

Privacy statement regarding ex-ante and ex-post controls and audits of grant beneficiaries and recipients of the European Institute of Innovation and Technology

This privacy statement provides information relating to the processing of personal data of EIT grant beneficiaries and recipients carried out within the framework of ex-ante controls and ex-post audits by the European Institute of Innovation and Technology and the auditors contracted by the EIT.

The processing of personal data follows the provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (hereafter referred to as the “Regulation”).¹

What is personal data and what is a personal data processing operation?

Personal data shall mean any information relating to an identified or identifiable natural person (‘data subject’). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, and identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Processing means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Who are the data subjects?

Data subjects include any individual or group of people whose data is processed by the EIT and the auditors contracted by the EIT in the context of ex-ante checks and ex-post audits, including for instance employees of beneficiaries, employees of beneficiaries, employees of subcontractors, external experts, etc.

Who is the controller of the data collection?

The data controller is the Head of the Innovation Communities Unit.

¹ OJ L 295, 21.11.2018, p. 3.

What is the purpose of the personal data collection?

The purpose of processing personal data is to verify compliance of the EIT grant beneficiaries and recipients with the provision of the respective Grant Agreements and other legislation applicable to them, to establish eligible expenditure when calculating the final grant amount and recovering any ineligible expenditures after the final payment.

The data processing operations include the collection, recording, organisation, storage, consultation, use, disclosure by transmission, erasure and destruction of personal data.

What types of personal data are processed?

The following types of personal data are processed for the above mentioned purposes in accordance with the Regulation in the audit reports, audit clarifications and supporting documents (such as employment contracts, salary slips, time records, contracts with subcontractors and subgrantees, documentation confirming value-for-money analysis for procurement procedures, confirmation of payments):

- Names, functions, contact details,
- Salary or remuneration of the concerned data subject,
- Bank account details.

Normally a single document does not contain the entire range of personal information

Who has access to the personal data of data subjects and to whom can they be disclosed?

Within the EIT:

The personal data is processed by the EIT authorised staff: by the members of the Grant Assurance Section and of the KIC Audit, Legal and IT Section of the Innovation Communities Unit. Where performance analysis needs to be carried out, the data may be shared with the respective Programme Officer in the same Unit. The data can also be shared with the EIT Directorate if needed for specific cases. Access may be given to the Internal Audit Capability of the EIT by request and if necessary for the performance of the his duties.

Within the Commission and other EU institutions/bodies/agencies:

Authorised staff of the following EU institutions may have access to relevant personal data for audit control or investigation purposes: Court of Auditors, Internal Audit Service of the European Commission, European Anti-Fraud Office (OLAF).

For the purpose of handling review procedures and litigation, access to the personal data may be granted also to the European Ombudsman, the European Data Protection Supervisor, the General Court and the

European Court of Justice upon request and to the extent necessary for handling the review procedure and litigation.

Third parties subject to the GDPR² and third parties not subject to the GDPR:

Personal data is collected and processed by the ex-ante and ex-post auditors who are data processors under the data protection rules. The service contracts with audit firms follow the model of the European Commission and include standard provisions on data protection (Article I.9 and II.9) which lay down the obligations of the audit firms with respect to data protection in order to respect Article 29 of the Regulation. In addition, the audit firms contracted by the EIT must have their own privacy statements and are subject to the GDPR. The auditors share the audit reports and working papers containing personal data with the Grant Assurance Section and the KIC Audit, Legal and IT Section of the EIT. There is also a limited amount of documentation shared by the EIT and auditors when supporting documentation is directly submitted by the beneficiary to the EIT and is relevant to the audit performed by the audit firms.

Exceptionally and if necessary, information concerning ex-ante and ex-post checks and audits may be disclosed to external lawyers (advocates) subject to the GDPR, for specific and limited purposes only. In this case a written contract (service contract) is signed between the EIT and the external lawyer in order to ensure that that Article 29 of the Regulation is respected by the data processor. These written contracts follow the model of the Commission and include a specific article on data protection.

The information is not shared with EIT external IT contractors per se, but because these entities have access to EIT internal IT systems the data protection clauses are included in the respective framework contracts.

How long do we keep your data?

The EIT keeps the data in relation to ex-ante and ex-post controls and audits (including the documents containing personal data) for the time necessary to fulfil the purpose of collection or further processing, namely for *10 years for ex-ante controls and audits* and *5 years for ex-post audits* following the end of the year within which the audit was performed.³

What are the rights of the data subject?

In accordance with Articles 15, 17, 18, 19 of the Regulation, the data subjects have the **right for information**, the **right of access**, the **right of rectification** in case their personal data is not complete or not accurate and the **right to erasure** (“right to be forgotten”).

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.

³ See EIT Decision No 46/2018 on the implementing rules of the document management process and procedure at the EIT.

The data subjects have the right to obtain the **erasure** of their personal data in accordance with Article 19 of the Regulation and in particular in the cases when the personal data are no longer necessary in relation to the purposes for which they were collected, if the data subject withdraws its consent, or in case of unlawful processing.

Data subjects have also the **right to restriction** of processing of personal data in accordance with Article 20 of the Regulation, and the **right to object** on grounds listed in Article 23 of the Regulation.

The rights can be only exercised by sending a request in a written form to EIT-ALI@eit.europa.eu. As a general rule, the requests for information, access, rectification, erasure restriction are handled without undue delay and in any event within one month of receipt of the request; this period may be extended by further two months where necessary, taking into account the complexity and number of requests. In case the data subject contests the accuracy of the data, upon request, the data is restricted immediately for the period of verification of the accuracy of the data, not exceeding one month.

Restrictions to the rights of data subjects may be applied by the EIT, in accordance with Article 25 of the Regulation and the EIT internal rules on restrictions⁴.

Who should be contacted in case of queries or complaints?

If you have any queries concerning the processing of your personal data, you may address them to the EIT Innovation Communities Unit / KIC Audit, Legal and IT Section at the following email: EIT-ALI@eit.europa.eu.

You have the right of recourse at any time to the EIT's Data Protection Officer (EIT-DPO@eit.europa.eu) and to the European Data Protection Supervisor (EDPS@edps.europa.eu) or contact the site: <http://www.edps.europa.eu/EDPSWEB/>.

Legal basis and lawfulness of the processing operation

General legal basis:

Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology⁵, as amended by Regulation (EU) No 1292/2013 of the European Parliament and of the Council of 11 December 2013⁶ ("EIT Regulation").

Article 36 of Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 – the

⁴ Currently under adoption. The final version will be published at the following link: <https://eit.europa.eu/who-we-are/legal-framework/data-protection>

⁵ OJ L 97, 9.4.2008, p. 1.

⁶ OJ L 347, 20.12.2013, p. 174.

Framework Programme for Research and Innovation (2014-2020)” and repealing Regulation (EC) No 1906/2006 (“Horizon 2020 Rules for Participation”).⁷

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (“EU Financial Regulation”).⁸

Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁹ (“Framework Financial Regulation”).

Specific EIT legal basis:

Article 1 of Governing Board Decision 21/2019 on the Financial Regulation of the European Institute of Innovation and Technology (“EIT Financial Regulation”)¹⁰

Grant Agreements with the KICs¹¹

Grounds for lawfulness

In line with Article 5(a) of Regulation No. (EU) 2018/1725, the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the EIT who needs to ensure compliance of EIT grant beneficiaries and recipients with obligations imposed on them by the respective Grant Agreement and other applicable legislation.

⁷ OJ L 347, 20.12.2013, p. 81.

⁸ OJ L 193, 30.7.2018, p. 1.

⁹ OJ L 122, 10.5.2019, p. 1–38

¹⁰ Ares(2019)6810859.

¹¹ With each KIC, the EIT currently has a 7-year Framework Partnership Agreement and a Specific Grant Agreement signed annually: see Article 28 and 45 of the FPA on audits and data protection. The exact types of agreements with the KICs might change in the next programming period (2021-2027).