

## **Data protection statement<sup>1</sup> on the processing of personal data in the provision of patent law-related legal advice and procedural support by D 5.3.1**

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.

D 5.3.1 Patent Law and Processes is responsible for providing legal and procedural advice in patent law-related matters. This data protection statement relates to the personal data that are processed in the provision of this legal and procedural advice.

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

Upon request from EPO staff, and in some cases from externals, D 5.3.1 provides legal and procedural advice in the form of explanatory notes, legal opinions, written replies, oral replies and records taken thereon, drafts for communications, decisions and legal texts, presentations, letters, speaking notes etc. If personal data are processed, they are provided by the requestor or available in the file of the patent or patent application to which they relate. Requests are received by email, chat function or other available tools. All requests for legal and procedural advice are registered in the case management system (CMS) under a specific log number and assigned to a case handler within the directorate. The legal question is identified, assessed and answered to the requestor. It may be necessary to consult other departments of the EPO. It may also be necessary to record witness hearings during oral proceedings. Furthermore, personal data are processed related to organisational measures within the delegated controller's unit (e.g. internal meetings, minutes taking).

Personal data are processed to provide legal advice and procedural support on matters within the responsibility of PD 5.3 Patent Law and Procedure / D 5.3.1 Patent Law and Processes, mainly providing legal and procedural advice in patent law-related matters, providing up-to-date information to stakeholders as well as all associated actions e.g. to ensure a proper and efficient information flow and management of associated activities. This encompasses:

- registering incoming requests
- delivering required advice, ensuring proper preparation of subsequent actions (e.g. further communications, oral proceedings, final decision)
- ensuring proper collaboration, consultation, alignment and hierarchical approval
- preparation of statistics and overviews for reporting purposes
- retrieval of previous advice as precedence, example and reference when dealing with new requests, with a view to harmonising internal and external practice

---

<sup>1</sup> Version November 2024.

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

The following types/categories of personal data are (or might be) processed regarding individuals requesting a contribution, usually in the form of legal or procedural advice by D 5.3.1:

- identification and contact information (mostly name and email address)
- personal data of external data subjects related to the patent granting and related procedures (PGP), including personal data contained in the patent or patent application such as claims, descriptions, drawings in the European Patent Register or information related to the individual's role in the PGP
- other data provided by the data subject (e.g. in the request or in the documents provided, such as description of concerns, personal case, opinions, assessments, company)
- other information stored in the file and not provided by the data subject (case management system references or contributions related to the matter, such as legal advice, opinions and assessments)

The following types/categories of personal data are (or might be) processed regarding individuals responding to a request, from D 5.3.1 or other contributors from other units in the office:

- identification and contact information (mostly name and email address)
- other data provided by the data subject (e.g. in the response or in the documents provided, such as opinions, assessments, job title role and department name)
- other information stored in the file and not provided by the data subject (case management system references or contributions related to the matter, such as legal advice, opinions and assessments)

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

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

Personal data are processed by the EPO staff involved in delivering the patent law-related legal advice and procedural support referred to in this statement, including staff from D 5.3.1. PD 4.5 CTO/BIT and PD 4.6 CIO/BIT also process personal data for support and maintenance purposes.

External contractors involved in the provision and maintenance of platforms necessary for this data processing activity may also process personal data, which can include accessing these data. This includes ServiceNow, Global Lingo, OpenText, Elite (formerly Thomson Reuters), Atlassian/JIRA and Microsoft.

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

Personal data are accessible by staff from D 5.3.1 involved in the provision of legal advice and procedural support.

Personal data are disclosed on a need-to-know basis to the EPO staff working in PD 4.5 CTO/BIT, PD4.6 CIO/BIT and the hierarchy above PD 5.3 (Vice President DG5 International and Legal Affairs, President of the EPO). Personal data are also disclosed to other units in the EPO on a need-to-know basis and to the requester of legal or procedural support, both inside the EPO and external to the EPO.

Personal data may be disclosed to third-party service providers for provision and maintenance of platforms necessary for the delivery of patent law-related legal advice and procedural support, including ServiceNow, Global Lingo, OpenText, Elite (formerly Thomson Reuters), Atlassian/JIRA and Microsoft.

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 the 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

For personal data processed on systems not hosted on EPO premises, the EPO has carried out a privacy and security risk assessment. The providers processing the personal data have committed in a binding agreement to complying 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 means of encryption)
- user, transmission and input control measures (e.g. network firewalls, a network intrusion detection system (IDS), a network intrusion protection system (IPS), audit logging)
- conveyance control measures (e.g. securing data in transit by means of 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), 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 those made by third parties. The right to erasure does not apply where the legal obligation on the controller requires the processing of personal data. With regards to the right of access, if the EPO considers it necessary to protect the confidentiality of internal deliberations and decision-making, certain information may be deleted from the copy of personal data provided to the data subject.

If you would like to exercise any of these rights, please write to the delegated data controller, at [DPOexternalusers@epo.org](mailto:DPOexternalusers@epo.org) for external users and [pdpatentlaw-dpl@epo.org](mailto:pdpatentlaw-dpl@epo.org) for EPO employees. 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. 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 DPR:

- (a) 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.
- (b) Processing is necessary for compliance with a legal obligation to which the controller is subject (e.g. according to Articles 18(2) EPC, 4th sentence, or Article 19(2) EPC, 5th sentence, where an examining or opposition division is enlarged by a legally qualified member, there is a corresponding obligation for the legally qualified member, who will be appointed from D 5.3.1 to provide legal advice to the division).

## **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 for non-patent-file-related matters are kept for the default retention period for legal and procedural advice for legal affairs (20 years). Rare cases in which high-ranked officers of the EPO (e.g. President of the EPO or VP DG5 International and Legal Affairs) were involved in order to be able to document the decision-making process are an exception.

Personal data in patent-file-related matters (European Patent Applications and European Patents) should be kept for 30 years to cover the longest possible period under Rule 147 EPC.

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 the formal appeal/litigation was initiated will be retained until the proceedings have been closed, or until the end of the above-described retention period, whichever is longest.

## **9. Contact information**

If they have any questions about the processing of their personal data, external data subjects can write to the delegated data controller at [dpoexternalusers@epo.org](mailto:dpoexternalusers@epo.org), and EPO employees can write to [pdpatentlaw-dpl@epo.org](mailto:pdpatentlaw-dpl@epo.org).

Internals may also contact our Data Protection Officer at [dpo@epo.org](mailto:dpo@epo.org), while externals may contact our Data Protection Officer at [DPOexternalusers@epo.org](mailto:DPOexternalusers@epo.org).

## **Review and legal redress**

If you believe 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.