

EUROPSKI OKVIR I ISKUSTVA ZAŠTITE OSOBNIH PODATAKA



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SADRŽAJ

- Uvod
- Zaštita osobnih podataka u EU
- Hrvatski pravni okvir i praksa
- GDPR 2016(18), NIS, Privacy Shield
- Budućnost zaštite osobnih podataka

Što je osobni
podatak?

Svaki podatak koji se odnosi na
ISPITANIKA- identificiranu fizičku
osobu ili osobu koju se može
identificirati

Identifikacijski brojevi
Specifična obilježja koja
govore o njenom fizičkom,
psihološkom, mentalnom,
gospodarskom, kulturnom ili
socijalnom identitetu

Data Protection

= ili <>

Privacy

Članak 7. - Poštovanje **privatnog** i obiteljskog života

Svatko ima pravo na poštovanje svojeg privatnog i obiteljskog života, doma i komuniciranja.

Članak 8. - **Zaštita osobnih podataka**

Svatko ima pravo na zaštitu osobnih podataka koji se na njega ili nju odnose. Poštovanje tih pravila podliježe nadzoru neovisnog tijela.

SAD vs EU

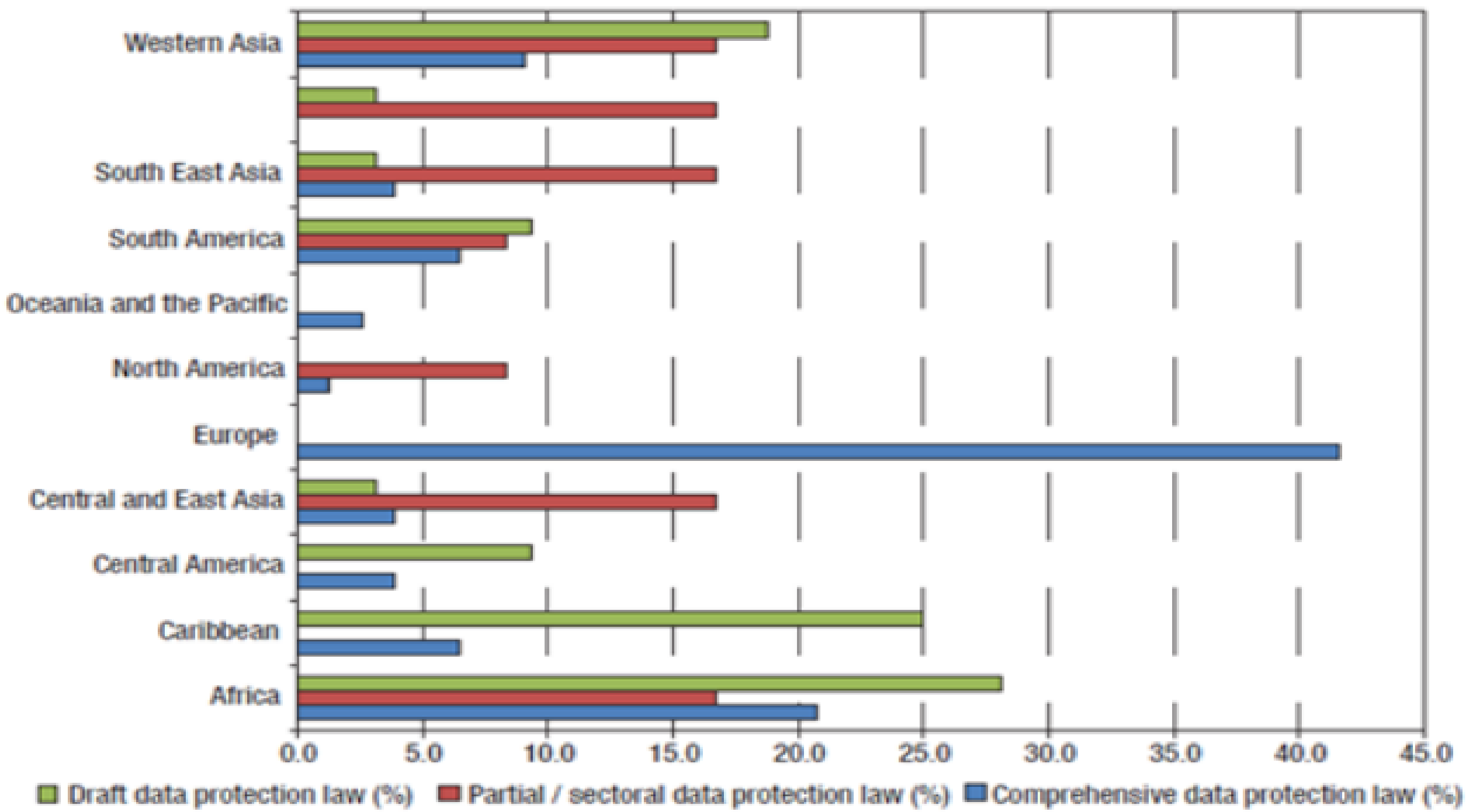


SAD

- Warren&Brandeis: “Right to Privacy”, 4 Harvard L.R. 193 (Dec. 15, 1890)
- Pragmatičan pristup
- Nema sveobuhvatnog propisa
- Zuckerberg: “Era of Privacy is over”, 2010.
- Pregovaraju s pozicija da su europska pravila nepotreban administrativni teret i da guše inovacije

EU

- Opći, sustavni pristup zaštiti osobnih podataka
- Zaštita osobnih podataka je temeljno pravo
- Je li izvoz osobnih podataka europskih građana dozvoljen, poželjan, moguć?
- Želja za podizanjem zaštite osobnih podataka na još višu razinu



Ustav RH 1990., čl. 37.

(1) Svakom se jamči sigurnost i tajnost osobnih podataka. Bez privole ispitanika, osobni se podaci mogu prikupljati, obrađivati i koristiti samo uz uvjete određene zakonom

(2) Zakonom se uređuje zaštita podataka te nadzor nad djelovanjem informatičkih sustava u državi

(3) Zabranjena je uporaba osobnih podataka suprotna utvrđenoj svrsi njihovoga prikupljanja

Hrvatski pravni okvir

- Zakon o zaštiti osobnih podataka (NN 103/03, 118/06, 41/08, 130/11, 106/12)
- Kazneni zakon, čl. 146 (125/11, 144/12, 56/15, 61/15)
- Uredba o načinu vođenja i obrascu evidencije o zbirkama osobnih podataka (NN br. 105/04)
- Uredba o načinu pohranjivanja i posebnim mjerama tehničke zaštite posebnih kategorija osobnih podataka (NN br. 139/04)

Agencija za zaštitu osobnih podataka

- Samostalno i neovisno regulatorno tijelo odgovorno Hrvatskom Saboru
- Nadzire provođenje zaštite osobnih podataka
- Vodi Središnji registar

Agencija za zaštitu osobnih podataka

- Rješava povodom zahtjeva za utvrđenje povrede prava
- Edukacija, prevencija, prijedlozi za unapređenje zaštite osobnih podataka
- Ograničen “represivni” aspekt (do sada)

ZAŠTITA PODATAKA U EU - Pravni okvir star dva desetljeća

- **Direktiva o zaštiti podataka 1995**
 - Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data
- **Povelja o temeljnim pravima EU**
 - Članak 8 Zaštita osobnih podataka
 - Članak 7 Zaštita privatnosti
- **2009. Lisabonski sporazum**

Direktiva o zaštiti podataka

- **Potrebna implementacija u nacionalni pravni sustav**
 - Kao zakon, npr. hrvatski Zakon o zaštiti podataka 2003. (ZZOP NN 103/03, 118/06, 41/08, 130/11, 106/12) 2003.
 - Njemački *Bundesdatenschutzgesetz 1998*.
 - Irski Data Protection Act 1998.
 - Španjolski zakon 1998

Direktiva o zaštiti podataka

- **Definira ključne pojmove**
 - Osobni podatak, zbirka osobnih podataka, voditelj zbirke osobnih podataka
 - Prepoznaje različite kategorije podataka i kategorije ispitanika
- **Uređuje prava ispitanika i njegovu pravnu poziciju**
 - Traži se jasna, nedvosmislena i konkretna privola na prikupljanje i obradu podataka

Direktiva o zaštiti podataka

- Izvoz osobnih podataka
 - Traži se mišljenje regulatornih tijela, osobito za izvoz izvan EU
- Uspostavlja se mreža nacionalnih regulatora i tzv. Radna grupa iz članka 29. Direktive
 - Tzv. “odluke o adekvatnosti (zaštite osobnih podataka”

Direktiva o zaštiti podataka

- **EU-SAD Safe Harbour Adequacy Decision 2000.**
 - Odluka kojom je EK dopustila izvoz i obradu osobnih podataka europskih građana u SAD
 - Tri izvještaja o primjeni Safe Harboura (EK 02, 04, Galexia report 2008)

Slučaj Schrems

- Slučaj Schrems protiv Povjerenika za zaštitu osobnih podataka (C-362/14)
- Tužitelj traži Sud da preispita valjanost odluke EK nakon što irski regulator odbija prigovor austrijskog korisnika FB
- Sud utvrđuje da EK nije ustanovila SAD poštuje li zakone EU o ZOP
- Obveze primjenjuju samo društva koja su to prihvatila (a mogu kasnije i odustati bez posljedica)
- Ne ograničava pristup američkih javnih vlasti osobnim podacima u skladu s EU zakonima i kompromitira europske principe ZOP
- Kompromitira drugo temeljno pravo iz Povelje – ono na efikasnu pravnu zaštitu.

EU i izvoz osobnih podataka

- Slučaj Costeja C-131/12
 - Sud presudio u korist korisnika i potvrdio tzv. pravo na zaborav, odnosno pravo da fizička osoba zatraži uklanjanje pristupa vlastitim osobnim podacima.
 - Pravo na zaborav se odnosi na uklanjanje ranije javno dostupnih podataka
- Neovisno europsko nadzorno tijelo (*Article 29 Data Protection Working Party*) - Smjernice o implementaciji odluke Europskog suda C-131/12
 - tražilice izjednačene s pojmom voditelja zbirke osobnih podataka iz Direktive
 - potreba iznalaženja pravičnog balansa između temeljnih prava - zaštita osobnih podataka s jedne strane i ekonomskih interesa tražilica i internetskih korisnika na pristup podacima s druge strane

Google i pravo na zaborav

- Nakon sudske odluke, Google je objavio online formular koji korisnicima omogućava da prijave linkove koje žele odstraniti
- U prvih godinu dana, Google je zaprimio preko milijun zahtjeva za uklanjanje rezultata pretraživanja koji vode na osobne podatke
- Preko tisuću petsto zahtjeva dnevno u prvih nekoliko mjeseci primjene

Remove information from Google

You can ask Google to remove your sensitive personal information, like your bank account number, or an image of your handwritten signature, or a nude or sexually explicit image or video of you that's been shared without your consent, from Google search results.

What Google will remove

See our [Removals Policies](#) [↗](#) to learn what information Google will remove.

If you want to remove a photo, profile link, or webpage from Google Search results, you usually need to ask the website owner (webmaster) to remove the information.

Why contact the webmaster?

Even if Google deletes the site or image from our search results, the webpage still exists and can be found through the URL to the site, social media sharing, or other search engines. This is why your best option is to contact the webmaster, who can remove the page entirely.

If a photo or information shows up in Google search results, it just means that the information exists on the Internet and it doesn't mean that Google endorses it.

What do you want to do?

- Remove information you see in Google Search
- Prevent information from showing in Google Search

Removal Policies

We want to organize the world's information and make it universally accessible, but there are a few instances where we will remove content from Search.

Legal Removals

We remove content from our search results if it includes:

- Child sexual abuse imagery
- We also remove content in response to valid legal requests, such as copyright notifications that meet the requirements of the Digital Millennium Copyright Act

Personal information

We may remove certain types of sensitive personal information from Google Search Results.

[Information we may remove](#)



[How we decide if personal information should be removed](#)



[Request to have personal information removed](#)



Personal information

We may remove certain types of sensitive personal information from Google Search Results.

Information we may remove

Information we may remove

- National identification numbers like U.S. Social Security Number, Argentine Single Tax Identification Number, Brazil Cadastro de pessoas Físicas, Korea Resident Registration Number, China Resident Identity Card, etc.
- Bank account numbers
- Credit card numbers
- Images of signatures
- Nude or sexually explicit images that were uploaded or shared without your consent

Information we usually don't remove

- Date of birth
- Addresses
- Telephone numbers

How we decide if personal information should be removed

To decide if a piece of personal information creates significant risks of identity theft, financial fraud, or other specific harms, we ask:

- Is it a government-issued identification number?
- Is it confidential, or is it publicly available information?
- Can it be used for common financial transactions?
- Can it be used to obtain more information about an individual that would result in financial harm or identity theft?
- Is it a personally identifiable nude or sexually explicit photo or video shared without consent?

We apply this policy on a case-by-case basis. If we believe that a removal request is being used to try and remove other, non-personal information from search results, we will deny the request.

Note: We usually don't remove information that can be found on official government websites because the information is publicly available.

Search removal request under data protection law in Europe

Background

A recent ruling by the Court of Justice of the European Union (C-131/12, 13 May 2014) found that certain people can ask search engines to remove specific results for queries that include their name, where the interests in those results appearing are outweighed by the person's privacy rights.

When you make such a request, we will balance the privacy rights of the individual with the public's interest to know and the right to distribute information. When evaluating your request, we will look at whether the results include outdated information about you, as well as whether there's a public interest in the information — for example, we may decline to remove certain information about financial scams, professional malpractice, criminal convictions, or public conduct of government officials.

You will need a digital copy of a form of identification to complete this form. If you are submitting this request on behalf of someone else, you will need to supply identification for them. Fields marked with an asterisk * must be completed for your request to be submitted.

Please select the country whose law applies to your request *

Croatia ↕

Personal information

Name used to search *

This should be the name that, when used as a search query, produces a list of results from which you are requesting that a result, or results, be removed

Full name of requester

Your own name, if you are representing somebody else (If you're sending a request for someone else, you must have the legal authority to act on their behalf)

If you are submitting this request on behalf of someone else, please specify your relationship to that person (for example: "parent" or "attorney")

Contact email address *

(where emails about your request will be sent)

Search results you want removed from the list of results produced when searching for the name

For us to evaluate your request, you must:

- (a) Identify each result in the list of results that you want removed by providing the URL for the web page that the result links to. (The URL can be taken from your browser bar after clicking on the search result in question.)
- (b) Explain why the linked web page is about you (or, if you are submitting this form on behalf of someone else, why the page is about that person)
- (c) For each URL, please explain why the inclusion of this URL as a search result is irrelevant, outdated, or otherwise objectionable.

URLs for results you want removed *

[Add additional](#)

If your request concerns more than one result, please provide the URL for each result and an explanation of why the inclusion of that result in search results is irrelevant, outdated, or otherwise objectionable. We will not be able to process your complaint without this information. *

For example:

http://example_1.com
This URL is about me because... This page should not be included as a search result because...
http://example_2.com
This URL is about me because... This page should not be included as a search result because...

To prevent fraudulent removal requests from people impersonating others, trying to harm competitors, or improperly seeking to suppress legal information, we need to verify identity. **Please attach a legible copy of a document that verifies your identity** (or the identity of the person whom you are authorized to represent). A passport or other government-issued ID is not required. You may obscure parts of the document (e.g., numbers) as long as the remaining information identifies you. You may also obscure your photograph, unless you are asking for removal of pages that include photographs of you. Google will use this information solely to help us document the authenticity of your request and will delete the copy within a month of closing your removal request case except as otherwise required by law. *

No file chosen

I represent that the information in this request is accurate and that I am the person affected by the web pages identified, or I am authorized by the person affected to submit this request. *

Please check to confirm

Please note that we will not be able to process your request if the form isn't properly filled out or if the request is incomplete.

Signature



Sign in



Web

Images

Videos

News

Webmaster

Explore

Request to Block Bing Search Results In Europe

If you are a European resident and want to request that Microsoft block search results on Bing in response to searches on your name, please use this form.

We encourage you to provide complete and relevant information for each applicable question on this form. We will use the information that you provide to evaluate your request. We may also consider other sources of information beyond this form to verify or supplement the information you provide. This information will help us to consider the balance between your individual privacy interest and the public interest in protecting free expression and the free availability of information, consistent with European law. As a result, making a request does not guarantee that a particular search result will be blocked.

Note regarding minor children: If you are a minor, you may submit this form on your own. If you are a parent or legal guardian of a minor, you may submit this form on that minor's behalf, in which case, all references to "you" or "your" will refer to the minor child.

Given the many questions that have been raised about how the recent ruling from the Court of Justice of the European Union should be implemented, this form and the related processes may change as additional guidance becomes available. Submissions may be reevaluated over time.

Part 1 - Your Identity, Residence and Contact Information

Your full legal name as it appears on the European ID document you will provide*

(The name you provide will be the name on which you are requesting the specified search results to be blocked. The name you provide may be your legal name or a name by which you are commonly known, but should match your European ID document.)

Your country of residence*

Part 1 - Your Identity, Residence and Contact Information

Your full legal name as it appears on the European ID document you will provide*

(The name you provide will be the name on which you are requesting the specified search results to be blocked. The name you provide may be your legal name or a name by which you are commonly known, but should match your European ID document.)

Your country of residence*

Please upload documentation that verifies the above information.

- Include document(s) that verify your full legal name as entered above and your European country of residence.
- If the name on which you are requesting search results to be blocked is a name other than your legal name, please include documentation verifying this is a name by which you are commonly known.
- You may obscure any details on the documents that are not related to verifying your name, country of residence, or the validity of the document itself.
- Documents need not be government-issued identification, but please be aware that we may not be able to respond to requests where the verification of this information is incomplete, inadequate or unreliable.
- We will use this documentation only to verify the information you have provided on this form. We will delete the document you provide once your request has been resolved, except as required by law.

[+ Upload files](#)

An email address we can use to contact you about your request*

Part 2 - Your Role in Society or Your Community

Are you a public figure (politician, celebrity, etc.)?

Yes No

Do you have a role or expect to have a role in your local community or more broadly that involves leadership, trust or safety (for example, teacher, clergy, community leader, police, doctor, etc.)?

Yes No

Part 3 - The Requested Pages to Block

Identify the specific location (URL) to block in Bing results from searches on your name*

To the help us better identify the particular content on the page you want blocked, please specifically describe the content that relates to you.

The information you wish to block is:

- Inaccurate or false
- Incomplete or inadequate
- Out-of-date or no longer relevant
- Excessive or otherwise inappropriate

Please provide complete details explaining each of the reasons checked above. If the information is out-of-date or no longer relevant, please state how old the information is. If the information is inaccurate or false, please provide any related evidence you have, such as a court order or other evidence, that shows it is inaccurate or false (use the upload tool above to include any relevant documentation).

Please provide any other relevant information describing your privacy interest in having this information blocked in response to searches on the name specified above and why you believe your privacy interest outweighs the public's interest in free expression and the free availability of information.

Have you previously made a request for Bing to block this same page (URL)?

- Yes No

[+ Add another URL](#)

Part 4 - Important Information and Signature

By typing your name below (electronic signature), you represent that:

- You are the individual named on this form (or are the parent or legal guardian of the minor child named).
- The web page(s) you are requesting to block in response to searches on your name or that of a minor child relate to you or that minor child and not to any other person with the same or similar name.
- The information you have provided is correct and accurate.

Please also note that the information you submit in this form may be shared with third parties, including the publisher of any web page we agree to block, and the Data Protection Authority or other governmental body in the relevant jurisdiction(s).

Signature*

Dakle, sve je u redu?

- Otvoreno pismo potpisano od stotinjak istaknutih znanstvenika, odvjetnika i drugih stručnjaka
- Zabrinjavajuća razina netransparentnosti u pogledu načina na koji Google rješava upućene zahtjeve
- U postupku koji tražilice provode prilikom odlučivanja o uklanjanju spornih linkova, ne postoji neki vanjski, nepristrani nadzor
- Dostupne statistike o uložnim žalbama na Googleove odluke govore o načelno niskom postotku žalbi

Google Advisory Council

- *Schmidt, Wales itd.*
- Predložilo da se postupci učine što je moguće transparentnijima
- Traže da se prikupe i obrade adekvatne, anonimizirane statistike o tijeku postupka, kriterijima koji se koriste prilikom usvajanja odluka

Opća uredba o zaštiti osobnih podataka

GDPR

- **Uredba, a ne Direktiva**
 - Stupa na snagu u svibnju 2018
 - Primjenjuje se izravno, u svim državama Unije
 - Odnosi se na sve organizacije koje prikupljaju osobne podatke na području Unije

GDPR - Novine

- Biometrijski podaci
- Podaci o genetskom profilu ispitanika
- Obveza jasnog informiranja korisnika

GDPR - Novine

- pravo na brisanje podataka (tzv. pravo na zaborav)
- pravo na prijenos podataka od jednog davatelja usluge drugome,
- pravo na obavijest u slučaju napada na podatke,

GDPR

- Koristi za građane
 - Privacy by design
 - Bolja regulacija digitalnih usluga
 - Stroži okvir*
- Koristi za poduzeća
 - One stop shop i ujednačena primjena
 - Niži troškovi?

GDPR

- Ustanovljava se novo europsko nadzorno tijelo, European Data Protection Board – Europski Odbor za zaštitu osobnih podataka
- Visoke kazne
 - 500 tisuća € do 20 milijuna € ili
 - Od 0.5 do 4% globalnog prometa, već koji je iznos viši

Privacy Shield

- Novi, stroži okvir izvoza osobnih podataka
- Američko ministarstvo gospodarstva će pratiti, a Savezna trgovačka komisija provoditi primjenu EU standarda
- Jasna ograničenja i nadzorni mehanizmi za pristup podacima europskih građana od strane američkih vlasti
- Nakana spriječiti nelegalno masovno nadziranje

Privacy Shield

- Efikasna pravna sredstva
 - Europska tijela za zaštitu osobnih podataka surađivat će s američkim vlastima (DoC i FTC)
 - Besplatan pristup alternativnim mehanizmima rješavanja sporova poput medijacije ili arbitraže

Često postavljana pitanja

Trgovačko društvo nudi usluge informacijskog društva, svjesno je obveza iz ZZOP i do sada vrlo uspješno surađuje s AZOP.

Što GDPR znači za nas?

ČPP

Domaći startup prikuplja osobne podatke hrvatskih i europskih građana kao dio svog poslovnog modela.

Serveri su nam u SAD, a razmišljamo i o preseljenju odnosno osnivanju trgovačkog društva u SAD.

ČPP

Zašto EU inzistira na tako visokoj razini zaštite osobnih podataka gušći razvoj novih internetskih usluga i proizvoda?

ČPP

Obasuti smo konzultantskim ponudama na temu GDPR compliancea. Treba li to mojoj tvrtki?

Kako se pripremiti za GDPR?

1. Evidentirajte svoje podatke
2. Utvrdite tko je odgovoran za podatke koje koristite
3. Implementirajte odgovarajuće mjere za zaštitu podataka
4. Ustrojite postupke za djelovanje u slučaju sigurnosnih incidenata
5. Odredite data protection officera
6. Razvijte kulturu zaštite podataka na svim razinama organizacije
7. Edukacija



Hvala na pažnji!

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