



PRIVACY STATEMENT REGARDING PROCESSING PERSONAL DATA WITHIN A WHISTLEBLOWING PROCEDURE AT THE EIT

This privacy statement provides information on the processing of personal data carried out by the European Institute of Innovation and Technology within the framework of the whistleblowing procedure at the EIT.

The processing of personal data follows the provisions of Regulation (EU) 2018/1725¹ 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 (hereinafter “Regulation”).

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, an 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?

The data subjects are persons who reported irregularity or fraud (whistle-blowers) and alleged wrongdoers, third parties, and witnesses, mentioned in the whistle-blower’s report.

Who is the controller of the data processing?

The data controller is the EIT Director.

What is the purpose of personal data processing?

The purposes of processing personal data are:

- to enable reporting of fraud or irregularities via established whistleblowing channels;

¹ OJ L 295, 21.11.2018, p. 39–98



- to identify the whistleblowers aiming to avoid the abuse of the procedure and ensure further confidentiality of the whistleblower;
- to analyse and assess the acquired information regarding potential irregularity or fraud in order to decide on the further actions that have to be taken;
- to inform whistleblower about the time needed to take appropriate action.

Please be informed that in case EIT decides to take further actions and transmit the received information to OLAF, your data will be processed according to the Privacy Statement regarding management of OLAF cases.

Data processing operations include collecting, recording, organization, 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 may be processed for the above-mentioned purposes in accordance with the Regulation:

- identification and contact information of the whistle-blower (name, surname, phone number/email address);
- any relevant information mentioned in the report describing the relevant circumstances of the case, facts, and evidence, such as
 - personal data including name and contact information of the suspected entities/persons;
 - reasons for suspicions of fraud or irregularity;
 - identification of the procedure (contract/procurement or recruitment, etc);
 - references and dates of call for proposals/call for tender/etc;
 - amounts involved;
 - relations between the reporting person and the suspected entities/persons;
 - risks that further operations are concerned;
 - precautionary measures that are taken;
 - the sources of acquired information, etc.

The personal data that is not relevant to the allegations will not be further processed.

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

Within the EIT:



The personal data of data subjects are processed by the EIT authorized staff depending on the channel for reporting chosen: line manager (Head of Unit/Department), Anti-Fraud Coordinator, the EIT Director, Chairman of the Governing Board or the European Anti-Fraud Office (OLAF); and the Head of Administration Unit in case of ‘staff matters’².

The data collected will only be disclosed to the absolute minimum of persons involved on a need-to-know basis in particular to Head/s of Units and other advisory functions who may be consulted in order to assess the reported information. Also responsible staff of the Human Resources section and the Legal officer(s) assigned may be involved.

Please, be aware that EIT guarantees confidentiality of whistleblower’s identity. This means that whistleblower’s name will not be revealed to the person(s) potentially implicated in the alleged wrongdoings, or to any other person without a strict need to know, unless the whistleblower personally authorises the disclosure of his/her identity or this is a requirement in any subsequent criminal law proceedings. In all other cases, the EIT is committed to keeping the identity of the whistleblower confidential.

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

Access to your personal data may be given on a need-to-know basis and in compliance with the relevant current legislation for audit control or investigation purposes to the Court of Auditors, Internal Audit Service of the European Commission, and European Anti-Fraud Office (OLAF).

Access to the personal data may be granted also to the European Ombudsman and the European Data Protection Supervisor upon request, the General Court, and the European Court of Justice to the extent necessary for handling the review procedure and litigation.

Personal data of the reporting persons will not be revealed to the person(s) potentially implicated in the alleged wrongdoings, or to any other person without a strict need to know unless the whistle-blower personally authorizes the disclosure of his/her identity, or this is a requirement in any subsequent criminal law proceedings. In all other cases, the EIT is committed to keeping the identity of the whistle-blower confidential.

How long do we keep your data?

The EIT keeps your personal data contained in files related to whistleblowing for 2 years.

In case the reported information is transmitted to OLAF, your personal data will be stored according to the Privacy Statement on management of OLAF cases.

What are the rights of the data subject?

² e.g. psychological or sexual harassment;



In accordance with Articles 15, 17, 18, 19 of the Data Protection Regulation of European Institutions 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”).

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 the eit-antifraud@eit.europa.eu or EIT-DPO@eit.europa.eu. As a general rule, the requests for information, access, rectification, erasure, and 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 Data Protection Regulation of the European institutions and the EIT internal rules on restrictions³ inter alia on the grounds of prevention, investigation, detection, and prosecution of criminal offenses. Any such restriction will be limited in time, proportionate, and respect the essence of the above-mentioned rights.

When considering access rights EIT considers the status of the requester and the current stage of the investigation (whether the request is made by the person against whom an allegation has been made, the whistleblower, a witness, third party). For instance, informing the person alleged about the report at an early stage may be detrimental to further investigation. The right of access of a person alleged to the identity of a whistle-blower, witness, or a third party may be restricted in order to protect their rights and freedoms.

When access is granted to the personal information of any concerned individual, the personal information of the parties such as whistleblowers, witnesses, or third parties will be removed from the documents except in exceptional circumstances if the whistleblower authorizes such a disclosure, if this is required by any subsequent criminal law proceedings or if the whistleblower maliciously makes a false statement. If risk remains of third-party identification, access will be deferred.

As a rule, the data subject will be informed of the principal reasons for a restriction unless this information would cancel the effect of the restriction as such. You have the right to make a complaint to the EDPS concerning the scope of the restriction.

³ Currently under adoption. The final version will be published at the following link: <https://eit.europa.eu/who-we-are/legal-framework/data-protection>



Who should be contacted in case of queries or complaints?

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

Legal basis of the processing operation

General legal basis:

- Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999;
- Regulation (EU) 2021/819 on the European Institute of Innovation and Technology (recast) (Article 24);
- Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants of the European Union ('CEOS') laid down by Council Regulation (EEC, Euratom, ECSC) No 259/681 (Article 22A, B, 86, Annex IX, Section 1)

Specific EIT legal basis:

- EIT Decision of 20 February 2009 acceding to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF);
- Decision 20/2023 of the EIT Director on the appointment of the EIT Staff members for various functions and definition of their tasks;
- EIT Decision No 2/2011 of 14 February 2011, concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests;
- Decision 16/2017 of 17 July 2017 of the EIT Governing Board on the EIT Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment;
- Decision 34/2018 of the EIT Interim Director on Adopting a fraud-reporting procedure;
- Decision 33/2018 of the EIT Governing Board on laying down Guidelines on whistleblowing;
- Decision 21/2019 of the EIT Governing Board on the Financial Regulation of the EIT.

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, namely, protection of financial interests of the Union (Article 24 of the EIT Regulation).



Furthermore, the processing is also lawful based on Article 5(b) of Regulation No. (EU) 2018/1725, as processing is necessary for compliance with a legal obligation to which the controller is subject in accordance with Articles 22a, 22b and 22c of the Staff Regulations, Articles 11 and 81 CEOS.