

Privacy Policy of the Austrian Patent Office (APO) in connection with National Administration

As in force on 06.07.2023

Preamble

This Privacy Policy applies to the processing of personal data in the course of governmental procedures dealt with by the APO.

1. Information regarding the Controller and the Data Protection Officer

1.1 The Controller according to the General Data Protection Regulation (GDPR):

Austrian Patent Office

Contact information:

Dresdner Straße 87

1200 Wien

e-mail address: pkanzlei@patentamt.at

1.2 Data Protection Officer for the APO, Ms. Claudia Sterkl and Ms. Denise Miteregger, Federal Ministry of Climate Action, Environment, Energy, Mobility, Innovation and Technology

Contact information:

Radetzkystraße 2

1030 Wien

e-mail address: datenschutz@bmk.gv.at

Tel.: + 43 1 711 62-65 7400

2. Information on processing purposes and legal bases

2.1 The processing of our applicants' personal data respectively those of other parties concerned (parties concerned according to the GDPR are natural persons; applicants and parties concerned are termed data subjects hereinbelow) is first and foremost carried out

to facilitate the exercise of public authority as delegated to the APO. This exercise of public authority comprises proceedings such as application, opposition, cancellation, nullification and all other proceedings regulated by law.

2.1.1 The legal basis for proceedings according to 2.1. is Art. 6 (1), point (e) GDPR in conjunction with the relevant law, i.e. Patent Law (Patentgesetz), Utility Model Law (Gebrauchsmustergesetz), Trade Mark Protection Law (Markenschutzgesetz), Design Protection Law (Musterschutzgesetz), Semiconductor Protection Law (Halbleiterschutzgesetz), Supplementary Protection Certificate Law (Schutzcertifikatsgesetz).

2.2 The personal data of data subjects processed in the course of the exercise of public authority as delegated to the APO may subsequently be processed for archival/statistical purposes or scientific research provided the outcome of such processing is not aimed at generating personalized findings.

2.2.1. Legal basis of this processing according to 2.2 is Art. 6 (2) GDPR and § 7 of the Austrian Data Protection Act (Datenschutzgesetz).

2.3 The processing of personal data of data subjects may also serve the purpose of enabling the APO to meet its legal obligations, e.g. internal audits or audits carried out by the Austrian Court of Audit. Such processing may also involve the transfer of documents which the APO is duty-bound to carry out in accordance with the Federal Act on the Re-Use of Public Sector Information (Informationsweiterverwendungsgesetz (IWG)).

2.3.1. Legal basis of this processing according to 2.3. is Art. 6 (1), point (c) GDPR.

2.4. Insofar as data subjects provide their express approval their personal data will also be processed in order to make the APO's Newsletter available to them per email. Furthermore, with consent, a date of birth or gender may be processed for statistical purposes as well as a telephone or fax number and an e-mail address for the purpose of improved communication. An express approval also facilitates the processing of data relating to a bank account enabling a perhaps necessary remittance of fees.

2.4.1. Legal basis for data processing according to 2.4. is Art. 6 (1), point (a) GDPR. The approval may be retracted at any point in time which however does not anyway affect the legitimacy of the data processing up to said point in time.

3. Information regarding possible recipients of personal data

3.1. Personal data of data subjects is processed by the public employees of the APO solely for the purposes mentioned in 2.

3.2. The registers administered by the APO as well as the APO's information services, e.g. patent and utility model sheets, printed patent specifications, the brand and pattern register are accessible to everyone meaning that all users become recipients of the personalized data processed within the framework of said registers and services.

3.3. Personal data may be forwarded to international organizations (EPO, WIPO) and other patent offices in third countries on the basis of an adequacy decision of the European Commission (Article 45 GDPR, for USA eg "Privacy Shield"), from the registers open to the public (Article 49 para 1 lit. g DSGVO) or if this is necessary due to an important public interest (Art. 49 (1) (d) GDPR).

3.4. If need be personal data may be transmitted to third parties (superior department, Court of Auditors, contractual partners according to the above-mentioned IWG) in order to fulfil legal obligations.

3.5. There are cases where personal data may have to be transmitted to processors within the meaning of Art. 28 GDPR.

4. Information on the duration of storage of personal data

4.1. In any case personal data are stored until official proceedings are finalized.

4.2. The deletion periods also result from the provisions on file management.

4.3. Note that there are no legal prescriptions or restrictions regarding the deletion or allowed storage time respectively of data processed within the frameworks of the APO's registers and information services (e.g. patent and utility model sheets, printed patent specifications, the brand and pattern register).

4.4. Should a data subject revoke the initial approval as provided for in 2.4., all personalized data processed up to the date of revocation for these purposes on basis of the said approval, shall be deleted.

5. Information on the rights of data subjects

5.1. All data subjects are legally entitled to...

5.1.1. Right of access according to Art. 15 GDPR,

5.1.1.1. (This right to receive information according to Art. 15 (1), point (c) GDPR does not exist insofar as personal data is processed in the register or in publicly accessible electronic information services of the Patent Office),

5.1.2. Rectification according to Art. 16 GDPR,

5.1.3. Erasure (the right to be forgotten) according to Art. 17 GDPR,

5.1.4. Restriction of processing according to Art. 18 GDPR,

5.1.4.1. (This right to restriction of processing according to Art. 18 GDPR does not exist insofar as personal data is processed in the register or in publicly accessible electronic information services of the Patent Office),

5.1.5. Object according to Art. 21 GDPR,

5.1.5.1. (This right to object according to Art. 21 GDPR does not exist insofar as personal data is processed in the register or in publicly accessible electronic information services of the Patent Office),

5.1.6. Data portability according to Art. 20 GDPR,

5.1.6.1. (According to Art. 20 (3) GDPR, this right to receive and transmit data however does not exist in instances of processing which are necessary for the administration of duties of public interest or the exercise of public authority delegated to the APO).

5.2. The suspension of the rights of data subjects according to 5.1.1.1., 5.1.4.1., 5.1.5.1. is regulated in §§ 81 (8) Patent Law (if need be in conjunction with § 7 Supplementary Protection Certificate Law), 38 (7) Utility Model Law, 50 (6) Trade Mark Protection Law, 18 (4) Semiconductor Protection Law and 31 (7) Design Protection Law.

5.3. Every data subject is entitled to lodge a complaint with the supervisory authority (Austrian Data Protection Authority, Datenschutzbehörde).

6. Information regarding the issues whether the provision of personal data is legally or contractually required or necessary to conclude a contract, whether the person concerned is obligated to provide personal data and what conceivable consequences not providing such data might entail

6.1. In order to pursue an official procedure in a legal and proper manner the APO must of necessity process personal data.

6.2. Official procedures of the APO do not impose a legal obligation to provide personal data.

6.3. Not providing such data may however result in an inability to exercise rights the relevant laws otherwise allow for.

7. Information about the existence of automated decision-making including profiling

7.1. The APO does not take the personal data of data subjects as a basis for automated decision-making.

7.2. The APO likewise does not use the personal data of data subjects to engage in profiling.

8. Information relevant to website users regarding cookies and web analysis

8.1. In order to configure our range of services as user-friendly as possible our website uses so-called cookies. Cookies are small text files which the browser drops on your terminal device and will not cause any damage.

8.2. Some cookies remain saved until you delete them. These enable us to recognize your browser the next time you visit our website. Should you be averse to this you can set your browser in such a manner that you are informed of the dropping of cookies and that you only allow this as the particular case may be. Note however that such a procedure may possibly prevent your ability to fully use all functions of our website.

8.3. Our website uses Matomo (formerly Piwik), which enables a statistical analysis of website use by means of cookies. This statistical analysis involves the transmission of user information, the IP-addresses however being rendered anonymous in the process. Personalized data is therefore not saved for the purposes of statistical analysis.

9. information regarding the use of Google reCAPTCHA

9.1 Google reCAPTCHA can be used for electronic registration forms of the APO (currently only in the trademark area) in order to prevent misuse, for example by bots or spammers. The processing is carried out in accordance with Art. 6 para. 1 lit. e GDPR.

9.2 The reCAPTCHA service processes data to determine whether a user is a human or a bot. The data subject's reCAPTCHA input is transmitted to Google and processed there. In addition, the IP address of the data subject and any other data required for the execution of reCAPTCHA are transmitted to Google.

9.3 The data is processed by Google within the European Union and, if necessary, also in the USA. The transfer of personal data to the third country USA is permitted on the basis of an adequacy decision pursuant to Art. 45 GDPR of the European Commission ("Privacy Shield"). Google has undertaken to comply with the "Privacy Shield" agreement. Information on data protection and Google's privacy policy can be found at the following link <https://www.google.com/intl/de/policies/privacy/>.