

## **Data protection statement<sup>1</sup> on the processing of personal data within the Mattersphere case management system of Principal Directorate Patent Law and Procedure**

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 5.3 Patent Law and Procedure uses the Mattersphere software suite as a case management system, knowledge database and electronic storage and archiving system (hereinafter "CMS"). New cases can be opened in the CMS and then used to assign work requests to members of the directorate, gather relevant information and document the elaboration of requests. This entails the processing of personal data.

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

This data protection statement relates to the processing of personal data in the CMS of Principal Directorate 5.3 Patent Law and Procedure, Mattersphere.

Case files consist mainly of the following.

- (i) A page with key information on each case (so-called "metadata") entered in predefined fields, such as subject matter, requester's name and contact details, case handler within the unit, unit concerned and matter type
- (ii) Attachments (such as email exchanges, documents, drafts, legal opinions)

Case handlers may process personal data in both of these components of the CMS. Each directorate within the delegated data controller's unit also has its own area within the CMS that is not accessible to other units within or outside of Principal Directorate 5.3 Patent Law and Procedure.

The EPO processes personal data for the purposes of electronic case management, knowledge management, storage and archiving for Principal Directorate 5.3 Patent Law and Procedure. This encompasses the need to:

- ensure the proper preparation of subsequent actions, e.g. further communications, hearings or final decisions
- prepare statistics and overviews for reporting/statistical purposes
- retrieve previous advice as precedent, example and reference when dealing with new requests, and with a view to harmonising internal and external practice
- archive information/data of longstanding importance

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

Personal data will not be transferred to recipients outside the EPO that 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 of individuals involved in a case
- Correspondence and documents submitted or prepared in the course of the handling the case
- Matter/log file, including metadata
- Ticketing data

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

Personal data are processed under the responsibility of Principal Directorate 5.3 Patent Law and Procedure, acting as the EPO's delegated data controller.

Personal data are processed by the EPO staff in Principal Directorate 5.3 Patent Law and Procedure who use and maintain the CMS referred to in this statement.

External contractors involved in the provision and maintenance of the CMS, namely Elite (formerly Thomson Reuters), may also access and process the personal data.

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

Personal data will be disclosed on a need-to-know basis to the EPO staff working in Principal Directorate 5.3 Patent Law and Procedure, with each directorate within the Principal Directorate having its own area within the CMS that is not accessible to other units within or outside the Principal Directorate.

Personal data may be disclosed to third-party service providers for the provision and maintenance of the CMS, including Elite (formerly Thomson Reuters).

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 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.

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 complying with their data protection obligations under the applicable legal frameworks for data protection. 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 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?**

As a data subject, 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), unless the EPC, the PCT or any practices or provisions applicable under them require differently in relation to personal data processed in the patent granting and related procedures (see the Decision of the President of 13 December 2021, OJ EPO 2021, A98)..

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.

If you would like to exercise any of these rights, please write to the delegated data controller via the DPO at [DPOexternalusers@epo.org](mailto:DPOexternalusers@epo.org), who is the point of contact for external data subjects. EPO employees can contact [pdpatentlaw-dpl@epo.org](mailto:pdpatentlaw-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. 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 would inform you of any such delay.

Kindly note that restrictions of your rights as a data subject could result from the following provisions:

- Rules of Procedure of the Administrative Council, Article 13, in connection with the aim of Article 25(1)c) DPR to safeguard "other substantial interests of the European Patent Organisation pertaining to its core mission, or in reason of obligations arising from the duty of co-operation with the contracting states, including monetary, budgetary and taxation matters, public health and social security;"
- Circular No. 420, Article 4(1)(h) "pursuant to Article 25(1)(c), (d), (g) and (h) DPR when providing or receiving assistance to or from competent public authorities, including from EPC contracting states and international organisations, or when co-operating with them on activities defined in relevant service level agreements, memoranda of understanding and co-operation agreements, either at their request or on the Office's own initiative. A restriction of the data subjects' rights based on Article 25(1)(a), (b), (c), (e), (f), (g) and (h) DPR can also be applied in the context of proceedings related to the prevention and management of grievances under the provisions of Title VIII (Settlement of Disputes) ServRegs and Articles 49, 50, 51 and 52 DPR or 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.

## **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.

## **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.

Personal data are stored in the CMS for 20 years after the year of the file's closure. This default retention period applies unless a different length of time is provided in a specific data processing record of Principal Directorate 5.3 Patent Law and Procedure.

This retention period applies without prejudice to possible archiving (archiving activities are addressed in a separate statement).

In the event of a formal appeal/litigation, all data held at the time when the formal appeal/litigation was initiated will be kept until the proceedings have been concluded or for the default retention period of 20 years, whichever period is longer.

## **9. Contact information**

External data subjects who have any questions about the processing of their personal data can contact the delegated controller via the Data Protection Officer at [DPOexternalusers@epo.org](mailto:DPOexternalusers@epo.org). EPO employees can contact the delegated data controller directly at [pdpatentlaw-dpl@epo.org](mailto:pdpatentlaw-dpl@epo.org). They may also contact the Data Protection Officer at [dpo@epo.org](mailto: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.