

## **Data protection statement on the processing of personal data in the handling of International Labour Organisation's Administrative Tribunal (ILOAT) complaints**

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

The delegated controller's involvement in the procedure with the Administrative Tribunal of the International Labour Organisation (herein after 'ILOAT' or 'Tribunal') and the corresponding collection (and processing) of personal data is triggered by the receipt of the notification by the Tribunal entailing the full complaint and setting the European Patent Organisation ('the Organisation') a time limit to reply.

In order for the delegated controller to prepare the Organisation's defence, reply to the Tribunal and draft the submissions to the ILOAT, the complainant's data already collected during the previous steps of the Office's dispute settlement procedure and/or legal redress mechanism is used. Additional data is collected when it is necessary to update the complaint file. Internal fact checking is carried out by Principal Directorate Employment Law and Social Dialogue Advice (PD08) lawyers where the complainant makes a claim or brings evidence in their submission that needs to be investigated. The elaboration of the defence of the Organisation, drafting of submissions and representation in front of the Tribunal on behalf of the Organisation might involve the transmission of relevant data electronically to external law firms.

Depending on the subject matter of the proceedings, it might require the processing of special categories of data and/or third parties' data. Such processing takes place under the condition that the processing is necessary to the adjudication of the case and proportional to the purpose (the assessment of necessity and proportionality is carried out on a case-by-case basis). Depending on the case, these data are requested in a manner that renders it anonymised or, at least, pseudonymised in a way that will not allow PD08 or delegated controller(s) further processing the data to re-identify the data subjects unless after applying these techniques, the data can no longer be meaningfully used for the performance of PD08's activities. In this case, only the minimum information strictly necessary should be processed on a case-by-case basis and in compliance with the principle of confidentiality. Techniques for anonymisation or pseudonymisation are also used when transmitting such data to the Tribunal.

To avoid conflict of interest, the procedure may differ for instance if a PD08 staff member initiates a complaint in front of the ILOAT.

The processing of personal data is necessary in order to address all aspects related to the consequences of the judgment, the creation of statistics and lists and the legal analysis, if necessary.

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

This data protection statement relates to the processing of personal data in the handling of ILOAT complaints and representing the EPO's position for assessment by the ILOAT and the creation of statistics, lists and legal analysis, if necessary.

Personal data are processed for the following purposes:

- Fulfil the final step in the EPO dispute settlement procedure and/or legal redress mechanism as foreseen by the Service Regulations (Articles 106-113 Service Regulations).
- Provide the PD08 Lawyers with an understanding of the complainant's grievance and the surrounding circumstances.
- Allow the Organisation to prepare several submissions for the ILOAT in response to the complainant's complaint.
- Identify cases that may be suitable for amicable settlement prior to the case being fixed on the Tribunal's agenda.
- Provide the Tribunal with adequate information to enable the judges to deliver a fair and balanced judgment.
- Share necessary information with the internal business units whose involvement is necessary and required in the fulfilment of certain supplementary tasks such as execution of procurement procedures, payment of the legal fees etc.
- Prepare legal analysis for hierarchy to identify trends and assess effectiveness of legal arguments over time.
- On request, the preparation of statistics and lists for the hierarchy.
- Monitor internal deadlines.
- Provide an archive of legal reference for PD08 lawyers.

The processing is not intended to be used for any automated decision-making, including profiling.

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

The following categories of personal data are processed:

- (i) Complainants and interveners: The data provided is strictly necessary for the purpose. Depending on the case, the need for the defence and implementation of the judgement, various details about the individuals may be processed such as:
  - Identification details: name, surname, date of birth, nationality, marital status, encrypted bank details (on a strictly need-to-know basis for the adjudication of the case).
  - Professional details: department, grade and step within department, years of service, employment status (active/inactive/retiree), allowances received, rewarding history, remuneration, engagement in additional tasks, professional contact details.
  - Litigation history (re past and pending disputes), if relevant for the case.
  - Any statements relating to the case.
  - Depending on the subject matter of the litigation, it might require the processing of special categories of data or of sensitive data, such as:
    - o Health information
    - o Sex life or sexual orientation (especially in cases involving allegations of harassment or discrimination)
    - o Trade union membership
    - o Criminal offences, criminal convictions
    - o History of any disciplinary measures or sanctions against the complainant.Such processing takes place on a strict need-to-know basis, only as necessary for the adjudication of the case.
- (ii) Complainant's legal representative / successors:
  - Personal data may be processed such as:
    - Identification details: Name, surname, signature.
    - Professional Details: Title/Position within the firm, professional contact details.

- Their legal statements and other communications.
- (iii) PD08 Lawyer:
- Personal data may be processed such as:
- Identification details: name, surname.
  - Professional Details: Title/Position and department within the EPO, professional contact details.
  - Their legal statements or other communications.
- (iv) The external lawyer/law firm which are used in the drafting of submissions and for representation in front of the Tribunal on behalf of the Organisation:
- Personal data may be processed such as:
- Identification details: name, surname, signature, bank details.
  - Professional Details: Title/Position within the firm, professional contact details.
  - Their legal statements and other communications.
- (v) Individuals mentioned in the submissions:
- Personal data may be processed such as:
- Identification details: name, surname.
  - Any information related to them in the submissions.
  - Their own statement, which can be required by the Organisation or the ILOAT.
- (vi) Members of the Appeals Committee and the Appeals Committee Secretariat:
- Personal data may be processed such as:
- Identification details: name, surname (signature) of the members.
  - Correspondence as well as their requests, opinions, procedural decisions.
- (vii) Witnesses/experts during a hearing and/or in the submissions:
- Personal data may be processed such as:
- Identification details: name, surname.
  - Professional details: Title/Position and department within the EPO, professional contact details.
  - Their own statements, which can be required by the Organisation or the ILOAT, as well as the correspondence related thereto pursuant to Article 11 and Article 12 of the [Rules of the ILOAT](#).
- (viii) The registrar and judges of the ILOAT:
- Personal data may be processed such as:
- Identification details: name, surname (signature) of the judges. Name and surname of the Registrar.
  - Professional details of the registrar: professional email.
  - Correspondence as well as their requests, opinions, procedural decisions and/or ruling.

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

Personal data are processed under the responsibility of the Principal Directorate Employment Law and Social Dialogue Advice (PD08), acting as the EPO's delegated data controller.

Personal data are processed by the EPO staff involved in managing the initiative, project or activity of the internal operational units, on a case-by-case basis, insofar as this is compatible with the principle of confidentiality, and whose involvement is necessary and required in the fulfilment of certain supplementary tasks, such as:

- (i) the provision of information on the requested information during the fact-finding exercise before the

Tribunal.

- (ii) the execution of the ILOAT judgment.
- (iii) the reassessment of a case depending on the ILOAT judgement
- (iv) the preparation of statistics and lists if necessary.

External contractors involved in providing a platform and/or maintaining certain services such as Microsoft (Office, Exchange, Outlook, Teams), OpenText, Thomson Reuters (Matter Sphere) and external law firms representing the EPO in front of the ILOAT may also process personal data, which can include accessing it.

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

Personal data are disclosed on a need-to-know basis to the following recipients:

- a. external law firms representing the EPO before the ILOAT
- b. the ILOAT
- c. the complainant's legal representative / successors where they are engaged in the litigation
- d. witnesses/experts

Personal data are disclosed on a need-to-know basis to the EPO staff working in the Principal Directorate Employment Law and Social Dialogue Advice (PD 08) in order to perform tasks carried out in the exercise of the official activities that are necessary for the management and functioning of the PD 08 and other internal operational units, on a case-by-case basis, insofar as this is compatible with the principle of confidentiality, whose involvement is necessary and required in the fulfilment of certain supplementary tasks such as:

- (i) the provision of information on the requested information during the fact-finding exercise in litigation before the Tribunal.
- (ii) the execution of the ILOAT judgment.
- (iii) the reassessment of a case depending on the ILOAT judgement.

Personal data may be disclosed to third-party service providers for maintenance and support purposes (e.g., Microsoft (Office, Exchange, Outlook, Teams), OpenText, Thomson Reuters (Matter Sphere)).

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 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.

These include:

- User authentication: all workstations and servers require login, mobile devices require login to the EPO enclave, privileged accounts require additional and stronger authentication;
- Access control (e.g. Role-based access control to the systems and network, principles of need-to-know and least privilege): separation into administrative and user roles, users have minimum privileges, reduction of overall administrative roles to a minimum;
- Logical security hardening of systems, equipment and network: 802.1x for network access, encryption of endpoint devices, AV on all devices
- Physical protection: EPO access controls, additional access controls to datacentre, policies to lock offices;

- Transmission and input controls (e.g. audit logging, systems and network monitoring): security monitoring with Splunk;
- Security incidence response: 24/7 monitoring for incidents, on-call security expert.

For personal data processed on systems not hosted on EPO premises, 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 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).

The ILOAT is sole controller of the data they use and are responsible to ensure security and confidentiality of same.

## **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 only applies to inaccurate or incomplete personal data processed. Your right to rectification applies only to factual data processed as part of the complaint procedure.

If you would like to exercise any of these rights, please write to the delegated data controller at [pdemploymentlaw&socialdialogueadvice-dpl@epo.org](mailto:pdemploymentlaw&socialdialogueadvice-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](#) 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.

Please note that, your rights may be subject to restrictions outlined under [Circular 420](#) Implementing Article 25 of the Data Protection Rules.

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

Personal data are processed on the basis of Article 5(a) DPR: It is necessary for the performance of a task carried out on the basis of legal provisions of the European Patent Organisation or in the legitimate exercise of the official authority vested in the EPO, under Title VIII Article 106-113 of the Service Regulations.

Personal data are processed on the basis of Article 5(b) DPR, which permits processing that 'is necessary for compliance with the legal obligation incumbent on the EPO. This legal obligation is laid down in Chapter III Article 13 of the European Patent Convention (EPC).

Depending on the subject matter of the proceedings, it might require the processing of special categories of data. In such a case, personal data are processed on the basis of Article 11(2)(b), (e), (f) and Article 11(3) DPR.

Depending on the subject matter of the proceedings, it might require the processing of personal data relating to criminal convictions and offences. In such a case, personal data are processed on the basis of Article 12(1) DPR: The processing is covered by legal provisions of the European Patent Organisation providing for appropriate safeguards for the rights and freedoms of data subjects.

## **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 concerning the complaint procedure will be stored until the last day of the 20<sup>th</sup> calendar year following the pronouncement of the Judgment.

The ILOAT publishes all decisions on the ILOAT website. These decisions are stored on the ILOAT website.

The retention time applies to both electronic and paper files.

## **9. Contact information**

If you have any questions about the processing of your personal data, please write to the delegated data controller at [pdemploymentlaw&socialdialogueadvice-dpl@epo.org](mailto:pdemploymentlaw&socialdialogueadvice-dpl@epo.org).

You can also contact our Data Protection Officer at [DPOexternalusers@epo.org](mailto: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.