removed	removed	removed
363618	3.301	12-01-2022 10:55:06	3301	removed	removed	removed	removed
363618	3.301	12-01-2022 11:04:56	3301	removed	removed	removed	removed
363618	59	12-01-2022 11:06:53	59	removed	removed	removed	removed
363618	59	12-01-2022 11:07:20	59	removed	removed	removed	removed
363618	3.301	12-06-2022 10:40:19	3301	removed	removed	removed	removed
363618	3.301	12-06-2022 12:03:42	3301	removed	removed	removed	removed
363618	2.570	02-06-2023 12:05:07	2570	removed	removed	removed	removed
363618	76	11-15-2023 14:46:22	76	removed	removed	removed	removed
363618	3.180	11-15-2023 14:46:44	3180	removed	removed	removed	removed
363618	76	11-15-2023 14:48:53	76	removed	removed	removed	removed
363618	3.180	11-29-2023 16:38:39	3180	removed	removed	removed	removed
363618	3.180	11-29-2023 18:17:21	3180	removed	removed	removed	removed

18. There are connections from 7 EPSO's employees with IDs: 59, 76, 121, 2570, 3180, 3301, 3580. EPSO before disclosing the logs could have asked the purpose of each access to the employees. Nothing has been provided.
19. EPSO hasn't provided any meaningful information about the purpose of the many accesses after the DSR.
20. EPSO should explain why applicant's data was accessed so many times after his DSR

5 Corrective measures VS EPSO's provided data

21. With the provided files, EPSO hasn't fulfilled its obligations under the EUDPR nor EDPS orders to comply with the complainant requests.
22. This is a non-exhaustive comparison of EDPS' "6. Corrective measures" vs EPSO's provided data:

5.1 "6.3 The EDPS concludes in this review decision that the complainant has the right, in accordance with Article 17(1) of the Regulation, to receive from EPSO his log data, the time and the purpose of each access generated by consultation operations of his EPSO profile in the context of the four EPSO selection procedures to which he participated."

23. In the provided logs there are not any purposes nor any category of recipients nor any recipients. Thus, EPSO did not comply with the EDPS decision in this regard.

5.1.1 "6.5 However, the EDPS observes that EPSO did not confirm in that submission that it will grant the complainant access to such logfiles, if available, in the case at hand. In other words, there is no clear indication as to whether EPSO will comply with its obligations to grant access to logfiles under the Regulation in this specific case. It remains therefore unclear to the EPDS whether or not EPSO will comply with the complainant's request, made in accordance with Article 17(1) of the Regulation, despite the clear interpretation provided by the Court's ruling in Case C-579/21."

24. After receiving EPSO's files, EDPS' suspicion has been confirmed as EPSO hasn't complied with the the complainant's request.
25. Logs should be available on the database as per EPSO's ROPA (as explained in paragraph 3). The legacy tools being used by EPSO are just unable to retrieve the correct data and even in the case of the data not being there, a database restore can be done.

5.2 "6.6. The EDPS further notes that EPSO stated that the kind of logs to which the complainant, in its understanding, requested access, i.e. only recordings showing when EUIPO personnel had accessed his personal data related to his EPSO profile in the 'Recruiter Portal', are not available. 6.7. However, the EDPS notes that EPSO has not submitted any evidence or documentation to support its statement in the reply of 26 October 2023 that this type of logfile does not exist."

26. After receiving EPSO's files, EDPS' suspicion has been confirmed

too as EPSO hasn't provided any documentation that supports its statement in the reply of 30/11/2023 that this type of logfile does not exist. Thus, EPSO did not comply with the order of the EDPS in this regard.

27. EPSO's ROPA states that **(page 17, Annex 4)**:

"[...] Any use of the database is logged by an audit trail system, thus ensuring that authorised users of the data processing system can only access personal data to which they have the right of access. [...]".

28. EPSO hasn't provided any documentation to support its statement in the reply of 26 October 2023 and of 30/11/2023 that this type of logfile does not exist; the existence of the logs is confirmed by the ROPA.

29. Not a single log of the database (emphasis added) has been provided. The logs provided come from two legacy non EUDPR compliant tools that do not follow the security and other requirements of the EUDPR by design and by default as per EPSO's own wording. (see following paragraph).

5.3 "6.11. In this context, the EDPS draws the attention of EPSO to the principle of accountability laid down in Article 4(2) of the Regulation, which states that "the controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability')." Moreover, Article 26(1) EUDPR requires the controller "to implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with that Regulation, taking into account the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons. Those measures shall be reviewed and updated where necessary" (emphasis added).

30. EPSO's reply reveals that the necessary measures to ensure that "processing is performed in accordance with that Regulation" have not been taken as EPSO **(page 3, paragraph 4 Annex 1)** considers the tools legacy: "Both Talent and Recruiter Portal are legacy IT tools which were not built in line with the "data protection by design and default" requirements valid today. This means, inter alia, that their logging functionalities are limited."

31. This means that EPSO ceded non-compliance with Art. 4(2), Art. 26(1) EUDPR and with the respective order of the EDPS.

32. The lack of logging functionalities of the tools used is not an excuse. EPSO could have accessed directly the database to obtain proper data. The complainant is an IT Engineer and submits that this is a

common procedure: Use the Structure Query Language (hereinafter 'SQL') to query directly the database in order to get the desired information.

33. EPSO's ROPA (**page 7, Annex 4**) states: "[...]Any use of the **database is logged by an audit trail system**, thus ensuring that authorised users of the data processing system can only access personal data to which they have the right of access.[...]" (emphasis added). EPSO could have retrieved the logs from the audit trail system directly instead of using the wrong set of tools.
34. Even in the case of that the audit trail system data has been deleted, these data can be easily restored as this is a common procedure in the IT world and the EPSO's ROPA (**page 7, Annex 4**) states: "Data provided by candidates are stored in a database at the secured Data Centre of the Commission in Luxembourg, **and are governed by the Commission's standard IT security measures**. A Service Level Agreement ensures that personal data are protected according to the rules applicable." (emphasis added) Thus standard IT security measures like backup/restore functionalities are put in place by the Commission.
35. It seems that – if so at all – EPSO has tried to comply with the EUDPR and EDPS mandate by using the wrong set of tools.

5.4 "6.12. In relation to Article 5(2) of the GDPR the Court has recently confirmed its case-law: "The controller, in accordance with the principle of 'accountability' laid down in that provision, is responsible for compliance with paragraph 1 of that article and must be able to demonstrate its compliance with each of the principles set out in paragraph 1 of that article, the burden of such proof thus being placed on it".¹⁰ On 4 July 2023, the Grand Chamber clarified even further that "in accordance with Article 5 of the GDPR, the controller bears the burden of proving that those data are collected, inter alia, for specified, explicit and legitimate purposes and that they are processed lawfully, fairly and in a transparent manner in relation to the data subject." (emphasis added).

"6.15 The principle of accountability therefore places on the controller the duty to prove its compliance with the Regulation. Any uncertainties in that regard must be borne by the responsible controller."

„6.16 In accordance with the principle of accountability, it is thus for EPSO to demonstrate its compliance with the complainant's right to access in accordance with Article 17(1) of the Regulation and EPSO must bear the burden of proof that some of the logfiles that the complainant requested in his email of 20 November 2022 do not exist."

36. The complainant requested the logs for the first time on 18/6/2022 and even after EDPS's Revised Decision, the complainant hasn't received the requested data nor any proof for the fact that the requested logfiles or a part of the requested logfiles do not exist.

37. This means that EPSO so far has not been able to demonstrate compliance with Art. 4(1) EUDPR which equals Art. 5(1) GDPR, which would mean a breach of the important principle of accountability and of Art. 4(2) EUDPR.

38. The fact that EPSO claims that the IT tools used by EPSO are 'legacy tools' is not a valid excuse. EPSO as a controller should (1) use IT tools which enable EPSO to comply with the EUDPR and (2) if it does not, demonstrate and prove that the necessary logs don't exist as requested by the applicant and ordered by the EDPS.

39. As stated in EDPS' Revised Decision under 6.7:

"[...] the EDPS notes that EPSO has not submitted any evidence or documentation to support its statement in the reply of 26 October 2023 that this type of logfile does not exist.". This has not been remedied by EPSO's letter of 30/11/2023.

40. As stated in EDPS' Revised Decision point 6.11:

"[...] Article 26(1) EUDPR requires the controller "to implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with that Regulation, taking into account the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons. Those measures shall be reviewed and updated where necessary".

41. EPSO's ROPA (**page 17, under 8., paragraph 2 Annex 4**) contradicts clearly EPSO's statement that the logs don't exist: „[...] Any use of the database is logged by an audit trail system, thus ensuring that authorised users of the data processing system can only access personal data to which they have the right of access. [...]".

5.5 6.17 Therefore, the EDPS under Article 58(2)(d) of the Regulation hereby ORDERS EPSO to comply with the complainant's request to be granted access to all his log data, the time and the purpose of each access generated by consultation operations of his EPSO profile in the context of the four EPSO selection procedures to which he participated, where available.

42. The logs provided don't comply with EDPS' orders. Above that, EPSO did not take any efforts to provide the complainant with the information about the purpose of each access to his EPSO profile listed in Annex 2 of the its letter of 30/11/2023.

6 EPSO's statements

6.1 "[...]EPSO only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, namely:[...]"

"[...] for individual files of candidates included in the recruitment reserve of a given selection procedure, for a duration of 2 years starting from the closure of the recruitment reserve,[...]"

"[...]As regards your personal data processed for the purposes of the selection procedures EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG II, and EPSO/TA/IT/06 IT, the retention periods had already expired at the time of your initial application of 18 June 2022.[...]"

43. When the complainant requested the data of the 4 selection procedures, they were on his EPSO profile. EPSO hasn't explained why several persons accessed to his profile so many times.
44. On May and June 2022 (as can be seen on the logs EPSO provided

Annex 1), the complainant logged on his account and saw the four selection procedures.

45. Before his initial request of 18/6/2022 the selection procedures were on his profile. So the data of the respective 3 selection procedures were deleted after the initial request of the complainant, which seems to be unlawful. Above this, EPSO hasn't provided any deletion logs, etc. as to demonstrate and prove when and why the data of the respective 3 selection procedures have been deleted.
46. EUIPO closed OHIM/CAST/10/2014 and EUIPO/CAST/1/16 selection procedures on **19 May 2018** as per EUIPO's web page²
"[...] For the attention of all candidates registered in the EUIPO CAST Database (OHIM/CAST/10/2014, OHIM/CAST/15/2015 and EUIPO/CAST/1/16):
Please be informed that as of 19 May 2018, the EUIPO uses the EPSO CAST Permanent database to recruit contract agents.
The CAST database of the EUIPO (OHIM/CAST/10/2014, OHIM/CAST/15/2015 and EUIPO/CAST/1/16) was closed on the same day.
[...]"
47. EPSO was storing complainant data unlawfully far beyond the retention period **19 May 2020** and instead of providing the requested data decided to delete unlawfully the data and claimed compliance.
48. On May and June 2022 (as can be seen on the logs **Annex 1**), the complainant logged on his account and saw the four selection procedures. Before his initial request of 18/6/2022 the selection procedures were on his profile and were deleted afterwards.
49. **EDPB's Guideline "Guidelines 01/2022 on data subject rights - Right of access"** states:

"[...] 39. Furthermore, **the controller shall not deliberately escape the obligation to provide the requested personal data by erasing or modifying personal data in response to a request for access** (see 2.3.2). If, in the course of processing the access request, the controller discovers inaccurate data or unlawful processing, the controller has to assess the state of the processing and to inform the data subject accordingly before complying with its other obligations. In its own interest, to avoid the need of further communication on this as well as to be compliant with the transparency principle, the controller should add information about the subsequent rectifications or deletions.[...]"

and gives an example:

"[...]Example 6: **On the occasion of replying to an access request a controller realises, that an application of the data subject for a vacancy in the company of the controller has been stored beyond the retention period. In this case the controller cannot delete**

² <https://www.euipo.europa.eu/en/the-office/about-us/who-we-are/employer-of-choice/vacancies>

first and then reply to the data subject that no data (concerning the application) is processed. It has to give access first and delete the data afterwards. In order to prevent a subsequent request for erasure it would then be recommended to add information about the fact and time of the deletion.[...]" (emphasis added).

6.2 "[...] It follows that for these three procedures EPSO no longer processes any of your personal data. Consequently, I hereby confirm that for these procedures no log data exist, therefore EPSO is not in a position to communicate such data to you. [...]"

"[...] 3.2. "regrets to confirm that the type of log-file information he seeks to obtain is not available"[...]"

"[...] EPSO regrets to confirm that it is not in position to provide the complainant with log-file data which would show if / when EUIPO/OHIM's personnel accessed his personal data, since EPSO does not collect or otherwise process such data [...]"

50. These statements can be true at the time of replying but not at the time the complainant sent his first DSR on 18/6/2023. Deleting is a data processing activity and should be logged. These logs should be on EPSO's database.
51. EPSO's ROPA is clear regarding this: "[...] Any use of the database is logged by an audit trail system, thus ensuring that authorised users of the data processing system can only access personal data to which they have the right of access. [...]"
52. Also, EPSO can restore complainant's data to a state before the deletion. From EDPB's Guideline paragraph 110: "[...] the controller needs to be transparent about this situation and where technically feasible provide access as requested by the data subject, including to personal data stored in the back-up. For instance, with the aim of being transparent to data subjects who exercise their right, a log of deletions in the live production system may enable the controller to see that there are data in the back-up which are not in the live system anymore as they have been recently deleted and have not yet been overwritten in the back-up. [...]"

7 Request

53. Under chapters III IV EUDPR I request:
 1. Given that the data EPSO holds about me has been unlawfully deleted, I am requesting to restore all the unlawfully deleted data, I am requesting that EPSO restrict all further processing of my personal data (after the restore);

2. That the unlawful storage of my personal data beyond the retention period and the unlawful deletion of my personal data after my DSR are handled as two Personal Data Breaches and therefore, that both data breaches are reported to:
 1. the EDPS (without undue delay and not later than 72 hours) as per Art 34(1) EUDPR;
 2. me (as a data subject) as per Art. 35(1) EUDPR in clear and plain language the nature of the personal data breach and contain at least the information and measures referred to in points (b), (c) and (d) of Article 35(3).
3. A copy of all personal data you hold about me (after the restore); together with all the details needed to understand the data provided: filenames, logs, timestamp, date, source (me, an external party like EUIPO, EDPS, etc), retention period, etc.; where the personal data have not been collected from the data subject, any available information as to their source;
4. Any minutes of meetings as per EDPB Right of access guideline and cases C-141/12 and C-372/12: held internally or externally
95. In joint cases C-141/12 and C-372/12⁵¹ the CJEU ruled that the right of access covered personal data contained in minutes, namely the “name, date of birth, nationality, gender, ethnicity, religion and language of the applicant” “and, “where relevant, the data in the legal analysis contained in the minute”, but not the legal analysis itself⁵². The legal analysis was in this context not liable in itself to be the subject of a check of its accuracy by the data subject nor of rectification. Furthermore, providing access to the legal analysis does not fulfil the purpose of guaranteeing privacy but access to administrative documents.
5. Any internal or external communication (eg: Teams’ chats, emails, etc.) between the EC and others third parties as per EDPB Right of access guideline³

Scope of the right of access

The scope of the right of access is determined by the scope of the concept of personal data as defined in Art. 4(1) GDPR. Aside from basic personal data like name, address, phone number etc. a broad variety of data may fall within this definition like medical findings, history of purchases, creditworthiness indicators, activity logs, search activities etc. Personal data which have undergone pseudonymisation are still personal data as opposed to anonymised data. The right of access refers to personal data concerning the person making the request. This should not be interpreted overly restrictively and may include data that could concern other persons too, for example communication history involving incoming and outgoing messages.

6. Logs fully compliant to the EUDPR with recipients, categories, purposes of access, etc in the light of the Pankki judgment, that allow me to verify the lawfulness of EPSO’s processing activities, namely the logs existing on the database.
7. To exercise my rights of objection and restriction, I specifically request that EPSO does not erase nor modify any of my personal data (after a proper restore) as I consider it to be evidence for the purpose of a legal claim; and to do so would be a failure to comply with my request to suspend processing of my personal data (see point 1 above), leading to additional breaches of

3 https://edpb.europa.eu/system/files/2023-04/edpb_guidelines_202201_data_subject_rights_access_v2_en.pdf

the law.

8. To provide evidence that there are no logs nor data as deemed necessary by EUDPR accountability principle and the order or the EDPS.
9. To provide evidence that the three deleted selection procedures have been deleted and when, why and by whom. Those are:
 1. Candidate no. 4220689 EUIPO/CAST/1/16 — 6 INFORMATION TECHNOLOGY/PROJECT MANAGEMENT SPECIALIST — Function Group IV
 2. Candidate no. 3921833 OIHM/CAST/10/2014 Function Group III
 3. Candidate no. 539001 EPSO/TA/IT/06 IT Temporary Agents IT

Please have in mind the following Case law before replying:

CJEU C-141/12

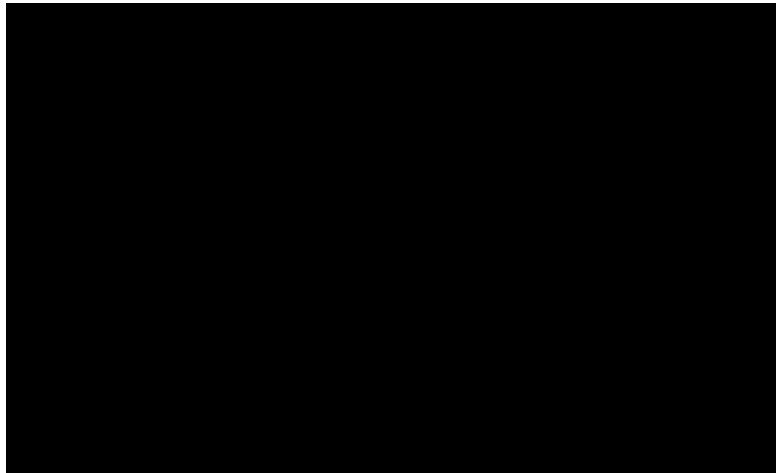
CJEU C-307/22

CJEU C-372/12

CJEU C-340/21

CJEU C-579/21

Please use my GPG public key (see below) to encrypt your reply if necessary.



9 PGP PUBLIC KEY

-----BEGIN PGP PUBLIC KEY BLOCK-----

```
mQGNBGSmavIBDADFnxX7LfU14W9hJ0pcz2BG1sEvVfda9PwBH2xhBRG5n7WLvpz
DdCWON8dnCNnAIVNj8ILBmZVie9sjEiafuXcjUHMwaTgxgotkVp6LQwk1tWRCF0Q
o5qiOSCzqWf92/B8o0xqZGC3ap3CuLc9pFvA7vnjZgkVogWfQn0h+ji+hUYLWnVB
pkj0z55iGpXf4JpCYzLOlxti2lWcJzcApqXxkQVlxdokdVADmbA2bZ3OgA/K+1i
Pye6ZMJ7b8U/sfa+AC0rtTGuRE6olDRbTTN7xL53sUmRdqUPnpsS0z4QNHpgWcK
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10 Annexes

Annex	Description
Annex 1	EPSO's reply
Annex 2	User's log
Annex 3	Controller logs
Annex 4	DPR-EC-01159 ROPA

Brussels, 30/11/2023

EPSO.001/ [REDACTED] ARES (2023)s. 12304180



Subject: Request for access to personal data
Selection procedures EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG III, EPSO/CAST27/5/07, CAST27 (RELEX) FG III, EPSO/TA/IT/06 IT

Ref.: Your request of 18 June 2022
Review decision of the EDPS of 31 October 2023 in Case 2022-1189

Dear [REDACTED]

In his review decision of 31 October 2023 in Case 2022-1189, the European Data Protection Supervisor (hereafter: EDPS) decided as follows:

“[...] the EDPS under Article 58(2)(d) of the Regulation hereby ORDERS EPSO to comply with the complainant’s request to be granted access to all his log data, the time and purpose of each access generated by consultation operations on his EPSO profile in the context of the four EPSO selection procedures to which he participated, where available.”

Your access request concerned the following four selection procedures:

- EUIPO/CAST/1/16-6;
- OIHM/CAST/10/2014 FG III;
- EPSO/CAST27/5/07 CAST27 (RELEX) FG III;
- EPSO/TA/IT/06 IT.

When creating an EPSO account, candidates agree to the rules ⁽¹⁾ applicable to the processing of their personal data by EPSO, including rules on the data retention periods during which EPSO is entitled to process the personal data in question. According to these rules, the retention periods applicable in the context of contract agent and temporary agent selection procedures are as follows:

⁽¹⁾ The privacy statement summarising the applicable rules is available here:
https://europa.eu/epso/application/passport/index.cfm?action=dplegal&sb=1&lang=en&comp_id=

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11.
EPSO, Office: L-107 03/DCS. Telephone: legal secretariat (32-2) 296 87 80
E-mail: EPSO-SECTEUR-JURIDIQUE@ec.europa.eu

Data retention periods applicable within the framework of the selection process of temporary agents

“EPSO only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, namely:

- *for individual files of candidates eliminated from a given selection procedure, for a duration of 5 years starting from the date when the candidate is excluded from the selection procedure;*
- *for individual files of candidates included in the recruitment reserve of a given selection procedure, for a duration of 2 years starting from the closure of the recruitment reserve;*
- *for background files documenting the organisation of temporary agent selection procedures, for a duration of 5 years starting from the closure of the selection procedure;*
- *for personal data of candidates provided in the framework of an application for a specific selection which was not validated in time, for a duration of 1 year starting from the closing date of the application period for the selection procedure.”*

Data retention periods applicable within the framework of the selection process of contract agents

“EPSO only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, namely:

- *for individual files of candidates eliminated from a given selection procedure, for a duration of 5 years starting from the closing date of the selection procedure, or the candidate's request to have their data deleted from the database;*
- *for individual files of candidates included in the recruitment reserve of a given selection procedure, for a duration of 2 years starting from the closure of the recruitment reserve;*
- *for background files documenting the organisation of contract agent selection procedures, for a duration of 5 years starting from the closure of the selection procedure;*
- *for personal data of candidates provided in the framework of an application for a specific selection which was not validated in time, for a duration of 1 year starting from the closing date of the application period for the selection procedure.”*

As regards your personal data processed for the purposes of the selection procedures EUIPO/CAST/1/16-6, OIHM/CAST/10/2014 FG III, and EPSO/TA/IT/06 IT, the retention periods had already expired at the time of your initial application of 18 June 2022. EPSO informed you of this in its reply of 5 August 2022, with regard to each of the three abovementioned procedures: *“The processing period of your personal data within the framework of this selection procedure, including the retention period, ended.”*

It follows that for these three procedures EPSO no longer processes any of your personal data. Consequently, I hereby confirm that for these procedures no log data exist, therefore EPSO is not in a position to communicate such data to you.

As regards the selection procedure EPSO/CAST27/5/07 CAST27 (RELEX) Function Group III, where your candidate no. was 700311, your personal data within the framework of this selection procedure is still processed, due to the recruitment reserve database of EPSO/CAST27/5/07 being open until 31 December 2023. With regard to this procedure, I am therefore able to provide you with the access log data presented in the Annexes to this letter.

In addition, I would like to provide you with the following explanations:

EPSO has two IT tools for the purposes of managing CAST and TA selection procedures:

- **Talent**, used to configure the selection process, manage applications, communication with candidates and manage tests, and
- **Recruiter Portal**, used to search and select successful candidates for recruitment.

Both Talent and Recruiter Portal are legacy IT tools which were not built in line with the “data protection by design and default” requirements valid today. This means, inter alia, that their logging functionalities are limited.

The log data in both Annexes are from the Talent system. Talent logs user access to individual profiles of candidates, including the time of access and the identifying data of the users; however, it does not log the purpose of the consultation.

Annex 1 contains the log of consultations of your EPSO account carried out by yourself.⁽²⁾ Talent log data for access by the candidate to their own account are available retroactively for a period of fifteen years; earlier log data are no longer available.

Annex 2 contains the log of consultations of your EPSO account carried out by users other than yourself. All these users are staff members of EPSO; no other staff of the EU institutions, or third parties⁽³⁾, have access to the Talent database. Talent log data for access by users other than the candidate are available retroactively for a period of ten years; earlier log data are no longer available. In Annex 2, identifying data liable to reveal the users’ identity have been removed from the log file, in line with the judgment of the Court in the case C-579/21, *Pankki S.*⁽⁴⁾

As for Recruiter Portal, I hereby confirm that it only logs which user accessed *the tool* and when. However, the system does not log any of the actions the user has performed, including any concrete searches done for a particular person and access to their data. This means that it is not possible to link the log data available for Recruiter Portal to any particular candidate profile, and consequently these data are not to be considered as candidates’ personal data.

In the light of the above, I hereby confirm that the data in Annexes 1 and 2 constitute the full log data set currently in EPSO’s possession with regard to consultation operations on your EPSO profile, and that EPSO does not hold or process any other relevant data.

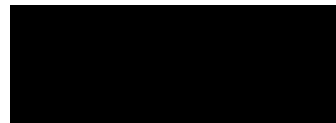
⁽²⁾ This log is directly accessible to you in your EPSO account.

⁽³⁾ With the exception of the candidates themselves, who have direct access to the data in their own accounts.

⁽⁴⁾ Case C-579/21, *Pankki S.*, ECLI:EU:C:2023:501, paragraph 83.

I trust that you will find this information helpful.

Yours sincerely,



Annexes:

1. Log of consultations of EPSO account carried out by candidate;
2. Log of consultations of EPSO account carried out by users other than candidate.

User visits

200 visits

- 24-JUN-2023 07:29
- 04-JUN-2023 15:01
- 02-MAY-2023 14:22
- 25-APR-2023 15:18
- 21-APR-2023 18:33
- 10-APR-2023 11:22
- 09-APR-2023 09:49
- 03-APR-2023 20:48
- 02-APR-2023 13:55
- 02-APR-2023 13:49
- 02-APR-2023 13:23
- 31-MAR-2023 21:51
- 29-OCT-2022 11:42
- 25-JUL-2022 20:58
- 25-JUL-2022 16:32
- 07-JUL-2022 18:13
- 18-JUN-2022 22:10
- 18-JUN-2022 06:49
- 06-JUN-2022 20:00
- 03-JUN-2022 14:44
- 15-MAY-2022 11:50
- 15-MAY-2022 11:43
- 15-MAY-2022 11:42
- 11-MAY-2022 22:41
- 08-MAY-2022 22:58
- 08-MAY-2022 12:10
- 25-APR-2022 22:13
- 25-APR-2022 20:24
- 23-APR-2022 23:43
- 23-APR-2022 23:42
- 23-APR-2022 21:20
- 23-APR-2022 21:05
- 16-MAR-2022 22:26
- 13-MAR-2022 20:07
- 08-FEB-2022 13:24
- 06-FEB-2022 11:28
- 06-FEB-2022 11:02
- 27-OCT-2021 21:47
- 28-JUL-2021 17:16
- 30-MAY-2021 11:17
- 19-MAR-2021 10:02
- 08-JAN-2021 12:34
- 07-NOV-2020 18:04
- 25-APR-2020 19:10
- 13-JUL-2019 18:29
- 02-JUL-2019 15:26
- 17-FEB-2018 18:45
- 14-JUL-2017 09:53
- 30-APR-2017 11:19
- 05-FEB-2017 00:00
- 20-DEC-2016 18:01
- 20-DEC-2016 17:35
- 20-DEC-2016 17:33
- 20-DEC-2016 17:31

- 20-DEC-2016 17:22
- 18-DEC-2016 12:40
- 18-DEC-2016 12:39
- 18-DEC-2016 12:39
- 18-DEC-2016 12:39
- 18-DEC-2016 12:38
- 29-NOV-2016 22:55
- 22-NOV-2016 23:56
- 09-OCT-2016 18:36
- 28-MAY-2015 16:28
- 14-MAY-2015 18:43
- 08-MAY-2015 15:16
- 07-AUG-2014 18:58
- 06-AUG-2014 17:59
- 06-AUG-2014 15:23
- 06-AUG-2014 14:10
- 05-AUG-2014 22:40
- 05-AUG-2014 19:53
- 02-AUG-2014 13:24
- 02-AUG-2014 13:23
- 02-AUG-2014 13:05
- 02-AUG-2014 09:59
- 30-JUL-2014 21:44
- 30-JAN-2014 10:25
- 30-JAN-2014 09:14
- 12-DEC-2013 17:47
- 25-NOV-2013 09:03
- 08-NOV-2013 12:14
- 03-OCT-2013 14:41
- 10-SEP-2013 12:00
- 09-SEP-2013 09:14
- 13-AUG-2013 18:59
- 13-AUG-2013 00:00
- 12-AUG-2013 19:24
- 01-AUG-2013 14:41
- 08-JUL-2013 21:35
- 17-JUN-2013 22:54
- 13-JUN-2013 10:58
- 02-JUN-2013 19:11
- 03-MAY-2013 10:50
- 03-MAY-2013 10:33
- 02-MAY-2013 23:52
- 30-APR-2013 19:54
- 30-APR-2013 19:50
- 25-APR-2013 22:43
- 19-APR-2013 11:15
- 16-APR-2013 09:07
- 15-APR-2013 23:00
- 12-APR-2013 17:58
- 12-APR-2013 09:03
- 09-APR-2013 09:40
- 07-APR-2013 20:25
- 04-APR-2013 10:40
- 02-APR-2013 08:58
- 26-MAR-2013 16:10

- 26-MAR-2013 13:12
- 31-DEC-2012 10:53
- 27-DEC-2012 18:34
- 09-SEP-2012 19:00
- 12-JUL-2012 18:20
- 10-JUL-2012 19:34
- 25-MAY-2012 10:12
- 22-MAY-2012 08:08
- 22-FEB-2012 16:24
- 30-JAN-2012 17:47
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- 01-DEC-2011 20:22
- 27-SEP-2011 17:32
- 20-SEP-2011 20:08
- 16-SEP-2011 16:11
- 14-SEP-2011 12:37
- 19-AUG-2011 21:55
- 18-AUG-2011 19:56
- 18-AUG-2011 12:20
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- 26-JUL-2011 10:26
- 29-JUN-2011 07:19
- 13-JUN-2011 13:43
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- 13-MAY-2011 09:58
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- 02-FEB-2011 09:38
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- 28-DEC-2010 12:22
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- 15-DEC-2010 12:47
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- 14-JUN-2010 11:48
- 14-JUN-2010 11:47
- 14-JUN-2010 11:46
- 07-JUN-2010 23:48
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- 11-MAY-2010 15:41
- 05-MAY-2010 22:59
- 02-MAY-2010 17:21
- 30-APR-2010 08:51
- 29-APR-2010 09:52
- 24-APR-2010 11:40
- 21-APR-2010 19:18
- 21-APR-2010 17:48
- 21-APR-2010 08:56
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- 18-APR-2010 12:19
- 15-APR-2010 00:26
- 14-APR-2010 17:04
- 13-APR-2010 19:30
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- 02-DEC-2009 11:13
- 26-NOV-2009 13:25
- 25-NOV-2009 20:09
- 24-NOV-2009 20:03
- 19-NOV-2009 17:20
- 19-NOV-2009 16:11
- 08-SEP-2009 16:37
- 26-AUG-2009 10:13
- 06-MAY-2009 10:06
- 23-APR-2009 20:54
- 21-APR-2009 22:17
- 31-MAR-2009 10:15
- 23-MAR-2009 20:25
- 22-MAR-2009 10:24



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ANNEX 04

☐ An official EU website How do you know?

All official European Union website addresses are in the **europa.eu** domain.

[See all EU institutions and bodies](#)

Record for processing of personal data

Title: Selection, by competition, of permanent staff for the European institutions or for EU bodies, offices and agencies

Reference: **DPR-EC-01159.2**

Entity of the Operational Controller: European Commission: European Personnel Selection Office (EPSO)

Publication date: 28/04/2022

1. General information

Data protection record

Record reference

DPR-EC-01159.2

Title of the processing operation

Selection, by competition, of permanent staff for the European institutions or for EU bodies, offices and agencies

Language of the record

English

Corporate record

No

Data Protection Officer

Contact details

EC-DPO-INTERNAL@ec.europa.eu

Entity of the Operational Controller

Responsible organisational entity **ANNEX 04**

European Personnel Selection Office (EPSO)

Contact Details

[EPSO.03](#)

Joint controllership**Joint controllership is involved**

N/A

Processors**Processors are involved in the processing**

Yes

- **Names and contact details of processors**

Contractors acting as processors: Prometric Hudson Isograd Cammio

ANNEX 04

2. PURPOSE AND DESCRIPTION OF THE PROCESSING**Purpose****Description of the purpose of the processing**

To organise open competitions pursuant to Article 30 and Annex III of the Staff Regulations, in order to select staff with a view to their recruitment as officials by the EU institutions, bodies, offices and agencies.

To organise internal competitions in the sense of Article 29 of the Staff Regulations.

To manage the administrative aspects of registration and the successive stages of the competitions, to manage and monitor the use of the reserve lists.

Processing for further purposes**The purpose(s) for further processing**

- Archiving in the public interest
- Scientific or historical research purposes
- Statistical purposes

Safeguards in place to ensure data minimization

- Pseudonymisation

Modes of processing**The mode of processing**

- Manual processing
 - a. Word documents
 - b. Excel sheet
 - c. Any other:

Paper-based files. Various electronic file formats, in particular Adobe PDF. IT applications & databases.

Description/additional information regarding the modes of processing

Candidates' personal data are processed through a combination of computed-based and manual processing.

Three main IT applications are used in this context: TALENT Online, TALENT Back Office, and Recruiter Portal. The first one, TALENT Online, is a web-based application allowing the creation of online EPSO Accounts used for registration to selection procedures; it is also used as a communication channel towards the candidates (in particular for communicating invitations to tests, and test results). The second one, TALENT Back Office, is used by EPSO to manage the successive steps of the selection procedures; it is

ANNEX 04

based on Oracle tools with a database stored at the Data Centre of the Commission. The third one, Recruiter Portal, is used to manage reserve lists; it also enables the EU institutions to search for and select successful candidates in view of their recruitment. It is also based on an Oracle database stored at the Data Centre. Data are shared and/or synchronised between the three systems, in order to manage a single set of personal data at any one time.

In addition to the above, and depending on the type of competition, subsets of candidates' personal data may also be processed through IT applications owned and/or operated by EPSO's subcontractors acting as data processors, according to the rules and within the limits established by the applicable framework contracts.

In the case of internal competitions, candidates may allow the selection board, assisted by its secretariat, to access relevant personal data available in the Commissions IT application Sysper 2 and other databases containing similar relevant data.

Furthermore, for each competition, files containing documents on paper might also be drawn up. There are two types of such files: candidate files composed of documents concerning individual candidates, and background files containing general common documentation of the competition.

Finally, the management of competitions usually requires the manual processing of various types of electronic files (in particular Word, Excel, and Adobe PDF) containing candidates' personal data. These are either received from the candidates themselves, or drawn up internally by EPSO and/or its contractors, or the selection boards. They are stored on servers hosted by the Commission's data centre, or on CDROM in a secured area with access by magnetic badge only.

Storage medium**The medium of storage (one or more)**

- Paper
- Electronic
 - Digital (Office documents such as Word, Excel, PowerPoint, Adobe PDF, Audiovisual/multimedia assets, Image files such as .JPEG, PNG)
 - Databases
 - Servers
- External contractor premises

Description/additional information regarding the storage medium

Candidates' personal data are processed through a combination of computed-based and manual processing. Three main IT applications are used in this context: TALENT Online, TALENT Back Office, and Recruiter Portal. The first one, TALENT Online, is a web-based application allowing the creation of online EPSO Accounts used for registration to selection procedures; it is also used as a communication channel towards the candidates (in particular for communicating invitations to tests, and test results). The second one, TALENT Back Office, is used by EPSO to manage the successive steps of the selection procedures; it is based on Oracle tools with a database stored at the Data Centre of the Commission. The third one, Recruiter Portal, is used to manage reserve lists; it also enables the EU institutions to search for and select

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successful candidates in view of their recruitment. It is also based on an Oracle database stored at the Data Centre. Data are shared and/or synchronised between the three systems, in order to manage a single set of personal data at any one time. In addition to the above, and depending on the type of competition, subsets of candidates' personal data may also be processed through IT applications owned and/or operated by EPSO's subcontractors acting as data processors, according to the rules and within the limits established by the applicable framework contracts. In the case of internal competitions, candidates may allow the selection board, assisted by its secretariat, to access relevant personal data available in the Commissions IT application Sysper 2 and other databases containing similar relevant data. Furthermore, for each competition, files containing documents on paper might also be drawn up. There are two types of such files: candidate files composed of documents concerning individual candidates, and background files containing general common documentation of the competition. Finally, the management of competitions usually requires the manual processing of various types of electronic files (in particular Word, Excel, and Adobe PDF) containing candidates' personal data. These are either received from the candidates themselves, or drawn up internally by EPSO and/or its contractors, or the selection boards. They are stored on servers hosted by the Commission's data centre, or on CDROM in a secured area with access by magnetic badge only.

Comments

Comments/additional information on the data processing

Contractors acting as processors: Prometric Hudson Isograd Cammio All framework contracts contain appropriate data protection clauses (please see the attached documents).

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3. DATA SUBJECTS AND DATA CATEGORIES**Data subjects' categories****Data subject(s) are**

- Internal to the organisation

A description of the data subjects (internal to the organisation)

Staff members who register as candidates for the competitions.

- External to the organisation

A description of the data subjects (external to the organisation)

Members of the public who register as candidates for the competitions.

Data categories/fields**Description of the categories of data that will be processed**

Personal data allowing identification of the candidates: first name(s), family name(s) currently used, family name(s) at birth, date of birth, gender, citizenship(s), main language, type and number of identification document, copy of identification document with all personal data contained therein, national identification number, picture of candidate, IP address, e-mail address, competition application number, secret identification number attributed for the purpose of anonymous marking of tests, "eligibility number" used for identification in the context of computer-based testing. For internal competitions, also staff number, administrative status, function group, and grade.

Personal data related to the use of the candidates' EPSO Account: personal user ID number, username/login, password, log of user visits.

Personal data of candidates required to enable contact and the practical organisation of tests: address, postcode, city, country, telephone number(s), languages for correspondence, languages of testing; data provided by candidates concerning special needs (in particular, indication of medical conditions and/or disability); data concerning family, social and professional relationships that might constitute conflict of interest.

Personal data of candidates required to allow evaluation in light of the eligibility and/or selection criteria fixed by the notice of competition, and to assess motivation: educational background, details of professional experience, expertise and technical skills, knowledge of languages. Audio-visual recording of some tests used for asynchronous assessment.

Results obtained by the candidates at the different stages of the competition, and data concerning the

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assessment of candidates' qualifications, skills and competencies (scores and comments of the selection board).

The processing operation concerns any 'special categories of data' which fall(s) under Article 10(1), which shall be prohibited unless any of the reasons under Article 10(2) applies

Yes, the processing concerns special categories

The processing operation concerns one or more of the following special categories of data

- Data concerning health

A general description of the special categories of data being processed

In the application form, candidates are asked to reply to the following question: "Do you need special adjustments of the selection tests due to a disability or a medical condition?" In the case of a positive reply, they are asked to provide data concerning their health, specifically the indication of their disability or medical condition due to which they request adjustments, and supporting documents.

Collection of such data is indeed necessary to enable EPSO to assess objectively and on a case by case basis the particular situation of each candidate, with a view to offering adequate accommodation measures for the tests which would enable candidates to test under the best circumstances possible, given their needs.

The data concerning health provided by candidates covers several categories: temporary medical condition, permanent medical condition / disability, pregnancy / breastfeeding.

The reasons under Article 10(2) allowing the processing of the special categories of data

- The data subject has given explicit consent to the processing of those personal data for one or more specified purposes
- Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the entity of the operational controller or of the data subject in the field of employment and social security

Description/additional information regarding special categories of personal data

-

Data related to 'criminal convictions and offences'

The data being processed contains sensitive data which fall(s) under Article 11 'criminal convictions and offences'

N/A

Comments

Comments/additional information on data subjects and data categories

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-

4. RETENTION PERIOD

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Data categories and their individual retention periods

The administrative time limit(s) for keeping the personal data per data category

1. **Data category**

Individual files of candidates eliminated from a given competition

Retention period

2 years

Start date description

Date on which the candidate is excluded from the competition

End date description

-

2. **Data category**

Individual files of candidates included on the reserve list of a given competition

Retention period

2 years

Start date description

Closure of the reserve list

End date description

-

3. **Data category**

Background files documenting the organisation of competitions

Retention period

10 years

Start date description

Closure of the competition

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-

4. Data category

Personal data of candidates provided in the framework of an application for a specific competition which was not validated in time.

Retention period

1 year

Start date description

Closing date of the application period for the competition

End date description

-

Comments**Comments/additional information on the data retention periods**

The above data retention periods have been established in conformity with section 12.3.4 of the Annex to the Common Commission-level Retention List for European Commission Files (SEC(2019)900/2).

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5. RECIPIENTS**Origin of the recipients of the data****The origin of the data recipients**

- Within the EU organisation

A description of the indicated recipients of the data

Selection boards, statutory assessors (examiners serving in an advisory capacity) in the sense of Article 3 of Annex III SR, and EPSO staff:

For the purpose of assessing candidates' eligibility and comparative merits, and for providing assistance to the selection boards, respectively.

EU institutions and bodies:

For recruitment purposes (they do not receive any information concerning disability, unless the candidate has given explicit consent to the transfer of such data).

EU Courts, Legal services of the appointing authority concerned:

In case of an administrative request or complaint under Article 90 § 1 or 2 of the Staff Regulations, and/or a judicial appeal to the EU Courts.

OLAF, IDOC, IAS and the Court of Auditors:

Upon request, and limited to what is necessary for official investigations or for audit purposes.

European ombudsman:

Upon request, and limited to what is necessary for official investigations and enquiries.

- Outside the EU organisation

A description of the indicated recipients of the data**EPSO's contractors in charge of the practical organisation of certain tests:**

Data provided to the contractors is limited in time and scope, to cater for the specific purpose of identifying candidates at the test centre or on-line (for on-line testing where applicable) and administering the correct test variant.

ANNEX 04**EU Member States:**

Based on the candidate's explicit consent, their first name, family name, e-mail address, and the competition reference number may be transmitted to the national authorities of the EU Member State(s) of which the candidate is a citizen, for purposes of assistance throughout the selection procedure and with recruitment.

Categories of the data recipients**The categories (one or more) of the data recipients**

- **A natural or legal person**
- **Public authority**

Description of the indicated category(ies) of data recipients**Selection boards, statutory assessors (examiners serving in an advisory capacity) in the sense of Article 3 of Annex III SR, and EPSO staff:**

For the purpose of assessing candidates' eligibility and comparative merits, and for providing assistance to the selection boards, respectively.

EU institutions and bodies:

For recruitment purposes (they do not receive any information concerning disability, unless the candidate has given explicit consent to the transfer of such data).

EU Courts, Legal services of the appointing authority concerned:

In case of an administrative request or complaint under Article 90 § 1 or 2 of the Staff Regulations, and/or a judicial appeal to the EU Courts.

OLAF, IDOC, IAS and the Court of Auditors:

Upon request, and limited to what is necessary for official investigations or for audit purposes.

European Ombudsman:

Upon request, and limited to what is necessary for official investigations and enquiries.

EPSO's contractors in charge of the practical organistaion of certain tests:

Data provided to the contractors is limited in time and scope, only to cater for the specific purpose of

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identifying candidates at the test centre and administering the correct test variant.

EU Member States:

Based on the candidate's explicit consent, their first name, family name, e-mail address, and the competition reference number may be transmitted to the national authorities of the EU Member State(s) of which the candidate is a citizen, for

purposes of assistance throughout the selection procedure and with recruitment.

Who has access to which parts of the data

Selection boards and EPSO staff: have access to any data deemed necessary for the performance of their tasks, in particular data concerning evaluation of candidates' merits and the content of their application form and supporting documents, except for data relating to health provided by the candidates to substantiate a request for special accommodation, which are accessible only to members of EPSO's Special Needs Team. Statutory assessors (examiners serving in an advisory capacity) in the sense of Article 3 of Annex III SR: only have access to data required for the performance of their tasks, on a need-to-know basis (e.g. linguistic assessors will have access to supporting documentation submitted in a language the selection board members do not master with a view to providing a translation, etc.). EU institutions and bodies, solely for the purposes of recruitment, have access to the following data: candidate personal and contact details, CV, competency passport(s). Legal services, EU Courts have access to the following data: any data deemed necessary, these could include candidates' personal and contact details, application form content, test results, etc. OLAF, IDOC, IAS, ECA have access to the following data: any data deemed necessary, these could include candidates' personal and contact details, application form content, test results, etc. European Ombudsman staff have access to the following data: any data deemed necessary, these could include candidates' personal and contact details, application form content, test results, etc. EPSO's contractors in charge of the practical organisation of certain tests: only have access to data required for the specific purpose of identifying candidates at the test centre and administering the correct test variant (e.g. first name(s) and family name(s) currently used, type and number of identification document, languages of testing, etc.) Member States have access to the following data: first name, family name, e-mail address, nationality (implicitly as every MS receives only the list of its nationals), competition reference number.

Comments**Comments/additional information on data recipients**

-

6. INTERNATIONAL DATA TRANSFERS

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Transfer outside of the EU or EEA

Data is transferred to countries outside the EU or EEA

N/A

Transfer to international organisation(s)

Data is transferred to international organisation(s)

N/A

Comments

Comments/additional information on international data transfers

N/A

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7. INFORMATION TO DATA SUBJECTS ON THEIR RIGHTS**Privacy statement****Rights of the data subjects****The processing should respect the following rights of data subjects**

- Article 17 - Right of access by the data subject
- Article 18 - Right to rectification
- Article 19 - Right to erasure (right to be forgotten)
- Article 20 - Right to restriction of processing
- Article 21 - Notification obligation regarding rectification or erasure of personal data or restriction of processing
- Article 22 - Right to data portability
- Article 23 - Right to object
- Article 24 - Rights related to Automated individual decision making, including profiling

The data subjects are informed about their rights and how to exercise them in the form of a privacy statement attached to this record

Yes

Publication of the privacy statement

- Published on website

The link of the website where the privacy statement is published

: <https://europa.eu/epso/application/passport/index.cfm?action=pdplegal>

Guidance for Data subjects which explains how and where to consult the privacy statement is available and will be provided at the beginning of the processing operation

Yes

An explanation of the guidance on how and where to consult the privacy statement

A full copy of the privacy statement is provided in the Online Application Manual (https://europa.eu/epso/doc/epso_brochure_en.pdf), which is made available to candidates on EPSO's website before they start the application process.

The privacy statement(s)

- [Privacy Statement - Competitions - DPR-EC-01159.1.docx](#)

Comments

ANNEX 04**Comments/additional information on information to data subjects on their rights**

Before creating their EPSO Account, candidates are systematically shown a notice on personal data protection, a privacy statement. By validating their application, candidates acknowledge that they have been informed of the contents of the privacy statement. The privacy statement appears in every candidate's EPSO Account and permanently on EPSO's website, and may therefore be consulted by candidates at any time.

8. SECURITY MEASURES

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Short summary of overall Technical and Organisational measures implemented to ensure Information Security:

Data provided by candidates are stored in a database at the secured Data Centre of the Commission in Luxembourg, and are governed by the Commission's standard IT security measures. A Service Level Agreement ensures that personal data are protected according to the rules applicable.

Access to the data is granted to the various categories of users on a need-to-know basis, according to their role during the specific stage of a competition. **Any use of the database is logged by an audit trail system, thus ensuring that authorised users of the data processing system can only access personal data to which they have the right of access.** There are different levels of user access. Candidates' access is protected by a login and a password. When candidates register and consult their profiles, the information flow between them and EPSO is encrypted over a secure SSL/https protocol.

For competitions that include computer-based tests and/or assessment centres, File Transfer Protocol and encryption are used for communicating certain data (family name, first name, date of birth, e-mail address and telephone number) to the examination/assessment centres, for identification purposes.

The roles of the users involved in the processing of the data are kept separate and are limited to what is strictly necessary. EPSO staff must disclose the fact that they (or a relative) are participating in a competition; in such cases, the EPSO staff member in question no longer has access to data relating to that competition.



signature.asc

No Preview Could Be Created

Conversion from 'asc' to 'pdf' not implemented.