

Data protection statement¹ on the processing of personal data during dispute settlement activities in national proceedings or arbitration

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.

Principal Directorate 5.2 Legal Affairs (PD 5.2 or Legal Affairs) provides legal support in national proceedings brought against the European Patent Organisation (hereafter: “the Organisation”) and in which the Organisation is a party to arbitration proceedings, including arbitration pursuant to Article 52 DPR (data protection arbitration). This data protection statement relates to the processing of personal data in this context.

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

The nature of the processing operation varies depending on the specifics of the case, but will involve collecting and recording data for use in national proceedings or arbitration, including data protection arbitration. Personal data, mainly of the parties to the case, their representatives or other participants, are processed at various stages of handling a case. The data are obtained through the exchange of submissions in a case and possibly also through internal fact-finding exercises/gathering of evidence or from publicly available sources, such as the internet or the press. Personal data will be processed by the EPO staff responsible for these operations, and may also be disclosed to individuals/entities outside the EPO on a need-to-know basis, e.g. to external law firms assisting with the national proceedings or arbitration.

The EPO processes personal data for the following purposes.

- To defend and represent the Organisation in national proceedings or arbitration.
- To ensure the availability of dispute files for later reference.
- To ensure statistical monitoring.
- To monitor contracts with external stakeholders, especially attorneys, and take care of billing.

2. What personal data do we process?

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

- role in the matter (e.g. claimant, representative, arbitrator) and associated information (e.g. the corresponding witness statement in the case of a witness)
- personal information and contact details (e.g. name, email)
- information on the case at hand and related documents, especially
 - o case reference
 - o information related to the data subject to whom the case relates (e.g. date of birth, nationality, past grievances and complaints, appeals record)
 - o challenged decision and claims against it
 - o information related to the substance of the matter, which, depending on the topic, might include personal data of a sensitive nature (e.g. disciplinary measures, health-related data, trade union membership)

¹ Version June 2022.

- correspondence, including requests, opinions, decisions, pleadings, submitted documents and witness statements.

3. Who is responsible for processing the data?

Personal data are processed under the responsibility of Principal Directorate 5.2 Legal Affairs.

Personal data are processed by EPO staff from PD 5.2 Legal Affairs who are involved in the activities referred to in this statement, in particular staff from Directorate 5.2.3. Personal data are also processed by EPO staff from Directorate 4.4 General Administration, e.g. when translations of documents are required.

External contractors involved in providing and maintaining tools necessary for the provision of legal support as described above, such as Microsoft, Thomson Reuters, OpenText and IBM, may also access and process the personal data.

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

The personal data will be accessed by the EPO staff working in Directorate 5.2.3 Institutional Affairs, Legal and Unitary Patent Division.

Personal data may also be disclosed on a need-to-know basis to other EPO staff, especially those working in Directorate 4.4 General Administration for the purpose of translations; those working in PD 0.8 Employment Law; those working in the EPO hierarchy; and those working in other EPO units, e.g. the relevant delegated data controller's unit in the case of data protection arbitration.

Personal data may be disclosed on a need-to-know basis to entities outside of the EPO, including judicial bodies or the body before which proceedings are pending; the arbitral tribunal in cases of arbitration; the parties to the proceedings; and representatives of the parties to the proceedings.

Personal data may be disclosed to third-party service providers for the provision and maintenance of tools necessary for the provision of legal support as described above, such as Microsoft, Thomson Reuters, OpenText and IBM.

Personal data will only be shared with authorised persons responsible for the necessary processing operations and 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, 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 the systems and network, principles of need-to-know and least privilege).
- Logical security hardening of systems, equipment and the network.
- Physical protection: EPO access controls, additional access controls to the data centre, 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. However, if 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 that process 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.

External providers are required to have implemented appropriate technical and organisational measures, such as physical security measures; access and storage control measures; data security measures (e.g. encryption); user, transmission and input control measures (e.g. network firewalls, network intrusion detection system (IDS), network intrusion protection system (IPS), audit logging); and conveyance control measures (e.g. securing data in transit by means of 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).

Restrictions of the above-mentioned data subject rights can occur as the result of the following legal provision.

- Circular No. 420, Article 4(1)(c) “pursuant to Article 25(1)(a), (b), (c), (e), (f), (g) and (h) DPR when processing personal data (...) in connection with the establishment, exercise or defence of legal claims involving the EPO or its subordinate bodies, including arbitration, in order to preserve confidential information and documents obtained from the parties, interveners or other legitimate sources”.

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 those made by third parties. With regard to the right of access, certain information may be deleted from the copy of personal data provided to the data subject if the EPO considers it necessary in the interest of protecting the confidentiality of internal deliberations and decision-making.

If you would like to exercise any of these rights, external users should write to DPOexternalusers@epo.org or 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(a) DPR. Processing is necessary for the performance of a task carried out as part of the official activities of the European Patent Office or as part of the legitimate exercise of the official authority vested in the controller.

Personal data are processed on the basis of the following legal provisions/instruments.

- For legal proceedings: Article 5(2) of the European Patent Convention
- For arbitration proceedings, and where agreed to: General Conditions of Contract incl. Arbitration Agreement, or Arbitration Agreement
- For data protection arbitration: Article 50(8) and Article 52 DPR

8. 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.

After the closure of a matter, related files will be kept for 20 years.

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

In the event of a formal appeal/litigation on data protection grounds, all data held when the formal appeal/litigation was initiated will be kept until the proceedings have been concluded or for the period described above, whichever is longer.

9. Contact information

External data subjects who have any questions about the processing of their personal data should contact the DPO and/or the delegated data controller at DPOexternalusers@epo.org. EPO staff should contact the delegated data controller at pdlegalaffairs-dpl@epo.org or the data protection officer at dpo@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.