

**To
the European Data Protection Board,
the European Commission and
the European Parliament**

We are writing this open letter deeply concerned with the appointment of the new Director of the Croatian Data Protection Authority, which presents a threat to the rights of EU citizens (whose data is being processed in Croatia) and seriously undermines the independence of the institution. We call on the European institutions (EDPB, EC, and EP) to take swift and bold action in the protection of European values, citizens' fundamental rights and most basic rule of law principles.

On May 18, the Government proposed, and the Croatian Parliament appointed Mr. Zdravko Vukić as the new director of Croatia's Data Protection Authority (Agencija za zaštitu osobnih podataka – AZOP). Mr. Vukić does not have a master's degree nor any relevant experience in data protection which is an obligatory condition for a candidate set forth by GDPR and the Croatian Act on Implementation of GDPR.

Furthermore, Mr. Vukić's appointment is widely recognized as a political appointment, not only due to his lack of relevant credentials, but also because of his membership of at least four political parties - the last one being the ruling Croatian Democratic Union, which appointed him as the DPA Director. It is apparent that Mr. Vukić terminated his membership in the ruling party only to make his candidacy for DPA Director formally eligible. For further detailed analysis please see Annex I.

It is hardly expected that Mr. Vukić's appointment can resolve numerous recognized deficiencies and shortcomings in the work of the Croatian DPA. AZOP is yet to issue a single penalty for GDPR violations and regularly fails to appropriately respond to serious GDPR violations covered by the media (most famously the disgraceful [situation](#) when the mayor of Vukovar unlawfully published videos of Serb minors not standing up to the Croatian anthem, which led to the boys being beaten in the street).

We call upon the **European Commission** to swiftly launch a formal infringement procedure against Croatia and protect citizens' fundamental right to data protection. Insofar, at least three formal complaints have been submitted to the European Commission (Politscope complaint included).

We call upon the **European Parliament** to push for a comprehensive rule of law monitoring and pay special focus on independence and impartiality of monitoring and oversight bodies and agencies. Political appointment of an incompetent person to head an independent agency protecting the privacy and digital rights of Croatian citizens (and all EU citizens whose data is being processed in Croatia) is to be duly noted as evidence of declining rule of law and the declining levels of democratic political culture.

We call on the **European Data Protection Board** (EDPB) to release the guidelines concerning the appointment of DPA directors. We can expect EU member states with declining levels of rule of law not to respect basic democratic principles which are, more often than not, unwritten. They rise from shared democratic values and principles, the nation's democratic culture. Unfortunately, European strongmen are testing these principles to the breaking point. EDPB should issue guidelines which would introduce appropriate cooling-off period for all DPA directors, especially in relation to their membership in political parties. Strict and bold recommendations should be issued to safeguard citizens' trust in the European model of digital rights and privacy protection and deter further decline of rule of law.

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Focused on privacy

ANNEX 1 – Legal analysis of the appointment of Mr. Vukić as the Director of Croatian DPA

Mr. Vukić does not meet the minimum legal requirements for the position due to his total lack of any relevant experience and education related to the data protection law and practice. Lately, he had been an assistant to the minister (Ministry of Construction). Prior to that, he worked for 11 years in Cesting – public roads maintenance company. There, Mr. Vukić has dealt with general administrative affairs (personnel, general and legal affairs), where he was apparently the authorized person for the protection of personal data, under the obsolete and unimplementable Croatia’s prior data protection act. Occasional dealings with data protection (if any) in a road maintenance company hardly make Mr. Vukić a “prominent expert with a professional reputation and professional knowledge and experience in the field of personal data protection“. In addition, he didn’t state any training or education on data protection during his role as a DPO in his resume.

The position of the Director of the Data protection authority requires a great understanding of the importance of data protection as a fundamental right of EU citizens, while balancing it with other rights and legitimate interests. It requires familiarity with all the intricacies of all the ways in which personal data is being processed and knowledge of all relevant national legislation pertaining to data processing. Mr. Vukić simply does not fit the bill.

General Data Protection Regulation sets the following conditions for the members of the supervisory authority:

- *Each member shall have the qualifications, experience and skills, in particular in the area of the protection of personal data, required to perform its duties and exercise its powers. (Article 53, paragraph 2)*
- *The general conditions for the member or members of the supervisory authority should be laid down by law in each Member State and should in particular provide that those members are to be appointed, by means of a transparent procedure, either by the parliament, government or the head of State of the Member State on the basis of a proposal from the government, a member of the government, the parliament or a chamber of the parliament, or by an independent body entrusted under Member State law. (Recital 121)*

The Croatian Act on the Implementation of the General Data Protection Regulation sets these two obligatory conditions for DPA Director candidates:

- *The director „has at least ten years of work experience in the profession“, and needs to be a “prominent expert with a renown professional reputation and expertise in personal data protection“. (Article 8)*

The appointment of Mr. Vukić is detrimental to citizens’ trust in DPA autonomy due to his close political ties to the Government and the ruling HDZ party. One of the formal conditions for the position of the DPA director is not being a member of a political party. Mr. Vukić was not a member of one, but at least four political parties – his last pick was the ruling conservative HDZ party which appointed him as the DPA Director. Lately, Mr. Vukić also held a political position in the Ministry of Construction and Spatial Planning.

Even though he was obliged to notify the Committee on Conflict of Interest on termination of his membership in HDZ, Mr. Vukić failed to do so. Therefore, at the time of his appointment, his publicly available asset declarations stated he was a member of the ruling HDZ party. There exists a clear public perception that a low-level party figure without relevant credentials was appointed to lead an independent oversight institution in charge of protecting citizens’ rights.

Such public image undermines citizens' trust in this independent institution, but also their trust in the European system of protection of digital rights and privacy. Due to his close ties to the Government and the ruling HDZ, Mr. Vukić is in a continuous situation of conflict of interest, and thus – unfit to hold the public office. His appointment could be used to exercise political influence over the DPA and will, without a doubt, undermine the public's trust in this independence of the institution. This is especially concerning in the light of previous attacks on the institution's authority and independence. Article 29 Working Party [stressed](#) that decisions of the Croatian DPA have to be challenged in courts and through appropriate routes of redress, not via dismissal threats aimed against the heads of the institution.

Having that incident in mind, combined with the widely known problem of corruption, conflicts of interests and clientelistic relationships in Croatia, this appointment isn't an anomaly but yet another example in the ruling party's state capture.

Finally, trust in Croatian DPA is heavily undermined by Mr. Vukić connections to Cesting Ltd., which he lists as relevant professional experience. Cesting is a public road maintenance company, most famous for [extravagant costs of representation](#), [accusations of money laundering](#) for a regional party Mr. Vukić was a member of, and company's involvement in a failed attempt to [bribe members of the Supreme Court](#) in an effort to [annul a prison sentence for a war criminal](#).

Relevant legal provisions:

- The Croatian Act on the Implementation of the General Data Protection Regulation states that DPA Director must not be a member of a political party (Article 8)
- Party membership is listed as relevant information in publicly available asset declarations of state officials, as defined by the Act on the Prevention of Conflict of Interest (Article 8) and respective bylaws adopted by the Committee for Deciding on Conflict of Interest
- European Court of Justice case which dealt with the independence of the Austrian DPA stresses the Data Protection Authority has to be able to exercise its duties without a risk of influence over its decisions. *“Any suspicion of partiality is therefore incompatible with the requirement of ‘independence’ within the meaning of the second subparagraph of Article 28(1) of Directive 95/46.”* (C-614/10, Paragraph 61)