

(To be filled out in the EDPS' office)

REGISTER NUMBER: 1426

EIT REGISTRATION NUMBER: 00859.EIT.2016.D.VP

(To be filled out in the EDPS' office)

NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 03-01-2017

CASE NUMBER: 2017-0034

INSTITUTION: EIT

LEGAL BASIS: ARTICLE 27-5 OF REGULATION CE N° 45/2001⁽¹⁾

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)
1/E Neumann Janos Street, Infopark, 1117 Budapest, Hungary

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Unit: DIRECTORATE of the EIT
Interim Director: Martin Kern
Contact person: Ágnes Molnár, Director and Governance Support Assistant,
email: agnes.molnar@eit.europa.eu

3/ NAME OF THE PROCESSING

Selection of new Members of the EIT Governing Board

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the collection and processing of personal data is to select and appoint new members of the Governing Board of the EIT, the body responsible for steering the activities of the EIT and for taking all strategic decisions regarding the activities of the EIT.

¹ OJ L 8, 12.01.2001.

² Please attach all necessary backup documents

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Candidates for Governing Board membership

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA

6.1 Personal data (Article 2(a))

In the context of the selection of the Governing Members, the following categories of data are collected as included in the application (CV, application form, cover letter, eventually recommendation letter(s)) of the candidates put forward by stakeholder organisations in line with the respective call for expressions of interests (see Annexes 1 and 2 for past examples):

- Identification data such as name, place and date of birth of the candidate,
- Contact details of the candidate such as address, phone number, email address,
- Information on the nationality, educational and professional background of the candidate.

Furthermore, as part of the application form, candidates need to declare whether they have any link to the existing Knowledge and Innovation Communities (KICs) supported by the EIT, in particular to a KIC legal entity or to KIC partner organisations, and whether they were involved in the preparation and/or submission of a KIC proposal to the EIT.

The data provided may also include the name and the contact details of the contact person at the stakeholder organisation proposing the candidate to the EIT.

6.2 Special categories data (Article 10)

As part of the application form, candidates need to declare whether

- a) they have been convicted of an offence concerning your professional conduct by a judgment which has the forces of res judicata,
- b) they have been guilty of grave professional misconduct,
- c) they have been subject to a judgement which the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the Union's financial interest.

Other data falling in the special categories of data under Article 10 of Regulation 45/2001 are not requested of data subjects; nevertheless, the declarations may accidentally include such data e.g. in the case of the communication of a photo of the candidate (not required by the EIT but may be submitted on the candidates' own initiative).

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The EIT ensures that the data subjects are adequately informed as required by Article 11 of Regulation 45/2001.

Information is included in the privacy statement which is part of the call for expression of interest relating to the selection procedure (see Annexes 1 and 2 for past examples). Calls for the expression of interest are published on the EIT website at the moment of launching the selection procedure.

The privacy statement provides information in particular on the identity of the data controller, the purpose of the processing, the types of personal data processed, the data recipients, the retention period, the rights of

data subjects and the procedure to be followed to exercise them, the legal basis and the grounds for lawfulness of the processing.

With regard to the processing of the data concerning gender and nationality, if it is the case, the call for expression of interests would indicate that special attention is paid to the gender and geographical balance of the Governing Board as a whole.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

Data subjects can file a request to access, modify, block, withdraw or erase information that they have submitted before the deadline indicated in the call for expression of interest.

In order to ensure the equal treatment of applicants, after the closing date of the call, the data subjects can only:

- access their data in the application and request a copy of the information submitted to the functional mailbox;
- send changes about contact information (postal address and/or email);
- request the cancellation of their submission and the deletion of all associated data.

Requests of this kind must be sent by email to the address EIT-APPLICATIONS-GB@eit.europa.eu and shall be processed within 15 working days. In case the applicant contests the accuracy of the data, upon request, the data is blocked immediately for the period of verification of the accuracy of the data.³

Exemptions and restrictions to the rights of data subjects as set out in Article 20 of Regulation 45/2001 apply.⁴

The data subjects have the right of recourse at any time to the Data Protections Officer of the EIT (EIT-DPO@eit.europa.eu) and to the European Data Protection Supervisor (EDPS@edps.europa.eu) for matters relating to the processing of their personal data.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The data relating to the applications are subject to manual processing during the selection procedure.

Applications are received electronically (by means of email) via the functional mailbox EIT-APPLICATIONS-GB@eit.europa.eu. Information submitted are collected and processed using the EIT's IT standards and telecommunication infrastructure.

Following the receipt of the applications, the EIT performs an eligibility check and draws up a preliminary list of candidates. This preliminary list of candidates is forwarded to a Steering Committee composed of three members of the EIT Governing Board and one observer from the European Commission. Having assessed the applications in line with the criteria laid down in the call, the Steering Committee draws up a shortlist of maximum five candidates and submit it to the Governing Board for approval. For the purpose of establishing

³ The previous calls for expression of interests did not contain an explicit reference to the possibility to obtain immediate blocking of data, the accuracy of which is contested by the applicant. This information is however foreseen to be included in the next call for expression of interests, foreseen to be launched in the course of 2017.

⁴ The previous calls for expression of interests did not contain an explicit reference to the exemptions and restrictions set out in Article 20 of Regulation 45/2001. This information is however foreseen to be included in the next call for expression of interests, foreseen to be launched in the course of 2017.

the shortlist, the Steering Committee may hold interviews with the applicants. Following the approval of the shortlist by the Governing Board, it is submitted to the European Commission. The European Commission finalises the selection procedure and appoints the new Board member, and informs the EIT Governing Board, the European Parliament and the Council thereof.

10/ STORAGE MEDIA OF DATA

The electronic files relating to the applications are stored in a local database on the central EIT server, with individualised access rights (password-protected mode). Entitlement to access the information is distributed by the EIT Directorate on a 'need to know' basis, i.e. to the EIT Staff entitled to participate in the processing.

The information submitted in paper form will be stored in secure offices (locked cupboard only accessible to the EIT Staff entitled to participate in the processing) within the EIT premises until its destruction.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

11.1 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 Technology, () as amended by Regulation (EU) No 1292/2013 of the European Parliament and of the Council of 11 December 2013 ('EIT Regulation'); and in particular, paragraph 2 of Sections 1 of the Statutes of the EIT annexed to the EIT Regulation.

Decision 08/2016 of the Governing Board of the EIT on the Rules of Procedure of the EIT Governing Board and Executive Committee, in particular, Article 14. (Ref.00507.EIT.2016.I.GB.WP)

Decisions of the EIT Governing Board on the selection of the EIT Governing Board members (see Annex 3 and Annex 4 for past examples).

11.2 Grounds for lawfulness

Lawfulness of the processing operations is ensured under Article 5(a) of Regulation (EC) No 45/2001: the processing is necessary for the performance of a task carried out in the public interest on the basis of the applicable legal instruments and in the legitimate exercise of official authority vested in the EIT.

In particular, the processing is necessary to enable the functioning of the EIT GB when performing the activities that fall under the scope of action of the EIT; this task is carried out in the public interest on the basis of the EIT Regulation.

The processing of the information regarding past convictions is lawful based on Articles 28 of the Staff Regulations and 12(2) of the Conditions of Employment, providing the basis for the processing of such data in line with Article 10(5) of Regulation 45/2001.

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

12.1 EU institutions and bodies:

Within the EIT

The information submitted will be accessed and processed by a support team within the EIT, led by the EIT Director, and subsequently transferred to and accessed by the members of the Steering Committee (three Board members from the EIT side) responsible for the selection process.

Within the Commission and other EU institutions and bodies

The applications will be processed by the representative of the European Commission participating in the Steering Committee as an observer. Furthermore, the data of shortlisted applicants is communicated to the European Commission which is in charge of the finalisation of the selection procedure and the appointment of new Governing Board members.

Furthermore, in case of audit, complaint or appeal, the personal data may be processed by the Internal Audit Service of the Commission, the Court of Auditors, OLAF, the European Ombudsman, the European Data Protection Supervisor, the General Court of the European Union or the European Court of Justice.

By third parties subject to Directive (EC) 95/46

External lawyers contracted to represent the EIT in the case of a litigation relating to the selection procedure.⁵

In both cases, a written contract (following the models of the Commission including a specific article on data protection) will be signed between the EIT and the contractor in order to ensure that that Article 23 of the Regulation on data protection is respected by the data processor.

Third parties not subject to Directive (EC) 95/46

Not applicable.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

- Data of selected and appointed members of the Governing Board are stored throughout their mandate and for a period of five years after the end of their mandate.
- Data of applicants not selected for the position are kept for a period of two years as of the starting date of the position for the purposes of potential review procedures concerning the selection procedure (complaint to the EIT or to the European Commission, complaint to the European Ombudsman, appeal to the Civil Service Tribunal, etc.) and for budgetary or audit purposes. In case the length of the review procedure exceeds the period of two years, the relevant data are kept for the duration of the ongoing review procedure.⁶

13a/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

⁵ The previous calls only indicated that the personal data may be forwarded to lawyers for litigation purposes. The indicated description is foreseen to be included in the next call for expression of interests, foreseen to be launched in the course of 2017. Furthermore, the previous calls indicated that data would be disclosed to IT companies. This is however no longer relevant and will not be included in the next call for expression of interests.

⁶ The previous calls for expression of interests did not distinguish between selected and not selected applicants. The indicated provisions are foreseen to be included in the next call for expression of interests, foreseen to be launched in the course of 2017.

Requests for blocking and erasure of 'data subjects' are handled by the EIT within 15 working days from the date of submission of the request. In case the applicant contests the accuracy of its data, upon request, the data is blocked immediately for the period of verification of the accuracy of the data.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Over the time periods indicated under point 13, only anonymous data may be retained in order to provide statistics.

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

No

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING

The processing operation presents a specific risk justifying prior checking as foreseen in Article 27 paragraph 2 (b): processing operations intended to evaluate personal aspects relating to the data subject. On the basis of the data provided by the applicants, their suitability for the position of Governing Board member is evaluated.

17/ COMMENTS

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PLACE AND DATE: 21 DECEMBER 2016

DATA PROTECTION OFFICER: PATRICIA JUANES BURGOS

EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY