

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 publically available resource to facilitate information sharing. Personal information provided, such as contact details of individual persons, will not be made publically 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).

The National Artificial Intelligence Strategy of the Czech Republic of 6 May 2019 is the strategic document specifying a framework of priority objectives and tools to support AI development in the academic, public and private sectors, mutual cooperation and international engagement. The National AI Strategy follows and supports the Innovation Strategy of the Czech Republic 2019–2030 and is mainly linked to its part dedicated to Digital Czech Republic, production and services.

IP is mainly considered in the chapter 6 of the AI Strategy, called 'Legal and social aspects of AI, ethical rules, consumer protection and security issues'. Under short term objectives (until 2021), a public consultation, including an interactive questionnaire, on the basic legal issues associated with the current IP system of protection for subject matters/outputs created by AI and the legal certainty, including Ethical recommendations for the development and utilization of artificial intelligence is proposed. Under medium-term objectives (until 2027) it is anticipated to take action in specific areas related to AI development, in particular for efficient and rapid access to and use of data, use of autonomous mobility resources, effective protection of intellectual property and enhanced consumer protection. This chapter is coordinated by the Ministry of Justice of the Czech Republic.

Both the National AI **Strategy** and National Innovation Strategy are available in English. Please follow links below:

The AI Strategy:

https://www.mpo.cz/assets/en/guidepost/for-the-media/press-releases/2019/5/NAIS_eng_web.pdf

The National Innovation Strategy:

<https://www.vyzkum.cz/FrontAktualita.aspx?aktualita=867990>

At the regional level under the cooperation among Visegrad group countries, the Czech Republic signed the Position paper on Artificial Intelligence (titled 'Visegrad 4 countries' thoughts on the Artificial Intelligence and maximising its benefits ahead of release of the European Commission's Communication on the topic') at Digital Day on 10 April 2018. Countries (Poland, Slovakia, Hungary and the Czech Republic) agreed upon priorities for given

areas, *inter alia* with respect to legal aspects, such as who can be considered the author of AI-generated works. Under the priority No. 1 a special consideration should be given to issues related to the rapid development of artificial intelligence, as part of serious efforts to make digitalization a priority of the EU beyond 2020.

To see the respective Position paper mentioned above, please follow this link:

https://www.vlada.cz/assets/evropske-zalezitosti/umela-inteligence/V4_NON_PAPER_ON_AI_09_04_2018.pdf

The Czech Republic also signed the EU Declaration on Cooperation on Artificial Intelligence at Digital Day on 10 April 2018. One of the priorities is to ensure an adequate legal and ethical framework, building on EU fundamental rights and values, including privacy and protection of personal data.

The full text of Declaration in English please find here:

<https://www.vlada.cz/assets/evropske-zalezitosti/umela-inteligence/SignedDeclarationofCooperationonAIpdf.pdf>

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).

Not applicable

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).

Not applicable

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)

Not applicable

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).

In the Czech Republic the protection of databases has been included in Act No 121/2000 Coll., on copyright, rights related to copyright and amendment to certain laws (the Copyright Act), as amended, and corresponds fully to the provisions of Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases.

Pursuant to Article 2(2) of the Copyright Act, a database is considered as a work if its way of the selection or arrangement of its content are the author's own intellectual creation.

Articles 88 to 94 of the Copyright Act stipulate *sui generis* rights of makers of databases. Pursuant to Article 88a (1), *sui generis* rights in respect of a database (Article 90) pertain to the maker of the database, provided that the formation, verification or presentation of the content of the database represents a contribution, which is substantial in terms of quality or quantity, irrespective of whether the database or the contents thereof are subject to copyright protection or any other type of protection.

To see the English version of the Czech Copyright Act and the respective Directive, please follow links below:

The Czech Copyright Law:

https://www.mkcr.cz/doc/cms_library/12-az_2006_v_aj-2005.pdf

Directive 96/9/EC:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31996L0009&from=EN>

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).

With respect to the legislation concerning rights in data, two EU Regulations are directly effective on the territory of the Czech Republic, as a Member State of the European Union.

Namely:

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regards to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=CS>

Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on the framework for the free flow of non-personal data in the European Union

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1807&from=CS>

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 (if need be, see reply to Q15)
- 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).

As for the data strategy, the need for data protection will be first duly analysed within a period of next two years. Then, the next steps will be decided based on results of this analysis.

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).

The Ministry of Industry and Trade of the Czech Republic plays the main coordinating role in the implementation of goals specified in the National AI Strategy. In line with this Strategy, the AI Committee as a subcommittee of the Steering Committee of the Digital Czech Republic

strategy was established (see pages 10 to 11 of the National AI Strategy, the link mentioned above under reply to Q3).

On Monday 10 February 2020, the Office of the Government of the Czech Republic, the Ministry of Industry and Trade of the Czech Republic and the Institute of State and Law of the Czech Academy of Sciences officially launched the Expert platform and forum for law and artificial intelligence (AI Observatory and Forum – AIO&F).

The Czech Republic as one of the first countries in the world established a specialized expert platform and forum focused on regulation of artificial intelligence. A modern format of so called Observatory and Forum commonly used by the European Commission interconnects experts and public as well as private sector. Establishing of the Expert platform for law and artificial intelligence is presumed in the National AI Strategy (see link mentioned above under reply to Q3). The activities of the platform will be organized by the Institute of State and Law of the Czech Academy of Sciences that is an expert co-coordinator of the national strategy, and by the Office of the Government of the Czech Republic together with the Ministry of Industry and Trade of the Czech Republic.

The additional information is available here: <http://observatory.ilaw.cas.cz/>