

At the 23rd plenary session of the European Data Protection Board held on 22 April 2020, the Personal Data Protection Agency supported the adoption of the Guidelines on the processing of health data for research purposes in the context of the COVID-19 pandemic outbreak and the Guidelines on geolocation and other monitoring tools in the context of the outbreak of the COVID-19 pandemic.

Guidelines on the processing of health data for research purposes in the context of the outbreak of the COVID-19 pandemic aim to shed light on the most important legal issues related to the use of health data, such as the legal basis for personal data processing, further processing of health data for scientific research, implementation appropriate protective measures and the exercise of respondents' rights.

The guidelines state that the General Regulation contains several provisions for the processing of health data for scientific research, which also apply in the context of the COVID-19 pandemic, in particular with regard to consent and relevant national regulations.

In addition, the guidelines address legal issues regarding international data transfers involving health data for research purposes related to the fight against the COVID-19 pandemic, in particular in the absence of a decision on adequacy or other appropriate safeguards.

The guidelines are available at the following link:

https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-032020-processing-data-concerning-health-purposes_en

The Guidelines on Geolocation and Other Monitoring Tools in the Context of the COVID-19 Pandemic aim to clarify the conditions and principles for the proportionate use of location data and contact tracking tools for two specific purposes:

1. use of location data to assess the overall effectiveness of isolation measures,
2. the use of a contact tracking feature, which aims to inform individuals who may have been in the immediate vicinity of someone who was eventually confirmed as a carrier of the virus, in order to prevent the spread of the virus.

The guidelines emphasize that both the GDPR and the ePrivacy Directive contain specific provisions allowing the use of anonymous or personal data, which support public authorities and other actors at national and EU level in their efforts to monitor and limiting the spread of COVID 19. All measures taken by Member States or EU institutions to combat the COVID-19 pandemic, which include the processing of personal data, must be based on the principles of effectiveness,

necessity and proportionality.

Article 5 (3) of the ePrivacy Directive <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX> shall apply to location data and other data collected directly from the user's terminal equipment. Stk #: 32002L0058

Consequently, storage of information or access to information stored in the user's terminal equipment is allowed only with the prior consent of the user or if storage / access to data is necessary for the purpose of providing the information society service explicitly requested by the user.

However, derogations from the rights and obligations provided for in the ePrivacy Directive are possible under Article 15, which states that "Member States may adopt legislative measures to limit the scope of the rights and obligations provided for in Article 5, Article 6, Article 8. paragraphs 1, 2, 3 and 4, and Article 9 of this Directive where such a restriction constitutes a necessary, appropriate and proportionate measure within a democratic society to protect national security (ie national security), defense, public security and with a view to the prevention, investigation, detection and prosecution of criminal offenses or the unauthorized use of the electronic communications system referred to in Article 13 (1) of Directive 95/46 / EC '.

Guidance on geolocation and other monitoring tools in the context of the COVID-19 pandemic also includes an appendix on contact tracking applications. It is a kind of guide that contains a series of instructions for designers and owners of applications, and its purpose is to follow people who have been in contact with people infected with COVID 19.

We point out that, according to this guide, proximity data between people infected with COVID 19 and their contacts can be collected without collecting the location data of the persons concerned, so applications used for contact tracking should not collect location data.

The guidelines are available at the following link:

https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-042020-use-location-data-and-contact-tracing_en

The European Data Protection Board in the guidelines emphasizes that the use of contact tracking applications should be voluntary and should not rely on the collection of location data, but on information about the proximity of users, and the Committee also informed the European Commission of its position [https :](https://edpb.europa.eu/our-work-tools/our-documents/letters/edpb-letter-concerning-european-commissions-draft-guidance-apps_en)

[//edpb.europa.eu/our-work-tools/our-documents/letters/edpb-letter-concerning-european-commissions-draft-guidance-apps_en](https://edpb.europa.eu/our-work-tools/our-documents/letters/edpb-letter-concerning-european-commissions-draft-guidance-apps_en)
.

Namely, based on a request for consultation received from the European Commission, on 14 April 2020 the European Data

Protection Board issued an opinion on the draft European Commission Guidelines on applications to support the fight against the COVID-19 pandemic. These guidelines on data protection and privacy implications complement the European Commission's Recommendation on Contact Monitoring Applications, published on 8 April, and pave the way for a joint EU package of instruments for the use of technology and data to combat and exit COVID-19. crisis.

In its press release, the European Commission emphasized that it had sought the opinion of the European Committee when drafting the Guidelines, and further emphasized the importance of EU citizens' full confidence in innovative digital solutions to be used in the fight against COVID 19. In order to take full advantage of potential of monitoring applications, the greatest possible participation of EU citizens is needed. EU data protection rules, in particular the General Data Protection Regulation (GDPR) and the ePrivacy Directive, provide the strictest protection of trust (ie voluntary access, data reduction principle, time limits) to allow such applications could work in large numbers and to be accurate. These guidelines seek to provide the necessary framework to ensure that citizens' personal data are sufficiently protected and that invasiveness in the use of such applications is limited.

The Guidelines emphasize, inter alia, the need for national data protection authorities to be involved in the processing of personal data through applications in the context of the COVID-19 pandemic: "Data protection authorities should be fully involved and their views taken into account should control the use of the application. As data processing in the context of the application can be considered as processing of specific categories of data (health data) on a large scale, the Commission draws attention to Article 35 of the General Data Protection Regulation on data protection impact assessment. "

The European Commission's guidelines on applications to support the fight against the COVID-19 pandemic (2020 / C 124 I / 01) in Croatian are available at the following link: [https://eur-lex.europa.eu/legal-content/EN/TXT / HTML /? Uri = CELEX: 52020XC0417 \(08\) & from = EN](https://eur-lex.europa.eu/legal-content/EN/TXT / HTML /? Uri = CELEX: 52020XC0417 (08) & from = EN)