



employee software

**INFORMATION ON DATA PROCESSING DURING
THE OPERATION OF HYBRID BULLET**

ACCESS CONTROL SYSTEM WITH THERMAL IMAGING CAMERA

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1. PURPOSE

The health care crisis due to the coronavirus (COVID-19) spreading exceedingly fast across borders inquiring about the kind of measures that can be implemented to contain the virus that are compliant with the data protection requirements in force and whether it is possible to process personal data –particularly health data which constitute a special category of personal data –in relation to the development and implementation of these measures.

The Login Autonom Ltd. (hereinafter: the Company) – as the service creator of the Hybrid Bullet Access Control System with Thermal Imaging Camera– based on the recommendations of the Hungarian National Authority for Data Protection and Freedom of Information (hereinafter: the Authority) issues the following information on processing data related to the coronavirus and the usage of thermal imaging camera with a view to develop compliant data processing practices by data controllers and processors, and to ensure the efficient protection of the privacy of the data subjects. As part of this, the following information provides information about, among other things, the possible cases, legal basis, rules and conditions of processing data related to coronavirus and the rules of using body temperature measurement devices.

2. GENERAL RULES

Pursuant to the data protection rules in force, the data controller—that is, the employer calling for control and the physician providing health care –carries primary responsibility for the compliance of data processing. A substantial part of data controllers, including the majority of employers, are required to apply the provisions of the General Data Protection Regulation (hereinafter: GDPR).¹

It is an important expectation that the processing of personal data is warranted only if and to the extent that the purpose of data processing cannot be achieved by other means not requiring data processing, and it must be examined in every case whether there are efficient solutions that pose less threat to the privacy of the data subjects. Thus, for instance:

- specifying basic hygienic measures,
- cleaning work equipments and offices more thoroughly,
- providing disinfectants and requiring their more frequent use,

¹ Excluding the bodies involved in the processing of data subject exclusively to Act CXII of 2011 on the Right to Informational Self-Determination and on the Freedom of Information (hereinafter: Privacy Act), thus in particular the bodies of law enforcement, defence and national security.

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- regulating the order of receiving clients,
- using glass partitions at customer service desks.

This measures in some cases may provide efficient solutions without the processing of personal data.

3. CONDITIONS OF PROCESSING PERSONAL DATA

If the previously mentioned approaches are proved to be inadequate and the processing of personal data seems absolutely necessary, the data controller has to specify first and foremost the accurate purposes of data processing and the legal basis for compliance.

The principle of data minimalisation should not be left unconsidered as it stipulates that data to be processed (collected and stored) must be absolutely necessary and proportionate for the purpose to be achieved. Data controllers must also provide the transparency of data processing as well as the accuracy and security of the data.

Under this, the measures expected from the employer including:

- the development of the pandemic/business continuity action plan;
- a detailed information document that has to be drafted and made available to the employees concerning the most important issues to be known in relation to the coronavirus;
- if needed, conduct of business and business/service trips and events may eventually have to be reorganised and the possibility of eventually working from outside the workplace must be ensured;
- attention needs to emphasize the fact that in the event of any alleged contact with the coronavirus and upon the onset of other conditions specified in the information material individuals should report this to the designated person and visit the company doctor or another physician immediately in order to protect their own and their colleagues' health.

4. PERSONAL DATA PROCESSING

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 may record:

- the date of the report,
- the personal data of the employee concerned for the establishment of their identity,

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- the fact of whether the venue and date of the employee's foreign travel, even if for a private purpose, coincides with the territories (countries) and periods listed in the employer's information material,
- the data concerning the fact of having contact with a person arriving from the territories indicated in the employer's information material,
- based on information made available to the employer, the measures taken by the employer (e.g. ensuring the possibility of visiting the company doctor, permission for a voluntary quarantine at home).

4.1. COMPLETE QUESTIONNAIRES

With respect to the range of data indicated above, the Authority deems it acceptable to have the employees complete questionnaires, if based on a preliminary risk assessment carried out by the employer in advance, the employer concludes that the application of this method is necessary and it proportionately restricts the right of employees to privacy; however, the Authority expressly underlines that the questionnaires may not include data concerning the medical history of the data subject and the employer may not require employees to enclose health documentation.

In such cases, the legal basis for the processing of the data referred to above can be legitimate interest and in the case of data processing by organisations performing public tasks or exercising public powers, it may be the performance of a task carried out in the public interest in view of the need to perform their basic duties.

4.2. OPERATING DEVICES FOR BODY TEMPERATURE MEASUREMENTS

The Authority, however, with a view to the current situation of the epidemic in Hungary, regards disproportionate the requirement of screening tests with any diagnostic device (in particular, but not exclusively, with a thermometer) or the introduction of mandatory measurement of body temperature generally involving all employees called for by a measure of the employer, in view of the fact that the collection and evaluation of information related to the symptoms of coronavirus and drawing conclusions from them is the task of health care professionals and authorities.

4.2.1. OPPORTUNITIES AND LEGAL CONDITIONS OF OPERATING DEVICES FOR BODY TEMPERATURE MEASUREMENTS

If based on the report of an employee, or in an individual case upon consideration of all the circumstances, or on the basis of a risk assessment, the employer finds it absolutely necessary

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for certain jobs, particularly affected by exposure to the disease, the employer can act in compliance with applying the GDPR.

Accordingly, data processing shall be lawful only if and to the extent that at least one of the following applies:

- processing is necessary in order to protect the vital interests of the data subject or of another natural person;
- processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Under the provisions set out in the GDPR, sensitive data (such as body temperature data) can only be processed if processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services. Only in case of the following conditions: the data processing is carried out exclusively by health care professionals (who has a professional subject to the obligation of professional secrecy) or under their professional responsibility and the employer is entitled to be informed only about the results of these examinations.

It is important to stipulate that health care providers as well as company doctors – as independent data controllers – must comply with the data protection requirements governing their actions.

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