



Privacy statement regarding the informal procedure within the EIT's policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment

This privacy statement provides information relating to the processing of personal data of data subjects carried out by the European Institute of Innovation and Technology within the framework of the informal procedure in line with the EIT's policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment.

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 (hereinafter "the Data Protection Regulation of the European institutions").

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?

The data subjects are:

- Each person working at the EIT (including the trainees and interim agents), regardless of the grade or contract of employment, in the situation of he/she being identified or defined as a victim of harassment;
- Any person who directly or indirectly could be involved in the informal procedure e.g. because he/she is aware of a situation of an alleged harassment (witness);
- The alleged harasser in so far as he/she is involved in the informal procedure.

Who is the controller of the data collection?

The data controller is the Head of Services and Finance Unit of EIT.

What is the purpose of the personal data collection?

The processing of *hard data* (as explained in the next point) by the parties involved in an informal procedure shall be limited to what is strictly necessary for achieving the following purposes:

- Identification and efficient management of harassment cases to be solved as soon as possible within the informal procedure;
- Monitoring and evaluation of the Policy on psychological and sexual harassment¹ and of the Manual²;
- Prevention and identification of recurrent cases in view of undertaking disciplinary actions.

The processing of *soft data* shall be limited to what is strictly necessary for the purposes of dealing properly with a specific case of harassment within the informal procedure and identifying a solution with the agreement of the victim.

Following the provision of Article 4 of the Data Protection Regulation of the European institutions, the collected soft and hard data may not be further processed in a way which is incompatible with the abovementioned purposes.

The data processing operations include the collection, recording, organisation, storage, consultation, use, disclosure by transmission, erasure and destruction of personal data. In particular, the personal information of the data subjects contained in the documents filled during the informal procedure are stored and eventually destroyed.

What types of personal data are processed?

The following types of personal data are processed for the above mentioned purposes in accordance with the Data Protection Regulation of the European institutions:

- *Objective data* (hereafter referred to as "*hard data*") necessary for the identification of a case, namely the data contained in the Opening and Closing Forms (Annexes II and III of the Manual for informal procedures for cases involving psychological and sexual harassment) and in the Declaration of Confidentiality (Annex I).
- *Subjective data* (hereinafter referred to as "*soft data*") based on the allegations and perceptions of the victim and on the declarations of the alleged harasser or witnesses, including the data contained in the personal notes taken by the confidential counsellor during his/her contacts with the parties involved in the informal procedure, the evidentiary documents and any other

¹ Decision 16/2017 of the Governing Board of the European Institute of Innovation and Technology on the EIT Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment

² EIT Decision on the "Manual for informal procedures for cases involving psychological and sexual harassment"

documents related to the case, irrespective of their medium, collected within the framework of the procedure.

Confidential counsellors shall ensure that the collected data are adequate, relevant and not excessive in relation to the purposes for which they are collected and further processed. The personal notes that are taken by confidential counsellor shall be anonymised as far as possible by using initials or abbreviations instead of full names.

The processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and of data concerning health or sex-life, is prohibited in accordance with Article 10 of Data Protection Regulation of the European institutions, unless in exceptional circumstances where the processing is relevant and necessary for the purposes of dealing properly with the case within the informal procedure, in particular where these data represent the reason for harassment or is a key point within a case.

Data collected for statistical or historical purposes must be in anonymous form only.

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

Within the EIT:

The personal data of the data subjects is processed only by the EIT authorised staff:

- Confidential counsellor responsible for handling the informal procedure: the confidential counsellor is bound by confidentiality and shall sign the Declaration of Confidentiality (Annex I of the Manual).
- Harassment Prevention Coordinator of EIT Human Resources (EIT HR).
- In the case of recurrent cases³, personal data of the data subjects is also processed by the Head of Services and Finance Unit and the Director of the EIT.
- EIT legal officers cannot be involved in the informal procedure.

Within other EU institutions/bodies/agencies:

Access to the personal data may be granted 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 complaints and litigation.

Access to personal data concerning the informal procedure may be granted to the Medical Service of the European Commission (with which the EIT has a Service Level Agreement), if necessary and for specific and limited purposes only.

Third parties subject to the GDPR⁴ and third parties not subject to the GDPR:

³ "Recurrent cases" shall mean a situation where at least three different victims have requested the opening of an informal procedure against the same alleged harasser within a timeframe of five years from the opening date of the first informal procedure.

⁴ 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)

Exceptionally, if necessary and following a case by case assessment,

- Personal data concerning the informal procedure may be disclosed to the medical⁵ or counselling services for specific and limited purposes only (for instance, in order to resolve the case). However, whenever possible, confidential counsellors and EIT HR should prefer a solution whereby the victim is advised to contact directly the abovementioned services.
- Personal data concerning the informal procedure may be disclosed to judicial national authorities, only in compliance with Article 9 of the Data Protection Regulation of European Institutions.
- Information concerning the informal procedure 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 Article 29 of the Data Protection Regulation of the EU institutions is respected by the data processor. These written contracts follow the model of the European Commission and include a specific article on data protection.

How long do we keep your data?

Confidential counsellors shall store *soft data* for no longer than necessary to deal with the case. Therefore, three months after the closure of the informal procedure, soft data shall be handed back to the party having supplied them or it should be destroyed by the confidential counsellor and the Harassment Prevention Coordinator.

After closure of the informal procedure, *hard data* shall be stored in the file created by EIT HR for a maximum of five years as from the date of commencement of the informal procedure. Five years is the period considered necessary for EIT HR to evaluate the EIT Policy on protecting the dignity of the person and preventing psychological and sexual harassment, reply to any legal questions and identify multiple or recurrent cases.

Files with hard data may be kept for a further five years if administrative or legal proceedings necessitating their consultation are pending at the date of expiry of the abovementioned retention period of five years.

Hard data may be stored by the Harassment Prevention Coordinator for an unlimited time period for statistical purposes in an anonymous form only.

What are the rights of the data subject?

In accordance with Articles 15, of the Data Protection Regulation of European Institutions the data subjects have the **right for information**. At the first meeting with the confidential counsellor, the data subject shall receive the Declaration of Confidentiality (Annex I of the Manual) and this privacy statement.

⁵ Including the medical service provider located in Budapest with which the EIT concluded a Framework Service Contract for the provision of medical services.

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

In accordance with Article 18 of the above mentioned Regulation, the data subjects have the **right of rectification**. During the informal procedure two types of personal data are distinguished: *hard data* and *soft data*. Inaccurate hard data can be rectified following the provisions of the abovementioned article, while the notion of inaccurate soft data refers to the fact that specific statements have been made by the data subject. In the case of soft data, the data subject may also ask to add his/her opinion to the file to ensure the completeness of the file (for instance, giving additional testimonies).

The **right of access** is granted to the data subjects following the provision of Article 17 of the Data Protection Regulation of European Institutions. Access will be granted for documents the data subject submitted him/herself as well as to the opening and closing forms. Access to personal data contained in other documents will only be given if they do not contain personal data relating to other persons or confidential statements, and if there is no risk that the transmission might negatively affect one of the parties involved in the case, or the smooth running of the procedure or future relations between the parties.

The alleged harassers’ **right of access** may be restricted according to Article 25(1) (h) on the ground of the protection of the data subject or the rights and freedoms of others. The EIT notes that this is not a blanket denial, and the data subject shall be informed of the principal reasons on which the application of the restriction is based and his/her right to lodge a complaint with the EDPS. Similarly, the same restriction can be applied to the **right of information**.

The data subjects have the right to obtain the **erasure** of their personal data in accordance with Article 19 of the Data Protection Regulation of European Institutions 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 Harassment@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 10 working days of receipt of the request; this period may be extended by maximum 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 on a case-by-case basis, in accordance with Article 25 of the Data Protection Regulation of the European institutions and the EIT internal rules on restrictions⁶.

Who should be contacted in case of queries or complaints?

⁶ Currently under adoption. The final version will be published at the following link: <https://eit.europa.eu/who-we-are/legal-framework/data-protection>

If you have any queries concerning the processing of your personal data, you may address them to the Harassment Prevention Coordinator responsible for the informal procedure at the following email Harassment@eit.europa.eu or to the e-mail of the confidential counselor.

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/>.

How are the data secured?

Security and technical measures:

Hardcopy files are kept in locked cupboards. Access to personal data in electronic format shall be limited (e.g. only the Harassment Prevention Coordinator has access to the Harassment@eit.europa.eu functional mailbox). Exchange of soft data by electronic means shall be avoided.

The hard data that shall be handed to the Harassment Prevention Coordinator in a sealed envelope marked "Private and Confidential".

Organisational measures: access to personal data regarding informal procedure is restricted to the authorised EIT staff (see above).

Legal basis of the processing operation

General legal basis:

- Charter of Fundamental Rights of the European Union, thereof Article 1 and 31⁷;
- Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants ("CEOS") of the European Economic Community and the European Atomic Energy Community, in particular Articles 1d, 12 and 12a of the Staff Regulations concerning behaviour which may infringe human dignity and Articles 10, 11, 80 and 81 of the CEOS⁸.

Specific EIT legal basis:

- Decision 16/2017 of the Governing Board of the European Institute of Innovation and Technology on the EIT Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment⁹;
- EIT Decision on the "Manual for informal procedures for cases involving psychological and sexual harassment".

⁷ OJ C 326, 26.10.2012, p. 391–407

⁸ OJ P 045 14.6.1962, p. 1385

⁹ 03363.EIT.2017.I.GB.WP

Grounds for lawfulness:

In line with Article 5(1)(a) of Data Protection Regulation of the European institutions, 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. The EIT carries out a fight against harassment in order to create a good working environment.

The consent of the data subject under Article 5(1)(d) of the Data Protection Regulation of the European institutions is considered as a complementary legal basis for the processing of harassment related data

Additionally, in rare circumstances the processing operations can be considered lawful if they are necessary to protect the vital interests (e.g. health) of the data subject (under Article 5(1)(e) of the Data Protection Regulation of the European institutions).