

Notes on data protection

Independent Complaints Mechanism for the
International Climate Initiative (IKI ICM)

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Notes on data protection

Independent Complaints Mechanism (ICM) for the International Climate Initiative (IKI ICM)

Zukunft-Umwelt-Gesellschaft (ZUG) gGmbH takes the protection of your personal data very seriously. We only process personal data to the extent necessary and in accordance with the General Data Protection Regulation (GDPR) and the Federal Data Protection Act (BDSG).

Below we inform you about the manner and background of the processing of your personal data in connection with the receipt and processing of complaints from third parties by the IKI ICM in connection with projects supported by funding from the International Climate Initiative (IKI).

This information sheet provides you with more detailed information on what data is collected, for what purpose and on what basis, how you can contact the controller and the data protection officer and what rights you have in relation to the processing of personal data.

The following information applies equally to the collection of your personal data (as the person directly submitting the sketch or application) and to the collection of personal data of third parties (e.g. your employees).

The following information must be provided to you in accordance with Art. 13 and 14 GDPR when personal data is collected:

1 Responsible body and data protection officer (Art. 13 para. 1 no. 1 and 2 GDPR)

1.1 Name and contact details of the responsible organisation:

Zukunft-Umwelt-Gesellschaft (ZUG) gGmbH
Stresemannstr. 69-71
10963 Berlin, Germany
Telephone: + 49 (0) 30 72618 0000
Telefax: + 49 (0) 30 72618 0099
e-mail: kontakt@z-u-g.org

1.2 Contact details of the data protection officer:

ZUG's data protection officer is available to answer any questions and provide information on the subject of data protection.

Zukunft-Umwelt-Gesellschaft (ZUG) gGmbH
Data Protection Officer
Stresemannstr. 69-71
10963 Berlin, Germany
e-mail: datenschutz@z-u-g.org

2 Categories of personal data processed by us and the sources from which we obtain this data

ZUG processes personal data provided by the respective complainants in the course of submitting and processing complaints.

Furthermore, personal data is processed that has been legitimately transmitted by authorities and/or third parties (e.g. in accordance with Section 25 BDSG). Finally, personal data is transmitted by or collected from the implementing organisations concerned, their forwarding partners and subcontractors where applicable, as part of the investigations. Furthermore, personal data is processed through the voluntary questioning of third parties, e.g. witnesses.

The following categories of personal data are processed:

- Complainant: Surname, first name, business or private contact details, personal assessment of the complaint/project, personal involvement
- Other parties affected by projects: Surname, first name, business or private contact details, personal assessment of the complaint / project, personal involvement
- Legal representatives of data subjects: Surname, first name, official contact details
- Contact persons of implementing organisations, forwarding partners, subcontractors: Surname, first name, position / role in the organisation / institution, official contact details, personal assessment of the complaint / project
- Other third parties (e.g. witnesses): Surname, first name, business or private contact details, position / role in the organisation / institution if applicable, personal assessment of the complaint / project
- In addition to on-site appointments and telephone interviews, online meetings in particular are considered as part of the study: For the use of the "Zoom" video conferencing tool, including audio and video recordings, please refer to the privacy policy published at: <https://www.z-u-g.org/datenschutz/datenschutzhinweise-fuer-zoom/>

As part of the complaint or during interviews, the above-mentioned persons may also provide (voluntary) information on all special categories of personal data within the meaning of Art. 9 GDPR. These are not collected at the request of the controller.

In addition, the following personal data will be processed by employees of the responsible funding-authorising authority (in particular the Federal Ministry for Economic Affairs and Climate Protection, hereinafter: BMKW) and its processors (e.g. project management agency): Surname, first name, position / role in the organisation / institution, official contact details, personal assessment of the complaint / project.

3 Purpose and legal basis of the processing of personal data

3.1 Purposes for which the personal data are processed

Data processing takes place when a complaint is received and processed by the external experts appointed by the controller for the purpose of implementing the Independent Complaints Mechanism (IKI ICM) in accordance with the Rules of Procedure of 1 February 2022 (published at https://www.international-climate-initiative.com/fileadmin/iki/Dokumente/Beschwerdemechanismus/IKI_ICM_policy_EN_202202.pdf)

Complaints are indications of negative impacts in the context of projects in third countries that are supported by the IKI. Negative impacts can be of a social or environmental nature or relate to the misuse of budget funds or economic crime.

3.2 Legal basis for the processing

The data processing takes place

- in the legitimate interest of the complainant pursuant to Art. 6 para. 1 lit. f GDPR for the purpose of receiving and processing his complaint and on the basis of the express consent of the complainant pursuant to Art. 9 para. 2 lit. a GDPR in cases of processing of special categories of personal data
- on the basis of the consent of other data subjects and third parties (e.g. witnesses) pursuant to Art. 6 para. 1 lit. a GDPR and on the basis of the express consent of the data subject pursuant to Art. 9 para. 2 lit. a GDPR in cases of processing of special categories of personal data
- in fulfilment of a contract pursuant to Art. 6 para. 1 lit. f GDPR (mandate to establish the IKI ICM) and in the public interest pursuant to Art. 6 para. 1 lit. e GDPR (voluntary commitment of the BMKW to comply with the IKI ICM) with regard to the employees of the grant-awarding authority and its processors (e.g. project sponsors)
- in fulfilment of a contract pursuant to Art. 6 para. 1 lit. f GDPR (funding contract) and in the public interest pursuant to Art. 6 para. 1 lit. e GDPR (verification of the legality of the receipt and, above all, the use of the grant, e.g. in the event of a breach of safeguards, budget or grant law) with regard to the implementing organisations, their onward transfer partners and subcontractors.
- based on the consent of the data subject pursuant to Art. 6 para. 1 lit. a GDPR in the case of a video/audio recording.
- in the case of state investigations in response to requests for information from the state investigating authorities due to a legal obligation pursuant to Art. 6 para. 1 lit. c) GDPR, e.g. in conjunction with § SECTION 24 BDSG.

3.3 Possible consequences of non-provision

There is no obligation for the complainant, other affected parties and witnesses to provide personal data.

Implementing organisations have undertaken to comply with the IKI Safeguards and the budget and grant law as part of the application process and to support the IKI ICM in the funding agreement. Implementing organisations are obliged to commit on-lending partners or subcontractors to the same extent as they have committed themselves. If the implementing organisation breaches contractual obligations, this can lead to the reclaiming of grants awarded.

The Federal Republic of Germany, represented by the BMWK, has commissioned ZUG to install the IKI ICM and has also undertaken to comply with the rules of procedure of the IKI ICM. If personal data is not provided, the IKI ICM cannot process the complaint and, if necessary, remedy it.

3.4 Automated decision-making including profiling, Art. 22 (1) and (4) GDPR

We do not use automated decision-making or profiling in accordance with Art. 22 GDPR.

4 Information on transfer and foreign reference

4.1 (Categories of) recipient(s) of the personal data

Expert panel: ZUG has appointed 3 experts to handle complaints. They act as processors for ZUG.

Supervisory body: ZUG implements the IKI ICM on behalf of the Federal Republic of Germany, represented by the Federal Ministry of Economics and Climate Protection, and reports to the supervisory body based at the BMWK. The supervisory body is made up of fixed representatives from three departments that oversee IKI projects or are involved in the prevention of corruption.

If applicable, service companies that provide support services during on-site investigations, e.g. for the collection of evidence, preservation of evidence, experts. In all cases, the admissibility according to the GDPR is checked in advance. If these are commissioned with the processing of personal data, ZUG concludes a contract for order processing in accordance with Art. 28 GDPR. The data subjects will be informed about the specific disclosure.

If applicable, commissioned mediators or arbitration centres. In all cases, the permissibility according to the GDPR is checked in advance. The data subjects will be informed about the specific disclosure.

If necessary, transmission to investigating authorities if the legal obligations exist. In all cases, the permissibility according to the GDPR is checked in advance. The data subjects will be informed about the specific transfer.

4.2 Data transfer to third countries

As part of the processing of complaints, personal data may be transferred to third parties based in non-EU countries. In all cases, the permissibility according to the GDPR is checked in advance.

As part of the processing of complaints, personal data will be transferred to ZUG processors based in a third country. In order to ensure an adequate level of data protection, the standard data protection clauses issued by the European Commission apply, unless the third country is subject to an adequacy decision by the EU Commission. The data transfer is based on Art. 46 para. 2 lit c) GDPR.

The "Zoom" application from the provider Zoom Video Communications, Inc. is used to conduct online meetings. Zoom is a service provided by a provider from the USA. Personal data is therefore also processed in a third country. ZUG has concluded an order processing agreement with the provider of Zoom that meets the requirements of Art. 28 GDPR. An adequate level of data protection is guaranteed on the one hand by the conclusion of the so-called EU standard contractual clauses. As additional protective measures, the configuration has been made in such a way that only data centres in the EU, the EEA or secure third countries such as Canada or Japan are used to conduct online meetings.

5 Duration of storage

We delete personal data when it is no longer required for the purposes pursued by us and no other legal basis, in particular statutory or contractual retention periods, apply. The following applies:

Personal data will generally be deleted 3 months after the complaints procedure has been concluded. If measures have been adopted, the personal data will be deleted 3 months after the measures have been implemented, including the subsequent monitoring phase. In the event of criminal charges, the personal data will only be deleted after the criminal proceedings have been legally concluded. In the event of reclaims of funding granted to implementing organisations, the data will be retained until the final conclusion of the reclaim proceedings.

6 Rights of data subjects (Art. 13 para. 2 no. 2, 3, 4 GDPR)

If the respective legal requirements are met, you are entitled to the following rights under the General Data Protection Regulation:

6.1 Right to information (Art. 15 GDPR)

The right of access gives you comprehensive insight into the data concerning you and some other important criteria, such as the purposes of processing or the duration of storage. The exceptions to this right set out in Section 34 BDSG apply.

6.2 Right to rectification (Art. 16 GDPR)

The right to rectification includes the possibility for you to have incorrect personal data concerning you amended.

6.3 Right to erasure (Art. 17 GDPR)

The right to erasure includes the possibility for you to have data erased. However, this is only possible if the personal data concerning you is no longer necessary, is being processed unlawfully or if consent to this has been withdrawn. The exceptions to this right set out in § 35 BDSG apply.

6.4 Right to restriction of processing (Art. 18 GDPR)

The right to restriction of processing includes the possibility for you to prevent further processing of your personal data for the time being. A restriction occurs above all in the review phase of other rights exercised by you.

6.5 Right to data portability (Art. 20 GDPR)

The right to data portability includes the possibility for you to receive the personal data concerning you in a commonly used, machine-readable format, for example as a PDF document, from the controller in order to have it forwarded to other controllers if necessary. According to Art. 20 para. 3 sentence 2 GDPR, however, this right is not available if the data processing serves the fulfilment of public tasks.

6.6 Right to object (Art. 21 GDPR)

The right to object includes the possibility for you to object to the further processing of your personal data in a particular situation, insofar as this is justified by the fulfilment of public tasks or public and private interests. According to Section 36 BDSG, this right does not apply if a public body is obliged to process the data by law.

6.7 Right to withdraw consent (Art. 7 para. 3 GDPR)

Insofar as the processing of personal data is based on consent, data subjects can revoke this consent for the relevant purpose at any time. The lawfulness of the processing based on the consent given remains unaffected until the revocation is received. You also have the right to object to such processing based on Art. 6 para. 1 lit. f GDPR in accordance with Art. 13 para. 2 lit. b in conjunction with Art. 21 GDPR.

The exercise of these rights is free of charge for you and is granted upon request within the scope of your interest in information. Please contact the data protection officer of Zukunft-Umwelt-Gesellschaft gGmbH.

6.8 Right to lodge a complaint with the supervisory authority

If personal data is processed by us, you have the right to lodge a complaint with the data protection supervisory authority.

The competent supervisory authority is:

The State Commissioner for Data Protection and Freedom of Information NRW
Kavalleriestraße 2-4
40213 Düsseldorf, Germany
E-mail: poststelle@ldi.nrw.de