



# Data Protection Handbook with respect to the coronavirus situation

KPMG Legal Tóásó Law Firm

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# Data protection issues of the COVID-19 epidemic



The unfortunate spread of the new type of coronavirus affects various areas of our lives, including our employer-employee relationship and possible court procedures. However, we should not forget about its aspects concerning data protection. To support our clients in the area of data protection, we have prepared this Data Protection Handbook on the most important data protection measures that need to be implemented.

## Do data protection rules apply?

It is important that data protection rules are not suspended for the duration of the COVID-19 outbreak. As a result, data controllers and data processors must comply with the data protection laws (GDPR, Privacy Act, and sectoral rules) in this situation as well.

The coronavirus-related data processing concerns data processings performed in relation to employees as well as other third persons, such as visitors and guests. The data controller and processor carry primary responsibility for the compliance of data processing.

## Which types of data processings are involved?

## What guidelines should I follow?

With regards to the spread of the coronavirus, on March 10, 2020, the NAIH (Hungarian National Authority for Data Protection and Freedom of Information) issued a Guideline on processing data related to the coronavirus epidemic („**Guideline**”). It is important to note that the Guideline had been issued before the coronavirus got classified as a pandemic, and as a result, the Guideline may be revised accordingly in the future.



# Data processing related to employees



## Key measures expected to be implemented by the Employer

### Pandemic action plan

The development of the so-called pandemic/business continuity action plan. It is recommended that it should extend to privacy controls to be taken based on the principle of privacy-by-design (e.g.: development of preventive steps, building channels of communication, risk assessment).

A detailed data protection notification should be made available to the employees, including the most important issues in relation to the coronavirus (e.g. symptoms, period of incubation) and who to turn to in the event of any questions or symptoms.

### Providing information

### Data recording

If an employee reports possible exposure to the employer or the employer deems that the suspicion of exposure can be established from the data provided by the employee, the employer is entitled to record the data concerned.

The legal basis of the processing of the data may be legitimate interest (GDPR Article 6 (1) f). In the case of the processing of sensitive data (data concerning health) the condition laid down by Article 9 (2) b) of the GDPR is applicable.

### Legal basis



# Proposals of NAIH



## What is recommended/acceptable

- With respect to the types of data indicated herein, NAIH deems it acceptable to have the employees complete questionnaires.
- On the basis of a risk assessment, the employer may only call for tests (e.g. thermometer) to be carried out by licensed medical professionals or under their professional responsibility.

## What is not acceptable

- The questionnaires may not include data concerning the medical history of the data subject.
- The employer may not require employees to enclose health documentation.
- The requirement of screening tests with any diagnostic device (e.g.: thermometer) involving all employees is not acceptable.





# Data processing related to third persons



## Key measures expected to be implemented by the Data Controller

### Risk assessment

As part of the pandemic action plan, it is necessary to consider the data protection risks of the measures introduced by the data controller in relation to the increased control over the organization and the introduced restrictions.

A detailed data protection notification should be made available to the data subjects including the most important issues in relation to the coronavirus (e.g. symptoms, period of incubation), along with an appeal addressed to them to immediately notify the access control staff about the fact of any presumed contact with the coronavirus upon entering the site of the organisation.

### Providing information

### Legal basis

The legal basis for the processing of personal data can be legitimate interest (GDPR Article 6 (1) f); or consent of the data subject (GDPR Article 6 (1) a). In the case of the processing of sensitive data (data concerning health) the condition laid down by Article 9 (2) b) of the GDPR is applicable.



Questions



Employees



Proposals of NAIH



Third persons



Data security



The route ahead



Contacts

# Data security issues



## Data security issues that require special attention:



Phishing e-mails (fake WHO requests)



Revision of the access-allocation system



Higher protection of data concerning health



Controlling the safety of working at home



Revision of incident-management policy



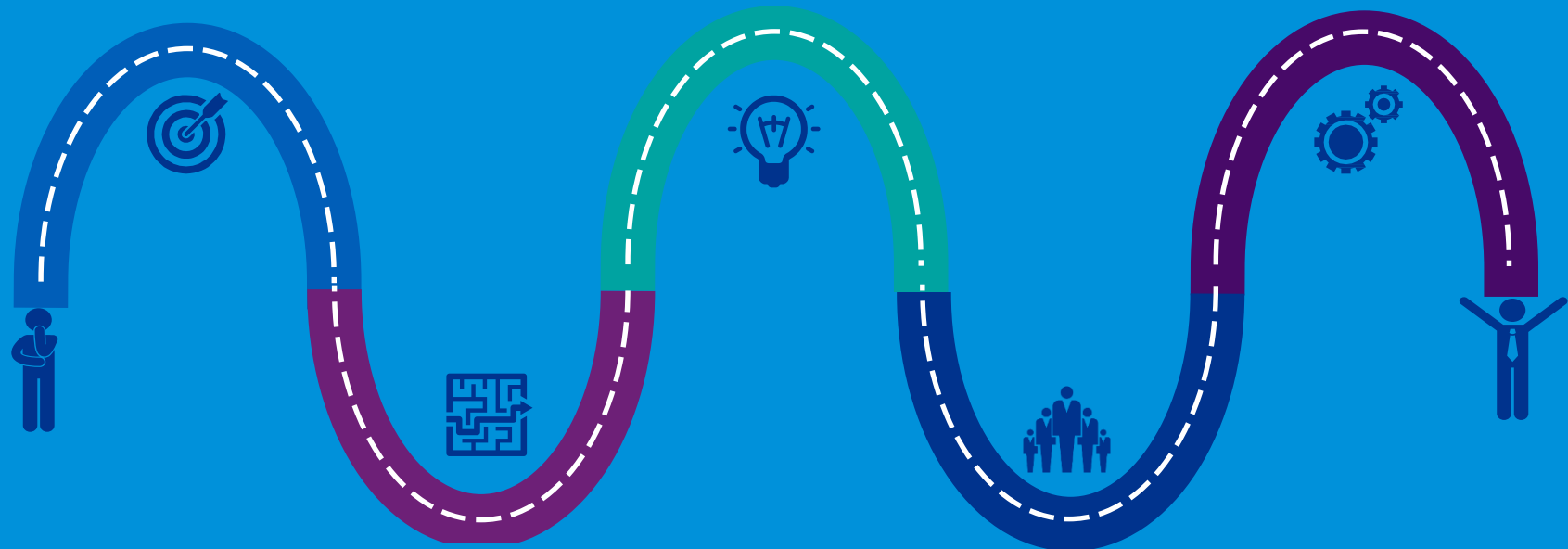


# We will continue to keep our Clients updated



**Our goal is to be with our costumers in the coming weeks, during these challenging times**

- Continuous customer-updates via email and summaries
- Hotline: call our experts
- Webinars
- Providing any other ad hoc advice





Questions



Employees



Proposals of NAIH



Third persons



Data security



The route ahead



Contacts

# Contacts



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