

QUESTIONNAIRE ON ARTIFICIAL INTELLIGENCE POLICIES

BACKGROUND

Artificial Intelligence (AI) has become a strategic priority for many governments across the globe. In addition, data are a critical component of AI since AI applications rely upon machine learning techniques that use data for training and validation.

As well as AI capacity building, education and regulatory measures, there is a question whether the established intellectual property (IP) system should be modified to in response to AI developments. WIPO has been requested by Member States to provide a forum for discussion of AI and IP Policy, which also includes data. WIPO has therefore started an open conversation on AI/data and IP, including a draft issues paper¹, and is planning to continue the conversation in Geneva on May 11-12, 2020.

REQUEST FOR INFORMATION

In order to aid this discussion, WIPO is seeking to collate country/regional information regarding strategies, frameworks and legislation of relevance to AI/data and IP.

This questionnaire aims at taking stock of the different national and regional landscapes of legislation and instruments applicable to AI/data and IP.

A summary of the answers provided in this questionnaire will be used to create a publicly available resource to facilitate information sharing. Personal information provided, such as contact details of individual persons, will not be made publicly available but may be used solely by the Division of AI Policy to share the results of the questionnaire and to gather further information in the future.

Please send the completed questionnaire, including null responses, to ai2ip@wipo.int.

¹ https://www.wipo.int/about-ip/en/artificial_intelligence/call_for_comments/index.html

NATIONAL AI STRATEGIES

1. Does your country have a national/regional AI strategy in place?

- No
- Yes
- Draft/proposed only
- Do not know

2. If so, does the AI strategy identified in Q1 consider IP?

- No
- Yes
- Draft/proposed only
- Do not know

3. Please provide details of the AI strategy identified in Q1 (name, short description, year, URL, responsible organization name and, if relevant, its relation to IP).

N/A

AI AND IP LEGISLATIVE MEASURES

4. Does your country have any measures/provisions in its IP framework that were specifically enacted for AI (an example would be a modification of copyright law for computer generated works)?

- No
- Yes
- Draft/proposed only
- Do not know

5. Please provide details of the relevant legislative measures/provisions identified in Q4 (name, section, short description, year and URL).

N/A

6. Is there any case law relevant to AI and IP in your country/region?

- No
- Yes
- Do not know

7. Please provide details of the decision(s) relating to Q6 (name, short description of subject matter, year and URL).

N/A

EXAMINATION GUIDELINES

8. Has your country's IP office (or other IP registration body) amended its examination guidelines and procedures due to AI-related inventions or works?

- No
- Yes
- Draft/proposed only
- Do not know

9. Please provide details of the relevant guidelines and sections identified in Q8 (name, short description, year and URL)

N/A

DATA RIGHTS

10. Does your country/region have any legislative measures/provisions for database rights?

- No
- Yes - enacted law
- Draft/proposed law only
- Do not know

11. Please provide details of the relevant legislative measures/provisions identified in Q10 (name, short description, year and URL).

Copyright and Copyright and Related Rights Act regulates the rights of producers of databases in respect of their databases (Chapter 6) and is in line with the Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases. A subject matter of protection of a database essentially includes the whole contents of a database or any qualitatively and/or quantitatively substantial part of the contents of a database. Rights of a producer of a database last for 15 years as from the date of its completion; if the database is lawfully disclosed during this period, the rights shall run for 15 years as from the first such disclosure.
(OJ No. 167/2003, 79/2007, 80/2011, 141/2013, 127/2014, 62/2017, 96/2018)
http://www.dziv.hr/files/file/eng/zakon_autor_ENG.pdf

12. Does your country recognize any rights or ownership in data?

- No
 Yes
 Draft/proposed only
 Do not know

13. Please provide details of the relevant legislative measures/provisions identified in Q12 (name, short description, year and URL).

There is no legislation that would specifically regulate the question of ownership in data in Croatia. However, there are some legislative acts that have an impact on data or that may confer some kind of protection to certain types of data (i.e. trade secrets, re-use of public sector information, personal data etc.). For further details, please see below at the end of the document.

14. Does any AI strategy identified in Q1 or other strategy consider data and any creation of a *sui generis* right for data and/or databases?

- No
 Yes
 Draft/proposed only
 Do not know

15. Please provide details of the data strategy identified in Q14 (name, short description, year, URL and responsible organization name).

N/A

OTHER AI AND IP RELATED INFORMATION

16. Please provide details of any other related processes related to AI/data and IP undertaken in your county/region, for example, public consultation processes, guidance notes for legislative interpretation, policy guidance, communications, working groups, etc. (name, short description, year and URL).

In Croatia, at the moment, there are no public consultation processes or other publicly available activities related to AI/data and IP. However, at the EU level, on 19 February 2020 the European Commission published cross-sectorial papers on AI and data which represent the first pillars of the Commission's new digital strategy:

- the Communication "A European strategy for data"
<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1582551099377&uri=CELEX:52020DC0066>
- White paper on Artificial Intelligence: a European approach to excellence and trust
https://ec.europa.eu/info/publications/white-paper-artificial-intelligence-european-approach-excellence-and-trust_en

On both topics the online public consultations are open at the following link: https://ec.europa.eu/info/consultations_en

[End of document]

Question 13. - continued:

- Act on the protection of undisclosed information with market value, implementing the Directive (EU) 2016/943 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. The Act lays down that the trade secret holders are entitled to apply for the measures, procedures and remedies provided for in the Act in order to prevent, or obtain redress for, the unlawful acquisition, use or disclosure of their trade secret.
OJ. No. 30/2018
https://www.dziv.hr/files/file/eng/zakon_poslovne_tajne_ENG.pdf;
- Act on right to access information, implementing the Directives 2003/98/EC and 2013/37/EU on the re-use of public sector information. It lays down the right of access to information and to re-use of information held by public authority bodies for commercial or non-commercial purposes in accordance with the conditions set out in this Act.
OJ. No. 25/13, 85/15 http://europam.eu/data/mechanisms/FOI/FOI%20Laws/Croatia/Croatia_FOI%20Act_2013_amended%202015.pdf
- General Data Protection Regulation - Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. The Regulation applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system. It protects the right of natural persons to the protection of personal data. The Regulation is directly applicable to all the Member States of the EU.
OJ L 119, 4.5.2016, p. 1–88
<https://eur-lex.europa.eu/eli/reg/2016/679/oj>;
- 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
OJ L 295, 21.11.2018, p. 39–98
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725>
- Electronic Communications Act, implementing (among others) the Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) as amended by the Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009.
OJ. No. 73/08, 90/11, 133/12, 80/13, 71/14, 72/17
<https://www.hakom.hr/UserDocsImages/2017/propisi/ZEK-pro%C4%8Di%C5%A1%C4%87eni%202017.pdf> – available in Croatian only and
- Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union
OJ L 303, 28.11.2018, p. 59–68
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1807>.