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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Non-legislative acts)

DECISIONS

COUNCIL DECISION (EU) 2020/1731

of 28 October 2020

appointing a member, proposed by the Federal Republic of Germany, of the Committee of the Regions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the German Government,

Whereas:

- (1) On 10 December 2019, 20 January 2020, 3 February 2020 and 26 March 2020 the Council adopted Decisions (EU) 2019/2157 ⁽¹⁾, (EU) 2020/102 ⁽²⁾, (EU) 2020/144 ⁽³⁾, (EU) 2020/511 ⁽⁴⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2020 to 25 January 2025. On 8 June 2020, the Council adopted Decision (EU) 2020/766 ⁽⁵⁾ appointing the members and alternate members of the Committee of the Regions for the period from 1 February 2020 to 25 January 2025. On 30 July 2020, the Council adopted a further Decision (EU) 2020/1153 ⁽⁶⁾ appointing members and alternate members of the Committee of the Regions.
- (2) A member's seat on the Committee of the Regions will become vacant as from 1 November 2020, following the end of the term of office of Mr Marcel PHILIPP on 31 October 2020,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed as member to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2025:

— Mr Uwe CONRADT, Member of a Local Executive holding an electoral mandate: *Saarbrücken*.

Article 2

This Decision shall enter into force on the date of its adoption.

It shall apply as from 1 November 2020.

⁽¹⁾ Council Decision (EU) 2019/2157 of 10 December 2019 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2020 to 25 January 2025 (OJ L 327, 17.12.2019, p. 78).

⁽²⁾ Council Decision (EU) 2020/102 of 20 January 2020 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2020 to 25 January 2025 (OJ L 20, 24.1.2020, p. 2).

⁽³⁾ Council Decision (EU) 2020/144 of 3 February 2020 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2020 to 25 January 2025 (OJ L 32, 4.2.2020, p. 16).

⁽⁴⁾ Council Decision (EU) 2020/511 of 26 March 2020 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2020 to 25 January 2025 (OJ L 113, 8.4.2020, p. 18).

⁽⁵⁾ Council Decision (EU) 2020/766 of 8 June 2020 appointing the members and alternate members of the Committee of the Regions for the period from 1 February 2020 to 25 January 2025 (OJ L 187, 12.6.2020, p. 3).

⁽⁶⁾ Council Decision (EU) 2020/1153 of 30 July 2020 appointing members and alternate members of the Committee of the Regions (OJ L 256, 5.8.2020, p. 12).

Done at Brussels, 28 October 2020.

For the Council
The President
M. ROTH

RULES OF PROCEDURE

COMMITTEE OF THE REGIONS DECISION No 18/2020

on public access to Committee of the Regions documents

THE BUREAU OF THE COMMITTEE OF THE REGIONS,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 15(3) thereof,

Having regard to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽¹⁾,

Having regard to 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 ⁽²⁾,

Having regard to the Committee of the Regions' Rules of Procedure, in particular Rule 78 thereof,

Having regard to Committee of the Regions Bureau Decision No 64/2003 of 11 February 2003 on public access to Committee of the Regions documents ⁽³⁾,

Having regard to Committee of the Regions Bureau Decision No 128/2003 of 17 June 2003 on public access to Committee of the Regions documents via the electronic document register,

Whereas in the Joint Declaration on Regulation (EC) No 1049/2001, the European Parliament, the Council and the Commission request the other institutions to adopt internal rules regarding public access to documents, taking into account the principles and limits set out in this Regulation ⁽⁴⁾,

Whereas the creation of a list of directly accessible documents pursuant to Rule 78(2) of the Committee of the Regions' Rules of Procedure and the Committee's arrangements for the exercise of citizens' right to access documents need to be combined in a single decision in order to facilitate transparency for citizens,

HAS DECIDED AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

Article 1

Beneficiaries, scope and types of access

1. Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State shall have a right of access to Committee of the Regions ('the Committee') documents, subject to the principles, conditions and limits set out in Regulation (EC) No 1049/2001 and the specific provisions laid down in this Decision.
2. For the purpose of this Decision, the term 'Committee documents' means any content within the meaning of Article 3(a) of Regulation (EC) No 1049/2001 which has been drawn up or received by one of the Committee's constituent bodies or by the Committee's Secretariat-General.
3. The Committee shall provide public access to its documents through the register laid down in Chapter II and on request in accordance with Chapter III.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 295, 21.11.2018, p. 39.

⁽³⁾ OJ L 160, 28.6.2003, p. 96.

⁽⁴⁾ OJ L 173, 27.6.2001, p. 5.

CHAPTER II

REGISTER OF COMMITTEE DOCUMENTS*Article 2*

1. In accordance with Articles 11 and 12 of Regulation (EC) No 1049/2001, a register of documents shall be established within the Committee.
2. Committee documents mentioned in the list appended to this Decision and documents to which access has been granted under Chapter III of this Decision shall be directly accessible to citizens in electronic form in the register.
3. The Committee may decide to include in the register documents other than those mentioned in paragraph 2. In this case, the Committee shall decide, on account of the nature of each document, either to make the document directly accessible to citizens in electronic form in the register or to include in the register only a reference number for the document, the subject matter and/or a short description of its content and the date on which it was received or drawn up and recorded in the register.

CHAPTER III

PROCEDURE FOR ACCESS ON REQUEST*Article 3***Documents accessible on request**

Committee documents that are not mentioned in the list appended to this Decision shall, as far as possible, be accessible to citizens on request, subject to the limits laid down in Articles 4 and 9 of Regulation (EC) No 1049/2001.

*Article 4***Initial application**

1. Submission:
 - 1.1. Applications for access to a document shall be sent to the Secretariat-General of the Committee in any form of writing, including in electronic format, in one of the languages listed in Article 1 of Regulation No 1/1958 determining the languages to be used by the European Economic Community ⁽⁵⁾.
 - 1.2. Applications shall be made in a sufficiently precise manner and shall in particular contain information enabling the document or documents requested to be identified as well as the name and contact details of the applicant.
 - 1.3. If an application is not sufficiently precise, the Committee shall ask the applicant to clarify it and shall assist him or her in doing so; in this case, the period for replying shall be suspended until the Committee receives this information.
 - 1.4. In the event of repeated or successive applications concerning very long documents or a large number of documents, the Committee may confer with the applicant informally with a view to finding a solution.
 - 1.5. The applicant is not obliged to state the reasons for the application.
2. Processing:
 - 2.1. An application for access to a document held by the Committee shall be sent on the same day as it is registered to the team responsible for handling applications for access to documents, which shall acknowledge receipt of the application, draft a reply and deliver the document within the prescribed time limit.
 - 2.2. If the application relates to a document drawn up by the Committee to which one of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001 may be applicable, the team responsible for the register shall contact the originator of the document, which shall suggest the course of action to be taken within five working days.

⁽⁵⁾ OJ P 017, 6.10.1958, p. 385.

- 2.3. If the doubt as to disclosure concerns documents from third parties, the Committee shall consult the latter, giving them no less than five working days in which to make their position known, with a view to assessing whether one of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001 is applicable.
- 2.4. If the application submitted to the Committee concerns a document that originates from another institution and has not yet been made public by that institution, the Committee shall give the institution responsible for the document no less than five working days in which to express any reservations regarding disclosure of the document.
- 2.5. If no reply is received from the third parties or the institution from which the document originates within the prescribed deadline, the Committee shall carry on with the procedure.
3. Decision:
 - 3.1. Where access to the requested document is granted, the Committee shall, within 15 working days from registration of the application, supply the requested document to the applicant. The Director of Directorate A shall be responsible for replies giving access to the requested documents.
 - 3.2. Where access to the requested document is refused, the Committee shall, within 15 working days from registration of the application, notify the applicant in writing of the grounds for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application. Failure by the Committee to reply within the prescribed time limit shall entitle the applicant to make a confirmatory application. The Secretary-General shall be responsible for replies refusing, totally or partially, access to the requested documents.
 - 3.3. In exceptional cases, for instance where an application relates to a very long document or a large number of documents, the time limit provided for in paragraphs 3.1 and 3.2 may be extended by 15 working days, provided the applicant is notified in advance and that detailed reasons are given.
 - 3.4. The Director of Directorate A and the Secretary-General may delegate their respective powers mentioned in paragraphs 3.1 and 3.2.

Article 5

Confirmatory applications

1. Submission:
 - 1.1. Confirmatory applications shall be sent to the Committee within 15 working days from receipt of the total or partial refusal of access to the document requested or, in the absence of any reply to the initial application, from the expiry of the period fixed for the reply.
 - 1.2. Confirmatory applications shall be made in accordance with the same formal requirements as for the initial application.
2. Processing:

The provisions laid down in Article 4(2) of this Decision shall apply by analogy to the processing of confirmatory applications; however, the Committee shall not be under the obligation to acknowledge receipt of the confirmatory application.

3. Decision:
 - 3.1. Where access to the requested document is granted, the Committee shall, within 15 working days from registration of the confirmatory application, supply the requested document to the applicant. The President shall be responsible for replies giving access to the requested documents.
 - 3.2. Where access to the requested document is refused, the Committee shall, within 15 working days from registration of the confirmatory application, notify the applicant in writing of the grounds for the total or partial refusal and inform the applicant of the remedies open to him or her. The President shall be responsible for replies refusing, totally or partially, access to the requested documents.
 - 3.3. In exceptional cases, for instance where a confirmatory application relates to a very long document or a large number of documents, the time limit provided for in paragraphs 3.1 and 3.2 may be extended by 15 working days, provided the applicant is notified in advance and that detailed reasons are given.
 - 3.4. The President may delegate the powers mentioned in paragraphs 3.1 and 3.2.

*Article 6***Remedies**

Where the Committee totally or partially refuses to grant access to a document following a confirmatory application or fails to reply within the prescribed time limit, the applicant shall have the possibility of instituting court proceedings against the Committee and/or making a complaint to the European Ombudsman under the conditions laid down in Article 263 and 228 of the Treaty on the Functioning of the European Union, respectively.

*Article 7***Issue of documents and cost of the reply**

1. Issue of documents
 - 1.1. Documents are to be supplied in the form of a paper copy, or in electronic format, with full regard to the applicant's preference.
 - 1.2. If a document has already been released by the Committee or by another institution and is easily accessible, the Committee may facilitate access to the document by informing the applicant of how to obtain the requested document.
2. Cost of the reply

The cost of producing and sending copies of 20 or more A4 pages may be charged to the applicant. This charge may not exceed the real cost of the operation. Supply in electronic format shall be free of charge.

CHAPTER IV

FINAL PROVISIONS*Article 8***Implementing measures**

The Secretary-General shall be given the task of implementing the measures necessary to ensure the application of this Decision.

*Article 9***Repeal of Decision No 64/2003 and of Decision No 128/2003**

This Decision repeals Committee of the Regions Bureau Decision No 64/2003 of 11 February 2003 on public access to Committee of the Regions documents and Committee of the Regions Bureau Decision No 128/2003 of 17 June 2003 on public access to Committee of the Regions documents via the electronic document register.

*Article 10***Entry into force**

This Decision shall enter into force on the date following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 9 October 2020.

For the Bureau of the Committee of the Regions
Apostolos TZITZIKOSTAS
President

ANNEX

List of Committee of the Regions documents directly accessible to the public**1. Documents relating to political work**

Requests and reasons for drawing up an own-initiative opinion
Allocations of referrals
Thematic commission draft opinions
Thematic commission draft outlook opinions
Thematic commission draft reports
Thematic commission draft outlook reports
Commission draft resolutions
Information memos provided to members in commission meetings
Amendments to commission draft opinions
Amendments to commission draft outlook opinions
Amendments to commission draft reports
Amendments to commission draft outlook reports
Amendments to commission draft resolutions
Draft opinions submitted to plenary sessions
Draft outlook opinions submitted to plenary sessions
Draft reports submitted to plenary sessions
Draft outlook reports submitted to plenary sessions
Draft resolutions submitted to plenary sessions
Information memos/Background notes submitted to plenary sessions
Amendments to draft opinions submitted to plenary sessions
Amendments to draft outlook opinions submitted to plenary sessions
Amendments to draft reports submitted to plenary sessions
Amendments to draft outlook reports submitted to plenary sessions
Amendments to draft resolutions submitted to plenary sessions
Records of the proceedings at plenary sessions
Opinions of the (European) Committee of the Regions
Outlook opinions of the (European) Committee of the Regions
Commission reports stating the reasons for bringing an action for infringement of the subsidiarity principle or failure to carry out obligatory consultation of the Committee
Reports of the (European) Committee of the Regions
Outlook reports of the (European) Committee of the Regions
Resolutions of the (European) Committee of the Regions
Decisions not to draw up an opinion

2. Documents relating to the organisation and functioning of Committee decision-making bodies

Draft Rules of Procedure
Amendments to draft Rules of Procedure
Rules of Procedure
Reports on the revision of the Rules of Procedure
Plenary session decisions on the election of Bureau members

Plenary session decisions on setting-up commissions

Bureau decisions on setting-up working groups, joint consultative committees, interregional groups, task forces and other political bodies

Plenary session decisions on the nomination of the President

Plenary session decisions on the nomination of the 1st Vice-President

3. Documents relating to CoR political strategy

Draft declarations

Declarations

Annual evaluation reports

End of term evaluation reports

Executive summaries and reports on the impact of Committee opinions

Executive summaries and annual activity reports

Political priorities

Start-of-term political programmes

CoR thematic commission work programmes

4. Documents relating to the work of Committee bodies

Bureau documents

Compositions

Notices of meeting

Draft agendas

Attendance lists

Bureau memos

Calendars of meetings

Minutes

Conference of Presidents

Agendas

Plenary session documents

Notices of meeting

Draft agendas

Minutes

Attendance lists

Statements and speeches by guest speakers

Documents of Committee thematic commissions (in addition to those mentioned under point (1), joint consultative committees, working groups, interregional groups, task forces and other Committee political bodies)

Political priorities (as included in action plans and work programmes)

Start-of-term political programmes

Activity reports and thematic reports

Recommendations

Compositions

Notices of meeting

Draft agendas

Minutes

Attendance lists

Proposals for external activities

Presentations relating to thematic debates or opinions

Presidency

Statements and speeches by the President

Statements and speeches by the Vice-Presidents

Members

Appointments of members

Members' letters of resignation

Ends of members' terms of office

Declarations of members' financial interests

Expenses and allowances

Rules on the reimbursement of travel expenses and the payment of flat-rate travel and meeting allowances for members

Documents of political groups

Setting-up of groups

Meetings between commission chairs and the Committee President

Notices of meeting

Agendas

Seminars and conferences

Notices of meetings, seminars and conferences

Follow-up documents

5. Documents of CoR networks and platforms

European grouping of territorial cooperation (EGTC)

Register

National decisions

Subsidiarity Monitoring Network (SMN)

Subsidiarity work programmes

Subsidiarity annual reports

Studies

Subsidiarity conference agendas

Brochures

Consultation reports

Contributions by SMN partners

Europe2020 platform

Monitoring reports

Lists of members

Division of powers platform

Division of powers studies

6. Documents relating to communication and research**Strategic documents**

Committee Communication Strategies

Annual communication action plans

Annual communication reports (on activities from the previous year)

Other documents

Press releases

Electronic newsletters (distributed via the subscription service available on the website homepage)

Organisation of events (conferences, round tables, public hearings, workshops, etc.)

Notices of meetings (conferences, round tables, public hearings, workshops, etc.) which are open to the public

Information for members on events organised by the Committee

Programmes/agendas of events organised by the Committee

Summaries/analyses/evaluations of events organised by the Committee

Studies carried out by the Committee

Studies

Bureau research programmes

Members' guides

Guide for rapporteurs

Guide for members

7. Documents relating to relations with others

Cooperation agreements

Communications with European and international institutions and bodies

Communications with Member States

Communications with local and regional authorities

Communications with international organisations

Communications with associations

European groupings of territorial cooperation

8. Documents relating to Committee administration, planning and reporting**Recruitment and traineeships**

Vacancy notices

Privacy statements relating to the recruitment of officials, secondment of seconded national experts and traineeships

Rules applicable to national experts seconded to the Committee

Rules governing the traineeships scheme of the Committee

Rules regarding financial contribution towards the travel expenses actually incurred at the beginning and end of traineeships by standard trainees at the Committee departments of the Committee

Tender procedures

General conditions for purchase orders (low-value contracts)

Privacy statement relating to public procurement procedures

Contract notices published in the Official Journal

Award notices published in the Official Journal

Ex-ante publication of upcoming low- and middle-value contracts

List of low- and middle-value contracts signed by the Committee in the previous year

List of specific contracts and order forms based on a framework contract signed by the CoR in the previous year

Whistleblowing rules and declarations of outside activities of senior officials

Privacy statement relating to data protection during whistleblowing processes

Rules on whistleblowing

Administrative arrangements between the Committee and OLAF

Annual information regarding the occupational activities of former senior officials

DECISION OF THE GOVERNING BOARD OF THE INNOVATIVE MEDICINES INITIATIVE 2 JOINT UNDERTAKING

of 11 August 2020

laying down internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of the IMI 2 JU

THE GOVERNING BOARD OF THE INNOVATIVE MEDICINES INITIATIVE 2 JOINT UNDERTAKING (hereafter referred to as 'the IMI 2 JU'),

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 ⁽¹⁾, and in particular Article 25 thereof,

Having regard to the Statutes annexed to Council Regulation (EU) No 557/2014 of 6 May 2014 establishing the Innovative Medicines Initiative 2 Joint Undertaking ⁽²⁾, and in particular Article 7(3)(r) thereof,

Having regard to the European Data Protection Supervisor (EDPS) Guidance on Article 25 of the new Regulation and internal rules,

After having consulted the IMI 2 JU Staff Committee,

Having regard to the recommendations of the EDPS of 18 December 2019,

Whereas:

- (1) The IMI 2 JU carries out its activities in accordance with Regulation (EU) No 557/2014.
- (2) In accordance with Article 25(1) of Regulation (EU) 2018/1725 restrictions of the application of Articles 14 to 22, 35 and 36, as well as Article 4 of that Regulation in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 22 should be based on internal rules to be adopted by the IMI 2 JU, where these are not based on legal acts adopted on the basis of the Treaties.
- (3) These internal rules, including its provisions on the assessment of the necessity and proportionality of a restriction, should not apply where a legal act adopted on the basis of the Treaties provides for a restriction of data subject rights.
- (4) Where the IMI 2 JU performs its duties with respect to data subject's rights under Regulation (EU) 2018/1725, it shall consider whether any of the exemptions laid down in that Regulation apply.
- (5) Within the framework of its administrative functioning, the IMI 2 JU may conduct administrative inquiries, disciplinary proceedings, carry out preliminary activities related to cases of potential irregularities reported to OLAF, process whistleblowing cases, process (formal and informal) procedures of harassment, process internal and external complaints, conduct internal audits, carry out investigations by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725 and internal (IT) security investigations.

⁽¹⁾ OJ L 295, 21.11.2018, p. 39.

⁽²⁾ OJ L 169, 7.6.2014, p. 54.

- (6) The IMI 2 JU processes several categories of personal data, including hard data ('objective' data such as identification data, contact data, professional data, administrative details, data received from specific sources, electronic communications and traffic data) and soft data ('subjective' data related to the case such as reasoning, behavioural data, appraisals, performance and conduct data and data related to or brought forward in connection with the subject matter of the procedure or activity) ⁽⁷⁾.
- (7) The IMI 2 JU, represented by its Executive Director, acts as the data controller irrespective of further delegations of the controller role within the IMI 2 JU to reflect operational responsibilities for specific personal data processing operations.
- (8) The personal data are stored securely in an electronic environment or on paper preventing unlawful access or transfer of data to persons who do not have a need to know. The personal data processed are retained for no longer than necessary and appropriate for the purposes for which the data are processed for the period specified in the data protection notices, privacy statements or records of the IMI 2 JU.
- (9) The internal rules should apply to all processing operations carried out by the IMI 2 JU in the performance of administrative inquiries, disciplinary proceedings, preliminary activities related to cases of potential irregularities reported to OLAF, whistleblowing procedures, (formal and informal) procedures for cases of harassment, processing internal and external complaints, internal audits, the investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725, (IT) security investigations handled internally or with external involvement (e.g. CERT-EU).
- (10) They should apply to processing operations carried out prior to the opening of the procedures referred to above, during these procedures and during the monitoring of the follow-up to the outcome of these procedures. It should also include assistance and cooperation provided by the IMI 2 JU to national authorities and international organisations outside of its administrative investigations.
- (11) In cases where these internal rules apply, the IMI 2 JU must provide justifications explaining why the restrictions are strictly necessary and proportionate in a democratic society and respect the essence of the fundamental rights and freedoms.
- (12) Within this framework the IMI 2 JU is bound to respect, to the maximum extent possible, the fundamental rights of the data subjects during the above procedures, in particular, those relating to the right of provision of information, access and rectification, right to erasure, restriction of processing, right of communication of a personal data breach to the data subject or confidentiality of communication as enshrined in Regulation (EU) 2018/1725.
- (13) However, the IMI 2 JU may be obliged to restrict the information to data subject and other data subject's rights to protect, in particular, its own investigations, the investigations and proceedings of other public authorities, as well as the rights of other persons related to its investigations or other procedures.
- (14) The IMI 2 JU may thus restrict the information for the purposes of protecting the investigation, and the fundamental rights and freedoms of other data subjects.
- (15) The IMI 2 JU should periodically monitor that the conditions justifying the restriction apply, and lift the restriction as far as they no longer apply.
- (16) The Controller should inform the Data Protection Officer at the moment of deferral and during the revisions,

⁽⁷⁾ In cases of joint controllership data shall be processed in line with the means and purposes established in the relevant agreement among the joint controllers as defined in Article 28 of Regulation (EU) 2018/1725.

HAS ADOPTED THIS DECISION:

Article 1

Subject matter and scope

1. This Decision lays down rules relating to the conditions under which the IMI 2 JU in the framework of its procedures set out paragraph 2 may restrict the application of the rights enshrined in Articles 14 to 22, 35 and 36, as well as Article 4 thereof, following Article 25 of Regulation (EU) 2018/1725.
2. Within the framework of the administrative functioning of the IMI 2 JU, this Decision applies to the processing operations on personal data by the Programme Office for the purposes of conducting administrative inquiries, disciplinary proceedings, preliminary activities related to cases of potential irregularities reported to OLAF, processing whistleblowing cases, (formal and informal) procedures of harassment, processing internal and external complaints, conducting internal audits, investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725 and (IT) security investigations handled internally or with external involvement (e.g. CERT-EU).
3. The categories of data concerned are hard data ('objective' data such as identification data, contact data, professional data, administrative details, data received from specific sources, electronic communications and traffic data) and soft data ('subjective' data related to the case such as reasoning, behavioural data, appraisals, performance and conduct data and data related to or brought forward in connection with the subject matter of the procedure or activity).
4. Where the IMI 2 JU performs its duties with respect to data subject's rights under Regulation (EU) 2018/1725, it shall consider whether any of the exemptions laid down in that Regulation apply.
5. Subject to the conditions set out in this Decision, the restrictions may apply to the following rights: provision of information to data subjects, right of access, rectification, erasure, restriction of processing, communication of a personal data breach to the data subject or confidentiality of communication.

Article 2

Specification of the controller

The controller of the processing operations is the IMI 2 JU, represented by its Executive Director, who may delegate the function of the controller. Data subjects shall be informed of the delegated controller by way of the data protection notices or records published on the website and/or the intranet of the IMI 2 JU.

Article 3

Specification of safeguards

1. The IMI 2 JU shall put in place the following safeguards aimed at preventing abuse or unlawful access or transfer of personal data (*):
 - (a) paper documents shall be kept in secured cupboards and only accessible to authorised staff;
 - (b) all electronic data shall be stored in a secure IT application according to the IMI 2 JU's security standards, as well as in specific electronic folders accessible only to authorised staff. Appropriate levels of access shall be granted individually;
 - (c) the database shall be password-protected under a single sign-on system and connected automatically to the user's ID and password. Replacing users is strictly prohibited. E-records shall be held securely to safeguard the confidentiality and privacy of the data therein;
 - (d) all persons having access to the data are bound by the obligation of confidentiality.

(*) This list is non-exhaustive.

2. The retention period of the personal data referred to in Article 1(3) shall be no longer than necessary and appropriate for the purposes for which the data are processed. It shall in any event not be longer than the retention period specified in the data protection notices, privacy statements or records referred to in Article 6.

3. Where the IMI 2 JU considers to apply a restriction, the risk to the rights and freedoms of the data subject shall be weighed, in particular, against the risk to the rights and freedoms of other data subjects and the risk of cancelling the effect of the IMI 2 JU's investigations or procedures for example by destroying evidence. The risks to the rights and freedoms of the data subject concern primarily, but are not limited to, reputational risks and risks to the right of defence and the right to be heard.

Article 4

Restrictions

1. Any restriction shall only be applied by the IMI 2 JU to safeguard:

- (a) the national security, public security or defence of the Member States;
- (b) the prevention, investigation, detection and prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
- (c) other important objectives of general public interest of the Union or of a Member State, in particular the objectives of the common foreign and security policy of the Union or an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security;
- (d) the internal security of Union institutions and bodies, including of their electronic communications networks;
- (e) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
- (f) a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in points (a) to (c);
- (g) the protection of the data subject or the rights and freedoms of others;
- (h) the enforcement of civil law claims.

2. As a specific application of the purposes described in paragraph 1 above, the IMI 2 JU may apply restrictions in the following circumstances:

- (a) in relation to personal data exchanged with Commission services or other Union institutions, bodies, agencies and offices;
 - where such Commission service, Union institution, body or agency, is entitled to restrict the exercise of the listed rights on the basis of other acts provided for in Article 25 of Regulation (EU) 2018/1725 or in accordance with Chapter IX of that Regulation or with the founding acts of other Union institutions, bodies, agencies and offices,
 - where the purpose of such a restriction by that Commission service, Union institution, body or agency would be jeopardised were the IMI 2 JU not to apply an equivalent restriction in respect of the same personal data;
- (b) in relation to personal data exchanged with competent authorities of Member States;
 - where such competent authorities of Member States are entitled to restrict the exercise of the listed rights on the basis of acts referred to in Article 23 of Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁵⁾, or under national measures transposing Articles 13(3), 15(3) or 16(3) of Directive (EU) 2016/680 of the European Parliament and of the Council ⁽⁶⁾,

⁽⁵⁾ 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).

⁽⁶⁾ Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

— where the purpose of such a restriction by that competent authority would be jeopardised were the IMI 2 JU not to apply an equivalent restriction in respect of the same personal data;

- (c) in relation to personal data exchanged with third countries or international organisations, where there is clear evidence that the exercise of those rights and obligations is likely to jeopardise the IMI 2 JU's cooperation with third countries or international organisations in the conduct of its tasks.

Before applying restrictions in the circumstances referred to in points (a) and (b) of the first subparagraph, the IMI 2 JU shall consult the relevant Commission services, Union institutions, bodies, agencies, offices or the competent authorities of Member States unless it is clear to the IMI 2 JU that the application of a restriction is provided for by one of the acts referred to in those points.

Article 5

Restrictions to the rights of data subjects

1. In duly justified cases and under the conditions stipulated in this decision, the following rights may be restricted by the controller in the context of the processing operations listed in paragraph 2 below where necessary and proportionate:

- (a) the right to information;
- (b) the right of access;
- (c) the right of rectification, erasure and restriction of processing;
- (d) the right to communication of a personal data breach to the data subject;
- (e) the right to confidentiality of electronic communications.

2. In accordance with Article 25(2)(a) of Regulation (EU) 2018/1725, in duly justified cases and under the conditions stipulated in this decision, restrictions may be applied by the controller in the context of the following processing operations:

- (a) the performance of administrative inquiries and disciplinary proceedings;
- (b) preliminary activities related to cases of potential irregularities reported to OLAF;
- (c) whistleblowing procedures;
- (d) formal and informal procedures for cases of harassment ⁽⁷⁾;
- (e) processing internal and external complaints;
- (f) internal audits;
- (g) the investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725;
- (h) (IT) security investigations handled internally or with external involvement (e.g. CERT-EU);
- (i) within the frame of the grant management or procurement procedure, after the closing date of the submission of the calls for proposals or the application of tenders ⁽⁸⁾.

The restriction shall continue to apply as long as the reasons justifying it remain applicable.

3. Where the IMI 2 JU restricts, wholly or partly, the application of the rights in paragraph 1 above, it shall take the steps set out in Articles 6 and 7 of this Decision.

4. Where data subjects request access to their personal data processed in the context of one or more specific cases or to a particular processing operation, in accordance with Article 17 of Regulation (EU) 2018/1725, the IMI 2 JU shall limit its assessment of the request to such personal data only.

⁽⁷⁾ This processing operation shall **not** apply to Article 5(1)(d).

⁽⁸⁾ This processing operation shall **only** apply to Article 5(1)(c).

*Article 6***Necessity and proportionality of restrictions**

1. Any restriction outlined in Article 5 shall be necessary and proportionate taking into account the risks to the rights and freedoms of data subjects and respect the essence of the fundamental rights and freedoms in a democratic society.
2. If the application of restriction is considered, a necessity and proportionality test shall be carried out based on the present rules. The test shall also be conducted within the framework of the periodic review, following assessment of whether the factual and legal reasons for a restriction still apply. It shall be documented through an internal assessment note for accountability purposes on a case by case basis.
3. Restrictions shall be temporary and lifted as soon as the circumstances that justify them no longer apply. In particular, where it is considered that the exercise of the restricted right would no longer cancel the effect of the restriction imposed or adversely affect the rights or freedoms of other data subjects.

The IMI 2 JU shall review the application of the restriction every six months from its adoption and at the closure of the relevant inquiry, procedure or investigation. Thereafter, the controller shall monitor the need to maintain any restriction every six months.

4. Where the IMI 2 JU applies, wholly or partly, the restrictions outlined in Article 5 of this Decision, it shall record the reasons for the restriction, the legal ground in accordance with paragraph 1 above, including an assessment of the necessity and proportionality of the restriction.

The record and, where applicable, the documents containing underlying factual and legal elements shall be registered. They shall be made available to the European Data Protection Supervisor on request.

*Article 7***Obligation to inform**

1. The IMI 2 JU shall include in the data protection notices, privacy statements or records in the sense of Article 31 of Regulation (EU) 2018/1725, published on its website and/or on the intranet informing data subjects of their rights in the framework of a given procedure, information relating to the potential restriction of these rights. The information shall cover which rights may be restricted, the reasons and the potential duration.

Without prejudice to the provisions of Article 6(4), the IMI 2 JU, where proportionate, shall also inform individually all data subjects, which are considered persons concerned in the specific processing operation, of their rights concerning present or future restrictions without undue delay and in a written form.

2. Where the IMI 2 JU restricts, wholly or partly, the rights laid out in Article 5, it shall inform the data subject concerned of the restriction applied and of the principal reasons thereof, and of the possibility of lodging a complaint with the European Data Protection Supervisor or of seeking a judicial remedy in the Court of Justice of the European Union.

The provision of information referred to in paragraph 2 above may be deferred, omitted or denied if it would cancel the effect of the restriction in accordance with Article 25(8) of Regulation (EU) 2018/1725.

*Article 8***Review by the Data Protection Officer**

1. The IMI 2 JU shall, without undue delay, inform the Data Protection Officer of the IMI 2 JU ('the DPO') whenever the controller restricts the application of data subjects' rights, or extends the restriction, in accordance with this Decision. The controller shall provide the DPO access to the record containing the assessment of the necessity and proportionality of the restriction and document the date of informing the DPO in the record.

2. The DPO may request the controller in writing to review the application of the restrictions. The controller shall inform the DPO in writing about the outcome of the requested review.
3. The DPO shall be involved throughout the procedure. The controller shall inform the DPO when the restriction has been lifted.

Article 9

Entry into force

This Decision shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 11 August 2020.

For the Governing Board of the IMI 2 JU
Olivier LAUREAU
The Chairperson

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