Data Protection Statement on the processing of personal data in relation to the 2024 SME Fund

Protecting your privacy is of the utmost importance to the European Union Intellectual Property Office ('EUIPO' or 'the Office'). The Office is committed to respecting and protecting your personal data and ensuring your rights as a data subject. All data of a personal nature, namely data that identifies you directly or indirectly, will be handled fairly, lawfully and with due care.

This processing operation is subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

The information in this communication is provided pursuant to Articles 15 and 16 of Regulation (EU) 2018/1725.

1 What is the nature and purpose of the processing operation?

The Office's SME Fund programme addresses the need to make intellectual property (IP) services more accessible to small and medium-sized enterprises (SMEs) and to encourage better use and protection of their IP rights. Financial support under the 2024 edition of the SME Fund is provided in the form of four vouchers and implemented through grants offered by the EUIPO to eligible SMEs.

The Office processes personal data in order to evaluate the eligibility of applicants to participate in the SME Fund call for proposals, as well as to evaluate the content of the applications with a view to awarding the grant.

For the purpose of implementing the SME Fund, including providing support in the activation of the vouchers, carrying out regular reporting, promotional and training activities, certain personal data is exchanged with national IP offices (IPOs) participating in the programme. The EUIPO is responsible for training the experts designated by the IPOs to deliver services under the SME Fund.

Processing of personal data is also necessary for the management of grants awarded and the reimbursement procedure. For more information consult the applicable data protection statement. Certain data may be shared with World Intellectual Property Office (WIPO) and European Patent Office (EPO) for confirmation of payments.

In order to measure the level of satisfaction with the SME Fund programme and to improve our services via follow-up actions, participants are invited to answer surveys at different stages of the grant procedure, including after the application process. Further information can be found in the relevant data protection statement.

Participants are given the option to consent to receiving SMS notifications on the progress of their SME Fund application, as well as newsletters and other EUIPO communications.

Personal data will not be used for any automated decision making, including profiling.

2 What personal data do we process?

The categories of personal data of the applicants and/or their staff collected and processed during the application, evaluation, awarding and reimbursement processes may include the following:

- identification data:
    - account credentials of the EUIPO User Area (username and email),
    - name and surname,
    - company name,
    - company information (size, sector, company focus),
    - language preferences,
    - title, position and function,
    - contact details (email address, phone number, postal address, country),
    - signature.
- bank account details (IBAN and BIC/SWIFT codes), copy of a bank statement, VAT number (except for SMEs outside of EU), VAT certificate/Tax ID number (TIN), ID number;
- description of the services for which the grant is sought;
- IP pre-diagnostic audit (IP Scan and IP Scan enforcement), vouchers for IP rights (reimbursement of IP rights fees) or both;
- declaration on the eligibility and absence of exclusion criteria;
- application number and date;
- information related to the registration of the IP right (date, application number, countries indicated);
- information on the fees incurred and claimed by the beneficiary with proof of payment;
- grant decision number;
- grant amount awarded.

As regards the representatives, the following categories of personal data may be collected and processed:

- account credentials of the EUIPO User Area (username and email);
- name and surname;
- company name;
- email address;
- telephone number;
- language preferences;
- signature.

The following personal data of the IPOs and CPVO staff members is collected and processed:

- name and surname;
- position;
- telephone;

- email address.

Regarding the EUIPO staff members, the following personal data is collected and processed:

- name and surname;
- position/service/department;
- telephone;
- email address.

The following personal data of experts designated by the IPOs is processed:

- name and surname;
- email address;
- country.

The survey measuring the level of satisfaction with the application process is anonymous (no personal data is collected). Regarding the other surveys, including the survey conducted after the grant is awarded, the Office may process the following personal data: name, surname, country, company information (size, sector and type of SME), email address and a description of the services for which the grant was awarded.

If the participant wishes to receive SMS notifications and reminders, the Office may process the following personal data: name, surname, company name, mobile phone number, unsubscribe requests.

Regarding the personal data processed in the context of sending newsletters and other communications via email, the categories of personal data that may be processed are: name, surname, company name, company information, IP address, location, number of clicks and the times when users opened or read the newsletter/s, and unsubscribe requests. The Office may also ask participants about their interests in order to better understand SMEs' needs and to respond by creating appropriate content.

3 Who is responsible for processing the data?

Personal data processing is carried out under the responsibility of the EUIPO.

The processing of personal data to evaluate, award the grant, obtain feedback on the service (including measuring satisfaction levels) and promote the SME Fund, other EUIPO services, and the EUTM and RCD systems, is conducted by the Customer Department.

The data used for the purpose of reimbursing participants is processed by the Finance Department in accordance with the relevant data protection statement

Data may also be processed by external experts and contractors assisting the Office in the evaluation procedure. Access to personal data is granted after signing a declaration of confidentiality and in the absence of any conflicts of interest.

Some personal data may be processed by the external service providers assisting the Office in carrying out feedback collection and SMS notifications.

4 Who has access to your personal data and to whom is it disclosed?

Personal data processed in the context of the SME Fund is treated confidentially and disclosed only to the extent necessary for the purposes outlined in this data protection statement and always on a need-to-know basis, this includes disclosure of personal data to external providers.

Within EUIPO data is shared with:

- authorised CD Staff members in charge of providing user support or other necessary support and updating users' data through back-office tools;
- the FD in charge of the administration of grants for reimbursement;
- the Digital Transformation Department (DTD) and DTD operations service provider for the administration and management of the EUIPO systems;
- the DTD Staff members in charge of gathering and providing aggregated data;
- the CD Staff members in charge of customer feedback and data analysis, and other relevant departments on a need-to-know basis for follow-up actions.

Some SME Fund beneficiaries' personal data may be disclosed to the public in accordance with Article 38 of Regulation (EU, Euratom) 2018/1046 on publishing information on the outcome of grant procedures.

For the purposes of SME Fund implementation certain personal data will be shared with the IPOs, CPVO and the European Commission, as well as, if needed, the World Intellectual Property Organization (WIPO) and the European Patent Office (EPO) in accordance with Call for Proposals No GR/001/24.

In case of exchanges with WIPO or EPO, personal data is shared on the basis of explicit consent under Article 50(1)(a) of the Regulation (EU) 2018/1725. The data transferred is limited to what is strictly necessary to verify that an application has been filed for those applicants requesting reimbursement of application fees or that search services have been requested, and that the respective fees have been paid.

In the context of SMS and email campaigns, some personal data of the Office's staff members may be transferred to the service provider's sub-processor located in the US to process technical support tickets. Transfers are based on an adequacy decision issued by the Commission following Article 47(1) of the Regulation (EU) 2018/1725.

Limited personal data of EUIPO staff may be transferred to SMEs located outside of the EU when it is necessary for important reasons of public interest, as described under Article 50(1)(d) of the Regulation (EU) 2018/1725. In this regard, all the provisions stipulated in Chapter V of Regulation (EU) 2018/1725 will be observed.

For more information on these transfers or to report an issue, please send a written request to the delegated data controller at: DPOexternalusers@euipo.europa.eu

Upon request, personal data may also be transmitted to the legal advisors of the Office, the European Court of Auditors, the European Anti-Fraud Office (OLAF), the Internal Audit Service of the Office, the European Commission and the Court of Justice.

Furthermore, the anonymised results of the surveys conducted in the context of the SME Fund may be published on the EUIPO website.

5 How do we protect and safeguard your information?

We take the appropriate technical and organisational measures to safeguard and protect your personal data from accidental or unlawful destruction, loss, alteration and unauthorised disclosure or access.

Personal data related to the SME Fund is stored in secure IT applications according to the Office's security standards, which include, among others:

- role-based access control to the systems and network;
- logical security hardening of systems, equipment and network;
- physical protection measures via secure Data Centre Security are periodically reviewed by external auditors (ISO 27001 and SOC 2).

As regards the technical and organisational measures implemented by the service providers, they include, among others:

- traced and nominative access to personal data;
- secure data centres (ISO 27001 and ISO 50001 certified Tier 3 data centres);
- strong encryption of personal data in transit and at rest;
- continuous mirroring of the data on the file server using disk mirroring (fail-safe operation);
- the file server is protected by UPS to ensure continuity in the event of a power failure;
- encrypted channels are used when possible for the digital transfer of personal data to authorised recipients or for the receipt of personal data.

6 How can you obtain access to information concerning you and, if necessary, rectify it? How can you receive your data? How can you request that your personal data be erased, or restrict/object to its processing?

You have the right to access, rectify, erase and receive your personal data, as well as restrict or object to its processing, as provided in Articles 17 to 24 of Regulation (EU) 2018/1725.

If you would like to exercise any of the aforesaid rights, please send an explicit written request to the delegated data controller at: DPOexternalusers@euipo.europa.eu

Please note that by virtue of Regulation (EU, Euratom) 2018/1046 (the 'Financial Regulation') one or several of these rights may be restricted as regards the personal data processed for the purposes of evaluation, management of the grant and/or the reimbursement procedure. More specifically, according to the Financial Regulation, contact between the Office and the applicants is forbidden except to request clarifications or correct obvious clerical errors. In any case, pursuant to Article 151 of the Financial Regulation, such information, whether clarification or confirmation, should not substantially alter application documents.

Your request will be answered without undue delay, and in any event within 1 month of receipt of the request. However, according to Article 14(3) of Regulation (EU) 2018/1725, the aforesaid period may be extended by up to a further 2 months where necessary, taking into

account the complexity and number of requests. The Office will inform you of any such extension within 1 month of receipt of the request, together with the reasons for the delay.

7 What is the legal basis for processing your data?

Personal data processed for the purposes of evaluation, awarding of the grant, training of the experts and measuring satisfaction levels through surveys is processed on the basis of Article 5(1)(a) of Regulation (EU) 2018/1725, which states that 'processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body'.

The personal data used for reimbursement purposes is processed on the basis of Article 5(1)(a), (b) and (c) of Regulation (EU) 2018/1725 as indicated in the applicable data protection statement.

Personal data is collected and processed in accordance with the following legal instruments.

- Regulation No BC-1-19 of the Budget Committee of the European Union Intellectual Property Office of 10 July 2019 laying down the financial provisions applicable to the Office ('EUIPO Financial Regulation').

- Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union ('Financial Regulation').

- European Union Contribution Agreement on the Intellectual Property voucher for post-COVID-19 recovery and green and digital transitions of 29 November 2021.

- Commission Implementing Decision C (2021) 3046 of 6 May 2021 on the financing of the Programme for Single Market, competitiveness of enterprises, including small and medium-sized enterprises, and European Statistics and the adoption of the work programme for 2021-2024 and the Commission Implementing Decision C (2021) 6940 of 29 September 2021 amending Decision C (2021) 3046.

- Call for Proposals GR/001/24.

- The grant decision.

Personal data processed for the purposes of sending SMS notifications, newsletters and other communications is processed in accordance with Article 5(1)(d) of Regulation (EU) 2018/1725 ('the data subject has given consent to the processing of his or her personal data for one of more specific purposes'). Consent may be provided in the sign-up form and during the registration on the EUIPO User Area. Your privacy settings can be changed at any time in your SME Fund user account and your EUIPO User Area account respectively. You may unsubscribe from receiving newsletters at any time.

8 How long do we store your data?

Successful grant application files are subject to an administrative retention period of 10 years following the date of the grant decision, in line with the EUIPO Financial Regulation and its retention policy. For unsuccessful applications, the retention period is 5 years. Should any personal data related to the aforesaid procedures be published on the Office's website in accordance with the applicable regulations, it will be removed 2 years after the end of the financial year in which the funds were awarded.

Unfinished draft applications are deleted immediately after the closing date for submission of applications.

Personal data related to surveys is kept for 2 years following the date of the response.

If you decide to unsubscribe from receiving SMS notifications and reminders, your phone number will be unlisted from the subscription list. In any case, your data will be deleted immediately after the end date (the date after which the SME Fund beneficiaries can no longer implement the activities covered by their vouchers and submit the related requests for reimbursement).

As regards the retention period applicable to newsletters sent in the context of the SME Fund, please consult the relevant data protections statement

9 Contact information

Should you have any queries on the processing of your personal data, please address them to: DPOexternalusers@euipo.europa.eu

You may also consult the EUIPO Data Protection Officer (DPO) at: DataProtectionOfficer@euipo.europa.eu

Forms of recourse

If your request has not been responded to adequately by the data controller and/or the DPO, you can lodge a complaint with the European Data Protection Supervisor at: edps@edps.europa.eu