



# Presidium of the Unified Patent Court

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## Guidelines for the protection of personal data in the Unified Patent Court

10 February 2023

Decision of the Presidium of the Unified Patent Court of 10 February 2023  
on the  
Guidelines for the protection of personal data in the Unified Patent Court

## Preamble

The purpose of these Guidelines is to ensure that every person whose personal data are used by the Unified Patent Court (UPC) is guaranteed protection of their privacy with regards to the handling of their personal data. It shall also provide guidance for all Unified Patent Court staff on the permissible use and handling of personal data, including and with specific reference to operational data, acknowledging the need for the smooth operation of services and administration of employment relationships.

## CHAPTER I

### *General provisions*

#### Article 1

##### *Purpose of these Guidelines*

- (1) The Unified Patent Court shall protect the rights of natural persons to privacy with respect to the processing of personal data. In this context, personal data means any information relating to an identified or identifiable natural person.
- (2) In the processing of personal data at the Unified Patent Court, the principles of, and rules on the processing of personal data that are established in [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016](#) have to be observed as well as other relevant European Union law concerning the protection of personal data, even if this Guidelines do not explicitly refer to them.
- (3) These Guidelines shall be without prejudice to the application of [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016](#) and to the application of other relevant European Union law concerning the protection of personal data. In case of a conflict between these Guidelines and Regulation (EU) 2016/679, the Regulation (EU) 2016/679 shall prevail.

#### Article 2

##### *Definitions*

- (1) For the purpose of these Guidelines:
  - a) “EU-GDPR” means [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016](#);
  - b) “UPC Agreement” means [Agreement on a Unified Patent Court](#);
  - c) “UPC Rules” means [Rules of Procedure of the Unified Patent Court](#); and
  - d) “responsible organizational unit” means an organizational unit or sub-unit of the Unified Patent Court, for example the central or a local or regional division of the Court of First

Instance, the Court of Appeal, the Registry or one of its sub-units or any organizational unit from a Contracting Member State that performs tasks for the Unified Patent Court; where this organizational unit either has declared its responsibility for an activity of processing personal data according to Article 14 paragraph (2) of these Guidelines, or in case that no organizational unit has explicitly declared its responsibility, where this organizational unit in fact determines the purposes and means of the processing.

(2) Additionally, and if not stated otherwise below, expressions are used in these Guidelines according to the definitions in Article 2 of the UPC Agreement and to the definitions in Article 4 EU-GDPR. In the event of a conflict between the definitions of the UPC Agreement on the one hand and the EU-GDPR on the other hand, the definitions of the EU-GDPR shall prevail.

(3) References in these Guidelines to persons are to be regarded as applying to persons of either sex.

### Article 3

#### *Scope*

(1) These Guidelines apply to the processing of personal data when its purposes and means are determined by, when it is done on behalf of, or when it is done by the Unified Patent Court, one of its organizational units or one of its members or employees.

(2) They also apply to the processing of personal data when its purposes and means are determined by, when it is done on behalf of, or when it is done by local staff that is provided by Contracting Member States for the operation of the local, central or regional divisions of the Unified Patent Court including the associated non-central IT systems.

(3) These Guidelines shall apply to the judges of the divisions and panels of the Court of First Instance including the presiding judges and to the judge of the panels of the Court of Appeal including the presiding judges. For the processing of personal data in the scope of the Unified Patent Courts legal procedures, the UPC Rules shall be obeyed. The independence of the judiciary in the performance of its judicial tasks, including decision-making, shall be safeguarded and duly respected whenever the UPC is acting in its judicial capacity.

### Article 4

#### *Principles and Lawfulness of Processing*

(1) Processing of personal data shall be done according to the principles in accordance with Article 5 et seqq. EU-GDPR having due regard to Article 9 paragraph 2 lit.f EU-GDPR.

(2) Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall not be done except if one of the conditions apply that are listed in Article 9 paragraph 2 EU-GDPR.

## CHAPTER II

### *Responsibilities and Competences*

#### Article 5

##### *General responsibility*

(1) The Unified Patent Court is controller in the meaning of Article 4 paragraph 7 EU-GDPR. The main establishment of the controller in the meaning of Article 56 EU-GDPR is located at the Registry in Luxembourg.

(2) Without prejudice to the external responsibility of the Unified Patent Court, each organizational unit, member or employee of the Unified Patent Court, including the local staff, has the duty to observe the relevant data protection regulations, including these Guidelines, in the scope of their own activities and tasks, especially if they

- a) collect or obtain personal data,
- b) create, manage, use, destroy, delete, send or transmit files or documents that contain personal data (e.g. managing address lists of external persons, sending documents by E-mail or Fax), or
- c) provide information about or access to personal data.

(3) If contracts are awarded to external service providers, the responsible organizational unit of the Unified Patent Court has to ensure that the external service providers are informed about and contractually bound to their duties according to these Guidelines, including the duties named in Article 28 EU-GDPR.

#### Article 6

##### *Mainly responsible organizational unit*

(1) If several organizational units are using an IT system together or are carrying out a project together and therefore are affected, one of them shall declare to be the mainly responsible organizational unit by reporting the processing according to Article 14 paragraph (2) of these Guidelines, and shall perform the tasks of the responsible organizational unit. In doubt, the mainly responsible organizational unit is determined by the Presidium of the Unified Patent Court.

(2) The mainly responsible organizational unit shall inform the other affected organizational units about its intention to process personal data without undue delay.

(3) If one of the other affected organizational units does not agree with the way in which the tasks defined in paragraphs (1) to (2) of this Article are performed by the mainly responsible organizational unit, and the matter cannot be solved by direct consultation between the units, the other unit shall enter a complaint to the Registrar

#### Article 7

##### *Data Protection Officer*

(1) The Presidium of the Unified Patent Court designates a Data Protection Officer according to Article 37 EU-GDPR. The Members and Employees of the Unified Patent Court, including the local staff provided by Contracting Member States, are informed about the designation and shall support them in their tasks.

The contact details of the data protection officer shall be published and communicated by the Registrar to the supervisory authorities of each Contracting Member State.

(2) The Data Protection Officer shall monitor the observance of these Guidelines with respect to all processing operations performed by the Unified Patent Court. They is responsible for all questions concerning the protection and security of personal data.

(3) The Data Protection Officer is established in a position according to Article 38 EU-GDPR. Especially, the Data Protection Officer is independent in their function and is directly assigned to, directly reports to and has direct access to the Presidium of the Unified Patent Court in matters concerning data protection. They is shown separately in the organization chart and other governance maps.

(4) Subject to Article 3 Section 3 Sentence 3, the Data Protection Officer has to fulfill the tasks listed in Article 39 EU-GDPR as well as the following tasks:

- a) to advise the Court management in general questions of personal data protection and data security;
- b) to advise and support the organizational units, employees and members of the Unified Patent Court in all questions of protection of personal data and data security;
- c) to act as a direct contact person for all employees or members of the Unified Patent Court in matters of employees' personal data protection;
- d) to maintain a record according to Art. 30 EU-GDPR of personal data processing activities that are done under the responsibility of the Unified Patent Court;
- e) to process and answer requests according to Article 12 of these Guidelines, supported by the relevant organizational units, if the requests are not addressed to a specific responsible person or organizational unit.

(5) The Data Protection Officer has to be informed about and participates in the creation of concepts for personal data protection and data security, in the design, the implementation, the operational launch and the subsequent operation of information technology systems for the processing of personal data.

(6) Each person that is responsible according to Article 5 paragraph (2) of these Guidelines has to ensure that the Data Protection Officer is involved in an appropriate and timely manner, in all issues which relate to the protection of personal data.

(7) The Data Protection Officer has to be granted access to all facilities and to all files. This right shall only be used insofar as this is needed to fulfil their tasks as defined by these Guidelines and having due regard to the independence of the UPC when acting in its judicial capacity.

(8) If the Data Protection Officer observes an infringement of relevant data protection regulations, including these Guidelines, they shall give notice to the relevant organizational unit and the Registrar. If possible, they shall submit proposals for corrective actions and for further optimization of data protection.

(9) Audits, findings and complaints of the Data Protection Officer may only be used for controlling and ensuring of compliance with the relevant data protection regulations, including these Guidelines.

## Article 8

### *Special Responsibilities*

(1) The Presidium of the Unified Patent Court makes final decisions on general questions on data protection affairs. Especially, it can determine that certain categories of personal data may not be processed on behalf of or by the Unified Patent Court at all, or only in certain IT systems, or only by using specific safeguards against data breach. In urgent situations, the President of the Court of Appeal, or in his absence, the President of the Court of First Instance may decide on their own, if the Presidium cannot take a valid decision according to its Rules of Procedure in due time.

(2) The organizational units are responsible for ensuring the compliance with the relevant data protection regulations, including these Guidelines, with respect to the specification and application of the IT systems that process personal data at or on behalf of the Unified Patent Court in the scope of their unit. In this context, the units have to provide the measures and to take the actions that are necessary from the organizational point of view.

(3) Especially, and if not declared otherwise according to Article 14 paragraph (2) of these Guidelines,

- a) the Registrar is responsible for ensuring compliance with the relevant data protection regulations, including these Guidelines, with respect to the specification of the Case Management System of the Unified Patent Court, and with respect to its application in cases before the Court of Appeal respecting and safeguarding the judicial independence when the UPC is acting in its judicial capacity, including decision-making. In doubt, respectively if not determined otherwise, the Registrar is also responsible with respect to the specification and application of other IT systems used for administrative purposes of the Unified Patent Court;
- b) the Deputy-Registrar is responsible for ensuring compliance with the relevant data protection regulations, including these Guidelines, with respect to the application of the Case Management System in cases before the Court of First Instance respecting and safeguarding the judicial independence when the UPC is acting in its judicial capacity, including decision-making. In view of the specification of the Case Management System, the Deputy-Registrar is affected in the meaning of Article 6 of these Guidelines;
- c) the Head of IT is responsible for ensuring the compliance with the relevant data protection regulations, including these Guidelines, with respect to the Website, the E-Mail-System and the Collaboration Platform of the Unified Patent Court. Apart from this, the Head of IT is also responsible for the technical implementation of all centralized IT systems that process personal data at or on behalf of the Unified Patent Court, and for IT governance matters and their technical implementation;
- d) the Head of Human Resources is responsible for ensuring compliance with the relevant data protection regulations, including these Guidelines, with respect to the specification and application of the Training Environment and of the Human Resources modules as part of the Enterprise Resource Planning Systems of the Unified Patent Court. In cooperation with the Data Protection Officer, they is also responsible for informing every new staff member or judge in the scope of Article 3 of these Guidelines about their duties under the relevant data protection regulations, including these Guidelines; and
- e) the Head of Finance is responsible for ensuring compliance with the relevant data protection regulations, including these Guidelines, with respect to the specification and application of the modules Finance, Accounting and Order Processing as part of the Enterprise Resource Planning Systems of the Unified Patent Court.

(4) The Heads of the organizational units act as contact person for data protection affairs in the scope of their unit.

## Article 9

### *Processors*

(1) Where processing is to be carried out on behalf of the Unified Patent Court, only processors shall be used that provide sufficient guarantees to implement appropriate technical and organizational measures in such a manner that processing will meet the requirements of the relevant data protection regulations, including these Guidelines, and ensure the protection of the rights of the data subject.

(2) The processor shall not engage another processor without prior specific or general written authorization of the responsible organizational unit of the Unified Patent Court. In the case of general written authorization, the processor shall inform the responsible organizational unit of any intended changes concerning the addition or replacement of other processors, thereby giving the responsible organizational unit the opportunity to object to such changes.

(3) Processing by a processor shall be governed by a contract or other legal act under European Union or Contracting Member State law, that is binding on the processor with regard to the Unified Patent Court and that sets out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the Unified Patent Court. In particular, that contract or other legal act shall stipulate the observance of the conditions listed in Art. 28 EU-GDPR.

(4) Where a processor engages another processor for carrying out specific processing activities on behalf of the Unified Patent Court, the same data protection obligations as set out in the contract or other legal act between the Unified Patent Court and the processor as referred to in paragraph (3) of this Article shall be imposed on that other processor by way of a contract or other legal act under European Union or Contracting Member State law, in particular providing sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing will meet the requirements of the relevant data protection regulations, including these Guidelines. Where that other processor fails to fulfil its data protection obligations, the initial processor shall remain fully liable to the Unified Patent Court for the performance of that other processor's obligations.

(5) Adherence of a processor to an approved code of conduct as referred to in Article 40 EU-GDPR or an approved certification mechanism as referred to in Article 42 EU-GDPR may be used as an element by which to demonstrate sufficient guarantees as referred to in paragraphs (1) and (4) of this Article.

(6) Without prejudice to an individual contract between the Unified Patent Court and the processor, the contract or the other legal act referred to in paragraphs (3) and (4) of this Article may be based, in whole or in part, on standard contractual clauses referred to in paragraphs 7 and 8 of Article 28 EU-GDPR, including when they are part of a certification granted to the Unified Patent Court or the processor pursuant to Articles 42 and 43 EU-GDPR.

(7) The contract or the other legal act referred to in paragraphs 3 and 4 of this Article shall be in writing, including in electronic form.

## Article 10

### *Supervisory authority*

(1) The supervisory authority as defined in Article 51 EU-GDPR and competent according to Articles 55 to 58 EU-GDPR has to be contacted and informed by the responsible organizational unit

- a) in case of a personal data breach, according to Article 15 paragraph (2) of these Guidelines;
- b) in case of an intended high risk data processing, in form of a prior consultation according to Article 36 paragraph 1 EU-GDPR;
- c) in case of an intended transfer of personal data to a third country or to an international organization, if safeguards have been provided by contractual clauses or administrative agreements according to Article 46 paragraph 3 EU-GDPR, in advance to gain authorization; and
- d) in case of an exceptional transfer of personal data to a third country under the conditions of Article 49 paragraph 1 subparagraph 2 EU-GDPR, in advance.

(2) By regard of Articles 55 and 56 EU-GDPR, the competent supervisory authority has to be determined case-by-case based on the following principles:

- a) According to Article 55 paragraph 3 EU-GDPR, if the processing is done when the Unified Patent Court is acting in its judicial capacity, no supervisory authority is competent at all. In this case, either if the processing is done in a Contracting Member State that has entrusted a specific body with the supervision of such data processing operations according to Recital 20 EU-GDPR, this specific body has to be regarded to be competent, or otherwise, the presiding judge of the responsible panel has to supervise the compliance with relevant data protection regulations, including these Guidelines;
- b) if the processing is not done when the Unified Patent Court is acting in its judicial competence, but is nonetheless done because it is necessary either for compliance with a legal obligation to which the Unified Patent Court is subject based on Article 6 paragraph 1 point c EU-GDPR, or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Unified Patent Court based on Article 6 paragraph 1 point e EU-GDPR, the supervisory authority of the Contracting Member State concerned shall be competent according to Article 55 paragraph 2 EU-GDPR, depending on which Contracting Member State's territory the processing is done; and
- c) if neither point a) nor point b) of this paragraph apply, the supervisory authority of Luxembourg is regarded to be competent at least as a lead supervisory authority in the meaning of Article 56 EU-GDPR.

(3) If the Unified Patent Court is contacted from a supervisory authority of any Contracting Member State, this supervisory authority shall be accepted to be competent as long as the Unified Patent Court cannot prove that the specific matter of the request is a processing operation of the Unified Patent Court acting in its judicial capacity.



## CHAPTER III

### *Rights of the Data Subject*

#### Article 11

##### *Right on information*

(1) Where personal data are collected from the data subject or have been obtained, but not from the data subject, the responsible organizational unit of the Unified Patent Court shall provide the data subject with information according to Article 13 EU-GDPR respectively Article 14 EU-GDPR. If appropriate, this shall be done by using the privacy note in Annex I of these Guidelines if the data subject is not a member of the Unified Patent Court.

(2) Where the personal data are collected from the data subject, the responsible organizational unit shall provide the information according to Article 13 EU-GDPR at the time when personal data are obtained.

(3) Where personal data have not been obtained from the data subject, the responsible organizational unit shall provide the information according to Article 14 paragraph 1 EU-GDPR

- a) within a reasonable period after obtaining the personal data, but at the latest within one month, having regard to the specific circumstances in which the personal data are processed;
- b) if the personal data are to be used for communication with the data subject, at the latest at the time of the first communication to that data subject; or
- c) if a disclosure to another recipient is envisaged, at the latest when the personal data are first disclosed.

(4) Where the Unified Patent Court intends to further process the personal data for a purpose other than that for which the personal data were collected or obtained, the responsible organizational unit shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further information according to Article 13 paragraph 3 respectively Article 14 paragraph 4 EU-GDPR.

#### Article 12

##### *Additional rights of the data subject*

(1) The data subject shall obtain from the Unified Patent Court and its processors

- a) the right of access to his personal data as defined in Article 15 EU-GDPR,
- b) the right of rectification as defined in Article 16 EU-GDPR,
- c) the right to erasure as defined in Article 17 EU-GDPR,
- d) the right to restriction of processing as defined in Article 18 EU-GDPR,
- e) the right to data portability as defined in Article 20 EU-GDPR,
- f) the right to object to processing as defined in Article 21 EU-GDPR, and
- g) the right not to be subject to a decision based solely on automated processing as defined in Article 22 EU-GDPR.

(2) The rights mentioned in paragraph (1) of this Article may be restricted by the Rules of Procedure of the Unified Patent Court. They can be requested either from the Data Protection Officer, who immediately informs the responsible organizational unit, or directly from the responsible organizational unit of the Unified Patent Court. In both cases, the requests have to be handled by the responsible organizational unit, but the observance of these rights is monitored and coordinated by the Data Protection Officer.

(3) The responsible organizational unit of the Unified Patent Court shall communicate any rectification or erasure of personal data or restriction of processing carried out in accordance with paragraph (1) point b) to d) of this Article to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. The responsible organizational unit of the Unified Patent Court shall inform the data subject about those recipients if the data subject requests it.

### Article 13

#### *Modalities for the exercise of the rights of the data subject*

(1) The responsible organizational unit of the Unified Patent Court respective the Data Protection Officer shall take appropriate measures to provide any information referred to in Article 11 and any communication under Article 12 of these Guidelines relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language. The information shall be provided by electronic means where appropriate, else by writing.

(2) The Data Protection Officer shall provide information on action taken on a request under Article 12 to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

(3) Information provided under Article 11 and any communication and any actions taken under Article 12 shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the responsible organizational unit of the Unified Patent Court may refuse to act on the request, if it demonstrates the manifestly unfounded or excessive character of the request.

(4) Where the responsible organizational unit of the Unified Patent Court has reasonable doubts concerning the identity of the natural person making the request referred to in Article 12, it may request the provision of additional information necessary to confirm the identity of the data subject.

## CHAPTER IV

### *Organizational measures*

#### Article 14

##### *Records of processing activities*

- (1) The Data Protection Officer shall maintain a record in electronic form of processing activities under the responsibility of the Unified Patent Court. That record shall contain all of the information specified in Art. 30 paragraph (1) EU-GDPR and cover all processing activities in the scope of Article 3 of these Guidelines.
- (2) The organizational units shall in advance inform the Data Protection Officer about their processing activities electronically by using the form sheet in Annex II, and by this declare being responsible in the meaning of Article 2 paragraph (1) point d) of these Guidelines.
- (3) Each processor and, where applicable, the processor's representative shall maintain a record of all categories of processing activities carried out on behalf of the Unified Patent Court, containing all of the information specified in Art. 30 paragraph (2) EU-GDPR.
- (4) The Unified Patent Court respectively the processor shall make the record available to the supervisory authority of each Contracting Member State on request except when acting in its judicial capacity, in order to safeguard the independence of the Court in the performance of its judicial tasks, including decision-making.

#### Article 15

##### *Security of personal data*

- (1) Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the organizational units of the Unified Patent Court and the processors shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk according to Article 32 EU-GDPR.
- (2) In the case of a personal data breach, the responsible organizational unit of the Unified Patent Court shall in accordance to Article 33 EU-GDPR without undue delay and, where feasible, not later than 72 hours after having become aware of it, notify the personal data breach to the Presidium of the Unified Patent Court, to the Data Protection Officer and to the supervisory authority competent in accordance with Article 10 paragraph (2), unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons.
- (3) When the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, the responsible organizational unit of the Unified Patent Court shall communicate the personal data breach to the data subject without undue delay and in accordance with Article 34 EU-GDPR.
- (4) Whenever possible, the processing of personal data shall be restricted to the IT systems provided by the Registry or its organizational subunits.

#### Article 16

##### *Data protection impact assessment*

(1) Where a type of processing is likely to result in a high risk to the rights and freedoms of natural persons, the responsible organizational unit of the Unified Patent Court shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the protection of personal data according to Article 35 EU-GDPR.

(2) In other cases than mentioned in paragraph (1) of this Article, it is recommended but not mandatory to carry out a data protection impact assessment.

(3) The Unified Patent Court shall consult in accordance with Article 36 EU-GDPR the supervisory authority competent in accordance with Article 10 paragraph (2) of these Guidelines prior to processing where a data protection impact assessment under paragraph (1) or (2) of this Article indicates that the processing would result in a high risk in the absence of measures taken by the Unified Patent Court to mitigate the risk.

## Article 17

### *Transfers of personal data*

(1) Within the Unified Patent Court, personal data shall only be transmitted or shared if this is necessary for fulfilling the tasks of the Unified Patent Court. In this case, the data has to be transmitted in a manner that is protected not only against disclosure to external persons, but also against disclosure to internal persons not involved. Especially, external E-mail addresses may not be used for transmissions of personal data within the Unified Patent Court.

(2) If the internal E-mail system of the Unified Patent Court is used, appropriate measures must be taken by the sender so that E-mails containing sensible personal data, like certificates of employment or any category of special data as defined in Article 9 EU-GDPR, cannot be read by unauthorized persons. It is recommended to ensure, e.g. by telephone call, that the intended addressee is present.

(3) If it is intended to transmit personal data to external addressees, it has to be counterchecked first whether this is permitted according to the relevant data protection regulations including these Guidelines. Personal data according to Article 4 paragraph (2) of these Guidelines to external addressees has to be transmitted at least by using encryption.

(4) If it is intended to transmit personal data to a third country or to an international organization, it has to be counterchecked first whether this is permitted according to the relevant data protection regulations including these Guidelines, especially with regard to Recital 48 and Articles 44 to 50 EU-GDPR. In this context, it has to be reflected that the use of the internal IT systems may also result in a transfer of personal data to a third country if the processor is located outside of the European Union. The current location of the processors is specified in Annex I (Privacy Note).

(5) Under normal cases, personal data shall not be communicated by phone, e.g. the information that a member of the Court is absent due to illness, or direct dialing numbers of Court members.

(6) Since in various file formats the editor's personal data is stored as metadata, the sender has to ensure that unintended personal data is removed from electronic files before transmissions. If there is no need for the addressee to edit the transmitted document, it is recommended to use the PDF/A file format.

(7) Without prejudice to Article 18, personal data that is stored in the Case Management System may only be transferred out of the Case Management System if this is necessary for the performance of a task defined in the UPC Rules, especially if one of the following conditions applies:

- a) The data are transferred to a person (judge or staff) that is entrusted by the Unified Patent Court with carrying out or supporting a procedure of the Unified Patent Court, and the transfer is necessary for the completion of this task;
- b) the data are transferred according to UPC Rules 270 to 279 to a party involved in the court procedure or its representative;
- c) the data are transferred to the financial unit of the Unified Patent Court for the management of court fees according to UPC Rules 370 to 371;
- d) the data are transferred to the European Patent Office, to other courts or other public offices of the European Union or of Contracting Member States, if and insofar as this is necessary for the completion of tasks defined in the UPC Agreement, especially for the tasks defined in Article 23 paragraph 2, in Article 65 paragraph 5, and in Article 66 of the UPC Agreement; or
- e) the data are transferred to experts or witnesses according to UPC Rules 175 to 188 or to language interpreters, if and insofar as this is necessary for carrying out a procedure.

## Article 18

### *Personal data in the Case Management System*

- (1) Personal data that are stored in the Case Management System shall be made public in the extent and under the preconditions as defined in UPC Rule 262.
- (2) Personal data may only be stored in the Case Management System of the Unified Patent Court if and insofar as it is necessary for procedures of the Court.
- (3) Personal data may only be stored and used in the Case Management System for the purpose for which they have been collected or obtained.

## Article 19

### *Personal data of staff*

- (1) Files related to the employment of Unified Patent Court judges or staff and containing personal data may only be processed at the Human Resources organizational unit. It is not allowed to keep duplicates or parallel files at other organizational units.
- (2) As an exception to paragraph (1), personal data of Unified Patent Court judges or staff also may be processed at other organizational units insofar and as long as it is necessary for the management of the other organizational unit, especially for the scheduling of tasks in a defined period. In this case, the personal data has to be deleted at the other organizational unit as soon as the scheduled tasks are finished or the defined period is over, latest at the end of the calendar year.
- (3) As a further exception to paragraph (1), personal data of Unified Patent Court judges or staff may be included or linked into the Case Management System, but only if it does not contain special categories of personal data according to Article 4 paragraph (2) of these Guidelines, and only under the preconditions named in Article 18 paragraphs (2) and (3) of these Guidelines.
- (4) Personal data of Unified Patent Court judges or staff may be published only if and insofar this is necessary to enable the public to contact the judges or the staff in official affairs of the Unified Patent Court; in general, only the name and the contact data (telephone number and E-Mail at the Unified Patent Court) may be published or stored in the Case Management System. If additional

personal data of judges or staff are linked to the Case Management System, it has to be ensured that this data or the link to this data is not published in the context defined in Article 18 paragraph (1).

## Article 20

### *Amendments and Entry into force*

- (1) The Presidium may amend these Guidelines.
- (2) These Guidelines enter into force on 10 February 2023.

Done at Luxembourg on 10 February 2023

For the Presidium

Signed Klaus Grabinski

The Chairperson

## Annex I

*Form sheet as Privacy Note:*

*Information on personal data processing at the Unified Patent Court*

According to Article 44 of the [Agreement on a Unified Patent Court](#), the Court shall make best use of electronic procedures. With this information sheet, we would like to inform you

- whom you can contact if you have questions relating to personal data protection at the Unified Patent Court, or if you want claim your rights in the context of personal data protection;
- on which legal basis the Unified Patent Court processes your personal data;
- how we process your personal data; and
- which rights you have against the Unified Patent Court based on Regulation (EU) 2016/679 (EU-GDPR).

This information sheet is published electronically on our website at <https://www.unified-patent-court.org/content/privacy-policy> .

### a. Glossary of terms

**Personal Data** means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**Processing** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**Data Controller** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

**Data Processor** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

**Data Subject** is the natural person whose Personal Data is processed by a Data Processor.

**Recipient** means a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.

**Pseudonymization** is any processing of Personal Data such that it can no longer be attributed to a single Data Subject without the use of additional data.

For more details and/or for additional definitions in the context of Data Protection, please refer to Article 4 EU-GDPR at <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1524808308071&uri=CELEX:32016R0679> (link is external).

**b. What is GDPR?**

General Data Protection Regulation is the new European standard in relation to data protection. The regulation aims to protect better your Personally Identifiable Information. The Regulation (EU) 2016/679 has entered into force on 25 May 2018 and is applicable to all commercial or public entities that hold or process individuals’ data within the European Union, no matter of the geographical location of the entity.

**c. What is the goal of this policy?**

With this document, the Unified Patent Court as controller of Personal Data wants to inform you about the principles according to which your Personal Data will be processed, considering that this processing will be characterized by appropriacy, licitness, transparency and protection of your privacy and your rights. This policy explains:

- What personal data we receive from you through this website, other software or other means of contact (including phone, SMS, E-mail, post and other correspondence, or in person);
- What we do with your personal data;
- What your options are to control what we do with your personal data.

Please note that:

- Insofar as your personal data is processed in the Case Management System (CMS) of the Unified Patent Court, we process your data for the performance of a task carried out in the public interest (see Art. 6 par. 1 lit. e of Regulation (EU) 2016/679, in conjunction with Art. 10 and Art. 44 of the Agreement of a Unified Patent Court).
- In other cases, we process this data on the basis of your explicit consent.
- By using our website, you agree to be bound by this Policy.
- We may change this Policy sometimes (see “Policy Updates”) so please check this page occasionally to ensure that you have the actual version of this document.

Any questions concerning this policy should be addressed to the UPC Data Protection Officer at:

<b>Post</b>	
<b>Telephone</b>	
<b>E-mail</b>	

**d. How and why do we collect data?**

The Unified Patent Court processes personal data insofar as this is necessary to safeguard the tasks of the judiciary or to fulfill legal obligations.

We obtain information about you when you browse our website, register on one of our applications, or contact us using the contact form.

Additionally, we obtain information about you if your personal data is used in procedures that are conducted before the Unified Patent Court.

**e. What information do we collect about you?**

We collect data using the following means:



when browsing the Unified Patent Court’s website,  
by filling the contact form (<https://www.unified-patent-court.org/contact>), and  
by collecting data in the procedures of the Unified Patent Court.

**a. Corporate website browsing**

We collect data using cookies. A cookie is a small data file, which typically includes a unique identifier sent to a web browser from a visited website and stored on the user’s device. The pages and images, along with a cookie, are downloaded to the device.

This is a standard and common procedure as cookies enable website publishers to collect useful data in order to improve the efficiency and usability of the web site.

**b. How to control and delete cookies**

We will not use cookies to collect personally identifiable information about you. However, you may restrict or block the cookies used by this website through your browser settings.

Please be aware that restricting cookies may affect the functionality of this website.

The cookies used by the UPC website:

Name	Source	Expires	Purpose
cookie-agreed	UPC website	100 days	To record that user has agreed to the use of cookies
__cfduid	CloudFlare Content Delivery Network	1 year	To identify individual users and exempt them from security restrictions
has_js	UPC website	With browser session	To record whether the browser has JavaScript enabled, which allows additional functionality

**c. The contact form**

The form at [www.unified-patent-court.org/contact](http://www.unified-patent-court.org/contact) collects the user’s name and E-mail address, along with any other information included in the subject or message body.

**d. The Court procedures**

The Unified Patent Court collects and processes personal data of lawyers, patent attorneys, legal assistants and applicants, authorities, language mediators, experts, witnesses, personnel (including honorary judges, trainees and interns) and any other persons involved in court proceedings, insofar as this is necessary for the purpose of the respective legal proceedings including the management of costs, the administration of the procedure, the performance of the service and technical supervision as well as the processing of submissions, requests for information and complaints.

In this context, the personal data may also have been obtained from a source other than the data subject. Especially, personal data may be processed that is related to persons that are not involved in the proceedings if their data are derived from the submissions of the parties.

Also in this context, the processing may include all categories of personal data, e.g. names, company or other business names, addresses, dates and places of birth, nationalities, legitimacy data (eg ID data), contact details (E-mail, telephone number, fax number etc.), bank details, IT usage data (eg connection data, log data, identifiers). It may also include special categories of personal data according to Art. 9 par. 2 lit. f of Regulation (EU) 2016/679, as defined in Art. 9 par. 1 of said Regulation.

## f. What do we do with your information?

### a. UPC website browsing

We use cookies to collect information on your session. We take precautions to protect your personal data, including:

- Data minimization – we don't request unnecessary data or hold it for longer than needed;
- Data anonymization – where necessary, we alter data so that it does not identify individuals;
- Transparency – documents such as this privacy policy should make it clear and unambiguous as to what we do with your data;
- Creating and improving security features on an ongoing basis.

When you enter the UPC website the first time, you are informed that you are giving your consent to set cookies by clicking any link on this page.

### b. The contact form

Submissions via the online form are e-mailed to [contact@unifiedpatentcourt.org](mailto:contact@unifiedpatentcourt.org) (link sends E-mail) for evaluation by the secretariat and processing.

Once processed, the data included in the submission is retained only as long as it is needed for the legal purposes of the Unified Patent Court.

### c. The Court procedures

According to Article 44 of the Agreement on a Unified Patent Court, we use an electronic Case Management System for administrating and carrying out the proceedings, which also processes your personal data if it is related to a Unified Patent Courts proceeding. If necessary, we may share your personal data as follows:

- The data may be transferred to a person (judge or staff) that is entrusted by the Unified Patent Court with carrying out or supporting a procedure of the Unified Patent Court, and the transfer is necessary for the completion of this task;
- the data may be transferred according to the Unified Patent Court's Rules of Procedure 270 to 279 to a party involved in the court procedure or its representative;
- the data may be transferred to the financial unit of the Unified Patent Court for the management of court fees according to the Unified Patent Court's Rules of Procedure 370 to 371;
- the data may be transferred to the European Patent Office, to other courts or other public offices of the European Union or of Contracting Member States, if and insofar as this is necessary for the completion of tasks defined in Agreement on a Unified Patent Court, especially for the tasks defined in Article 23 paragraph 2, in Article 65 paragraph 5, and in Article 66 of the Agreement; or
- the data may be transferred to experts or witnesses according to the Unified Patent Court's Rules of Procedure 175 to 188, if and insofar as this is necessary for carrying out a proceeding at the Unified Patent Court.

### d. Time limits for the deletion of data files

Personal Data will be deleted after 10 years, except for personal data contained in decisions and orders of the court, which are archived in accordance with the statutes of limitations governed by the applicable laws of the Contracting Member States.

### g. Data processors

Your Personal Data will be shared with third parties who act as Data Processors listed hereunder:

- Proximus Luxembourg S.A. (formerly Telindus S.A.) as a hardware infrastructure supplier — 18, rue du Puits Romain, Z.A. Bourmicht, L-8070 Bertrange, Luxembourg;
- Net Service spa as a software supplier (Case Management System, e-mail, collaborative solution, video conference for internal staff – Galleria Marconi 2, 40122 Bologna (BO) (P.I. 043397103470), Italy;
- Blue-Bag Ltd as developers and designers for UPC website — The Garage, Manor Farm Chilcompton, Radstock, Somerset, BA3 4HP, United Kingdom;
- Educos as the Human Resource software supplier (including cloud infrastructure) – 18 Rue de l’industrie, L-8399 Windhof, Luxembourg;
- Absys-Cyborg as the Finance and Procurement software supplier (intergrator of Sage X3 solution) – 3 Carrefour Weiden, 92130 Issy Les Mouligneaux, France
- Talentech AB as the recruitment software supplier (integrator of ReachMee) as recruitment platform — Ostotagatan 90 116, 64 Stockholm, Sweden;
- NTT Luxembourg PSF S.A. as the video conference for hearings software supplier (integrator of Webex Cisco) – 89D rue Pafebruch, L-8308 Capellen, Luxembourg.

Name	Description	Data retention time
Proximus Luxembourg S.A.	Hardware infrastructure supplier	10 years
Blue-Bag Ltd	Developers and designers for UPC website	10 years
Talentech AB	Recruitment software	10 years
Net Service spa	Software supplier (CMS, E-mail, collaborative, Video-Conference for staff)	10 years
Educos	HR software	10 years
Absys-Cyborg	Finance software	10 years
NTT Luxembourg PSF S.A.	Video Conference for hearings software provider	10 years

The Data Processors and all the staff explicitly authorized by the controller (i. g. Software Developers, Analysts and staff of the Court) are committed to an appropriate processing, ensuring that the rights of the Data Subject are safeguarded.

In compliance with the EU-GDPR, your Personal Data that has been collected from the Data Subject might be communicated out of the European Union. In particular:

Name	Description	Data retention time
No communication outside EU		

### h. What are your rights?

The General Data Protection Regulation grants the following rights to natural persons (for more details and for the relevant preconditions, see Articles 13 to 22 EU-GDPR):

- The right to be informed

You must be informed on what we do with your data in a concise, transparent, intelligible and easily accessible form, using clear and plain language. This is the purpose of this policy.

- The right of access

You have the right to access the data we store on your behalf, to know where they are stored and how they are treated.

- The right to rectification

You can ask us to correct any personal data we hold on you.

- The right to erasure

In some circumstances, you can ask us to delete any personal data we hold about you, under the “right to be forgotten”.

- The right to restrict processing

In some circumstances, you can object to our processing of your personal data, or restrict certain types of processing.

- The right to data portability

In some circumstances, you can ask us for a copy of your personal data for re-use elsewhere. We will provide the personal data in a structured, commonly used and machine-readable form, such as CSV files.

- The right to object and the right not to be subject to automated decision-making including profiling

In some circumstances, you can object to your personal data to be used. This includes any usage for marketing outcomes and scientific and historic research.

#### Exercise of your rights

You can exercise your rights by sending an E-mail to [contact@unifiedpatentcourt.org](mailto:contact@unifiedpatentcourt.org) (link sends E-mail). Your request will be processed within one month (may be extended by two further months where necessary, taking into account the complexity and number of the requests) if accepted or rejected should it be considered unfounded as per article 12(5) of Regulation (EU) 2016/679. In both cases, a notification will be sent to the requester.

#### i. What about policy updates?

The Data Controller reserves the right to modify, update, add or remove parts of this document at its own discretion and at any moment.

The Data Subjects are held to periodically check any possible modifications (e.g., changes of contact details).

Anyway, if we intend to use your personal data for a purpose other than that for which the personal data were collected or obtained, we will provide you by ourselves with relevant information in advance.

#### j. What is the effective date of this policy?

This Policy was last updated on 10 February 2023.

#### k. Who is your contact for data privacy enquiries?

Should you have any inquiry about this policy, please contact our Data Protection Officer (DPO) at:

The Registrar of the Unified Patent Court  
Unified Patent Court  
1, Rue du Fort Thüngen  
L-1499 - Luxemburg

## Annex II

### Form sheet for registration of personal data processing

<b>Form sheet for the registration of personal data processing at the Unified Patent Court</b>			
Please send back electronically to the Data Protection Officer at:			
The Registrar of the Unified Patent Court Unified Patent Court 1, Rue du Fort Thüngen L-1499 - Luxembourg			
Only to be used when personal data is processed according to Article 2 of these Guidelines for the Protection of Personal Data in the Unified Patent Court.			
Any changes in the processing of personal data have to be reported by an updated form sheet.			
Completed by:		Date of completion:	
Project name:	<input type="checkbox"/>	Modification of an existing process	<input type="checkbox"/> In-house software development
Scheduled launch date	<input type="checkbox"/>	New process / first recording	<input type="checkbox"/> Standard / proprietary software
<b>1. General specifications of process and responsibility</b>			
1.1	Name of the process:		
1.2	Detailed description of the process:		
1.3	Responsible organizational unit:	Contact information of the organizational unit:	
	Leader (representative) of the unit:		
1.4	Name, address and contact information of contractor:	Contract number:	Contract date:

<b>2. Processing purpose and legal basis</b>			
2.1	Detailed description of the processing purpose:		
2.2	Legal basis of processing (for details of the preconditions, see Article 9 EU-GDPR):		
	<input type="checkbox"/>	Consent of the data subject	
	<input type="checkbox"/>	Contract or entering into a contract with the data subject	
	<input type="checkbox"/>	Legal obligation to which the UPC is subject	
	<input type="checkbox"/>	Protection of vital interests of the data subject or another person	
	<input type="checkbox"/>	Task carried out in the public interest	
	<input type="checkbox"/>	Exercise of official authority vested in the UPC	
	Explanations		
3.a	Categories of personal data concerned		Categories of data subjects concerned
3.b	Are special categories of personal data processed (see Article 9 EU-GDPR):		
	<input type="checkbox"/>	Yes	<input type="checkbox"/> No
	Only in case of "Yes": Please mark and explain the corresponding legal basis for processing (for details of the preconditions, see Article 9 EU-GDPR):		
	<input type="checkbox"/>	Consent of the data subject	
	<input type="checkbox"/>	Obligations and exercising specific rights in the field of employment, social security or social protection law	
	<input type="checkbox"/>	Protection of vital interests of the data subject or another person and data subject incapable of giving consent	
	<input type="checkbox"/>	Legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim	
	<input type="checkbox"/>	personal data manifestly made public by the data subject	
	<input type="checkbox"/>	establishment, exercise or defense of legal claims	
	<input type="checkbox"/>	UPC acting in its judicial capacity	

<input type="checkbox"/>	substantial public interest	
<input type="checkbox"/>	assessment of the working capacity of the employee	
<input type="checkbox"/>	archiving purposes in the public interest, scientific or historical research purposes or statistical purposes	
	Explanations:	
4. Categories of transferred personal data and their recipients		
4.1 Internal recipients of personal data		
Names of internal recipients (including organizational unit)	Category of data	Purposes of transfer
4.2 External recipients of personal data		
Name of external recipients or categories of recipients	Category of data	Purposes of transfer
4.3 Intended transfer of personal data to third countries or international organizations		
Name of country or organization	Category of data	Purposes of transfer
Description of safeguards:		
5. Envisaged time limits for data deletion		
Is a time schedule specified for the deletion of the personal data?		
<input type="checkbox"/>	Yes	<input type="checkbox"/> No



	Only in case of "Yes": Please mark and explain the time schedule		
<input type="checkbox"/>	Deletion after a defined time period of days		
6. Persons or groups of persons with access authorization			
Are the access authorizations administrated by an integrated authorization process in the software?			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
7. Technical and organizational measures			
Has the IT department of the Unified Patent Court been integrated in the process development by regard of IT security and governance?			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
8. Other affected organizational units or joint controllers			
Are the purposes and means of the processing determined together with one or more other organizational units of the Unified Patent Court (affected organizational units), and/or together with one or more other controllers that do not belong to the Unified Patent Court (joint controllers)?			
<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
	Affected unit resp. joint controller:	Contact information of the unit resp. controller:	
	Affected unit resp. joint controller:	Contact information of the unit resp. controller:	
	Affected unit resp. joint controller:	Contact information of the unit resp. controller:	
	Affected unit resp. joint controller:	Contact information of the unit resp. controller:	
	Affected unit resp. joint controller:	Contact information of the unit resp. controller:	

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