



**Europäische
Patent-
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Verwaltungsrat

**European
Patent
Organisation**

Administrative Council

**Organisation
européenne des
brevets**

Conseil d'administration

CA/26/21 Corr. 1

Orig.: en

Munich, 28.06.2021

SUBJECT: Modernisation of the data protection framework of the European Patent Office under the Strategic Plan 2023

SUBMITTED BY: President of the European Patent Office

ADDRESSEES: Administrative Council (for decision)

The attached page replaces page 31 of CA/26/21 dated 11.06.2021. The amendment is indicated by grey hatching.

This Corrigendum concerns the English text only and has been issued in electronic form.

Article 6
Processing for another compatible purpose

- (1) Without prejudice to Articles 4, 65 and 12, the controller may process personal data for a purpose other than that for which the personal data were collected only if such other purpose is compatible with the purpose for which the personal data were initially collected. In such a case, no legal basis separate from that which allowed the collection of the personal data is required. The legal basis for the initial collection and processing of personal data provided by the applicable legal provisions of the European Patent Organisation may also serve as a legal basis for further processing. However, data may not be further processed in a way that is unexpected, inappropriate or objectionable for the data subject.
- (2) Personal data may also be processed for purposes other than those for which they have been collected, if such processing can be based on the data subject's explicit consent or applicable legal provisions of the European Patent Organisation which constitute a necessary and proportionate measure in a democratic society to safeguard the objectives referred to in Article 25.
- (3) Where the processing for a purpose other than that for which the personal data have been collected is not based on the data subject's explicit consent or on applicable legal provisions of the European Patent Organisation, the controller shall, in order to ascertain whether processing for another purpose is compatible with the purposes for which the personal data were initially collected, take into account, inter alia:
 - a. any link between the purposes for which the personal data were collected and the purpose of the intended further processing;
 - b. the context in which the personal data were collected, in particular regarding the relationship between data subjects and the controller;
 - c. the nature of the personal data, in particular whether special categories of personal data are processed pursuant to Article 11 or whether personal data related to criminal convictions and offences are processed pursuant to Article 12;
 - d. the possible consequences of the intended further processing for data subjects;
 - e. the existence of appropriate safeguards, which may include encryption or pseudonymisation.

Article 7
Conditions for consent

- (1) Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data.
- (2) Consent shall be given by a clear and affirmative act establishing a freely given, specific, informed and unambiguous indication of the data subject's agreement to the processing of personal data relating to him or her, for example in the form of a written statement, including one made by electronic means, or an oral statement.
- (3) Consent shall cover all processing activities carried out for the same purpose or purposes. When the processing has multiple purposes, consent shall be given for each one of them.
- (4) For consent to be informed, the data subject shall be aware at least of the identity of the controller and the purposes of the processing for which the personal data are intended. Consent cannot be regarded as freely given if the data subject has no genuine or free choice or is unable to refuse or withdraw consent without detriment.
- (5) The data subject shall have the right to withdraw consent at any time without affecting the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed of this. It shall be as easy to withdraw as to give consent. In order to ensure that consent is freely given, consent cannot provide a valid legal ground for the processing of personal data in a specific case where there is a clear imbalance between the data subject and the controller and it is therefore unlikely in view of all the circumstances of that specific situation that consent was freely given.
- (6) If the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language. Any part of such a declaration which constitutes an infringement of these Rules will not be binding.
- (7) When assessing whether consent is freely given, utmost account shall be taken of whether, inter alia, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.