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DATA PROTECTION & PRIVACY PRACTICE

EDPB Guidelines 03/2020 and 04/2020

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On 21th April 2020, the European Data Protection Board (“EDPB”) adopted **Guidelines 03/2020 on the processing of health data for scientific research purposes** and **Guidelines 04/2020 on the use of location data and contact tracing tools** in the context of the **COVID-19 outbreak**, which have not been submitted for prior public consultation, due to the pandemic emergency situation.

It should be stressed out that, as already stated by the Chair of the EDPB, Andrea Jelinek, the personal data and e-privacy legislative framework must not be considered as an impediment to the fight against COVID-19, but as the means to enable the lawful processing of personal data to this end, since people should not have to choose between an efficient response to the crisis and the protection of their fundamental rights.

- [Guidelines 03/2020](#) aim to shed light on the most urgent legal questions concerning the use of health data, such as the legal basis of processing,

the implementation of adequate safeguards, the exercise of data subject rights and international data transfers. It is important to note that the GDPR provides special provisions for the processing of health data for scientific research purposes and for reasons of public interest in the area of public health, which also apply in the context of the COVID-19 pandemic. Member States are allowed to enact specific laws providing for derogations and limitations in relation to the protection of personal data in these situations, which however must be interpreted in light of the core principles of the GDPR.

- [Guidelines 04/2020](#) aim to clarify the conditions for the proportionate use of location data to model the spread of the virus and assess the overall effectiveness of confinement measures and of contact tracing tools to notify individuals who may have been in close proximity to a confirmed virus-carrier and break the contamination chains as early as possible. It is

emphasised that both the GDPR and the e- Privacy Directive contain specific provisions allowing for the use of anonymous or personal data to support public authorities and other actors in their efforts to monitor and contain the spread of COVID-19, but any measures adopted must be in alignment with the general principles of effectiveness, necessity and proportionality.

In particular, contact tracing apps can only complement the effectiveness of public health measures and the dedication of healthcare workers and their use should be voluntary and rely on proximity information regarding users, rather on tracing individual movements. The Guidelines include an Annex with general guidance to designers and implementers of contact tracing apps, underlining that any assessment must be carried out on a case-by-case basis.

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