



PRACE Data Protection Policy

Version 8 December 2017

1 Introduction

This Policy describes how personal data shall be collected, handled and stored by the **Partnership for Advanced Computing in Europe AISBL** (hereafter “**PRACE**”), when acting as data controller, in accordance with the Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

2 Definitions

- **data controller:** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.
- **data processor:** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.
- **consent:** of the data subject means any freely given, specific, informed and unambiguous indication of the data subject’s wishes by which they, by a statement or by a clear affirmative action, signify agreement to the processing of personal data relating to them.
- **personal data:** means any information relating to an identified or identifiable natural person (“**data subject**”); an identifiable natural 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 automated 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.
- **recipient:** means a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.
- **restriction of processing:** means the marking of stored personal data with the aim of limiting their processing in the future.
- **supervisory authority concerned:** means a supervisory authority which is concerned by the processing of personal data because:



- the controller or processor is established on the territory of the Member State of that supervisory authority
 - data subjects residing in the Member State of that supervisory authority are substantially affected or likely to be substantially affected by the processing, or
 - a complaint has been lodged with that supervisory authority
- **third party**: means a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data;

3 Principles Relating to Processing of Personal Data

Personal data shall be processed and collected:

- a. lawfully, fairly and in a transparent manner (“**lawfulness, fairness and transparency**”)
- b. for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes (“**purpose limitation**”)
- c. in an adequate, relevant and limited way to what is necessary in relation to the purposes for which they are processed (“**data minimisation**”)
- d. in an accurate way and, where necessary, keeping it up to date and taking every reasonable step to ensure that personal data are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (“**accuracy**”)
- e. using a storage form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, subject to implementation of the appropriate technical and organisational measures in order to safeguard the rights and freedoms of the data subject (“**storage limitation**”)
- f. processed in a manner that ensures appropriate security of the personal data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (“**integrity and confidentiality**”)
- g. PRACE shall be responsible for, and be able to demonstrate compliance with the requirements of letter a) above (“**accountability**”)

4 Rights of the Data Subject

4.1 Transparency, Communication and Modalities for the Exercise of Rights

PRACE shall take appropriate measures to provide any information and any communication relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means.

The controller shall facilitate the exercise of data subject rights herein described. PRACE shall not refuse to act on the request of the data subject for exercising their rights unless it demonstrates that it is not in a position to identify the data subject.

PRACE shall provide information on action taken on a request to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. PRACE shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by means of an electronic form, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

If PRACE does not take action on the request of the data subject, it shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.

Information provided upon request and any communication and any actions taken shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, PRACE may either charge a reasonable fee taking into account the administrative costs of providing the information or communication, taking the action requested or refuse to act on the request.

Where PRACE has reasonable doubts concerning the identity of the natural person making a request, it may request the provision of additional information necessary to confirm the identity of the data subject.

The information to be provided to data subjects may be provided in combination with standardized icons in order to give in an easily visible, intelligible and clearly legible manner a meaningful overview of the intended processing. Where the icons are presented electronically, they shall be machine-readable.

4.2 Information

Where personal data relating to a data subject are collected from the data subject, PRACE shall, at the time when personal data are obtained, provide the data subject with the following information:

- a. the identity and the contact details of PRACE and, where applicable, of the PRACE representative
- b. the contact details of the PRACE Data Protection Officer, where applicable



- c. the purposes of the processing for which the personal data are intended as well as the legal basis for the processing
- d. where applicable the legitimate interests pursued by PRACE or by a third party
- e. the recipients or categories of recipients of the personal data, if any
- f. where applicable, the fact that PRACE intends to transfer personal data to a third country or international organisation and its grounds, and when applicable, reference to the appropriate or suitable safeguards and the means by which to obtain a copy of them or where they have been made available

In addition to the information referred herein above, PRACE shall, at the time when personal data are obtained, provide the data subject with the following further information necessary to ensure fair and transparent processing:

- i. the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period
- ii. the existence of the right to request from PRACE access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability
- iii. where applicable, the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal
- iv. the right to lodge a complaint with a supervisory authority
- v. whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and of the possible consequences of failure to provide such data
- vi. the existence of automated decision-making, including profiling, and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject

Where PRACE intends to further process the personal data for a purpose other than that for which the personal data were collected, it shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further required information.

Where personal data have not been obtained from the data subject, PRACE shall provide them with, in addition to the information detailed herein above, with the information relating to the source from which the personal data originate, and if applicable, whether it came from publicly accessible sources.

PRACE shall provide the required information according to the following delays:

- a. within a reasonable period after obtaining the personal data, but at the latest within one month, having regard to the specific circumstances in which the personal data are processed
- b. if the personal data are to be used for communication with the data subject, at the latest at the time of the first communication to that data subject, or
- c. if a disclosure to another recipient is envisaged, at the latest when the personal data are first disclosed

Where PRACE intends to further process the personal data for a purpose other than that for which the personal data were obtained, it shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further information as referred above.

The information requirements detailed above will not apply insofar as:

- a. the data subject already has the information
- b. the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, subject to the applicable conditions and safeguards or in so far as the information obligation is likely to render impossible or seriously impair the achievement of the objectives of that processing. In such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interests, including making the information publicly available
- c. obtaining or disclosure is expressly laid down by Union or Member State law to which the controller is subject and which provides appropriate measures to protect the data subject's legitimate interests, or
- d. where the personal data must remain confidential subject to an obligation of professional secrecy regulated by Union or Member State law, including a statutory obligation of secrecy

PRACE shall communicate any rectification or erasure of personal data or restriction of processing to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. PRACE shall inform the data subject about those recipients if the data subject requests it.

4.3 Access

The data subject shall have the right to obtain from PRACE confirmation as to whether or not personal data concerning them are being processed, and, where that is the case, access to the personal data and the following information:

- a. the purposes of the processing
- b. the categories of personal data concerned
- c. the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations
- d. where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period
- e. the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing
- f. the right to lodge a complaint with a supervisory authority
- g. where the personal data are not collected from the data subject, any available information as to their source
- h. the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject

Where personal data are transferred to a third country or to an international organisation, the data subject shall have the right to be informed of the appropriate safeguards relating to the transfer.

PRACE shall provide a copy of the personal data undergoing processing. For any further copies requested by the data subject, PRACE may charge a reasonable fee based on administrative costs. Where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, the information shall be provided in a commonly used electronic form.

4.4 Rectification

The data subject shall have the right to obtain from PRACE without undue delay the rectification of inaccurate personal data concerning them. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement.

4.5 Right to Erasure

The data subject shall have the right to obtain from PRACE the erasure of personal data concerning them without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:

- a. the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed
- b. the data subject withdraws consent on which the processing is based and where there is no other legal ground for the processing
- c. the data subject objects to the processing and there are no overriding legitimate grounds for the processing
- d. the personal data have been unlawfully processed
- e. the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject
- f. the personal data have been collected in relation to the offer of information society services

Where PRACE has made the personal data public and is obliged to erase such data, it shall take reasonable steps (taking account of available technology and the cost of implementation), including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.

The foregoing shall not apply to the extent that processing is necessary:

- i. for exercising the right of freedom of expression and information
- ii. for compliance with a legal obligation which requires processing by Union or Member State law to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller
- iii. for reasons of public interest in the area of public health
- iv. for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing, or
- v. for the establishment, exercise or defence of legal claims

4.6 Right to Restriction of Processing

The data subject shall have the right to obtain from PRACE restriction of processing where one of the following applies:

- a. the accuracy of the personal data is contested by the data subject, for a period enabling PRACE to verify the accuracy of the personal data
- b. the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead
- c. the controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defence of legal claims
- d. the data subject has objected to processing pursuant to Article 21(1) pending the verification whether the legitimate grounds of the controller override those of the data subject

Where processing has been restricted under paragraph 1, such personal data shall, with the exception of storage, only be processed with the data subject's consent or for the establishment, exercise or defence of legal claims or for the protection of the rights of another natural or legal person or for reasons of important public interest of the Union or of a Member State.

A data subject who has obtained restriction of processing pursuant to paragraph 1 shall be informed by PRACE before the restriction of processing is lifted.

4.7 Right to Data Portability

The data subject shall have the right to receive the personal data concerning them, which they have provided to PRACE, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller without hindrance from PRACE provided the following conditions are met:

- a. the processing is based on consent or on a contract to which the data subject is party or if it is required in order to take steps at the request of the data subject prior to entering into a contract
- b. the processing is carried out by automated means

In exercising their right to data portability, the data subject shall have the right to have the personal data transmitted directly from PRACE to another controller, where technically feasible

4.8 Right to Object

The data subject shall have the right to object, on grounds relating to their particular situation, at any time to processing of personal data concerning them, including profiling based on those provisions. PRACE shall no longer process the personal data unless it demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims.

Where personal data are processed for direct marketing purposes, the data subject shall have the right to object at any time to processing of personal data concerning them for such marketing, which includes profiling to the extent that it is related to such direct marketing. Where the data subject objects to processing for direct marketing purposes, the personal data shall no longer be processed for such purposes.

In the context of the use of information society services, and notwithstanding Directive 2002/58/EC, the data subject may exercise their right to object by automated means using technical specifications.

Where personal data are processed for scientific or historical research purposes or statistical purposes the data subject, on grounds relating to their particular situation, shall have the right to object to processing of personal data concerning them, unless the processing is necessary for the performance of a task carried out for reasons of public interest.

4.9 Automated Individual Decision-Making, Including Profiling

The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning them or similarly significantly affects them.

Paragraph 1 shall not apply if the decision:

- a. is necessary for entering into, or performance of, a contract between the data subject and PRACE
- b. is authorized by Union or Member State law to which PRACE is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, or
- c. is based on the data subject's explicit consent

Decisions referred to hereinabove shall not be based on certain special categories of personal data unless suitable measures to safeguard the data subject's rights and freedoms and legitimate interests are in place.

5 Joint Controllers

Where PRACE determines jointly with one or more controllers the purposes and means of processing, they shall be joint controllers. They shall in a transparent manner determine their respective responsibilities for compliance with the obligations, in particular as regards the exercising of the rights of the data subject and their respective duties to provide information, by means of an arrangement between them unless, and in so far as, the respective responsibilities of the controllers are determined by Union or Member State law to which the controllers are subject. The arrangement may designate a contact point for data subjects.

The essence of the arrangement shall be made available to the data subject.

Irrespective of the terms of the arrangement referred to hereinabove, the data subject may exercise their rights under this Regulation in respect of and against each of the controllers.

6 Processing through a Processor

PRACE may resort to one or several data processors to process personal data. In that case PRACE shall use only processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing will meet the present requirements and ensure the protection of the rights of the data subject.

The processor shall not engage another processor without prior specific or general written authorization of PRACE. In the case of general written authorization, the processor shall inform PRACE of any intended changes concerning the addition or replacement of other processors, thereby giving PRACE the opportunity to object to such changes.

Processing by a processor shall be governed by a contract or other legal act under Union or Member State law, that is binding on the processor with regard to PRACE and that sets out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the controller. That contract or other legal act shall stipulate, in particular, that the processor:

- a. processes the personal data only on documented instructions from PRACE, including with regard to transfers of personal data to a third country or an international organisation, unless

- required to do so by Union or Member State law to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest
- b. ensures that persons authorized to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality
 - c. takes all required security measures
 - d. respects the conditions for engaging another processor, when allowed
 - e. taking into account the nature of the processing, assists PRACE by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the PRACE's obligation to respond to requests for exercising the data subject's rights
 - f. assists PRACE in ensuring compliance with the security obligations taking into account the nature of processing and the information available to the processor
 - g. at the choice of PRACE, deletes or returns all the personal data to the controller after the end of the provision of services relating to processing, and deletes existing copies unless Union or Member State law requires storage of the personal data
 - h. makes available to PRACE all information necessary to demonstrate compliance with the obligations laid down in this Article and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller

The processor shall immediately inform PRACE if, in its opinion, an instruction infringes the present provisions.

Where a processor engages another processor for carrying out specific processing activities on behalf of PRACE, the same data protection obligations as set out in the contract or other legal act between the controller and the processor as referred to hereinabove shall be imposed on that other processor by way of a contract or other legal act under Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of this Regulation. Where that other processor fails to fulfil its data protection obligations, the initial processor shall remain fully liable to the controller for the performance of that other processor's obligations.

The contract or the other legal act referred to hereinabove shall be in writing, including in electronic form.

Without prejudice of available remedies, if a processor infringes these provisions by determining the purposes and means of processing, the processor shall be considered to be a controller in respect of that processing.

The processor and any person acting under the authority of PRACE or of the processor, who has access to personal data, shall not process those data except on instructions from PRACE, unless required to do so by Union or Member State law.

7 Records of Processing Activities

PRACE shall maintain a record of processing activities under its responsibility in case the processing it carries out is likely to result in a risk to the rights and freedoms of data subjects, is not occasional, or includes special categories of data or personal data relating to criminal convictions and offences.

Such record shall contain the following information:

- a. the name and contact details of the controller and, where applicable, the joint controller, the controller's representative and the data protection officer



- b. the purposes of the processing
- c. a description of the categories of data subjects and of the categories of personal data
- d. the categories of recipients to whom the personal data have been or will be disclosed including recipients in third countries or international organisations
- e. where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, in the case of transfers referred to in the second subparagraph of Article 49(1), the documentation of suitable safeguards
- f. where possible, the envisaged time limits for erasure of the different categories of data
- g. where possible, a general description of the technical and organisational security measures

Each processor and, where applicable, the processor's representative shall maintain a record of all categories of processing activities carried out on behalf of PRACE, containing:

- a. the name and contact details of the processor and of PRACE, and, where applicable, of the PRACE's or the processor's representative, and the Data Protection Officer
- b. the categories of processing carried out on behalf of PRACE
- c. where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, where necessary, the documentation of suitable safeguards
- d. where possible, a general description of the technical and organisational security measures

The records referred hereinabove shall be in writing, including in electronic form.

PRACE or its processor/s (where applicable) and, where applicable, PRACE's or the processor's representative, shall make the record available to the supervisory authority on request.

8 Data Security

Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, PRACE and its processor/s (where applicable) shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

In assessing the appropriate level of security account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to personal data transmitted, stored or otherwise processed.

PRACE and its processor/s (where applicable) shall take steps to ensure that any natural person acting under the authority of the controller or the processor who has access to personal data does not process them except on instructions from the controller, unless they are required to do so by Union or Member State law.

In the case of a personal data breach, PRACE shall without undue delay and, where feasible, no later than 72 hours after having become aware of it, notify the personal data breach to the supervisory authority competent, unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons. Where the notification to the supervisory authority is not made within 72 hours, it shall be accompanied by reasons for the delay.

PRACE processors shall notify PRACE without undue delay after becoming aware of a personal data breach.



Where, and in so far as, it is not possible to provide the information at the same time, the information may be provided in phases without undue further delay.

PRACE shall document any personal data breaches, comprising the facts relating to the personal data breach, its effects and the remedial action taken.

When the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall communicate the personal data breach to the data subject without undue delay.

The communication to the data subject referred to hereinabove shall describe in clear and plain language the nature of the personal data breach and contain at least all the related information and measures taken.

The communication to the data subject shall not be required if:

- a. PRACE has implemented appropriate technical and organisational protection measures, and those measures were applied to the personal data affected by the personal data breach, in particular those that render the personal data unintelligible to any person who is not authorised to access it, such as encryption
- b. PRACE has taken subsequent measures which ensure that the high risk to the rights and freedoms of data subjects referred to in paragraph 1 is no longer likely to materialise
- c. it would involve disproportionate effort. In such a case, there shall instead be a public communication or similar measure whereby the data subjects are informed in an equally effective manner

9 Impact Assessment

Where a type of processing in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, PRACE shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. A single assessment may address a set of similar processing operations that present similar high risks.

10 Data Protection Officer

A data protection officer will be appointed in any case where:

- a. the processing is carried out by a public authority or body, except for courts acting in their judicial capacity
- b. the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects on a large scale, or
- c. the core activities of the controller or the processor consist of processing on a large scale of special categories of data pursuant to Article 9 and personal data relating to criminal convictions and offences referred to in Article 10

In cases other than those referred hereinabove, a Data Protection Officer may be appointed voluntarily.

The Data Protection Officer shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and the ability to fulfil their tasks.



The Data Protection Officer may be a staff member of PRACE or the processor, or fulfil the tasks on the basis of a service contract.

PRACE or the processor (where applicable) shall publish the contact details of the Data Protection Officer and communicate them to the supervisory authority.

11 Transfers of Personal Data to Third Countries or International Organisations

Any transfer of personal data which are undergoing processing or are intended for processing after transfer to a third country or to an international organisation shall take place only if the legal requirements and procedure are met by PRACE and its processor/s (where applicable), including for onward transfers of personal data from the third country or an international organisation to another third country or to another international organisation.