

Data protection statement¹ on the processing of personal data during disciplinary proceedings against professional representatives before the EPO

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.

This data protection statement describes the processing operations related to the handling of disciplinary cases before the Disciplinary Board of the EPO (DB of the EPO) and any processing resulting from the roles of the chair of the DB of the EPO or the registrar in the proceedings before the Disciplinary Committee of the Institute of Professional Representatives (DC of epi) and the Disciplinary Board of Appeal of the EPO.

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

This data protection statement relates to the processing of personal data as necessary for the handling of cases before the DB of the EPO.

The chair and registrar of the DB of the EPO are required to monitor proceedings in the DC of epi and to make related decisions of a procedural nature leading to closure of the case or further processing where the case is brought before the DB of the EPO.

Where a case is brought before the DB of the EPO, the members of the DB of the EPO, including the registrar, will conduct the proceedings including conducting preparatory enquiries, organising the exchange of written submissions by the parties, holding oral proceedings where required, potentially including the drafting of minutes and management of audio recordings. Other meetings related to the organisation of the DB of the EPO may take place, possibly by video conference. Once the DB of the EPO has given its decision, the active processing of the file by the DB of the EPO has come to an end.

The purpose of the processing encompasses

- organising and monitoring administrative steps to allow timely and informed decisions, as envisaged in the applicable provisions
- planning and organising the work of the DB of the EPO to report on these activities when required, including anonymous statistics
- keeping track of past decisions in case the same individual or subject-matter is involved in later disciplinary proceedings, or in case any related litigation is initiated
- keeping track of past proceedings to enable the DB of the EPO to follow a harmonised and consistent approach, also with a view to ensuring legal certainty

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

Your personal data will not be transferred to recipients outside the EPO which are not covered by Article 8(1), (2) and (5) DPR unless an adequate level of protection is ensured. In the absence of an adequate level of protection, such a transfer can only take place if appropriate safeguards have been put in place and

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enforceable data subject rights and effective legal remedies for data subjects are available, or if derogations for specific situations as per Article 10 DPR apply.

2. What personal data do we process?

The following types/categories of personal data regarding respondents in disciplinary cases can be processed:

- identification data (full name, gender, date of birth)
- contact information (postal address, email address)
- correspondence (preferred language, personal data provided voluntarily during the course of the proceedings)
- information related to the proceedings, such as the alleged breach and submissions filed. Depending on the alleged breach, the information processed might be considered to be particularly sensitive and/or to belong to special categories of data (e.g. health data)

The following types/categories of personal data can be processed regarding representatives of respondents:

- identification data (full name)
- contact details (postal address, email address)
- correspondence (any personal information provided voluntarily during the course of the proceedings)

The following types/categories of personal data can be processed regarding complainants or other individuals mentioned in the disciplinary file (including witnesses):

- identification data (full name)
- contact information (postal address)
- correspondence (personal data provided voluntarily during the course of the proceedings)
- depending on the matter, the information processed might be considered to be particularly sensitive and/or to belong to special categories of data (e.g. health data)

The following types/categories of personal data can be processed regarding internal and external Board members, including the chair and registrar:

- identification data (full name)
- contact information (email address, postal address, room number, office location)
- correspondence (any personal data provided voluntarily during the course of the procedure)

The following types of categories of personal data can be processed regarding other persons involved in the procedure:

- identification data (full name)
- contact details (email address, postal address, room number, office location)
- correspondence (any personal data provided voluntarily during the course of the procedure)

3. Who is responsible for processing the data?

Personal data are processed under the responsibility of the chair of the DB of the EPO, acting as the EPO's delegated data controller.

Personal data are processed by the EPO staff supporting the chair referred to in this statement, working under the chair's instructions.

Personal data are also processed by external members of the DB of the EPO. External contractors involved in providing a platform and maintaining services necessary to the work of the DB of the EPO may also process personal data, which may include accessing it. These include Zoom, Microsoft and OpenText.

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

Personal data will be shared with internal and external members of the DB of the EPO and with parties to the proceedings (including the respondent and their representative). As required to perform their respective roles in disciplinary proceedings, data will also be shared with the DC of epi, the President of the EPO, the President of epi and, in the case of an appeal against the decision, the Disciplinary Board of Appeal of the EPO.

Personal data can also be shared with other EPO departments on a strict need-to-know basis, including General Administration (where interpreters are required for oral hearings).

Personal data may be disclosed to third-party service providers, mainly for technical support purposes. These include Zoom, Microsoft and OpenText.

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.

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 monitoring for incidents, on-call security expert.

In principle, the EPO has adopted 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 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 the processing of your data. Where the processing operation is not required by the legal obligations under which the EPO operates, you may also object to the processing of your data on grounds related to your particular situation (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. The right to erasure does not apply where the legal obligation on the controller requires the processing of personal data.

If you would like to exercise any of these rights, please write to the delegated data controller at DisciplinaryBoard-DPL@epo.org or, if you are external, contact DPOexternalusers@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.

According to the [Decision of the President of the European Patent Office dated 13 December 2021](#) concerning the processing of personal data in patent-grant and related proceedings, in case of conflict, the provisions of the EPC, including its Implementing Regulations and any other provisions under it, and the provisions of the PCT, including its Regulations and any other provisions and established practices applicable under it, prevail over the Data Protection Rules. To this end, any data subject rights under the DPR apply only to the extent that they do not conflict with the provisions of the EPC and its Implementing Regulations and, where applicable, the PCT legal framework.

Data subject rights may also be restricted for a temporary period of time on the legitimate grounds laid down in Article 25 and in Circular No. 420 implementing Article 25 of the DPR. The Circular provides that any such restriction must be limited in time and proportionate and must respect the essence of the data subject's rights.

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 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" (e.g. to keep track of previous findings so as to ensure a consistent approach by the DB of the EPO, and to report on the performance of the DB of the EPO).
- Article 5(b) DPR: "processing is necessary for compliance with a legal obligation to which the controller is subject" (e.g. pursuant to Article 21 Regulation on discipline for professional representatives, the decision of the DB of the EPO shall state the reasons on which it is based and shall be given in writing. It shall be notified to the professional representative, the President of the Council of the Institute and the President of the European Patent Office).

Personal data are processed on the basis of the following legal instrument:

- Regulation on discipline for professional representatives (OJ EPO 1978, 91, OJ EPO 2008, 14)
- Additional Rules of Procedure of the Disciplinary Board of the European Patent Office (OJ EPO 1980, 183 OJ EPO 2007, 552, 555)

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.

In cases not leading to a disciplinary sanction, the retention time is five years from the date of the final decision of the DB of the EPO. In cases leading to a disciplinary sanction, the retention time is ten years from the date of the final decision of the DB of the EPO.

However, if related litigation has been initiated and the above time-limit has elapsed, the file will be kept for five years after the end of the litigation. After the applicable retention period has elapsed, only the complaint and the decision are kept.

The minutes of proceedings are submitted to the parties prior to their adoption. Once the minutes have been adopted, the recording of the proceedings is deleted.

In the event of a formal appeal/litigation on data protection grounds, 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, please write to the delegated data controller at DisciplinaryBoard-DPL@epo.org or, if you are external, please contact DPOexternalusers@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.