

Data protection statement on the processing of personal data within the framework of the Amicable Settlement Procedure

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 data controller's involvement in the amicable settlement procedure and the corresponding collection and processing of personal data is triggered at the pre-litigation and/or litigation stages as defined in Article 106-113 Service Regulations for permanent and other employees.

Principal Directorate Employment Law and Social Dialogue Advice (PD08) Lawyers identify cases that may be appropriate for settlement. Efforts to reach an amicable settlement focus mainly on cases before they are placed on the agenda of the Internal Appeals Committee ('ApC') or the Administrative Tribunal of the International Labour Organization ('ILOAT'). The ApC can also enquire about the possibility of an amicable settlement in the cases placed on their agenda. Prior to the commencement of an ILOAT session, a similar procedure conducted by the ILOAT Registrar applies.

PD08 Lawyers process the personal data contained in the communications and submissions put forward during pre-litigation or litigation to determine whether the case is appropriate for settlement and if so, on what basis/terms.

The data processed for the amicable settlement is taken from the case file stored on the document management systems. PD08 lawyers check the facts of the case for accuracy. Additional data is collected when it is necessary to update the file.

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 submitting such data to another delegated controller(s), if required.

A proposal for a settlement attempt including a statement of reasons is prepared by the PD08 Lawyers and sent to the hierarchy for approval by e-mail, or in a Note to the hierarchy.

In the event a settlement proposal is approved by hierarchy, the settlement proposal is prepared by PD08 Lawyers and sent to the employee concerned involved by the Employment Law Secretariat via email including an invitation to the employee concerned, or their (legal) representative / successor, if applicable to enter

settlement negotiations. The Employment Law Secretariat may send and receive further email correspondences to/from the employee concerned or their (legal) representative / successor.

Settlement negotiations may take place between the PD08 Lawyer, the operational unit involved, the Human Resources Business Partner ('HRBP') and the employee concerned and their (legal) representative / successor in writing, in person or via (video) call (Microsoft Teams, Zoom).

Depending on the case, other business units may be involved in the fulfilment of certain supplementary tasks, such as facilitation of settlement negotiations and execution of the settlement.

The entire settlement procedure is strictly confidential.

If the person concerned accepts or rejects a settlement attempt, the settlement procedure ends.

Depending on the case, the ApC Secretariat or the ILOAT Registrar will be informed about the outcome of the settlement procedure.

Employment Law Secretariat maintains a database of cases (Excel) appropriate for settlement and the status / success of amicable settlement negotiations.

The processing of personal data is necessary in order to address all aspects related to the consequences of the settlement, 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 within the framework of the amicable settlement procedure and for the purpose of identifying cases eligible for settlement and for the negotiation and conclusion of the settlement, the creation of statistics, lists and the legal analysis, if necessary.

Personal data are processed for the following purposes:

- The amicable settlement of disputes as provided for in Article 6 of the Impl. Rules to Article 106-113 ServRegs.
- The promotion of social dialogue.
- Providing PD 08 Lawyers with an understanding of the legal issue and the surrounding circumstances.
- Establishing all of the facts and providing comprehensive legal input to the competent authority taking the decision on the settlement proposal.
- Providing the employee concerned with sufficient and coherent reasoning in the conclusion of the settlement procedure.
- Prepare legal analysis for hierarchy to identify trends and assess effectiveness of legal arguments over time.
- Providing an archive of legal reference for PD08 Lawyers.
- The monitoring of deadlines.
- Preparing statistics, lists and analysis for the hierarchy, if requested.

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) Employee concerned:

Depending on the case, various details about the data subject are processed such as their:

- 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, employment status (active/inactive/retiree), engagement in additional tasks, professional contact details.
- Litigation history (re past and pending disputes), if relevant for resolution of the dispute.
- Settlement history and whether settlement attempts have been accepted or rejected in the past.
- 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 employee concerned.

Such processing takes place on a strict need-to-know basis, only as necessary for the adjudication of the case.

(ii) Employee's (legal) representative / successors, if applicable:

Personal data may be processed such as:

- Identification details: Name, surname.
- Professional Details: Title/Position within the firm, professional contact details.
- Their legal statements and other communications.

(iii) PD 08 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) Employment Law Secretariat:

Personal data may be processed such as:

- Identification details: name, surname.
- Professional details: Title/Position and department within the EPO, professional contact details.

(v) Competent Authority:

Personal data may be processed such as:

- Identification details: name, surname (signature).
- Professional details: Title/position and position within the EPO, professional contact details.
- Correspondence and decision.

(vi) The business unit involved in the negotiation of the settlement proposal and/or the implementation of the settlement proposal.

Personal data may be processed such as:

- Identification details: name and surname.
- Professional details: department, professional contact details.

(vii) The ApC Secretariat and members of the ApC:

Personal data may be processed such as:

- Identification details: name, surname.

- Professional details: Title/Position and department within the EPO, professional contact details.

(viii) The Registrar of the ILOAT:

Personal data may be processed such as:

- Identification details: name and surname of the Registrar.
- Professional details of the registrar: professional email.
- Legal statements or other communications.

3. Who is responsible for processing the data?

Personal data are processed under the responsibility of 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 Appeals Committee, the competent authority taking the decision and other internal operational units whose involvement is necessary and required in the fulfilment of certain supplementary tasks such as the facilitation of settlement negotiations and execution of the settlement referred to in this statement, on a case-by-case basis, insofar as this is compatible with the principle of confidentiality.

External contractors involved in providing a platform and/or maintaining certain services such as Zoom, Microsoft (Office, Exchange, Outlook, Teams), OpenText and Thomson Reuters (Matter Sphere) 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 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 and that are necessary for the management and functioning of the PD 08.

Further personal data are disclosed on a need-to-know basis to:

- a. Members of the Internal Appeals Committee
- b. The Appeals Committee Secretariat
- c. The ILOAT
- d. The external law firms representing the EPO before the ILOAT
- e. The (legal) representative /successors where they are engaged in settlement negotiations.

Personal data are disclosed on a need-to-know basis to the EPO staff working in other internal operational units whose involvement is necessary and required in the fulfilment of certain supplementary tasks such as the facilitation of settlement negotiations, the execution of the settlement and the preparation of statistics, lists and analysis, on a case-by-case basis, insofar as this is compatible with the principle of confidentiality.

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

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 settlement procedure.

If you would like to exercise any of these rights, please write to the delegated data controller at 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, in the legitimate exercise of the official authority vested in the EPO under Article 6 of the Impl. Rules to Article 106-113 of the ServRegs, or at the request of the President as expressed in [Communiqué](#) 30.10.2018.

Personal data are processed on the basis of Article 5(b) DPR: The processing of personal data is necessary for the compliance with the legal obligation incumbent on the EPO under Article 6 of the Impl. Rules to Article 106-113 of the ServRegs.

The processing is also based on Article 5(c) DPR: It is necessary for the performance of a contract (settlement agreement) 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.

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 settlement procedure will be stored until the last day of the 10th calendar year after closure of the settlement procedure.

The retention time applies to both, electronic and paper files.

In the event of litigation, all data held at the time the litigation was initiated will be retained until the proceedings have been closed. Reference is made to the retention periods in litigation described in the relevant DPS.

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.

You can also 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.