



EUROPEAN DATA PROTECTION SUPERVISOR

27 NOVEMBER 2024 - EDPS REPRIMANDS EPSO ON ITS DISCONTINUED REMOTELY PROCTORED TESTING

Cases 2023-0477, 2023-0555 and 2023-0966

On 27 November 2024, the EDPS issued a decision on three complaints concerning the remotely proctored testing conducted by the European Personnel Selection Office (EPSO) through an external contractor in the course of 2023.

‘Proctoring’, in the context of examinations or assessments, refers to the process of supervising or monitoring candidates during a test to ensure integrity and compliance with the rules. This supervision aims at preventing cheating or dishonest behaviour, such as using unauthorised materials or receiving external assistance. In the context of the complaints, both live and automated remote (online) proctoring were at stake. Live remote proctoring involves the intervention of human beings (proctors) to supervise/monitor the online test, whereas automated remote proctoring does not.

The complainants alleged several infringements of Regulation (EU) 2018/1725 (EUDPR) regarding remotely proctored testing in selection procedures that they took part in in 2023.

The EDPS retained most of the allegations and found that EPSO had infringed the following provisions of the EUDPR:

- Article 5(1)(d) EUDPR by incorrectly relying on consent as legal basis for the processing of personal data in the context of remotely proctored testing, as the conditions for a valid consent were not fulfilled;
- Article 10(2) EUDPR by processing of biometric data for the purposes of uniquely identifying candidates for remotely proctored testing without any legal basis;
- Articles 4(1)(a), 14, 15 and 16 EUDPR by not providing fair, transparent and sufficient information to candidates;
- Article 29(3)(a) EUDPR and Article 46 EUDPR by not being in control of the processing operations conducted on its behalf by its processor

and sub-processors, which resulted in transfers of candidate data to third countries without any transfer tool;

- Article 4(2) and Articles 26(1) EUDPR, read in conjunction with Articles 4(1)(a), 14, 15, 16, 29(3)(a) and 46 EUDPR, by not being able to ensure compliance with the EUDPR, including the provisions listed above, and to demonstrate compliance with the EUDPR.

The EDPS made use of his corrective powers, taking into account the following elements:

- Several key provisions of the EUDPR had been infringed;
- Those infringements involved a large number of data subjects beyond the three individual complainants;
- The selection of new EU officials is the display window of the EU vis-à-vis the external world. EPSO, as a public administration in charge of dealing with the personal data of a very large number of candidates, should lead by example and show that EUIs comply with fundamental rights, including privacy and data protection, when it comes to designing new selection methods;

The EDPS welcomed however, that EPSO had in the meantime (February 2024) terminated the contract with EPSO's external contractor and made progress in the implementation of the recommendations from the [audit report](#) on EPSO's remotely proctored testing, issued in January 2024, which pointed to the same issues as the ones tackled by the complaints.

In view of the above circumstances, the EDPS considered that a reprimand was an appropriate and necessary corrective measure. The primary purpose of the EDPS' power to issue a reprimand under Article 58(2)(b) EUDPR is to achieve a dissuasive effect and to make it clear to the EU institution concerned that it has infringed the EUDPR.

