



TERMS OF SERVICE, DATA PROTECTION AND COOKIES USAGE POLICY

**for the use of the Interreg Austria-Hungary
Joint electronic monitoring system (Jems)**



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TERMS OF SERVICE

1 Subject matter and scope

The Joint electronic monitoring system (Jems) is provided for applicants and beneficiaries to allow them to create, prepare, revise and submit online forms (application and request for changes form, reports and payment claims and final reports).

Furthermore, it is provided for Interreg Austria-Hungary programme bodies to do the project and programme monitoring.

These terms of service govern the relation between:

- the Wirtschaftsagentur Burgenland GmbH (legal entity in which the Managing Authority is included, hereinafter referred to as "MA"), as well as the Széchenyi Programme Office (legal entity in which the Joint Secretariat of the programme is included, hereinafter referred to as "JS") – both bodies (MA/JS) representing the programme management of the Interreg VI-A AT-HU programme -; and
- Institutions/bodies acting as applicants in project proposals and beneficiaries in approved projects (including lead applicants and lead partners);
- Other bodies and actors involved in the programme implementation such as members of the Interreg ATHU Monitoring Committee, Regional Coordinators, national control bodies and national controllers, Audit Authority, members of the Group of Auditors

in relation to their access to and use of the Jems.

Requesting access to the Jems, accessing the Jems or using the Jems signifies unconditional acceptance of these terms of service (in the then-current version).

2 Access to Jems

2.1 Users and organisations

Access to the Jems is open to natural persons with a valid email address. Access rights to certain information and functions in the Jems are restricted to users with specific roles in relation to particular proposals or projects. Project applicants and project partners' organisations shall access the Jems only via users employed by or representing them. If a user leaves the organisation or is no longer representing the organisation, the account of this person shall be closed and a new one shall be created if needed. It is the responsibility of the organisation to timely inform the MA/JS of such change or any substantial change and request in writing that the account is closed.

2.2 Means of access

Users register in the Jems with their email address and define a user name and personal password that is encrypted into the system. Users guarantee that the information provided for registration of their account is accurate, updated and that the email address provided is a valid personal email address. It is also the responsibility of users to make sure that



they receive the emails automatically sent by the Jems system. The MA/JS has - at any time - the right to verify the validity of the information. If this reveals any inaccuracy or invalidity, the Jems administrator has the right to close the account or suspend, refuse or reset access.

The means of access (i.e. the user name and password) are strictly personal and users are responsible for safeguarding their confidentiality and security, and ensuring their appropriate use. Users are responsible to take all steps to prevent any unauthorized third party from gaining knowledge and making use of their means of access. They may not transfer or sell their means of access to any third party. Users must notify the MA/JS immediately of the loss, theft, breach of confidentiality or any risk of misuse of the means of access. If the MA/JS has any reason to suspect that the confidentiality or security of the means of access has been breached or that the Jems is being misused, it may – without prior notice – suspend or refuse access.

The lead applicants and lead partners shall only grant access rights ('read' and/or 'write') to natural persons which are employed or represent project applicants or project partners in relation to the project(s) for which they are granted access rights.

The JS personnel (except the administrators) have 'read only' access to the data submitted in the Jems by the project applicants/partners. The administrators and the developers have read and write access but shall not write, modify or submit data on behalf of the project applicants/partners unless it is requested by the lead applicant/partner in exceptional cases to modify data on their behalf.

The controllers responsible for validating project expenditure and other actors involved (e.g. Regional Coordinators) have 'read only' access to the data submitted in the Jems by the project applicants/partners.

3 Using the Jems system

3.1 General

Users shall use the Jems in accordance with these terms of service, in a responsible manner, and exclusively for their professional purposes and without breach of the rights of third parties.

Users are fully and unconditionally responsible for any use of the Jems (including misuse of their means of access), and for any detrimental consequences that may arise directly or indirectly therefrom.

Organisations acknowledge and accept that they are responsible for the actions and omissions of users employed by or representing them.

The system keeps track of access to and use of the Jems.

When full write access is given to project applicants/partners by the lead applicant/lead partner, forms shall however be submitted by a user employed by or representing the lead applicant/lead partner's organisation.



3.2 Required hardware, software and services

Users acknowledge and agree that they are responsible for the choice, purchase and operation of any hardware, software or telecommunication services required to connect with and to use the Jems. Such hardware, software or telecommunication services must meet the minimum requirements specified in chapter 4.1 of the application manual. The MA/JS is not liable for hardware, software, products and services of third parties, such as telecommunication equipment, internet connections, operating systems and internet browsers.

3.3 Jems availability

The MA/JS does not guarantee that the Jems will be available without interruption or degradation of service at all times.

However, the MA/JS will to the best of its abilities take reasonable care to ensure the availability of the Jems. In case of planned interruptions for maintenance purpose, the users will be warned through a message posted to them or posted on the Jems website.

The MA/JS is not liable for any damage suffered in connection with the suspension or refusal of access.

The programme Interreg AT-HU makes use of an open call system, meaning that there is a continuous possibility to submit project applications. Nevertheless, for a certain MC (Monitoring Committee) meeting only those are considered for decision that have been submitted until the deadline published on the programme website. It is the responsibility of the lead applicant to submit their application by the deadline indicated on the programme website. The MA/JS cannot accept applications for decision in the upcoming MC meeting which fail to meet the deadline. It is advisable not to wait until the last minute before submitting the application form in the Jems, in case of exceptional web traffic or technical failure.

3.4 Liability of the MA/JS

The MA/JS shall not be liable for any direct or indirect damage of any kind except in the event of wilful misconduct.

The MA/JS are not liable for any damage in case of force majeure, external cause or any other events which are not under the reasonable control of the MA/JS.

3.5 Changes to the terms of service

The MA/JS may, at any time, vary, add to or delete any provision of these terms of service.

Users and their organisations acknowledge and agree that such new terms of service can be notified by the MA/JS via notice on the Jems website. Unless otherwise stated in the notice, the new terms of service shall apply as from 7 days from the notice on the Jems website.

Users and their organisations acknowledge and agree that any modification to the terms of service shall be deemed accepted by them as from the first time they access or use the Jems after the date of entry into force of the new terms of service.



3.6 Applicable law and dispute settlement

These terms of service are governed by Austrian law. For any disputes arising out of or in connection with these terms of service or the access to or use of the Jems, the District Court of Eisenstadt shall have exclusive jurisdiction, if the dispute cannot be settled amicably.



DATA PROTECTION

General Remark

Please note that the information given about data protection refers to data of submitted project proposals only. Data of not submitted project proposals will not be processed.

1 Data protection information pursuant to Article 13 General Data Protection Regulation (GDPR)

Please note, that the personal data you have provided to us are processed for the following purpose: providing access to the Joint electronic monitoring system (Jems), assessing project application forms, awarding funds to selected projects, as well as implementing, managing, monitoring and evaluating the subsidy contracts, protecting the financial interests of the EU (notably for verifications and audits) and for communicating on the Interreg Austria-Hungary programme (Interreg AT-HU) and its actions (projects and capitalisation platforms) and in general for the implementation, documentation and provision of information of the Interreg AT-HU programme.

The Managing Authority of Interreg AT-HU, and the Joint Secretariat (JS) in representation of the MA, is entitled to process personal data, which are contained in the project application form and which are acquired by the organs and authorised representatives of the following bodies and authorities: national control bodies and bodies and authorities involved in audits carried out for the programme, European Commission, the European Anti-Fraud Office (OLAF), the European Court of Auditors (ECA), auditing bodies of the European Union, Member States or regions of the AT-HU programme area, or any other institution responsible for conducting audits or controls according to European Union's or national laws. In addition, the MA/JS is entitled to process such data and to share them with other programmes in order to implement their tasks linked to European anti-corruption policy and to make such data available to bodies and authorities for evaluation and monitoring purposes.

Legal basis

- Article 4 of Regulation (EU) 2021/1060
- Article 49 of Regulation (EU) No. 2021/1060
- Article 69 (8) of Regulation (EU) No. 2021/1060
- Article 74 (1) of Regulation (EU) No. 2021/1060 in conjunction with Article 46 (3) of Regulation (EU) No. 2021/1059
- Article 44 and 45 of Regulation (EU) No. 2021/1060
- Agreement between the Federation and the Laender pursuant to Article 15a Federal Constitutional Act (B-VG) on administrative and control systems in Austria to implement the operational programmes within the framework of the goal "Investments in growth and employment" and the goal "European territorial cooperation" for the period 2014-2020, Federal Law Gazette BGBl. I No. 76/2017 of 22 June 2017
- Contractual agreements with the project beneficiaries
- Article 6 (1) letter c, e and f of the General Data Protection Regulation
- Consent, if applicable



For this purpose, the personal data are transmitted to the following recipients:

- European Commission
- Auditing bodies of the European Union, Member States or regions of the AT-HU programme area
- Control bodies of the funding bodies and/or private-sector control bodies commissioned by these bodies
- Evaluators as processors appointed by the respective programme authority and/or the European Commission
- Members of the respective programme monitoring committees
- Institutions of the EU member States as potential project partners and project participants or as part of the programme management
- European Anti-Fraud Office (OLAF)
- Other EU funded programmes in order to implement tasks linked to European anti-corruption policy and to make such data available to bodies and authorities for evaluation and monitoring purposes

Data are not transmitted to or hosted in third countries (countries which are not members of the European Union).

Data storage

In compliance with the legal requirement of Regulation (EU) No. 2021/1060 (Common Provision Regulation), your personal data relating to the EU-funded project in Interreg AT-HU in the structural fund period 2021-2027 are deleted after the statutory retention period.

They may be archived by the Managing Authority outside of the Jems system for a longer period for statistical and historical purpose according to internal Implementation Acts.

Request information on personal data

You have a right to information concerning your own personal data, as well as a right for rectification or erasure, restriction of processing, or to lodge a complaint against processing.

Moreover, we draw your attention to the fact that – should you revoke your consent to the processing of your personal data until the end of the statutory retention period for the purpose of expenditure control – you will be denied the related funding. If you believe that your rights are not observed, or not fully observed, you may lodge a complaint with the data protection authority.

The provision of personal data is a legal requirement, if you are thereby claiming the disbursement of funds.

Providing personal data is required for the conclusion of a contract.

Failure to provide the data would have the following consequences for you:

A refusal to grant contractual consent to the processing of personal data and to obtaining such consent from all persons involved in the granted project for the purpose of verifying eligibility for funding would at any rate lead to the funding of personnel costs being denied. Dependent on the project structure, this may even include a revocation (cancellation) of the funding commitment.



Responsibility for processing

Wirtschaftsagentur Burgenland GmbH

E-mail: office@wirtschaftsagentur-burgenland.at

Phone: +43 (0)5 9010 210

If you have any questions on data protection, please contact the data protection officer of the Wirtschaftsagentur Burgenland GmbH by e-mail: datenschutz@landesholding-burgenland.at

Information is available also on the Internet at www.wirtschaftsagentur-burgenland.at/datenschutz or www.interreg-athu.eu/en/data-protection

Should you have any queries about the processing of your personal data, please contact the Joint Secretariat by e-mail: js@interreg-athu.eu.

2 Project data collection

Applicants and beneficiaries shall collect and process personal data required in the online forms, provided that they have informed the personnel whose personal data are collected and processed about the conditions of collection and process of those data according to the Jems terms of service (by providing them with a copy of this Data Protection Information) before transmitting those data to the Managing Authority/Joint Secretariat through the Jems.

In line with Article 49 (3) of the CPR, the MA/JS is authorised to publish the following information:

- name of the LP and its PPs;
- name of the project;
- the project summary including project purposes and its expected achievements;
- abstract of progress reports with the project actual achievements;
- start date of the project;
- expected or actual date of completion of the project;
- the ERDF funding and the total cost of the project;
- the programme specific objective concerned;
- the location indicator or geolocation for the project and the countries concerned;
- the location of the LP and its PPs;
- the type of intervention for the project in accordance with point (g) of Article 73 (2) of the CPR.

The MA/JS is entitled to furthermore use these data for information and communication purposes as listed in Annex IX of the Regulation (EU) No 2021/1060.

3 What are your data protection rights?

Interreg AT-HU would like to make sure you are fully aware of all your data protection rights. Every user is entitled to the following:



- The **right to access** – You have the right to request Interreg AT-HU for copies of your personal data.
- The **right to rectification** – You have the right to request that Interreg AT-HU corrects any information you believe is inaccurate, if you have no access to correcting it yourself. You also have the right to request Interreg AT-HU to complete the information you believe is incomplete, if you have no access to completing it yourself.
- The **right to erasure** – You have the right to request that Interreg AT-HU erases your personal data, given that the programme is not under the obligation to keep the data for audit, archiving and/ or closure purposes.
- The **right to restrict processing** – You have the right to request that Interreg AT-HU restricts the processing of your personal data, under certain conditions.
- The **right to object to processing** – You have the right to object to Interreg AT-HU's processing of your personal data, under certain conditions.
- The **right to data portability** – You have the right to request that Interreg AT-HU transfers the data that we have collected to another organisation, or directly to you, under certain conditions.



COOKIE USAGE POLICY

1 What are cookies?

A cookie is a small text file that a website stores on your computer or mobile device when you visit the site. Only that website can read them. The purpose is to enable the site to remember your preferences (such as username, language, etc.) for a certain period of time. That way, you don't have to re-enter them when browsing around the site during the same visit.

2 How are cookies used in Jems?

Jems uses only own cookies, and none which are provided and/or stored by third party providers.

All cookies in Jems are session cookies, which are deleted when you quit your browser, i.e. cookies are not stored persistently on your computer.

When you create an account in Jems, you are asked to agree to this cookie policy by ticking "I have read and agree to the terms of service and privacy policy and cookies usage policy *"

3 Types of cookies in Jems

3.1 Security cookies

Security cookies help identify and prevent security risks. We use these cookies to authenticate users and protect user data from unauthorized parties.

3.2 Site management cookies

Site management cookies serve to maintain your identity or session in Jems. They are used to identify you when you navigate through Jems, and to help us determine if you are logged in.

4 How can you manage cookies?

4.1 Removing cookies from your device

You can delete all cookies that are already on your device by clearing the browsing history of your browser. This will remove all cookies from all websites you have visited.

Be aware though that you may also lose some saved information (e.g. saved login details, site preferences).



4.2 Blocking cookies

You can set most modern browsers to prevent any cookies being placed on your device, but you may then have to manually adjust some preferences every time you visit a site/page. And some services and functionalities may not work properly at all (e.g. profile logging-in).

4.3 Managing cookies

For more detailed control over cookies, check the privacy and cookie settings in your preferred browser.