

## **Data protection statement<sup>1</sup> on the processing of personal data in the context of European, International and PCT-related legal advice.**

Protecting your privacy is of the utmost importance to the European Patent Office (EPO). We are committed to protecting your personal data and ensuring respect for data subjects' rights when performing our tasks and providing our services. All data of a personal nature that identify you directly or indirectly will be processed lawfully, fairly and with due care.

The processing operations described below are subject to the EPO Data Protection Rules ([DPR](#)).

The information in this statement is provided in accordance with Articles 16 and 17 DPR.

PD 5.2 receives requests for advice in matters related to European and International legal affairs, and the PCT. This includes cooperation with other organs that are part of the European Patent Organisation (Administrative Council), as well as other International Organisations and competent authorities in contracting states. This data protection statement relates to the processing of personal data that occurs during the provision of legal advice on these matters, and cooperation in these contexts.

### **1. What is the nature and purpose of the processing operation?**

Requests for legal advice are usually received through a generic email account of the directorate (e.g. [international\\_legal\\_affairs@epo.org](mailto:international_legal_affairs@epo.org); [international\\_pct\\_affairs@epo.org](mailto:international_pct_affairs@epo.org)) or director. A file with the name of the requester is opened in the directorate's case management system (CMS) and assigned to a case handler in the directorate. Once assigned, the matter and legal question are identified and assessed, and an answer is provided to the requester either in writing (via email or a physical document), orally or through access to a shared drive. Where necessary, phone calls and online or in-person meetings may be arranged. External attorneys at law may be involved. All correspondence, drafts and final advice is saved in the case management system and, where applicable, in the generic email account of the directorate.

The processing of personal data is necessary for providing advice on matters within the expertise of PD 5.2 Legal Affairs/D 5.2.2 European and International Legal Affairs, PCT. This encompasses:

- responding to questions of a legal nature
- advising and supporting on confidential deliberations and decision-making of the Office
- providing up-to-date information to stakeholders as well as taking associated actions to, for example, ensure a proper and efficient information flow and management of associated activities
- promoting the legal framework of the organisation, by raising awareness, among other things
- handling requests outside the direct expertise, if requested by senior management
- planning and managing the activities of the directorate
- enabling the availability of previous advice for later reference in the event of subsequent related requests and litigation
- archiving and statistical purposes

### **2. What personal data do we process?**

The following types/categories of personal data are (or might be) processed:

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- identification and contact information of the requester and of other data subjects mentioned in the request (mostly name, email and employment information such as position, department and organisation)
- identification and contact information of case handler(s) dealing with the request or other persons involved in the matter (mostly name, email, position, department)
- personal data provided during correspondence (e.g. in the request, documents submitted, legal advice, opinions and assessments)
- CMS ticket information (e.g. ticket number)

### **3. Who is responsible for processing the data?**

Personal data are processed under the responsibility of PD 5.2 Legal Affairs acting as the EPO's delegated data controller.

Personal data are processed by EPO staff from D 5.2.2 who are involved in providing advice on European and International legal affairs, or PCT-related matters referred to in this statement.

External contractors involved in the provision and maintenance of tools necessary for the provision of this advice may also process personal data, and may need to access it. This includes contractors from Thomson Reuters, OpenText and Microsoft. Should external law firms be consulted, they shall also process personal data necessary to complete their tasks.

### **4. Who has access to your personal data and to whom are they disclosed?**

Staff in D 5.2.2 have access to the personal data included in the case management system and the generic email account of the directorate.

Personal data might have to be disclosed on a need-to-know basis to other stakeholders within the EPO, including the hierarchy of PD 5.2 Legal Affairs. Personal data might also be disclosed on a need-to-know basis to law firms, where they are consulted.

Personal data may be disclosed to third-party service providers like Thomson Reuters, OpenText and Microsoft, who provide and maintain the tools necessary for the provision of the advice

Personal data will only be shared with authorised persons responsible for the necessary processing operations. They will not be used for any other purposes or disclosed to any other recipients.

### **5. How do we protect and safeguard your personal data?**

We take appropriate technical and organisational measures to safeguard and protect your personal data from accidental or unlawful destruction, loss or alteration, as well as unauthorised disclosure or access.

All personal data are stored in secure IT applications in accordance with the EPO's security standards. Appropriate levels of access are granted individually only to the above-mentioned recipients.

For systems hosted on EPO premises, the following basic security measures generally apply:

- user authentication and access control (e.g. role-based access control to the systems and network, principles of need-to-know and least privilege)
- logical security hardening of systems, equipment and network
- physical protection: EPO access controls, additional access controls to datacentre, policies on locking offices
- transmission and input controls (e.g. audit logging, systems and network monitoring)

- security incident response: 24/7 incident monitoring, on-call security expert.

In principle, the EPO has adopted a paperless policy management system. However, when paper files containing personal data need to be stored on EPO premises, they are locked in a secure location with restricted access.

For personal data processed on systems not hosted on EPO premises, the EPO has carried out a privacy and security risk assessment. The providers processing the personal data have committed in a binding agreement to comply with their data protection obligations under the applicable legal data protection frameworks. The EPO has also carried out a privacy and security risk assessment.

These systems are required to have implemented appropriate technical and organisational measures such as:

- physical security measures, access and storage control measures, securing data at rest (e.g. by encryption);
- user, transmission and input control measures (e.g. network firewalls, network intrusion detection system (IDS), network intrusion protection system (IPS), audit logging)
- conveyance control measures (e.g. securing data in transit by encryption)

## **6. How can you access, rectify and receive your data, request that your data be erased or restrict/object to processing? Can your rights be restricted?**

You have the right to access, rectify and receive your personal data, not to be subject to a decision based solely on automated processing, to have your data erased and to restrict and/or object to the processing of your data (Articles 18 to 24 DPR), unless the EPC, the PCT or any practices or provisions applicable under them require differently in relation to personal data processed in the patent granting and related procedures (see the [Decision of the President](#) of 13 December 2021, OJ EPO 2021, A98).

The right to rectification can only apply to inaccurate or incomplete factual data processed in the context of the EPO's tasks, duties and activities; it does not apply to subjective statements, including ones made by third parties. The right to erasure does not apply where any legal obligation on the controller requires the processing of personal data. With regards to the right of access, certain information may be deleted from the copy of personal data provided to the data subject where the EPO considers it necessary in the interest of protecting the confidentiality of internal deliberations and decision-making.

Restrictions of data subject rights can occur as the result of the following legal provision:

- Circular No. 420, Article 4(1)(h) "pursuant to Article 25(1)(c), (d), (g) and (h) DPR when providing or receiving assistance to or from competent public authorities, including from EPC contracting states and international organisations, or when co-operating with them on activities defined in relevant service level agreements, memoranda of understanding and co-operation agreements, either at their request or on the Office's own initiative".

If you would like to exercise any of these rights, EPO staff members may write to the delegated data controller at [pdlegalaffairs-dpl@epo.org](mailto:pdlegalaffairs-dpl@epo.org), and external data subjects may write to [dpoexternalusers@epo.org](mailto:dpoexternalusers@epo.org). In order for us to respond as promptly and precisely as possible, you should always provide certain preliminary information with your request. We therefore encourage you to fill in this [form](#) (for externals) or this [form](#) (for internals) and submit it with your request.

We will reply to your request without undue delay and in any event within one month of receipt of the request. However, Article 15(2) DPR provides that this period may be extended by two further months where necessary in view of the complexity and number of requests received. We will inform you of any such delay.

## **7. What is the legal basis for processing your data?**

Personal data are processed on the basis of Article 5 DPR:

- (a) processing is necessary for the performance of a task carried out in the exercise of the official activities of the European Patent Organisation or in the legitimate exercise of the official authority vested in the controller

## **8. How long do we keep your data?**

Personal data will be kept only for the time needed to achieve the purposes for which it is processed.

Personal data in non-patent-related matters is kept for the default retention period for legal advice of Legal Affairs, 20 years except for cases where e.g. President, Vice-President or other high-ranked Officers were involved in order to be able to document the decision-making process.

Personal data in patent-file related matters (European patent applications and European patents) should be kept for thirty years to over the longest possible period under Rule 147 EPC.

Possible archiving activities are addressed in a separate data protection statement.

In the event of a formal appeal/litigation, all data held at the time the formal appeal/litigation was initiated will be retained until the proceedings have been closed.

## **9. Contact information**

If you have any questions about the processing of your personal data, EPO staff members may write to the delegated data controller at [pdlegalaffairs-dpl@epo.org](mailto:pdlegalaffairs-dpl@epo.org), and external data subjects may write to [DPOexternalusers@epo.org](mailto:DPOexternalusers@epo.org).

Internals may also contact our Data Protection Officer at [dpo@epo.org](mailto:dpo@epo.org), while externals may contact our Data Protection Officer at [DPOexternalusers@epo.org](mailto:DPOexternalusers@epo.org).

## **Review and legal redress**

If you deem the processing an infringement on your rights as a data subject, you have the right to request review by the controller under Article 49 DPR and, if you disagree with the outcome of the review, the right to seek legal redress under Article 50 DPR.