



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 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 paper¹¹, 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

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, indirectly
- 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).

2030 Digital Transformation Strategy for Slovakia (PDF, 2.35 MB)
<https://www.vicepremier.gov.sk/wp-content/uploads/2019/10/SDT-English-Version-FINAL.pdf>
Action plan for the digital transformation of Slovakia for 2019-2022
<https://www.vicepremier.gov.sk/wp-content/uploads/2019/10/AP-DT-English-Version-FINAL.pdf>
A strategy and Action Plan outlining a set of specific measures to facilitate sustainable growth of an AI ecosystem in Slovakia within the framework of European values, i.e. trustworthy and human centric, focusing on two pillars, i.e. excellence and trust. Adopted in mid 2019.
Office of the Deputy Prime Minister of the Slovak Republic for Investments and Informatization
There are no specific measures to IPR in the Strategy and Action Plan but in Action Plan specific measure related to AI can be found that would indirectly deal with the issue of IPR:
4.2.1 Analysis of the regulatory environment for artificial intelligence
4.2.6 Supporting an increase of investments of foreign and Slovak companies into research activities and 3.2.1 Drafting the concept of innovation public-private partnership.

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).

Please, see the specific issue we would like to raise in this regard.

In the definition of the software programme contained in the Act No. 185/2015 Coll. on Copyright, as amended paragraph 87 the law does not specifically regulate any issues related to autonomous decision making that is characteristics for the AI systems. Yet the current scope of software programme include solutions which are rule based, therefore further analysis and work is needed. The other issues to be considered during the discussions are:

Legal Identity / governance of newly forming relationships amongst the actors of AI ecosystem

No mention of legal identity definition of AI or computer systems

within existing Slovakian legal framework Governance / Liability /

Insurance

No specific regulation pertains to liability for damages caused by AI systems

In the area of human rights Slovak constitutional law and other applicable rules provide an umbrella protection in the context of algorithmic bias

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).

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)

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).

Provisions concerning database rights are regulated by **Act No. 185/2015 Coll. on Copyright**, as amended, in particular in its Part Four (Sections 130-140) called Rights to Database. This part of Copyright Act consists of general provisions on database (including its definition), provisions about so-called "creative" database protected by copyright and provisions regarding sui generis right to database.

Copyright protected creative database has its author and a manner of selection or arrangement of content of database is a result of creative and artistic activity of author.

Database protected by sui generis right has its maker and includes an investment qualitatively or quantitatively substantive with respect to obtaining, verification or performing of the content.

This Part Four of Slovak Copyright is in compliance with EU Directive 96/9/EC on the legal protection of databases.

The unofficial English translation of Copyright Act is available here:

<https://www.dusevnevlastnictvo.gov.sk/web/guest/aps>.

There is ongoing commentary period for **Data Act draft** which provides for fundamental basis of the data legislation in the Slovak Republic.

The **Data Act draft** contains, in particular, obligations for public authorities in the creation of databases, datasets and also in the use of data (e.g. in the case of reference data - the obligation to use the values of data declared to be reference with a view to improving the quality and interoperability of information systems while dismantling bureaucracy). The draft proposal does not, in principle, address the data rights with the exception of My data / data relating to natural and legal persons in public authority registers (triad of rights - the right of access to data; the right to be informed about changes in My data, as well as data about logging) and also with the exception of Open Data and its free availability and further processing.

Scope of the Data Act Draft:

- a) definition of the public interest in the framework of data- data quality and the creation of the public politics
- b) analytical entities – special entities authorized to acquire and work with anonymized and pseudonymized data in accordance with GDPR principles
- c) Authorizations and duties of a data curator - a data specialist in individual public authorities with authorizations in order to improve data quality and interoperability
- d) My data,
- e) basic codebooks,
- (f) reference data;
- (g) open data

The draft law mentioned above shall be available online within one month.

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).

Data as such are not expressly protected (except personal data), because data are intangible objects. Therefore, in legal theory it is difficult to confess ownership right to data due to the fact that the ownership right is linked to tangible objects. Data can be protected by various contractual agreements, e.g. protection of data in the contract can be granted under trade secret agreement or under non-disclosure agreement or by an obligation to maintain confidentiality.

In the field of copyright and related rights data are mostly considered as simple ideas, information or facts, which cannot be protected by copyright or related rights. As regards data incorporated in database, the general provision of Rights to Database in Copyright Act states that rights of right holders to individual elements of database remain unaffected.

An amendment to **the Data Act** is envisaged in the short time, which will also deal with data ownership, a more consistent division of responsibilities in data management and further sharing as well as issues related to the artificial intelligence.

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).

There is only sui generis right for the database and is regulated by the above-mentioned provisions of Slovak Copyright Act. page 6

Our data strategy follows European data strategy, open data and free flow of data.
(EU adopted) Directive 2019/1024 dated 20 June 2019 Open data and Public Sector Information
(EU adopted) Directive 2018/1807 dated 14 November 2018 Free flow of non-personal data
(EU adopted) Regulation 2016/679 dated 27 April 2016 GDPR

New data law draft

More information on data related policies and strategic documents (especially on My Data, Open data, data quality and open governance models) can be found here:

<https://datalab.digital/dokumenty/>

<https://www.vicpremier.gov.sk/wp-content/uploads/2019/06/Strategia-digitalnej-transformacie-Slovenska-2030.pdf>

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).

Slovakian Public Sector focus on ethical use of AI
Non discrimination of AI systems help international work related to identification of bias .
Ms Jana Novohradská represents Gender Equality Rapporteur at CAHAI Council of Europe AI Committee
<https://www.coe.int/en/web/artificial-intelligence/cahai>

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