



Summary of the Data Protection Authority's 2019 annual report

Possibility of gathering location data in the EU

KPMG Legal Tóásó Law Firm

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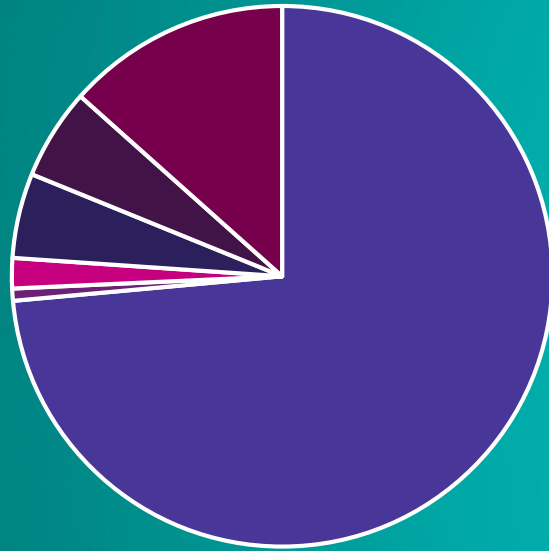
Introduction

In our newsletter we summarise two recently published data protection related documents:

- 1. The Hungarian Data Protection Authority published its 2019 annual report at the end of March 2020. The Authority reports on its year-round activity regarding the application of GDPR. We summarise those types of cases that may be of most importance to enterprises and which can be useful in their practices.**
- 2. The European Data Protection Board issued a statement on data processing in the context of COVID-19 outbreak on the 19th March 2020, according to which the e-Privacy Directive enables Member States to introduce legislative measures regarding location data of mobile phones.**

Statistical data

Administrative procedures per client type



- data protection authority procedure on request - GDPR & other
- ex officio data protection procedure - Law Enforcement Directive
- confidentiality regulatory procedure
- ex officio data protection procedure - GDPR & others
- ex officio data protection procedure - GDPR & others - data protection incident
- data protection authority procedure on request - GDPR & other - data protection incident

According to the statistical data of the report, among others the diagram shown here, it can be clearly identified that more and more official procedures start upon request, namely

The data subjects are increasingly aware of the exercise of their rights.

The most typical inquiries in 2019 were as follows:

- camera surveillance by camera on the neighbour's real estate;
- camera surveillance regarding employees;
- starting a webshop data processing through a website;
- sending marketing notifications, unsubscription was not ensured.

Data protection cases

The most typical topics, in connection with which requests for starting an administrative procedure were filed:

- Data processing by employer
- Data processing by claim management company
- „Camera surveillance” cases
- Data processing by bank
- Processing of health data
- Data processing by insurer
- Data processing relating assignment of a claim
- Right of access to personal data
- Failure or rejection to perform data subject’s rights.

Some key type of cases and conclusions

Inspection of work e-mail accounts:

- In principle, it must be ensured that the employee or his representative is present at the inspection;
- Data subject should be informed in advance;
- The process of inspection should be set out in internal policy and minutes.

Principle of purpose limitation in case of data processing by employer:

- Limited access to data must also be ensured within the organization, e.g. only payroll is entitled to access payroll data;
- The names of members of the association registered for payroll purposes may not be used for any other purpose.

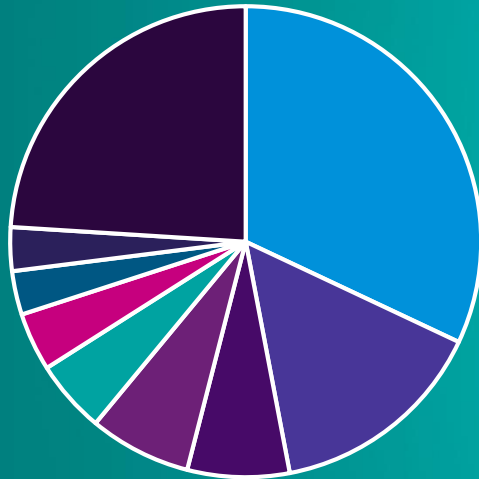
Providing information on data processing of personal data in case of claim management:

- Strict adherence to the principle of transparency;
- Providing information for data subject about scope of data processed with regard to obligation set out in Gov. Decree No. 42/2015. (III.12.).

Data protection incidents

In 2019 **506** data protection incidents were announced to the Hungarian Data Protection Authority, in connection with which the distribution by sector is shown in the graph below:

Distribution of incident announcements based on sectors in 2019



- | | |
|--------------------------------------|---------------------------------|
| ■ financial and insurance activities | ■ health and social supply |
| ■ communication, news release | ■ commerce |
| ■ administrative activity | ■ education, research |
| ■ central administration | ■ light industry, manufacturing |
| ■ other | |

It can be concluded from the cases mentioned in the annual report that the incidents arise in most cases

due to a lack of security measures or inadequacy of existing ones, therefore the following

key aspects

are recommended to be considered in order to prevent data protection incidents:

- **performing proper technical and organizational measures i.e..** Introduction and compliance of incident handling procedure, protection of the data carrier by technical measures which prevents unauthorized persons from having access to the data on the data carrier, even in the event of loss;
- **data security should also be ensured in case of paper-based data processing;**
- **guaranteeing a security measure proportional to the risk** (i.e. document containing health data should be posted as registered mail)

Activity in connection with legislation

The number of draft laws sent to the Hungarian Authority for comments in 2019 followed the trend of previous years and showed a decreasing number.

According to the Authority, one of the reasons for this decreasing trend may be that

- the GDPR narrows the scope of Member States' legislation concerning data processing compared to the previous situation;
- Following the completion of deregulation and the alignment of Hungarian legislation with the GDPR, the main effect in the future is that as the GDPR does not allow for legislation at national level to determine legal basis on certain data processing, less legislation will be enacted in the future.
- A significant part of the sectoral legislative amendments related to the alignment with the GDPR took place in 2018, but some corrections continued in 2019.

Possibility of gathering location data in the EU

The European Data Protection Board issued a statement on data processing in the context of COVID-19 outbreak on the 19th March 2020. The Board – among others – declared that, the e-Privacy Directive enables Member States to introduce legislative measures regarding location data of mobile phones, if the following criteria are met:

- Introduction of legislative measures to safeguard public security;
- if it constitutes a necessary, appropriate and proportionate measure within a democratic society;
- measures must be in accordance with the Charter of Fundamental Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- Moreover, it is subject to the judicial control of the European Court of Justice and the European Court of Human Rights.
- In case of an emergency situation, it should also be strictly limited to the duration of the emergency at hand.

Based on the provisions of the Directive, in the coming weeks, an application that meets data protection standards and allows the COVID-19 epidemic to be traced is expected to be developed in several EU countries.



Contacts



dr. Bálint Tóásó
MSc LL.M (Vienna)
Partner

M: +36 30 663-6245
E: balint.toaso@kpmg.hu



dr. Ildikó Csák
Director, Attorney-at-law

T: +36 70 978 934
E: ildiko.csak@kpmg.hu



dr. Boglárka Kricskovics-Béli
Managing Associate

T: +36 70 520 4507
E: boglarka.kricskovics-beli@kpmg.hu



dr. Nóra Takács
LLM
Senior Associate

T: +36 70 978 9709
E: nora.takacs@kpmg.hu



dr. Fanni Márkus
Associate

T: +36 70 333 1502
E: fanni.markus@kpmg.hu





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