

Data protection statement on the processing of personal data for the “MyEPO Portfolio” online service for parties to PGP proceedings before the EPO and for the MyEPO Portfolio "Representative area"

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.

MyEPO Portfolio is a web-based online service for parties to proceedings before the EPO that allows users to work with the EPO on portfolios of applications and patents. Users can:

- view application portfolios;
- view documents in the digital file;
- receive EPO Mailbox communications;
- perform procedural acts in response to communications from the EPO;
- file general authorisations and request changes thereto and deletions thereof.

MyEPO Portfolio also offers a "representative area", where professional representatives and persons authorised by them can:

- view their professional representative profile;
- request changes to their professional representative details;
- determine which contact details they wish to publish in the searchable database on the EPO website;
- request deletion from the list of professional representatives;
- request entry onto the list of professional representatives;
- request registration and deletion of, and changes to, an association;
- view the information related to an association;
- file general authorisations and request changes thereto and deletions thereof.

MyEPO Portfolio also provides access to the Mailbox, procedural guidance and enables the exchange of digital information.

Personal data collected and available in the "representative area" are processed in accordance with the [Data protection statement on the processing of personal data in the context of administrating the list of professional representatives before the European Patent Office](#) and the [Data protection statement on the processing of personal data in the context of maintaining the list of associations](#).

Personal data entered and available in relation to general authorisations are processed in accordance with the [Data protection statement on the processing of personal data within the context of the administration of general authorisations](#).

The specificities regarding these proceedings can be found in the respective data protection statement indicated.

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

Personal data are processed for the purposes of MyEPO Portfolio services when conducting patent grant and related proceedings (PGP) pursuant to the European Patent Convention (EPC) and the provisions applicable

under it, and likewise proceedings under the Patent Cooperation Treaty (PCT) and the Unitary Patent Rules (UPR).

Personal data are collected when users perform procedural tasks or file procedural requests in MyEPO Portfolio. Depending on the nature of the task or request, the data may be subject to further processing by EPO staff.

MyEPO Portfolio provides an administration facility. The designated company administrator can use this facility to grant access rights to company members. These rights include administration rights, the right to pay fees, and access to the Mailbox as well as to the company's portfolio of applications and patents.

The personal data entered are further processed by EPO staff in order to:

- process applications and patents pursuant to the EPC, PCT, UPR and the provisions applicable thereunder;
- conduct opposition proceedings and proceedings before the Legal Division;
- communicate with parties to the proceedings and, where applicable, third parties;
- maintain the European Patent Register for information of, and inspection by, any third party;
- draw up reports and statistics;
- exchange data with EPC, PCT and/or UPR contracting states and with WIPO as part of co-operation projects and activities.

Relating to the purpose of processing data, please also see the detailed information about the specifics of the PGP procedures published in 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 \(OJ EPO 2021 A98\)](#).

Personal data are also processed for the purpose of providing functions in the "representative area". The representatives can request entry to the list of professional representatives before the EPO, where their identities will be verified, and maintain their entry through the self-service functionality in the representative area.

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

Personal data entered 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, a transfer can only take place if appropriate safeguards have been put in place and 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 categories of personal data are processed:

- Contact details
- Country
- Address
- Mobile, other telephone and fax numbers
- Email address
- Website URL
- Legal or natural person
- Department name and/or number
- Job title
- Office location

- Address as indicated in the European Patent Register
- Bank account details
- Credit card number
- Debit card number
- Nationality
- Government identifiers (national identity card details, passport number) and copies of identity cards or passports
- Patent record bibliographic and metadata
- Personal data potentially included within the scope of patent application (claims, description, drawings, abstract)
- Personal data potentially included within the content of patent procedure-related information and publications
- First name
- Last name
- Full name
- Signature (digital, facsimile, text string or handwritten)
- MyEPO account number
- MyEPO account password
- Date of entry on, deletion from, and changes to entries on the list of professional representatives
- General authorisations and related dates
- Affiliation with an association and related dates

This data is processed in line with the relevant provisions of the EPC, in particular:

- Applicant's name (i.e. last name and first names), address, nationality and state of residence or principal place of business (Rule 41(2)(c) EPC)
- Applicant's fax and phone numbers, where provided (Rule 41(2)(c) EPC)
- Applicant's signature (Rule 41(2)(h) EPC)
- Name of any representative, their signatures, address of their place of business (Rules 143(1)(h), 41(2)(d), 92(2)(c) EPC) and, where provided, representative number, association number, fax and phone numbers
- Inventor's name and country and place of residence (Rule 19(1) EPC)
- Personal data contained in copies of previous applications where applicants claim their priority (Rule 53(1) EPC)
- Name of the person making a payment and personal data relating to deposit accounts or other payment means (bank accounts, credit cards, etc.) (Article 6(1) RFees, Article 5(2) RFees together with the Arrangements for deposit accounts)
- Where applicable, any personal data relating to third-party observations, evidence, prior art, IT tools and services, and oral proceedings
- Any other personal data provided by a party during the proceedings

3. Who is responsible for processing the data?

Personal data are processed under the responsibility of DG 1's PD 1.5 Customer Journey and Key Account Management, acting as the EPO's delegated data controller.

Personal data are processed by the DG 1 staff involved in managing MyEPO Portfolio referred to in this statement.

External contractors involved in maintaining MyEPO Portfolio may also be tasked with processing – and possibly accessing – personal data.

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

Personal data are processed by the departments of the EPO specified in Article 15(a) to (e) EPC, as well as any other EPO staff involved in:

- carrying out the procedures and tasks laid down in the EPC, the PCT and the UPR and the legal provisions applicable under them respectively;
- providing user and technical support;
- improving the patent grant process and MyEPO Portfolio.

The personal data are disclosed on a need-to-know basis to the EPO staff working in DG 1 Patent Granting Process, Boards of Appeal, DG 4 Business Information Technology and DG 5 Legal and International Affairs.

External contractors involved in providing, maintaining and offering support for My EPO Portfolio may also be tasked with processing – and possibly accessing – personal data.

Personal data will only be shared with authorised persons responsible for the necessary processing operations under the EPC and its Implementing Regulations and, where applicable, the PCT legal framework, the UPR framework and any provisions applicable under them respectively. 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?

Personal data entrusted to the EPO are processed in secure IT applications according to the EPO's security standards. 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, in general, such data transfers do not take place, with the following exceptions: registered users from parties to PGP proceedings can download personal data from MyEPO Portfolio for patent applications and patents to which they have access rights.

Appropriate levels of access are granted individually only to the abovementioned recipients. MyEPO Portfolio is hosted on EPO premises, and the following base 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.

Access to MyEPO Portfolio is obtained upon authentication of the users. The users must create an EPO account using an external service, by indicating their first name, last name, email address and a password. Furthermore, a second factor of authentication is added to the external service account and is required to access MyEPO Portfolio. The external service provider provides for various possibilities for two-factor authentication by entering a single-use code:

- generated by an app provided by the external service provider;
- sent to the user's phone via text message (SMS) or voice call; or
- sent to the email address associated with the user's EPO account.

We take appropriate technical and organisational measures to safeguard and protect users' personal data from accidental or unlawful destruction, loss or alteration and unauthorised disclosure or access.

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?

Users have the right to access, rectify, and receive their personal data, to have their data erased and to restrict and object to the processing of their data, as outlined in Articles 18 to 24 of the EPO Data Protection Rules.

As with all secondary legislation adopted by the Administrative Council in accordance with its powers under Article 33(2) EPC, the DPR are subject to the provisions of the EPC, including its Implementing Regulations, which form an integral part of the EPC under Article 164(1) EPC. In addition, where the EPO is acting as PCT receiving Office and International Authority, it is bound first by the PCT legal framework, which consists of the Patent Cooperation Treaty, its Regulations and the related secondary law, i.e. the Administrative Instructions, the Guidelines for receiving Offices and the International Searching and Preliminary Examination Guidelines.

Accordingly, 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, of the PCT legal framework.

The same applies *mutatis mutandis* to proceedings conducted under the UPR (Rules relating to Unitary Patent Protection) and the RFeesUPP (Rules relating to Fees for Unitary Patent Protection), including the provisions applicable under them, as set out in the annex of the [Decision of the President of the European Patent Office dated 7 December 2022 concerning the processing of personal data in proceedings related to European patents with unitary effect](#). In case of conflict, the provisions of the UPR and the RFeesUPP, including the provisions applicable under them, prevail over the Data Protection Rules.

If you would like to exercise any of these rights, please write to the delegated data controller at 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](#) 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 5a 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 EPO's management and functioning) and Article 5b DPR (processing is necessary for compliance with a legal obligation to which the controller is subject).

In particular, personal data are processed for the purposes of the EPO's task under Article 4(3) EPC of granting European patents, as further specified in the relevant provisions of the EPC and the other provisions applicable under it. Where these data are required for proceedings under the EPC, their processing is mandatory

(mandatory personal data). The same applies *mutatis mutandis* to data required for proceedings under the PCT and the UPR.

Concerning the processing of personal data in proceedings related to European patents with unitary effect, reference is made to the [Decision of the President of the European Patent Office dated 7 December 2022](#).

8. How long do we keep your data?

A patent provides legal protection for up to 20 years, and there is no limit to how long the post-grant procedures can last: after the patent granting procedure, there can be an opposition procedure which will review the patent granting procedure and involve members of the examining division. These members need to be able to retrieve their actions and comments. Moreover, after the patent granting procedure, there can be an appeal procedure whose outcome can be to reopen the examination procedure by the examining division. After that, revocation and limitation procedures may take place at any time, even after expiry of the patent protection. The examining division needs to be able to retrieve the actions and comments of the initial procedure. For more information, see 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 \(OJ EPO 2021 A98\)](#).

Personal data which are used as part of the patent grant procedure are stored indefinitely.

For the retention period of personal data entered in the "representative area" and available therein, please refer to the related data protection statements on page 1 of this document.

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.

9. Contact information

If you have any questions about the processing of your personal data, please write to the delegated data controller and/or the Data Protection Officer at DPOexternalusers@epo.org.

10. 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.