

**Commissioner for Information of Public  
Importance and Personal Data Protection**

Bulevar kralja Aleksandra 15  
11 000 Belgrade  
Republic of Serbia

*Pursuant to Article 180 of the Law on Misdemeanors ("Official Gazette of RS", no. 65/2013, 13/2016, 98/2016 - Constitutional Court decision), SHARE Foundation, Kapetan Mišina 6a, Office 31, 11000 Belgrade submits:*

**MISDEMEANOR COMPLAINT**

against **Google LLC**, 1600 Amphitheatre Parkway, Mountain View, CA 94043, United States of America (hereinafter: Google LLC) for **breaching mandatory obligation to appoint a representative in the Republic of Serbia provisioned by Article 44 of Law on Personal Data Protection.**

Previously mentioned mandatory provision according to Article 3, Paragraph 4 of the Law on Personal Data Protection applies to Google Chrome, Gmail, YouTube, Google Docs and numerous other applications that Google LLC owns, since they are processing personal data of persons residing on the territory of the Republic of Serbia. Also, offering goods and services of Google LLC includes processing personal data and monitoring activities of data subjects with Serbian residence, since the mentoned activities are occurring on the territory of Serbia.

Furthermore, some of applications owned by Google LLC can be used entirely in Serbian, and google.rs uses Serbia's national domain (ccTLD). Additionally, advertisements and marketing content on websites target Serbian natural persons, and the behaviour of Serbian users is monitored by using cookies, behavioural advertising, tracking geolocation for advertising, etc. Finally, by using integrated features, the user's personal data information is shared with various companies Google LLC cooperates with. Also, during our research we found that this company has a representative office in Serbia named "Društvo za marketing Google doo, Beograd, Stari Grad" registered on December 21, 2007, registration number 20365099, and that its legal representative is Paul Terence Manicle, an Irish citizen.

Exceptions provisioned by Article 44, Paragraph 1, Point 1 of Law on Personal Data Protection do not apply to Google LLC. These exceptions apply to occasional processing of user's personal data or one that does not include processing in high volume of special categories of data provisioned by Article 17, Paragraph 1 of the mentioned Law. Previously mentioned exceptions cannot be applied to the processing of user's personal data information done by Google LLC. First, processing done by Google LLC is continuous and constant (not occasional). Second, applications owned by Google LLC process in high volume data according to which racial or ethnic origin, political opinion, religious and philosophical belief, health status or sexual life or sexual orientation of a natural person is or can be determined.

In accordance with the above mentioned, the company, against which the misdemeanour complaint is hereby submitted, completes regulatory requirements for compliance with the

mandatory obligation of appointing a representative in the Republic of Serbia provisioned by Article 44 of Law on Personal Data Protection.

In a letter sent on October 17, 2019 (of which we notified you on October 23, 2019 - in appendix), in which a mandatory provision on appointing a representative in the Republic of Serbia is emphasised, it was requested from Google LLC to notify SHARE Foundation with 10 days if the representative in Serbia had been appointed and, if so, to provide us with contact information - since according to publicly accessible data it had not been possible to determine whether the representative had been appointed. Also, in this letter, Google LLC has been informed that SHARE Foundation is considering submitting a misdemeanor complaint for breaching the obligation to appoint a local representative.

Bearing in mind that Google LLC has not responded in the mentioned period nor by this day provided information of compliance with the mandatory provision of appointing a representative, SHARE Foundation hereby submits a misdemeanour complaint upon which the Commissioner for Information of Public Importance and Personal Data Protection can commence an inspection procedure of the company in accordance with Article 79, Paragraph 1, Point 9 of the Law on Personal Data Protection and Article 180, Paragraphs 5 and 6 of the Law on Misdemeanors.

If the Commissioner in the inspection procedure establishes that the company has not appointed a representative for data protection in the Republic of Serbia, SHARE Foundation proposes imposing a misdemeanor fine to Google LLC based on a misdemeanor warrant:

- 1) in the amount of 100.000,00 RSD according to Article 95, Paragraph 2, Point 4 of the Law on Personal Data Protection and
- 2) to the responsible person in the legal entity or to the person responsible for the representative office of the company or to the responsible person in the business unit of a foreign legal entity in the amount of 20.000,00 RSD according to Article 95, Paragraph 7 of the Law on Personal Data Protection.

In Belgrade,

December 4, 2019



For SHARE Foundation

Danilo Krivokapić, Director

*Appendix:*

1. *Representative letters sent to company Google LLC by SHARE Foundation*
2. *Letter sent to Commissioner for Information of Public Importance and Personal Data Protection October 23, 2019*