

CERHA HEMPEL CEE NEWSLETTER *Bulgaria*

Bulgarian DPA guidelines on processing employee data in relation to COVID-19

The Bulgarian data protection authority (**DPA**) recently adopted guidelines concerning the processing of employees' health data in relation to COVID-19. Below we summarise the main points of the guidelines.

Employee testing

According to the guidelines, employers are allowed to impose mandatory COVID-19 testing on employees if the employer has a legitimate interest in doing so. However, to carry out such testing, employers have to conduct a balancing test – an assessment of whether the employer's legitimate interest in preventing the spread of the disease prevails over the privacy rights of employees.

The testing itself and the processing of related health data may only be carried out by licensed laboratories and relevant health authorities to which the data is disclosed upon the employee testing positive. Processing of the testing related data by employers is generally limited, and can be carried out only where an adequate legal basis exists, e.g. in relation to a sick/infected employee taking sick leave.

Teleworkers' health data

The DPA takes the view that employers generally lack the legal basis to request that teleworkers reveal information about their current health status as teleworkers are not in physical proximity to their co-workers and therefore cannot pose a risk

to their health. Therefore, health status requests may be viewed as an infringement of the privacy rights of teleworkers. However, the processing of the health data of teleworkers by employers would be allowed on the basis of general privacy principles (e.g. in case the employee takes sick leave).

Employee access control

Based on an assessment of the specific employment activities and to prevent the disease spreading, employers may generally introduce measures to control access to the business premises by employees (such as temperature measuring access control terminals). Employers may notify the health authorities upon identifying a case of COVID-19.

Disclosure of information

The DPA also notes that, in principle, employers may inform employees if one of their co-workers tests positive, but without revealing the identity of the infected person. The health authorities are provided with all information and the identity of the person in question with a view to identifying the respective contact persons.

For more information

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