

Data protection statement¹ on the processing of personal data in the provision of legal advice on contractual, (pre-)litigation and other general matters by Directorate 5.2.4 Contract Law and Litigation

Protecting your privacy is of the utmost importance to the European Patent Office (EPO, or Office). 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.

D 5.2.4 receives requests for legal advice on contractual, litigation and other general matters. This data protection statement relates to the processing of personal data that occurs when responding to these requests.

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

Requests for legal advice can be submitted via email, orally or in writing. All requests are registered on the case management system (CMS) of the directorate, where the requester's name is recorded and the request is assigned to a case handler in the directorate. The matter, for example a legal question, is identified, assessed and answered via email, orally or in writing.

Personal data are processed for the purpose of the EPO's administrative functioning and, in particular, in providing legal advice on matters within the responsibility of D 5.2.4 Contract Law and Litigation:

- giving legal advice on contract issues and a range of other matters, such as private and public building/construction law and all aspects of IT law, as well as memoranda of understanding and service level agreements
- identifying and managing the legal risks faced by the Office in its activities
- supporting colleagues in the operational units and in Central Procurement in procurement matters, in particular in the preparation, drafting, negotiation and implementation of contracts
- vetting of contracts and Administrative Council documents according to Article 1 ff of the Directive on Contracts
- assisting the operational units with the appropriate management of contracts, helping monitor legal aspects to prevent issues
- maintaining an up-to-date, fit-for-purpose database of model contracts in different areas
- providing training and information on legal matters to stakeholders across the Office
- providing legal advice and support relating to litigation issues (with the exception of employment disputes), including on the avoidance of litigation (mediation, settlement), and overseeing and coordinating any litigation efforts
- conducting the legal administration and management of the portfolio of intangible assets of the EPO, such as trademarks and copyrights
- supporting the realisation of the 2023 strategic plan, and assisting in the associated programmes and projects
- assisting in the management and distribution of files and co-ordinating follow-up activities, also for accountability purposes

¹ Version June 2022

2. What personal data do we process?

The following types/categories of personal data can be processed with regard to data subjects seeking assistance from D 5.2.4, usually in the form of legal advice:

- identification and contact information (mostly name, email address)
- other data provided by the data subject (e.g. in the request or in the documents provided, such as company name, organisational entity, description of concerns, personal case, circumstances, description of facts, opinions, assessments etc.)
- other information stored in the file and not provided by the data subject (such as CSM references, assistance from D 5.2.4 related to the matter such as legal advice, opinions and assessments)

The following types/categories of personal data are processed regarding EPO employees who are dealing with the request:

- identification and contact information (usually name, email address, phone number)
- assistance provided in the case (usually in the form of legal advice, an opinion or an assessment), including correspondence

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 the EPO staff involved in managing the provision of legal advice on contract issues and (pre-)litigation legal advice from D 5.2.4 Contract Law and Litigation referred to in this statement.

External contractors involved in providing and maintaining platforms and services necessary for the provision of the legal advice described above, such as Microsoft and Thomson Reuters, may also process personal data, which may include accessing it.

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

EPO staff working in D 5.2.4 Contract Law and Litigation have access to the personal data described above.

Personal data may be included in various communications or legal documents sent within the EPO for information and consultation of operational units or involved employees for the purposes described above.

Where law firms are consulted, personal data may be shared with them on a need-to-know basis.

Personal data may be disclosed to third-party service providers involved in offering and maintaining platforms and services necessary for the provision of the above-mentioned legal advice, such as Microsoft and Thomson Reuters.

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 parties.

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 and 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 guard the systems and network, “need-to-know” and “least privilege” principles)
- 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 monitoring for incidents, on-call security expert

In principle, the EPO operates a paperless policy management system. If paper files containing personal data nevertheless 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 data protection legal frameworks. The EPO has also carried out a privacy and security risk assessment.

These providers 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).

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. With regard to the right of access, where the EPO considers it necessary to protect the confidentiality of internal deliberations and decision-making, certain information may be deleted from the copy of personal data provided to the data subject.

If you would like to exercise any of these rights, external users should write to DPOexternalusers@epo.org, otherwise contact the delegated data controller at pdlegalaffairs-dpl@epo.org. In order to enable us to respond more promptly and precisely, you always need to 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, which includes the processing necessary for the Office's management and functioning.

- c. processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract

Personal data may be processed on the basis of the following legal instruments:

- Financial Regulations of the European Patent Office:
 - o Tender Guidelines
 - o Directive Supplementing certain provisions of the Tender Guidelines
 - o Directive on Contracts

8. For how long do we keep your data?

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

When D 5.2.4 is asked to advise on drafting a contract and issues a legal approval for a given contract, and this contract is also concluded between the EPO and the contractor, D 5.2.4 will destroy the corresponding file 12 years after termination of the contract.

In all other cases, where D 5.2.4 gives general legal advice not covered by the above description, the case file will be destroyed 30 years after its completion.

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 or for the default retention period of 30 years, whichever period is longer.

9. Contact information

If you have any questions about the processing of your personal data, please contact the DPO and/or the delegated data controller at DPOexternalusers@epo.org if you are external. EPO employees should contact the delegated data controller at pdlegalaffairs-dpl@epo.org.

Internals may also contact our Data Protection Officer at dpo@epo.org, while externals may contact our Data Protection Officer at DPOexternalusers@epo.org.

Review and legal redress

If you consider that the processing infringes 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.