

## **Data protection statement<sup>1</sup> on the processing of personal data within the context of the administration of the list of professional representatives before the European Patent Office**

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.

A natural person must be registered on the list of professional representatives to be entitled to act as a professional representative before the EPO. The Legal Division of the EPO is responsible for decisions in respect of registration on, and deletion from, the list of professional representatives and administration of the searchable database on the EPO website. This involves processing the personal data of professional representatives.

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

This data protection statement explains the way in which personal data is processed in the maintenance of the list of professional representatives, such as how it is collected by the EPO, how it is used by the Legal Division to maintain the list of professional representatives and how this personal data may be amended.

Personal data are processed for the following purposes:

- the setting up, maintenance and publication of the list of professional representatives by the EPO
- the provision of up-to-date information to stakeholders as well as the execution of all associated actions to ensure proper and efficient information flow, for instance, and management of associated activities. This encompasses:
  - o entry on, and deletion from, the list of professional representatives and the European Patent Register
  - o publication in the EPO Official Journal (OJ), announcement of the list of professional representatives before the EPO, publication in the searchable database on the EPO website
  - o ensuring that the Institute of Professional Representatives before the EPO (epi) is provided with the personal data necessary to administer the epi membership of data subjects
  - o providing EPO units with information necessary to perform tasks associated with being listed as professional representatives
  - o preparing statistics.

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, 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 types/categories of personal data are (or might be) processed regarding the professional representatives concerned (referred to as "external data subjects" in the record of processing operations):

- Contact information (phone numbers, email addresses, postal address of place of business/employment)
- personal information provided voluntarily
- employment information (business name, job title, office location, previous work history)
- European Patent Register data (address and any other data provided by the data subject)
- government identifiers (national identity card details, passport number) and copies of identity cards or passports
- professional experience and affiliations (professional memberships, qualifications, certifications)
- ticket-related data (Customer Service Management data)
- IP address (if the online tool is used).

The following types/categories of personal data are processed regarding the employees of the EPO who are involved in processing the requests ("EPO employees"):

- personal identification (full name, sex)
- contact information (postal address, phone numbers, email addresses)
- employment information (business unit/division, job title/role, office location, personnel number)
- ticket-related data (Customer Service Management data)

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

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

Personal data are processed by the EPO staff involved in managing the list of professional representatives in the Legal Division, Principal Directorate 5.3 Patent Law and Procedures.

External contractors involved in providing means for the described processing operation 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 Legal Division, Principal Directorate 5.3 Patent Law and Procedures, and the following EPO units:

- DG 1: support units responsible for operations
- DG 4: General Administration; Business Information Technology
- DG 5: Certifications and Official Publications (EPO Official Journal; European Patent Bulletin)
- DG 0, DG 1, DG 5: other internal contact detail exports or statistics on request
- Boards of Appeal Unit.

As indicated on the entry form(s), some personal data are also made publicly available through publication in the OJ and, depending on the professional representative's choice, in the EPO's searchable database.

Personal data may be disclosed to third-party service providers such as Microsoft and ServiceNow as well as to the epi in respect of epi membership status and payment of membership fees. Otherwise, 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 personal data processed on systems not hosted on EPO premises, the EPO has 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 control measures: role-based, principles of need-to-know and least privilege
- storage control measures: access control, e.g. role-based, principles of need-to-know and least privilege, securing data at rest, e.g. by encryption, secure disposal of data carriers
- user control measures: network security measures, e.g. network firewalls, network intrusion detection system (IDS), network intrusion protection system (IPS), host security measures, e.g. antivirus, antimalware, anti-spyware, whitelisting, host firewall, host IDS, host IPS, system hardening, vulnerability and patch management
- transmission control measures: audit logging, system and network monitoring
- input control measures: audit logging, system monitoring
- conveyance control measures: securing data in transit, e.g. 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), unless the EPC, the PCT, the UPR or any practices or provisions applicable under them require otherwise in relation to personal data processed in the patent granting and related procedures (see the [Decision of the President](#) of 13.12.2021, 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. The right to erasure does not apply where the legal obligation on the controller (e.g. to maintain the list of professional representatives) requires the processing of personal data.

Where personal data is processed on the basis of consent (Article 5(d) DPR), as is the case, for instance, for the publication of the representatives' contact details in the EPO online database, you have the right to withdraw your consent at any time, without affecting the lawfulness of processing based on your consent before its withdrawal.

If you would like to exercise any of these rights, external users should write to [DPOexternalusers@epo.org](mailto:DPOexternalusers@epo.org), otherwise contact the delegated data controller at [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 [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 the following legal bases:

- 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 EPO's management and functioning, e.g. use of telecommunication details such as phone and email by the EPO and the epi to contact the data subject in the case of a question.

- Article 5(b) DPR: processing is necessary for compliance with a legal obligation to which the controller is subject, e.g. publication of the name, business address and nationality of professional representatives in the Official Journal of the EPO.
- Article 5(d) DPR: the data subject has given explicit consent to the processing of his or her personal data for one or more specific purposes, e.g. publication of the representative's contact details in the EPO online database.

Where special categories of data are processed, this is done on the basis of Article 11(2)(f) DPR: the processing is necessary for a specific purpose relating to 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 substantially necessary for the management and functioning of the EPO, having regard to the principle of proportionality, or in reason of obligations arising from its duty of co-operation with the contracting states. This processing must be based on a legal instrument which is proportionate to the aim pursued, respects the essence of the right to data protection and provides for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

Personal data are processed on the basis of several legal instruments, especially the European Patent Convention (EPC) (e.g. Articles 20, 134 and 134a, Rules 143(1)(h), 144, 147 and 154), the Regulation on the establishment of an Institute of Professional Representatives before the EPO (Supplementary publication 1, OJ EPO 2020, XIV.1) and the Administrative Agreement dated 5 April 1993 between the EPO and the epi (OJ EPO 1993, 339).

## **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 will be deleted after 99 years from the first date of entry of the individual on the list of professional representatives before the EPO to cover the average lifetime of a professional representative and any related post-procedural and disciplinary consequences arising therefrom.

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, externals should contact the DPO and/or the delegated data controller at [DPOexternalusers@epo.org](mailto:DPOexternalusers@epo.org). EPO employees should contact the delegated data controller at [pdpatentlaw-dpl@epo.org](mailto:pdpatentlaw-dpl@epo.org) or 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.