



07 May 2020

*Exchange of views with the LIBE Members on the use of personal data in the fight against
Covid-19*

Wojciech Wiewiórowski

Honorable Chair López Aguillar,

Ladies and Gentlemen,

Thank you for inviting me.

I was expecting to meet you in March to present the EDPS Annual Report for 2019, but this meeting was cancelled due to restrictions relating to the Covid-19 outbreak.

When the EDPS published its Annual Report for 2019, I thought our greatest challenge for 2020 would be to ensure that our new data protection rules delivered the promised results.

In many ways, I was mistaken - as something extraordinary happened. But in fact - in other ways, I am convinced this is still the case.

The coronavirus is **testing the resilience our society**. It represents an existential threat to Europeans, to our economy and to our way of life.

Only in times of crisis can we measure our commitment to the values we hold dear.

At European and at national level, there is an ongoing assessment about the extent to which data and technology can help to fight against Covid-19.

We have a responsibility to do so. We have a moral responsibility to use the tools we have in our hands to fight the pandemic.

But we also have the responsibility to minimise the impact on our fundamental rights and freedoms, including the right to the protection of personal data.

That is why, early on, the EDPS **called for EU digital solidarity and a pan-European approach** against the pandemic. Digital solidarity means ensuring that data and technology works for all people in Europe and especially for the most vulnerable.

Independent oversight and guidance are essential for data protection in ordinary times. They are even more essential in times of crisis.

Despite an inevitable impact of Covid-19 on our business activities, the EDPS has **continued to remain fully operational.**

The EDPS **advised** the Commission on the possibility to **use aggregated and anonymized location data** for monitoring of the spread of the Covid-19 outbreak. We also took an active role in the **EDPB guidance** on the use of contact tracing applications and the use of health data for research purposes. Today we published the latest edition of our **“Tech Dispatch”**, this time on contact tracing applications, as part of **our mission to monitor and explain emerging developments in technology.**

The EDPS also continues to perform its **“normal” supervisory role towards EU institutions.** Last month, we concluded our investigation on the European Parliament’s use of a US-based political campaigning company to process personal data.

We also conducted a virtual visit with eu-LISA to assess the state of play and evolution of EU large-scale IT systems.

Earlier this week, the EDPS met with the European Medicines Agency and provided a staff training on key responsibilities for controllers in the context of clinical trials.

The most debated issue, however, concerned the **possibility of using different kinds of IT tools to fight the pandemic.** That included information systems processing telecommunications data and data provided by other intermediary or communication-enabling services. But it also concerned the use of mobile applications to disseminate information, track the infected persons, perform so-called contact tracing or perform law enforcement actions (such as “quarantine checks”).

Indeed, there is a **wide variety of mobile apps** being deployed in the fight against Covid-19, including:

1. **“Info Apps”**: providing information on symptoms, medical service, medicines, medical equipment, testing facilities, masks, gloves but also on outbreak regions;
2. **“Mobility Apps”**: using geolocalisation in order to track the infection spread and mobility of the population;
3. Infection tracing tools (rarely apps): tracking (mainly tracking back) infected persons;
4. **“Quarantine Enforcement Apps”**: which involve surveillance of “quarantined” persons for law enforcement purposes; and
5. **Contact Tracing Apps.**

and soon – especially if currently planned activities are not efficient enough – we most probably should be ready for the discussion on new functionalities offered with a pretext to fight with Covid-19 like:

6. **“Immunity passports”**, **“green-codes”** etc. – which are particularly scary and
7. **“extended mHealth apps”** – involving self-assessment and data sharing which is not bad by itself, but poses new challenges for data protection.

What is Contact Tracing?

During epidemics of infectious diseases, such as the coronavirus disease, it is important to lower the number of new infections as much and as quickly as possible. To do so, the infection chain of onward transmissions must be interrupted.

When persons known to be infected reveal their recent contacts, other infected persons may be identified, informed and isolated already early on, even before they become aware of their infection. The process to identify contacts of known cases is called contact tracing.

It can be performed manually or with a use of special mobile software (apps).

One technology in particular may look promising as far as efficiency and privacy protection are concerned. Bluetooth Low Energy (BLE) technology allows smartphones to broadcast messages with small data packages to their close environment, typically in between a few and hundreds of meters.

Modern smartphones permit applications to configure the broadcast range, e.g. to limit it to the nearest few meters. Such messages may contain a smartphone identifier and application-specific data. Other smartphones with support for BLE and within the broadcast range can detect these messages. With the use of more or less centralized systems, individual users can be notified of instances when the user was in close proximity of an infected person.

Even if the solution is innovative, it has not yet proven its efficiency and views differ significantly amongst scientists and developers on whether such a system is required. Still, many European countries decided to introduce such a solution and the two main producers of smartphone operating systems joined forces to create an interoperable environment to support this idea.

We took part in consultations on this topic with our EDPB colleagues, but we also kept the contact with Data Protection Authorities from United Kingdom, Australia, New Zealand, Philippines and Argentina. We are in permanent discussion on that with American pro-privacy NGOs, and representatives of Academia. Finally, the EDPS was also approached by Google and Apple before their co-operative project was announced. Both companies decided to present their approach to several experts and regulators, including two data protection authorities: the Irish DPC and the EDPS.

I also had the possibility to present the position of data protection authorities on the topic of contact tracing apps at a hearing in the French Senate and during webinars organized by RENEW Europe, the Greens, business representative group Bitkom and the Permanent Representation of Germany to the EU.

EDPS representatives were also present with lectures at the event on that topic organized by German Foundation for Data Protection and soon we will appear in the University of North Carolina, KU Leuven and the Vrije Universiteit Brussel.

Finally, we **continue to engage closely with our counterparts** inside and outside the EU, both within the European Data Protection Board and in the context of the Global Privacy Assembly.

As EDPS, we are fully aware that **the debate on the use of personal data in the fight against Covid-19 has only just begun**. There will be a “second wave”.

We will continue to monitor new developments closely, such as the possible use of temperature checks in the context of the exit strategy.

Some stakeholders view the current crisis as an opportunity and point to data protection as an obstacle. But data protection is not the problem - it is part of the solution.

The “new normal” should not give way to permanent erosion of rights we have fought so long and hard to promote.

EU data protection rules must be part of the EU road to recovery.

The aftermath pandemic will be a test for our civilisation. The EDPS is planning to undertake a careful analysis of longer-term implications of this pandemic for our fundamental rights and freedoms, to be finalised by the end of the year.

I look forward to your questions and I also look forward to appearing again before this Committee to present our work and exchange views with you as soon as this will be organised.

CHECK AGAINST DELIVERY