INTERNATIONAL ASSOCIATION
OF YOUNG LAWYERS

REPORT ON TECHNOLOGY MEASURES IN COVID-19 LEGISLATION

A report by the AIJA IP/TMT Commission - November 2020

Based on questionnaire amongst members, includes 21 country reports

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Introduction

In times of COVID-19 we quickly noticed that we often asked each other: how is it in your country? Being lawyers the topic quickly turned legal. To combat the spread of COVID-19, governments all around the globe have implemented measures, many of them significantly limiting freedoms which we take for granted and are also essential in a democratic society.

For example, governments implemented measures to track the movement of persons and, should they be tested positive, identify the people they have been in contact with. This tracking and identification are often achieved by technological means, such as with the help of apps or mobile phone data. Already before COVID-19 data protection and privacy and the identification of individuals - mostly by private companies - through browsers or mobile apps have been hot and controversial topics. The potential problems seem to intensify when governments employ the same techniques and measures they may have criticised and tried to reduce before.

AIJA is an international association of lawyers all over the world. The members of AIJA's IP/TMT Commission deal with a broad range of topics in the fields of technology, intellectual property, telecoms, privacy and media. Especially IT and privacy lawyers have dealt with the issues described above for years. As such we are in the unique position to gather information on what type of technology-related measures governments around the globe have introduced or are planning, their acceptance and impact.

We have gathered the information by creating a questionnaire and asking our members to answer these. We received input from 21 countries, ranging from Belgium to Brazil and from the USA to Hong Kong.

In this report we:

- First, provide you with an overview of the results in a quick reference table, followed by a summary;
- Second, provide you with the names and contact details of our contributors;
- Third, provide you with the answers to the questionnaire per country.

Enjoy your read!

Árpád Geréd and Silvia van Schaik

Past and current President of the AIJA IP/TMT Commission

Quick reference table

	Legislation on tracking (apps)	End date	Voluntary tracking (apps)	Sharing other tracking data	Other tracking methods
Argentina	Yes, mandatory only for inbound travellers	No	Yes, governmental, same as mandatory one	No	Yes, voluntary
Austria	No	No	Yes	Yes, anonymous	No
Belgium	Yes, database	No	No	Yes, anonymous	No
Brazil	No	No	No	Yes, required by government	No
Chile	No	No	No	No	No
Croatia	No	No	Yes, governmental app	No	No
Czech Republic	No	No	Yes, governmental app	Yes, on voluntary basis	No
France	Yes, not mandatory	Yes, 10.01.2021	Yes, governmental app and others	No	No
Germany	Yes, not mandatory or specific	No	Yes	Yes, anonymous, not government	Yes, customers
Hong Kong	Yes, mandatory for inbound travellers	Yes, 31.12.2020	No	No	No
Hungary	No	No	Yes, governmental app	Yes, required by government	No
India	No	No	Yes, governmental app (mandatory in some cases)	No	No
Italy	Yes, not mandatory	Yes, 31.12.2021	Yes, governmental app and locals	Yes, anonymous	Yes, voluntary
Netherlands	Yes	No	Yes	No	Yes, voluntary
Slovakia	Yes, for quarantine	Yes, 31.12.2020	Yes	Yes, required by government	No
Spain	Yes, through telcos	No	Yes	Yes, required by government	Yes, contact tracing apps
Sweden	No	No	No	Yes, one operator, anonymous	No
Switzerland	Yes, not mandatory	No	Yes, governmental app	Yes, one operator, anonymous	Yes, mandatory provision of contact details in some cases
Taiwan	Yes, for quarantine	No	No	Yes, required by government	No
UK	No	No	No, but trials existed	No	No
USA	No	No	No	No	No

Summary

The questionnaire has shown that, while the COVID-19 pandemic is global, the technological measures which affected countries use to stop the spread of the virus are different. This goes so far that of the 21 countries surveyed not even two, which employ or endorse some type of technological measures aimed at reducing infection rates, make use of the same method or system, much less have the same policy. This applies even within the EU.

An interesting result was that very few of the surveyed countries have introduced general mandatory technological tracking and identification measures in the form of software, such as mobile phone apps. Rather many of them have chosen to only oblige certain groups, such as infected individuals or travellers, to use (or subject themselves to) the measures while others endorse voluntary use only. At the same time most governments oblige entities possessing large amounts of tracking- and identification-data, usually mobile operators, to share that data with governmental or state authorities or agencies. Many times, the data is anonymised before transmission, in many countries however, the data is transmitted in individualised form, allowing the identification and tracking of single natural persons.

The answers to the questionnaire have further shown, that many times the measures taken by countries during the COVID-19 pandemic, be they still in effect or not, have lacked transparency and at times still do. It was therefore sometimes impossible for the reporters to ascertain that the information they provided, whether relying on official sources or not, was truly accurate. It is concerning that this phenomenon was not limited to countries known for authoritarian policies but also occurred in countries which are perceived as possessing well-functioning democratic structures. At least the results also indicate that many of the perceived in-transparencies have occurred at a time when the pandemic was new and unknown. Often the measures taken have been clarified or ceased in the meantime.

As the pandemic continues to affect countries and individuals and new knowledge of the COVID-19 virus is gained, countries are forced to continue with their actions to prevent the spread of the virus, fine-tuning their measures, not least to prevent further or alleviate lockdowns. Therefore, the technology-related measures taken today may be adapted or perhaps at times even exchanged altogether over the coming months.

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Report per country

Argentina

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Last updated: 24 September 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	At a national level, the Argentine Government has implemented a mobile app named "COVID-19 Ministry of Health", which counts with geolocation functions. *Status of the legislation* Administrative Decision No. 432/2020 (in force since 24 March 2020) established the mandatory use of app "COVID-19 Ministry of Health" for those who had entered the country in the last fourteen days, and for those who do so in the future. In addition, Provision No. 3/2020 (in force since May 6, 2020) created a database to process the data generated through the aforementioned app, while Provision No. 4/2020 (in force since May 21, 2020) approved and made public its terms and conditions. *New or existing data* App "COVID-19 Ministry of Health" gathers new personal data, which is provided directly by its users, except for those related to voluntary geolocation (obtained automatically from the data subjects mobile devices). *Access* The Argentine Undersecretariat of Open Government and Digital Country, which depends on the Secretariat of Public Innovation of the President's Chief of Staff Office, is responsible and has access to data provided by app "COVID-19 Ministry of Health". Moreover, the Undersecretariat may transfer such personal data (whenever possible, in a dissociated form) to other state entities and/or national, provincial or municipal health facilities. *Safeguards* Provision No. 3/2020 provides that the data collection carried out through "COVID-19 Ministry of Health" should comply with provisions of Argentine Data Protection Law No. 25,326, in particular,

		the principles of lawfulness, data quality, purpose limitation, informed consent, confidentiality and security. *End-date* This measure has no end-date, and is expected to last as long as the health emergency declared by the Argentine Government remains in force.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	As mentioned at Question 1, the Argentine Government has implemented "COVID-19 Ministry of Health" app. Notwithstanding its mandatory use inbound travellers, it is voluntary and the Government recommends its use to anyone who reside in Argentina. This app provides guidance and/or instructions on how to nearest health unit, as well as preventive or health assessment assistance measures. Moreover, this app uses geolocation functions to make comparisons and predictions, such as mapping of risk areas, and – according to statements – it does not identify people who the user was in contact with. Similar apps have been deployed at a provincial and municipal level. *Developer and provider* The Argentine Ministry of Health and the Argentine Secretariat of Public Innovation of the President's Chief of Staff Office are the developers and providers of app "COVID-19 Ministry of Health". *New or existing data* App "COVID-19 Ministry of Health" gathers new personal data from its users. *Access* The Argentine Undersecretariat of Open Government and Digital Country has access to data provided by app "COVID-19 Ministry of Health", in addition to any other state entities and/or national, provincial or municipal health facilities to which the data may be transfer. *Use and acceptance of voluntary measures* App "COVID-19 Ministry of Health" is a self-evaluation mobile app, were its users may answer some questions related to their health status and symptoms

		compatible with the COVID-19 virus, and receive guidance and/or instructions related to it. *Safeguards* App "COVID-19 Ministry of Health" should comply with provisions and principles of Argentine Data Protection Law No. 25,326. Moreover, its terms and conditions state that sensitive data as well as data related to geolocation will be preserved only as long as they are necessary and the health emergency lasts. Once the emergency is over, anonymised versions may be preserved for scientific and epidemiological purposes. *End-date* This measure has no end-date, but it will remain in effect until the emergency associated with the pandemic ceases.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	To the best of our knowledge, not.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	At a provincial level, Santa Fe, La Rioja, Tierra del Fuego, Misiones, Río Negro, Buenos Aires, Mendoza and Jujuy counts with official apps (similarly to "COVID-19 Ministry of Health" national app). At a municipal level, La Matanza (Buenos Aires) has recently developed a software called "CovidControl", which operates through a mobile app, and allows the local government to assist patients confirmed with COVID-19 as well as those suspected cases, who have 24-hour medical monitoring, but are also subject to follow up on their compliance with the mandatory isolation. Moreover, the Argentine Agency of Access to Public Information (controlling authority of the Data Protection Law No. 25,326) has recently published a series of recommendations for the use of geolocation apps, listing fundamental principles on data protection applicable to them (whether they are used by the public or private sector, or both in collaboration). Among others, the Agency recommends a

		privacy impact assessment to be carried out prior to the implementation of this type of apps in order to control and mitigate its risks, as well as to assess its feasibility. Moreover, the Agency has recently issued guidelines regarding temperature check by public and private entities which help data controllers to comply with data protection regulations.

Austria

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Last updated: 19 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	Austria has not yet introduced any legislation on the electronic tracking of individuals, though the mandatory use of the (as yet voluntary) app “Stopp Corona” is discussed. Austrian mobile operators have been obliged to provide statistical data, such as data on the mobility of customers, with the aim to better combat the spread of COVID-19. However, such data is anonymous and neither intended nor used for contact-tracking.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	For general COVID-prevention, the Austrian Red Cross has developed the mobile app “Stopp Corona”. This app is also the one promoted by the Austrian government. While the government did not participate in the development, the Red Cross did cooperate with UNIQA (an insurance agency, for financing) and Accenture (for development aid, maintenance and backend provision). Accenture uses Microsoft Azure to host the app and data. The app is available for Android an iOS phones and uses the Exposure Notification Frameworks provided by Google and Apple respectively. An enabled Bluetooth connection is required for the use of the app. The app displays a warning notification, should Bluetooth be turned off. Upon installation and periodically afterwards, 2 random IDs and a code are generated by the Exposure Notification APIs: - Temporary Exposure Key (TEK): Once per day - Rolling Proximity Identifier (RPI): Once about every 10 minutes, generated based on the TEK

		- Security Code: Once every 14 days When devices with activated “Stopp Corona” apps are within 2m of each other for more than 15 minutes, the apps exchange the RPIs (“digital handshake”), which are then stored on the devices. Due to the high frequency of the changes to the RPI, tracing of the movements of a single person should be impossible. The possibility to manually initiate a handshake has been implemented originally but removed in June 2020 due to changes in the Exposure Notification Frameworks. In case an infection is reported, the users are notified if they have been in contact with the respective RPI during the last 2 days. The 2-days restriction is not based on data protection concerns, but rather on infection statistics. To make an infection notification, a user always has to provide their mobile number. A TAN is sent to the reported number, which then needs to be entered for the notification to be sent. Furthermore, the TEK is transmitted and the security code is used to technically authenticate the notification to the central server. Once per day, each app connects to the server and retrieves the lists of all TEKs from the last 2 days. Then it calculates the RPIs and compares those to the RPIs stored on the device. In case of a match, the user is alerted. As far as data protection and security is concerned, the “Stopp Corona” app has been reviewed and approved by data protection NPOs epicenter.works and NYOB, as well as research institute SBA-research. Furthermore, the source code is available for review. Lacking any as yet discovered relevant faults, it is therefore considered safe and compliant. Nevertheless, the app has seen relatively little acceptance yet. According to the Red Cross, as of 5 October 2020 the app has been downloaded about 1.038.431 times on both Android and iOS devices. While equalling roughly 12% of Austria’s

		population, this number includes potential re-downloads. Since June 2020, 335 confirmed and 1476 potential infections were reported through the app. In the federal states of Vienna (since 28 September 2020), Lower Austria (since 5 October 2020 in regions classified "orange") and Tirol (since 19 October) registration of gastronomy-customers has become mandatory. The relevant regulations do not specify any method but merely requires that the restaurant obtains the following data from the customer and stores it for a period of 4 weeks: - name - surname - telephone number - e-mail-address (optional) - address (only in Tirol) - date of visit - time of arrival - table number. While Vienna has provided a template registration sheet, gastronomy-operators were free to use electronic methods, which were usually provided as paid services by various national and international companies. On 6 October 2020 the City of Vienna and the Chamber of Commerce Vienna presented a digital registration solution they are planning to provide for free. The software was developed by WT Wien Ticket GmbH ("WT Vienna Ticket GmbH"), a company effectively wholly owned by the City of Vienna, for the Chamber of Commerce Vienna. As the testing phase is planned in the second half of October and full operation as of November, not all technical details are yet known. The software consists of 3 parts: 1. a web-application for the gastronomy, 2. a mobile phone app for customers, and 3. a query-backend for the health authorities.

		It requires gastronomy operators to register their establishments. They can then generate QR-codes to be provides to the customers to scan. Customers register themselves through the mobile app by scanning the QR-code and then providing the first 4 pieces of data mentioned above. The customer-data is encrypted on the device and then transferred to the servers (whether those are operated by WT Wien Ticket or the Chamber of Commerce Vienna is not known yet). When leaving, the customers need to check out through the app. They can then decide whether their contact data should remain saved in the app for future use or deleted. Gastronomy operators do not receive the names and contact data of customers. However they are able to see, how many people are registered at a certain table at any given time. This is to ascertain that all customers have registered properly. They can also check-out customers, who have left without doing so themselves. It is not yet clear, whether gastronomy-operators will also see the time of arrival of each guest at a given table. Health authorities can request data through a separate backend, where a four-eyes-principle needs to be observed: the natural person making the enquiry and the person receiving the data must be separate. In such a case, the gastronomy operator is notified of the request, providing the data of the authority and the reasoning (e.g. case number) but no further details, not even the date the information was requested for. Once the gastronomy operator has approved the request, the relevant data is transferred in password-protected form (in which file-format is unknown) to the server of the relevant authority. At the same time the password is sent in two parts, one each to the person making the request and to the person receiving the data, respectively. Thus they can only access the data together.

		All requests by authorities are documented, though it is unclear to which degree of detail. In Tirol, the Tourism Association Innsbruck has chosen to license a commercial application, “COVID-19 Gästebuch” (COVID-19 Guest Book) and provide it to its members for free. The software was developed by Austrian developer mtms Solutions GmbH, a company providing various digital solutions for hotels and gastronomy. Details regarding the technical specifications, security and how authorities are able to make queries have not (yet) been published. Thus only the steps required by gastronomy operators and customers are known. Again, gastronomy operators need to register and are then provided with a QR-code for their customers to scan. Customers however are not required to use a mobile app. Rather they scan the code and are then redirected to a webpage already displaying the name of the restaurant or café they are in. Then they are able to choose, whether they would like to check in our check out and how they would like to authenticate. Possibilities are: - WhatsApp - SMS or - telephone call. If one of the first 2 options is chosen, another webpage opens and the customer needs to enter: - the number of people to check in - name and surname - full address. From this data, a text message is generated in WhatApp or the text messaging app, which the customer then needs to actively send. For checking out, the customer needs to re-scan the QR-code, pick the check-out-option and choose the method of

		authentication. The message is then generated without entering further data and the customer merely needs to (again) actively send it. Both digital solutions in Vienna and Tirol automatically delete all personal data after 28 days. The systems have already been criticised for being centralised as well as being closed-source. Both in contrast to the "Stopp-Corona-App" of the Red Cross, which is viewed as the system that better safeguards privacy.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	In mid-March it has been discovered that at least telecommunications and mobile operator A1 (formerly "Telekom Austria", the state-held monopolist) provided customer data to the federal government as of probably the beginning of the pandemic in Austria in early March. While the newspaper claimed that the transmitted data also contained information on individuals, A1 has admitted to having transmitted customer data to the government but that the tracking of individuals based on the data provided was "inconceivable". It is still unclear, which concrete data was provided to which government or state agencies. Also the legal grounds are not known. The government has merely stated that it was entitled to demand certain data from telecom providers in "cases of emergency". Furthermore, it is unclear, whether the other mobile operators have provided any data to the government in the context of COVID-19-prevention. As the discovery was made almost exactly at the time of the lockdown in mid-March 2020 and since the provision of data by the mobile operators has been transparently regulated by the end of the same month, the open questions will remain so for the foreseeable future.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to	None.

	combatting COVID-19 you would like to share with us?	

Belgium

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Last updated: 7 June 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	Since the outbreak of the pandemic in March 2020, the Belgian institute of public health *Sciensano* has been systematically collecting data on COVID-19 contaminations, hospitalisations and deaths in a COVID -19 database. The legal basis of this COVID -19 database has only been created *a posteriori* through temporary Royal Decrees (nr. 18 and nr. 44) and eventually through the cooperation agreement of 25 August 2020 between the Belgian federal government and the federated entitities (applicable retroactively), which have also set out the legal framework for *manual* and *digital* contact tracing. In short, the contact tracing in Belgium relies on 3 core elements: **1.** A **COVID -19 database** fed by the doctors, hospitals and laboratories, the contact centres and the federal e-health and social security databases. The processing of personal data in the database has the following purposes: - to identify and contact the potentially contaminated persons via the contact centre; - to carry out scientific and statistical research; - to communicate data to the regional health inspection services. **2.** **Contact centres** tasked with manual contact tracing. The staff members speak to people who have been contaminated, figure out who they have been in contact with, and then notify anyone they think may have contracted it. **3.** The **Coronalert exposure notification app** released in September 2020, which is a decentralised proximity tracing app based on the Bluetooth technology.

		The Belgian data protection authority has spoken out critically against the legal framework for contact tracing (which is based on *governmental* vs. *legislative* rules) through 7 opinions.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	Yes, the voluntary use of the Coronalert tracing app has been promoted since end of September 2020.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	The 3 main telecom operators in Belgium have voluntarily joined the “Data Against Corona” taskforce created in March under supervision of the previous Belgian federal ministers of health (Maggie De Block) and digital (Philippe De Backer). This taskforce has anonymised and computed telecom data from millions of Belgians, allowing to support political decision about the confinement measures. The government did not receive any mobile phone number, name, or individual location data in this context, but only anonymised metrics that capture mobility, aggregated by ZIP code.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	N/A.

Brazil

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Last updated: 26 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	No. In Brazil there are no specific laws aimed at tracking or identifying individuals that might have been in contact with other individuals infected with the COVID-19 virus. Brazil has still not implemented its Data Protection Law ("LGPD").
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	No. While the Brazilian Federal Government only recommended measures such as the mandatory use of face masks, some Brazilian states considered the possibility of using technological measures to track individuals and identifying people that could have been infected. However, due to issues arising from the collection of personal data from such users and the possible misuse of such data by authorities, with no regulatory safeguards, governments refrained from using technological measures such as "contact tracing" apps.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	Yes. Authorities from a few Brazilian states, such as São Paulo, Pernambuco and Rio de Janeiro, have requested to mobile phone providers information on movement and/or communication data. However, such data is being used by these governments to identify specific areas and regions in which social distancing recommendation were not being followed. As an example, in the city of Recife, in the Brazilian Northwest region, has partnered with the local start up InLoco to use geolocation technology from mobile phones, without collecting any personal information, to monitor social distancing by neighbourhoods and to check percentages of people who remained at home in individual areas, as well as mobility patterns. In this specific example, the information is not requested to the mobile

		phone service providers. For additional information, please check here.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	No. Due to the fact that Brazil`s Data Protection Law is still not in force, most of the initiatives to use contact tracing apps are stalled or postponed. These initiatives have been challenged by NGOs and other groups that discuss privacy matters, due to the risk that contract tracing apps could also be collecting personal data, and personal health information (also understood as “sensitive data” by Brazilian laws) irregularly.

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Last updated: 20 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	No. The only tracking system applied by Chilean authorities is through the delivering of the address information of the positive tested individuals. They are controlled by phone calls or periodic visits to their domiciles, when they are not in health institutions. In addition, individuals are randomly controlled by Police through identity controls, where the authority crosses the information of the controlled people with a governmental data base of the infected individuals. Therefore, there is no tracking in real time through applications or any other tech media.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	No. the only promoted technological mean is the use of interactive maps in order to be aware of the number of infected individuals in a certain area. Such information corresponds to the one given by the positive tested individuals mandated to be in quarantine in their domiciles.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	No. There isn't public information related to these facts.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	No.

Croatia

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Last updated: 1 June 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	Although discussed by Croatian Parliament in the early stages of COVID-19 pandemic, idea of introducing amendments to the Croatian Electronic Communication Act to enable tracking individuals and identifying people they have come into contact has since been dropped. Considering that implementation of such novelty requires legislative action and Croatian Parliament was dissolved on 18 May 2020 with parliamentary elections scheduled to take place on 5 July 2020, we consider that re-evaluating and introducing such possibilities within the next few months is highly unlikely. However, the existing Croatian legislation allows for the development of tracking technology that will be in line with guidelines issued by the European Commission and the European Data Protection Board and compliant with the obligations set forth in GDPR and ePrivacy Directive.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	Croatian government has announced a development of a contact tracing technology in May. As stated in the announcement, the mobile application is being developed by Information Systems and Information Technology Support Agency (APIS IT LLC) in line with the European Commission "Guidance on Apps supporting the fight against COVID-19 pandemic in relation to data protection" and the European Data Protection Board "Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak". The mobile app that is currently being developed will be voluntary based and it will have a contact tracing and warning function with purpose to enable alarming persons that have been in contact with a person infected by COVID-19 and to inform them about appropriate next steps. The plan is for the app to use proximity data generated by the exchange of

		Bluetooth Low Energy (BLE) signals between devices within 2 meters distance and during at least 20 minutes period. No recording or storing of any such data is planned except on the user's device, no disclosing of identity of either infected person or their contacts to anyone involved will be possible and the only authority that might under strict conditions gain limited access to such data will be the Ministry of Health.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	To the best of our knowledge, no such offer has been made to the government. There is no legal ground within Croatian legislation that would allow for sharing movement and/or communication data by companies storing such data with the government or other authorities for purposes other than criminal investigation and prosecution or protection of national security and national defence.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	Except for the notification by Croatian Personal Data Protection Agency on the release of the European Commission and European Data Protection Board Guidelines, no legal developments regarding tracking individuals in relation to combatting COVID-19 took place in Croatia.

Czech Republic

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	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	The Czech Republic has not introduced any specific or new legislation aimed at tracking individuals or identifying people they have been in contact with either by use of an app, by obtaining data from mobile operators or otherwise. Nor does it seem that the legislator is planning to do so. However, on 19 March the Minister of Health of the Czech Republic issued to that end an Extraordinary Measure which is an act of the executive branch with normative legal effects ("Measure"). - The competence of the Minister of Health ("Minister") to issue executive measures is enshrined in Section 80 para 1 letter g) combined with Section 69 para. 1 letters a) – i) of the Act No. 258/2000 Coll., on the protection of public health ("Act"). The Measure was issued under the residual competence under letter i) of the said provision to "forbid or order certain other activities for combating an epidemic or the threat of its emergence". Whether the Measure may have been issued under the residual competence or under the Act at all is disputed. Nor the Act neither any other legislation confers the competence to the Ministry of Health or Public Health Authorities ("Authorities") to process personal data specifically required by the Measure. From a constitutional and human rights perspective it is disputed whether such interference with the right to privacy may have been based on an act of executive branch and moreover of a single minister instead of an act of the entire Government as a body or better of an act of the Parliament.

		- The Measure orders (i) to mobile network operators to hand over to the Authorities traffic and location data of end users and (ii) to banks to hand over to the Authorities the data related to the use of means of electronic payments (i.e. credit and debit cards, e-wallets, etc.). Under point (ii) only data of persons who were located in an area defined by the Authorities on the basis of data gathered under point (i) shall be handed over. The data may be handed over to the Authorities only where demanded so by the individual and with their consent. In this regard the Measure is unclear or rather silent as to how and by whom and at what stage the consent is to be obtained. Moreover the Measure is rather confusing and unclear with regard to the requirement of consent as such. The wording of the Measure aims primarily on the consent with processing of data under point (i) but on the other hand it expressly states that any data may be processed only with the person's consent. - The Measure counts with processing of data which is already being processed by the respective controllers (although originally for different purposes), i.e. processing of any new data is not foreseen. - According to the Measure the data is to be accessed by the Authorities only. However in practice the Authorities cooperate on the execution of the Measure with the Army of the Czech Republic whose members operate the call centres which eventually execute the epidemiological tracing as such. - As a safeguard the Measure provides only that no collected data may be retained by the Authorities for longer than 6 hours and must be deleted right after if it is no longer necessary for the stated purpose. The epidemiological tracing is the exclusive purpose of processing. However, neither the

		Measure nor any other document with any legally binding force defines “epidemiological tracing” and activities related to it. - The Measure does not have any end date and may be repealed only by the Minister at any time (or by a court if found illegal or unconstitutional). During the autumn “second wave” of COVID-19 in the Czech Republic the Authorities use for contact tracing only mobile phone data which are obtained with an explicit consent of the infected person during a tracing call performed by an operator engaged by the Authorities. Beyond the said Measure the Ministry of Health also operates a mobile app called “e-rouška” (e-mask – nation-wide home manufacturing of masks being the symbol of the fight against coronavirus in the Czech Republic). The app was developed entirely as a private non-profit enterprise by several individuals and companies active in IT and app development and was given for free to the Ministry of Health which operates it now. However, the operation of the app is not expressly covered by the Measure or any other act of the executive or legislation. It is being operated in a legal vacuum, *preater legem* so to say. - The use of the app is entirely voluntary (although the use is very much encouraged by the Authorities). - The app is a contact tracing app which does not gather geolocation information but only anonymous data that another user of the app later indicated as COVID-19 positive was in the proximity. - The developers of the app tried to be as transparent as possible towards both the IT community and general public – information web page was created and source code of the app was published. The app’s integrity and security was audited by academic institutions and it seems to comply with the requirements of the

		European Data Protection Board's Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak. During the autumn "second wave" of coronavirus in the Czech Republic the app underwent a development and is now based on the Google and Apple Exposure Notification System which allows the users to be informed in case they have been exposed to COVID-19 but does not share any personal data with the Authorities or other government agencies or users of the app. The app allows the user to indicate in the app if he or she was diagnosed with COVID-19. In such case the app sends an anonymous notification to all other users which were in contact with that person. If the user is notified by the app of the exposure it is entirely up to that person what further steps he or she will take. None of the app-produced data stored on the servers operated by the Authorities allow the identification of any particular person by the Authorities.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	The Czech Government has repeatedly and strongly recommended the use of the abovementioned app e-rouška which was originally a private enterprise. However, nowadays the app is fully operated by the Ministry of Health although no legal framework for such operation exists. Although it has not been specifically addressed by the Minister in public, it seems that the Authorities consider the app and its operation to fall under the Measure. The Authorities claim that any data within the framework of the so called "smart quarantine" (which includes both measures described under the Answer No. 1) are processed by the Authorities maximally for 6 hours and deleted afterwards. At the beginning of September, the Authorities started a national promotional campaign for the app on TV, internet and other mass media strongly encouraging its use.
3	Have any companies in your jurisdiction storing movement and/or communication	To the best knowledge of the authors no private company has offered the relevant

	data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	data to the government. However, the company Seznam.cz provider of the most popular maps services in the Czech Republic – mapy.cz, offered to the users of the maps the possibility to share their location and health status with the provider who would himself notify other persons using the app that they may have been exposed to the infection. The data is accessible to the provider only who does not share it with any third persons. The data sharing feature of the app has so far no end-date.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	The Measure was one of many issued by the Minister by which the Authorities have rather severely interfered with fundamental rights and freedoms of the individuals in the Czech Republic. Given the very debatable legal basis of the measures and procedure how they were adopted there are already cases pending at the administrative courts who will review the validity of these measures. It is probably only a question of “when” rather than ”if” that the Measure be also challenged in a court.

France

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Last updated: 15 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	The French government developed a contact tracking application named "*StopCovid*" available on the iOS and Android marketplaces since 2 June 2020. Its development has relied on technical and research assistance from companies (e.g. Orange, Dassault Systèmes, Capgemini), start-ups, foundations (e.g. Pasteur Institute) and public entities (e.g. Public Health, Army). *Status of the legislation* The decree of 29 May 2020 implementing the StopCovid app and the processing of its data has come into force. The decree was enacted following a consultative parliamentary debate, and an advisory decision issued by the French Data Protection Authority (CNIL); political opinion remains divided. *Description* How does StopCovid work? First, the app must be installed on smartphones. The smartphones of individuals register the references of the nearby devices if two cumulative criteria are fulfilled. Those people must be in contact: - for a certain time (15 minutes), - at a certain distance (less than 1 meter). If an individual appears to be positive for COVID-19, the referenced phones are notified. Then, the users can take precautions to limit the transmission network. The app also presents information on the virus, symptoms and the recommended behaviour to adopt. *Technology used* StopCovid works with Bluetooth and does not use geo-location. On this basis, it is not supposed to track the individuals' movements.

		Safeguards According to Government's communication, several safeguards are implemented in order to ensure security, respect of individual rights and freedoms and the respect of data protection (GDPR compliant): <u>Non-mandatory application</u> - Installation of the app on a voluntary basis (13 million French people do not have smartphones). - Free app. - The use of the application must not condition access to certain services (care, tests, public transport, etc.). <u>Consent and security</u> - Consent will be ensured at several levels: when installing the application, activating Bluetooth, notifying the positive result in the application. - Use of the 'captcha' service when installing the app to verify that it is used by a human being. <u>Anonymity and freedoms</u> - Anonymity will be respected either by the government and by the users: informed users will not be able to know the name of the person who contracted the virus, when and in which context this contact took place. - The application will not create a namely list of infected persons but a contact list using "random and temporary pseudonyms": no requirement to provide civil status or phone number. - No one will be able to falsely declare themselves infected: Users with a positive test will have to enter a code sent by their laboratory to declare themselves positive on the application. - It will not be possible to track infected people's movements, contact the alerted person or monitor the respect of the containment measures or any other health recommendation.

		- Contact with health care personnel if there is a risk of infection will only be recommended - not mandatory. - The deletion of data could be requested directly on the application before removal. The simple removal of the app will not delete the data from the central server; even though there will be deleted after a period of inactivity (to be determined). <u>Transparency</u> - Open-source code and free access. - The cryptographic algorithm meets the security baseline and uses the SKINNY-CIPHER64/192 encryption algorithm as recommended by the general security reference of the French National Agency for the Security of Information Systems (ANSSI). - Bug bounty in process: the source code is released to let hackers test its security and identify loopholes. *Recommendations of additional safeguards* The French data protection authority (CNIL) highlighted additional measures that should be implemented in the legislation or in addition thereafter in order to comply with a greater respect of individual liberties and of data protection. In particular: - The information provided to users should be improved: conditions of use of the application and how personal data can be deleted (popularisation in the form of infographics). - Providing specific information for minors and parents of minors. - A right to oppose and a right to erase pseudonymous data stored should be created (it now seems to be implemented). - Option to temporarily disable the application to consider the context and reduce false alerts (e.g. health care staff in contact with positive patients but equipped with protection).

		Access Data will be processed in a mixed system: centralised and decentralised. Indeed, if no central server is used, then the list of patient identifiers will have to be stored locally on each user's smartphones. Then, data will be partially centralised on a general server storing pseudonymous identifiers of persons exposed to the disease. This server is managed by health authorities. The system is different from the solution developed by Apple and Google. Personal data will not be transferred outside the EU. The French Minister for Health is the data controller of this data processing: if the application evolves, it will have a link with the competent national health authority. Plus, the provider of the infrastructure hosting the application acts as a processor and is certified as a Health Data Hosting and Cloud Computing Service Provider by the authorities. The Government indicates that the encryption keys for IDs will be protected and will be entrusted to entities of different nature (private, public, independent, etc.) to prevent a single actor from possessing all of them and hijacking data *End-date* The principle of proportionality requires that the rights to privacy and personal data should not be infringed for a longer period of time than necessary. Several measures are announced on this basis: - The application is temporary: its use is fixed at six months from the end of the state of health emergency by the law (which extension is currently under discussion). - Identifiers used between applications and timestamps may not be kept for more than 15 days, which is the period of time during which these data are actually useful to determine whether a contact may have led to contamination. - A public report will be made on the performance of the application within 30 days after the end of the

		implementation of the application, and no later than 30 January 2021. - On 14 October 2020, the President Macron announced that the StopCovid application should be changed and renamed Tous Anti-Covid, without giving more details on the new version of the application.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	The government did not recommend the use of another app.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	No, but alternative solutions have been developed by Google and Apple, and have been presented to the French government, which has preferred developing its own solution.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	Doubts remain regarding the actual transparency and centralised processing of data. The National Consultative Commission on Human Rights, the Paris Bar Association and several civil liberties NGOs have expressed concerns and have pointed out a manifestly disproportionate infringement of the rights and freedoms of citizens by such an application. Following a law voted by the Parliament, which has substantially amended the bill presented by the government, a centralised information system has been created and implemented to identify individuals bearing COVID-19. Safeguards have been provided by the Parliament in order to limit the infringement of civil liberties, including privacy. This system is not based on applications or IT tools, but on a network of medical staff and entities in order to monitor and limit the spread of the virus. The French Data Protection Authority (CNIL) has also issued an advisory decision in relation to this information system.

Germany

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Last updated: 15 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	*General Legislation for a tracing tool* The German Law authorises the legislator or the government to introduce a specific tool for data collection against any Pandemic (Sect. 14 of the German Infection Protection Act, modified by Law of 19.5.2020, in force 23.5.2020). The government is empowered to determine the details. **However this law does not mentioned specifically individual tracking tools.** This legislation contains e.g.: - A list of data which can be legally gathered (Sect. 14(2)) - General minimal conditions of the gathering and storage of the data: e.g. pseudonymisation, further access to the data have to be authorised by law (Sect. 14(3)) and possibility of re-identification of the User for serious reasons (Sect. 14(6)). *No specific legislation for a tracing App* As the actual App (see Question 2) is based on voluntary Use, there is actually no project of a specific law (the federal Minster of Justice has taken position on this point as a Law would be unnecessary). The parties which are sitting in the Opposition on the federal level have wished a Law to ensure the voluntary character of the use.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	Yes. Since the 16.6.2020, an App named "**Corona Warn-App**" is available to download on iOS and Android devices. *Description* When 2 Users of the App are staying fewer as 2 meter of each other within at least 15 minutes, random generated IDs of the Users (pseudonym) are exchanged between the 2 Apps with Bluetooth. When a User appears to be tested positive to COVID-19, he can share this result (which

		will be also communicated in form of a QR-Code) in his app. His App will then share all the generated IDs to the server, which will share it with all the other Users. The comparison is then made on the App itself. If the shared ID appears in the stored- IDs, the User will receive a Warning, that he was in contact with an infected person – without revealing the identity of this person – and is advised to do a COVID-19 Test. The App gives also a Risk-status (low, 1 risky encounter, high). An actualisation of the status is made every 24 hours. *Developer and provider* The App is provided by the German federal government through the German Robert-Koch-Institute (Federal Agency and research Institute for disease control and prevention; placed under the direct Authority of the Federal Ministry of Health). The App has been developed in cooperation between the Deutsche Telekom and SAP. *Access* First, the gathered IDs are device-stored. The central server has at this moment no access to the stored/encountered IDs. The temporary generated IDs will be shared only with active consent of the positive-tested User and only then be accessible by the so-called Exposure Notification API. It has been insured that the regional Health Agencies (so-called Gesundheitsämter) will not have access to the data. The Users have no access whether to generated nor to the stored IDs. A positive- tested User will not know who received a warning. The Back-end of the App is operated by the Deutsche Telekom. *Acceptance* The App has been voluntary downloaded above 6.000.000 times within the first 24 hours after its availability (as of: 17.6.2020; Source: German Federal Ministry of Health). Over 19.000.000 people have now downloaded the App (as

		of: 12.10.2020). About 1.700.000 COVID-19 Test Results have been shared on the App (as of: 12.10.2020). The Use of the App is however limited by the version of the operating system. The App is only for iOS 13.5 and Android 6.0. *Safeguards* (a) The Users are pseudonymised. The App generates a random ID to each User, which changes every couples of minutes. Each ID is itself based on a random generated key, which itself changes every 24 Hours. A recourse to or identification of the User's real identity is according to the Federal government unlikely. (b) The App is based on the so-called decentralised system. The encountered IDs. are stored on the device (Smartphone). It is only when the User declares being tested positive to COVID-19 that all his generated IDs are transmitted to a central server in order that the information can be transmitted to the all the other Users. The comparison between the "infected"-ID and the stored ID is made on the device of the "end"-User. The device-stored IDs on the device of a positive-tested User will be shared only with his active consent. After 14 days, the device-stored IDs are automatically erased. The providers Apple and Android (i.e. Google) have no access to the data on the App. They only cooperate for Bluetooth-technologies. The government ensured that Huawei, supplier of the Cloud Technology, has no access to the services. Scientists will not have access to the data. (c) The Federal Commissioner for Data Protection and Freedom of Information and the Federal Office for Information Security have been involved in the conception of the App regarding the Data protection aspects. They will be still involved in the further developments of the App.

		The App is open-source to ensure transparency and control made by experts. (d) A “live”-Warning (the app warns if a positive person is in the same place as the user) is not planned and should not be included. *End-date* At this moment (15.10.2020) no end-date of the activity of the App is planned – or at least announced.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	As the actual App (see Question 2) is based on voluntary Use, there is actually no project of a specific law (the federal Minster of Justice has taken position on this point as a Law would be unnecessary). The parties which are sitting in the Opposition on the federal level have wished a Law to ensure the voluntary character of the use. *Companies* Deutsche Telekom: biggest German and European telecommunication company (about 46 Mo. mobile phone Users). Telefonica (at this moment only an offer): present in Germany with the brand O2 (about 43.6 Mo. mobile phone Users). *Data provided* The companies are transmitting the move-flow of the mobile phone Users seen as general population. No individual information is transmitted. *Reasoning* The Companies are cooperating with the Robert-Koch Institute in order to predict and understand the propagation of the virus. It shall help to determine the general behaviour of the population (e.g. staying at home, traveling, etc.). *Access* Besides the companies, only the Robert-Koch Institute has access to the transmitted data. *End-date* No end-date has been communicated.

4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	The App (see Question 2) will still be combined with the actual “paper version”: each customer of a restaurant or a hair-dresser etc. has to give his personal information (name, address, phone number). The communication of this information is mandatory for the use of the service. In the event a customer has been tested positive to COVID-19 When it appears, that a customer has been tested positive to COVID-19, the owner has to contact all the persons who have been at the same time in the rooms. The paper solution will continue. Giving false information exposes the author to fines from EUR 250 up to EUR 1.000 (amount depends of the State).

Hong Kong

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Last updated: 14 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	Yes, but the measure only applies to inbound travellers (regardless of their COVID-19 status). Starting from 19 March 2020, all inbound travellers are subject to a compulsory quarantine for 14 days, pursuant to the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C) (the full regulation here) and Compulsory Quarantine of Persons Arriving at Hong Kong from Foreign Places Regulation (Cap. 599E) (the full regulation here). They are not allowed to leave the place of quarantine, which can be a quarantine centre or a place of the traveller's choice (the person's home or a hotel room) if the authority thinks appropriate. If the traveller comes from a specified high-risk place, they can only stay at one of the hotels designated by the government. To monitor the quarantine compliance, all persons subject to quarantine are required to install a mobile app called "StayHomeSafe" which comes with an electronic tracker wristband. The wristband uses a geofencing technology to test the strength of the surrounding communication signals like WiFi and GPS, and will alert the authority if the persons try to leave the place of quarantine. The persons must put on the wristband at all times. The Regulations are currently in force, and have an expiry date of 31 December 2020. The government claims there is no privacy issue (read government publication here). It is said that the wristband and the app only tracks any change of the location instead of the actual location. There is no information as to where the data will be sent to and stored, and to what extent the recipient of the data will use it. Note the requirement of using the app and the wristband is not explicitly written in the

		Regulations. It is implemented as a term of the authority's quarantine order. The Regulations do not apply to COVID-19 positive patients and their close contacts, possibly because they are already put under heavy medical quarantine in hospitals or quarantine centres.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	No there is no such recommendation for the time being.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	There is no public information that private companies are providing such data to the Hong Kong government.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	There are reports that a mandatory city-wide health tracking code system similar to that in China will be introduced. This has not been confirmed by the government authorities.

Hungary

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Last updated: 28 May 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	While no explicit legislation has been passed in Hungary as regards contact tracking by means of technology or otherwise, a procedural order (which does not qualify as a source of law) has been published by the chief medical officer, outlining certain rules as regards non-technology focused contact tracking. (Technology-based contract tracking is covered under Question 2.) *Description* As a first step, the appointed officer of the competent governmental bureau (a territorial unit in the Hungarian state administration structure) interviews the infected individual on their potential exposure to COVID-19. If, based on the interview, there is reason to believe that the potentially infected person might have come into contact with other individuals, the authorities contact the individuals in question and further steps are taken, such as additional medical tests and ordering home quarantine. *Status of the legislation* See above (no formal legal effect of the procedure but it is used in practice. Measures taken with regards to infected persons such as ordering quarantine are set forth in the law). *New or existing data* Yes, data gathered by way of the interview with the potential COVID-19 exposed persons. *Access* The governmental bureau and in case of an order, the rules of which are set forth in the law, the minister responsible for public health, the police and medical staff. *Safeguards* No explicit legislation covering the collection of data. However, a

		recommendation by the local data protection authority on the privacy aspects of COVID-related data processing has been published and is widely observed. GDPR and additional Hungarian privacy laws apply. Note however, that mandatory personal data transfers to the minister or the police are covered in effective law and must be carried in case such an order is received. Hungarian laws passed recently have also established an extension for the 1-month deadline set forth in the GDPR for answering data subjects' requests, meaning that the 1-month deadline will start once the special legal regime known as state of emergency (see Question 2) has been withdrawn. Further, during the state of emergency, privacy notices on COVID-related data processing can be provided in a simplified form via websites. *End-date* In general, COVID-19- related laws and procedures will last until the end of the state of emergency, a special legal regime passed by the parliament, providing additional powers to the government in order to combat COVID-19. As of the completion of this questionnaire, the state of emergency is expected to be withdrawn by the parliament on 20 June 2020.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	The Governmental Agency for IT Development has introduced VírusRadar, a voluntary application for tracking COVID-19 used on smart phone devices. *Developer* NextSense, which donated the solution to the Hungarian State. *New or existing data* The mobile phone number of the user is processed by the Hungarian State. Otherwise, no personal information is stored, as upon registration, a randomised code is generated and linked to the user's phone number. This code is securely stored in a centralised system and can only be linked to the phone number by

		virologist experts using the centralised system. *Access* The Hungarian State. *Use and acceptance of voluntary measures* Explicit consent of the data subject is collected during the registration procedure. *Safeguards* Apart from the above mentioned, the solution uses Bluetooth to trace possible contacts, therefore no geographic location data is gathered. Further, the phones of users who installed the solution do not communicate personally identifiable information to each other, as encrypted aliases are exchanged, decryptable only by virologist experts using the centralised system. *End-date* N/A, as the application is completely voluntary.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	No voluntary offers as mentioned in the question were made, and the affected service providers are under no obligation to carry out data transfers to the government. However Gov. decree no. 46/2020. (III.16.) extends the obligations of data controllers related to data transfer. *Companies voluntarily providing data* Every company acting as a data controller. *Data provided* Personal data and data concerning health of the individuals exposed to COVID-19, and their contact data. *Reasoning behind providing the data* Such measures are necessary in the context of the state of emergency, in order to combat COVID-19. *Access* Competent medical staff, chief medical officer, minister of public health, police. *End-date*

		The end of the state of emergency (Expected to end on 20 June, 2020).
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	N/A, see answer to Question 1 (extension of data subject request deadline + simplified privacy notice).

India

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Last updated: 16 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	No
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	The answer to item 4 applies here as well. Over the last few months the government has pivoted its stand to make the use of the app voluntary for individuals and private businesses, but it remains mandatory for all government offices and employees.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	If any companies are sharing such data, it is not publicly acknowledged.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	While there is no legislation that has been passed by the government, an app (Aarogya Setu) has been developed and released by the government for the purpose of contact tracing. The use of the app has been a controversial subject over the last few weeks in India due to the data, privacy, lack of transparency, and security concerns. *Voluntary or mandatory?* a. The government and Home Ministry had earlier issued a notification ordering the compulsory use of the app by all public and private employees. This would be an overreach for the government under the relevant IT and disaster management legislations, and would not stand the test of legality in the court.

		b. Please note that India does not yet have a dedicated data privacy and protection law. In December 2019, the government introduced the Personal Data Protection Bill, 2019, but it is still pending before parliament and has not cleared the legislative route towards becoming a law. c. At present, the only data and privacy protection available in India is under Sections 43A and 72A of the IT Act 2000, which give a right to compensation for improper disclosure of information. d. In addition, the mandatory use of the app by private sector employees was ordered earlier, and the organisational heads of companies were to obligated to ensure compliance, which is unrealistic. For ex. The CEO of a company would be legally liable if all employees did not install the app. This position of the government has been rolled back as of last week, and the company management is now required to ensure compliance on a "best effort basis" – vague! e. The app necessarily requires a compatible smartphone. Out of the approx. 1.3 billion people in India, "only" 450-500 million are smartphone users. By and large, rural areas and persons belonging to the lower financial class will not come under the contact tracing initiative. *Data and privacy issues* a. New data is gathered from each user- name, age, profession, address, health conditions, travel history. This data is stored and exchanged with nearby devices using Bluetooth to warn users and record their movements to determine if there has been any contact with COVID-19 positive or vulnerable persons, or persons who have visiting areas that are classified as hotspots or containment zones. This data is also accessible by the developer

		and the government, but the details of the extent of sharing are unclear as the government has not been forthcoming in the privacy policy. b. Health assessment for the app is based entirely on the self-declaration of the user. Therefore, a dishonest user can misrepresent their history or symptoms, without any consequences. c. Privacy policy of the app is very basic, with no details regarding the measures taken for gathering data, processing data, access restrictions, encryption standards, etc. As of date, the privacy policy of the app has silently undergone numerous revisions, each aimed at rectifying or addressing privacy issues raised publicly by citizens, ethical hackers, think tanks, or privacy assessment bodies. While the policy is still not fully transparent by global standards, it is an improvement on the earlier iterations. d. The app code is not open-source, making it impossible for a security or processes audit by independent parties. This is a departure from the usual nature of government apps in India being open-source. e. French ethical hacker “Elliot Anderson” has identified vulnerabilities in the app, and has tried to engage with the Indian authorities to address them. Indian authorities flatly denied any security issues, leading to the hacker to actually demonstrate how he was able to hack into the app and access sensitive health data and location parameters for users inside the PM office, Army headquarters, Home Ministry, etc. The government remained in denial mode, but has silently fixed some issues and made numerous updates to the privacy policy of the app. This exchange is publicly available on Twitter. f. Data is collected through the app using GPS and Bluetooth, leading to an extremely precise location

		tracing for any user. This data is purported to be destroyed once the app is deleted, but this cannot be verified since no further details regarding the use and obfuscation of the data have been made available to the public/user. g. According to the privacy policy, anonymised data may be stored forever. No details have been provided regarding the process and standards for anonymisation or obfuscation. *Current situation* a. With roughly only 40% of the Indian population using smartphones, the efficacy of the app in controlling or monitoring COVID-19 is severely limited, especially considering that classes of people that cannot afford smartphones are also likely to live in areas with high density of population and close proximity. b. We have had numerous queries from clients (private companies) regarding their obligations towards the use of the app by their employees. c. We have always maintained and continue to advise them that the use of the app is not mandatory and any employee has the right to refuse the installation of the app. d. For employers, the “best effort basis” requirement by the government can be fulfilled by advising the employee to install the app, but that cannot be forced on any individual. e. The app has not had the intended benefit or success in the fight against COVID-19 in India. Between September and October, India saw between 80,000 and 100,000 new cases daily, and as of date continues to see over 60,000 daily cases. This is attributed largely to the fact that we are no longer in a state of any real lockdown or movement restriction. Only international flights are restricted, and big businesses and public events are closed or WFH.

		Small businesses, that comprise the majority of the Indian economic landscape, are back to full operations as they have suffered greatly from the economic downturn over the last 12 months, capped off by the COVID-19 impact.

Italy

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	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	The Italian government has adopted the Law Decree No. 28 of 30 April 2020, ("**Decree**") establishing a single national platform for the management of an alert system based on contact tracing. It is intended for people who will download, on a voluntary basis, the specific application named "**Immuni**" on iOS and Android mobile phone devices. According to the Decree, such technological solution should have processed users' data until the end of the state of emergency, and in any case no later than December 31, 2020. The Decree has been recently amended by Law Decree No. 125 of October 7, 2020, which extended the period of use of Immuni until the end of the COVID-19 pandemic, and in any case by 31 December 2021. Immuni was officially released on 15 June, after a short "trial period" in which it was available only in a number of Italian Regions. Immuni features a contact tracing system based on Bluetooth Low Energy (the system will use no geolocation data whatsoever, including GPS data) and leverages the Apple and Google Exposure Notification framework. Basically, Immuni allows to record on users' mobile phones a proximity identifier when two users come sufficiently close. If a user tests positive for COVID-19, he/she can communicate his/her health status to the Health authorities and the app and Immuni notifies users who have come into contact with the positive person ("**Exposure Notification**"). Immuni also collects some epidemiological and technical information (e.g. day and duration of exposure, estimated distance between users, information on how contagious the infected user was likely to be when the exposure occurred) for the purpose of helping the National Healthcare Service to provide effective assistance to users.

		In any case, the data collected through Immuni are used solely with the aim of containing the COVID-19 epidemic or, in completely anonymised or aggregated form, for scientific research. Please note, that as clarified also by the Garante, the data processed by Immuni are pseudonymised data rather than anonymous data. The Decree also contains provisions regarding the data governance. Specifically, the Ministry of Health is qualified as the data controller, whereas several public institutions, such as the Civil Protection and the facilities operating within the National Health Service, will act as data processors. Moreover, the Decree establishes various safeguards applicable to the processing of data collected through Immuni: in first place, the data are stored on servers located in Italy and managed by publicly controlled entities. Secondly, the compliance with the principles of the processing (e.g. data minimisation, data protection by design and by default, transparency, and integrity) must be ensured. Lastly, the Ministry of Health has carried out a Data Protection Impact Assessment ("**DPIA**") and submitted it to the prior authorisation of the Italian Data Protection Authority ("**Garante**") according to Section 36 GDPR. Following an in-depth analysis, the Garante has authorised the processing requiring the implementation of some measures to enhance data security and transparency. For instance, users should be informed that the Exposure Notification does not always reflect a real risk of contagion and they should have the possibility to temporarily deactivate Immuni through an easily accessible function. Moreover, according to the Garante, the Ministry of Health should indicate in detail and regularly update the information on the algorithm in the DPIA. The latter should also provide much more accurate information on the processing of the epidemiological and technical information collected by Immuni. Notably, the Ministry of Health has not published yet any

		statement on the implementation of the prescriptions ordered by the Garante. Furthermore, consistently with the European Commission's work on the interoperability gateway service, the Decree (as recently amended) allows the implementation of solutions enabling the interoperability between Immuni and other similar European tracking platforms, subject to a DPIA. Based on the information currently available on newspapers, a first interoperability service concerning Immuni and other European tracking applications should be available in mid-October. Finally, under a practical standpoint, in the last few days Immuni has been subject to a massive promotional campaign launched by the ministry and by the newspapers and the downloads increased significantly, reaching 8 million on 10 October. However, it should be noted that this data does not reflect how many users actually activated Immuni and/or deleted it afterwards.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	The government preferred to adopt a single tracking measure at a national level that ultimately led to the Decree. Indeed, at first it promoted a call for contribution to identify the best digital solution and, then, it set up a task force of experts that identified Immuni as the best tracking solution. However, prior to the government initiative, some regions developed mobile applications to counter the health emergency. By way of example, Friuli Venezia Giulia tested a contact tracing app (which was developed for free by a multinational company and then managed by a company participated by the region itself). This initiative had however to give way to Immuni. Instead, Sardegna released a mobile app that people arriving on the Island could use to facilitate the mandatory self-declaration about their health conditions. A different approach was adopted by Lazio and Sicilia, which released a mobile app to allow users – mainly tourists in the case of the Sicilian app – to check symptoms and get in touch

		with a doctor. Lastly, Lombardy released an application to allow users to fill in a questionnaire, on an anonymous basis, with the aim of obtaining contagion statistics (even though there are some doubts as to whether the data collected by this app would be truly anonymous). Some regional initiatives are still under discussion, such as the Veneto's mobile application to check and monitor users' symptoms, which is not yet available. The Garante clarified that regions cannot limit access to their territory only on condition that the data subject downloads and uses a specific mobile application. Indeed, the failure to download a contact tracing app (whether on a national or a regional basis) cannot lead to any detrimental consequences for the data subject or affect the exercise of his/her fundamental rights, such as, in particular, the freedom of movement.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	Yes. In the first place, on 14 March, 2020, the Italian Telecom Industry Association (ASSTEL) declared that the associated mobile phone providers were willing to make available to the authorities aggregate information derived from the mobility data of all their customers, ensuring in any case compliance with the provisions of the GDPR. These providers themselves volunteered to cooperate with the Civil Protection, the National Institute of Health, the Regions and other authorities committed to fighting the pandemic. For instance, Lombardy used anonymised and aggregated data concerning the "cell tower to cell tower" ("da cella a cella") movements of the mobile phones provided by Vodafone and Tim (two of the major Italian telco providers) to determine how many people were moving around the territory and how they did it. In the second place, Enel X – a company of the Enel Group providing innovative products and services in the energy field – and HERE Technologies – a company providing services related to mapping and location data – published a mobility map. It

		estimates the variation of movements and kilometres travelled by citizens on the national, regional, provincial and municipal territory. The mapping is based on the analysis of anonymous and aggregated data derived from connected vehicles, maps and navigation systems managed by these companies, in correlation with location data from mobile and open data applications of the public authorities. The mobility map was accessible for free until 31 May 2020. It can be used to understand the impacts of the COVID-19 containment measures, to identify the areas that need more support in the implementation of these measures, and to monitor the mobility after the end of the containment measures. In the third place, Facebook, Google and Apple made available to public authorities of several countries, including Italy, aggregated data on users' mobility. This data is obtained, for example, by counting the number of requests for directions received by the relevant applications or by analysing the anonymised mobility data of the social network users.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	Some employers voluntarily implemented tracking measures within the workplace. Nevertheless, the Garante clarified that no other contact tracing apps are permitted, since contact tracing functionalities can only rely on the Decree. Notwithstanding the above, an Italian hi-tech company introduced a system similar to Immuni. The tracking, via Bluetooth, is activated within the company perimeter after the employee has given his/her consent to the installation. The app collects a contact diary of the employee, which, in case the employee is tested positive can be sent, with employee's explicit consent, to the company server for the verification of the contacts made within the company. The competent doctor will communicate the data to health institutions. Such measures were applied in addition to Immuni and were merely voluntary. For these reasons, the use of these types of apps necessarily relied on the data

		subjects' consent. This however lead to some doubts as to the legal feasibility in the employment context of solutions of this kind, since (as noted by the data protection authorities on multiple occasions) the validity of the consent provided by employees is arguable due to the imbalance of powers existing with the employer. The above-mentioned intervention of the Garante answered to such doubts qualifying the Decree as the only basis to implement a contact tracing measure, also in the workplace.

Netherlands

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Last updated: 19 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	Yes. On 29 May 2020, the Dutch government submitted a draft emergency legislation for the amendment of the Dutch Telecommunications Act (in Dutch: "*Telecommunicatiewet*"). The draft amendment and more information are available in Dutch. The draft legislation proposal is currently still pending. The purpose of the draft legislation is to introduce the obligation for providers of public telecommunications networks and services ("**telco's**") to provide information derived from traffic and location data to the National Institute for Public Health and the Environment (in Dutch: "*RIVM*") for the control of the COVID-19 virus. With this information, the RIVM should be able to better assess the effectiveness of the testing measures and also to act faster in the event of a revival in the number of virus infections. Important to note is that the data to be shared by the telco's concerns 'information derived from traffic and location data'. The derived information entails the total of mobile phones per hour, per municipality, allocated by the derived origin (residential municipality) of the holder of the telephone. In view of the processing of this data, the traffic and location data and the derived origin, will be pseudonymised. In view of the pseudonymisation, technical and organisational measures should prevent the (re-)linking of this information with the respective individuals. The telco's will provide the derived information to the national statistical office, Statistics Netherlands (in Dutch: "CBS") and the CBS will report to the RIVM. In view hereof, the CBS will be considered data processor of RIVM.

		According to the most recent draft legislation proposal, this provision has a temporary character and in principle applies for the duration of six (6) months. However, the draft legislation includes the possibility to extent the provision for subsequent maximum periods of three (3) months. The RIVM and CBS should delete the received information as soon as they are no longer necessary for combatting the COVID-19 virus, and in any event one (1) year after receipt thereof. The Dutch Data Protection Authority (in Dutch: "*Autoriteit Persoonsgegevens*" hereafter "DPA") expressed its concerns in relation to the draft legislation. According to the DPA, (i) pseudonymisation does not change the tracking and traceability risk for individuals because linking the derived information to an individual remains possible, (ii) the necessity of processing the data is insufficiently substantiated and, (iii) the proposed security safeguards have not (completely) been taken into account. . The considerations of the Dutch DPA in this respect are available in Dutch. The DPA is expected to comment on the revised - most recent – version of the draft legislation soon. In addition the Dutch government is working on the development of several digital tools (such as an app) to assist in combatting COVID -19. At first the Dutch Minister of Health, Welfare and Sports indicated that he could not exclude the possibility that apps may be mandatory, because a minimum use is necessary for some apps to be useful. This was heavily criticised by amongst others privacy experts. More recently, the Dutch government corrected this by indicating that the use of such apps shall be voluntary. In this context the Dutch Government recently launched a contact tracing app, which caused for the introduction of legislative measures. On 6 October the Temporary Act notification application COVID -19 (in Dutch: '*Tijdelijke wet notificatieapplicatie covid-19*') which provides a legal basis for the contact

		tracing app ("*CoronaMelder*") by amending the Public Health Act was approved by the Dutch Senate. It entered into force on 10 October. The Act provides for a limited list of types of personal data that may be processed, the conditions for such processing and a complaints procedure with the DPA. The text of the Act and related information are available in Dutch.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	Yes. As indicated above (Question 1) the Dutch Government has been working on several digital tools including a contact tracing app. The contact tracing app, named "*CoronaMelder*" has been officially introduced on 13 October 2020. The app aims to inform users if they have been in contact with someone who tested positive for COVID -19 and provides recommendations in such situation. More information is available at the Coronamelder website. The use of the app is voluntarily. Note that prior to its introduction the DPA criticised the app for lack of a basis in legislation, agreements between the Dutch government and Google and Apple and security of the app's servers. Although the lack of legislation is (supposedly) corrected by the legislation discussed above (Question 1), it is not clear if the DPA's other points of criticism have been dealt with. The Dutch government does not promote the use of any other contact-tracing apps that may already be available.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	No. Telco's initially claimed that under current legislation (in particular the Telecommunications Act and General Data Protection Act) they are not allowed to share traffic and location data with third parties without a legal basis. In view hereof, the government now wishes to effectuate the proposed emergency legislation (Question 1).

		One of the major telco's, T-Mobile, noted earlier that it was asked to provide the traffic and tracking data voluntarily. They mentioned to consider such sharing only if the government was able to guarantee that the traffic and tracking data would be used only for the purpose of COVID-19 research and not, for example, for the purpose of verifying whether individuals comply with the virus prevention measures. According to T-Mobile they did not get such guarantee. Interestingly enough, the current legislative proposal does not explicitly exclude that the derived data will be used for the purpose of verifying compliance with virus prevention measures.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	Although there are no other legal developments in The Netherlands in relation to the tracking or tracing of individuals, it is interesting to note that the DPA is very engaged in actively sharing information around (potential) privacy issues in relation to combatting the COVID-19 virus. It has created a specific section on its website dedicated to the topic. Unfortunately it is only available in Dutch. The section includes information on: - Privacy and COVID-19 in general; - The use of temperature and/or health checks; - Privacy of students in connection to home-education; - Privacy and remote working; - Privacy in the workplace. The information provided demonstrates that the DPA takes a rather strict approach. For example, it holds that checking someone's temperature in this context is probably only permitted with the consent of the data subject and that such consent will generally not be obtained freely and thus will not be considered valid (for example in employment relations). It also questions the effectiveness of measuring temperatures. Moreover, it indicated that while in some situations health checks may be performed, the results may not be registered.

Slovakia

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Last updated: 11 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	Yes, the National Council of the Slovak Republic adopted Act No. 242/2020 by which the following legislation have been changed. The first is the Act No. 351/2011 Coll. on electronic communication as amended providing the legal scope for tracking individuals by (i) obtaining data from mobile communication providers ("The First Amendment") and the second is Act No. 355/2007 (ii) the use of mobile app ("The Second Amendment"). *The First Amendment* - Based on The First Amendment, the Public Health Authority of the Slovak Republic ("PHA") shall be entitled to request the provider of electronic telecommunication networks and services to provide existing data to extent of name, surname, phone number, address and location data of user of electronic telecommunication networks and services based on the reasonable written request submitted by the PHA and with the written consent or otherwise credibly verifiable consent of the concerned person. - Based on the latest update, the PHA is allowed to request in written form from the electronic telecommunication provider either the data to the extent of telephone number, localisation data and operation data of the data subject even without the data subject´s consent. - The processing of data of data subject without his/her consent can be performed solely in case of data subject, who arrive to the Slovakia from the countries that are not included in the list of less risky countries which is regularly updated by the Ministry of Foreign and European Affairs of Slovak

		Republic. Such processing may be carried out by PHA for period of 60 days from the day of their receipt by the PHA, after that the data have to be destroyed. - The data could be processed only by the PHA. - As regards to the safeguards, the data shall be processed:in anonymised form for statistical purposes which are necessary for the precaution, prevention and creation of a model of the development of threats of life and health; o for the purposes of identification of recipients of text messages who shall be informed about the specific measures of the PHA in order to protect life and health; o exclusively to the extent necessary for identification movement of the concerned users of electronic telecommunication networks and services in order to protect life and health. - The PHA shall be entitled to collect, process and retain data after taking appropriate technical and organisational measures to protect privacy and personal data only during the emergency situation in the healthcare sector and by 31 December 2020 at the latest. *The Second Amendment* - The Second Amendment regulates in particular the use of (i) the app on monitoring of ordered isolation (eQuarantine) and (ii) the app on monitoring of a contact of the mobile device with other mobile devices during the mandatory isolation ordered by the state authorities. Given the purpose of this amendment, the individual to whom a mandatory isolation was ordered, shall be entitled to opt for self-isolation instead of the institutional quarantine, if this

		person provides consent with the use of the app on monitoring of the ordered isolation (note that the app on monitoring of the contacts of the mobile device with other mobile devices can be used voluntarily). After the consent was provided, such person shall be obliged to comply with other statutory requirements, e.g. to allow the app with an access to the camera, nonstop internet connection, to allow localisation data, smartphone shall be permanently switched on during self-isolation etc. More information on eQuarantine is available here (in English). - eQuarantine was developed by volunteers for free. Currently, eQuarantine is available for Android and also for Apple. - eQuarantine as well as the app on monitoring of the contacts of the mobile device with other mobile devices are operated by the PHA. - The PHA shall be entitled to process new data to the extent prescribed by The Second Amendment (in particular name and surname, identifier of the app, unique code of the app, the place in which the home isolation is ordered and other associated information in this regard, location data, national identification number, information on the compliance or non-compliance with ordered home isolation, mobile number, information related to the health etc.). - Relevant legal safeguards have been adopted, e.g. data processing via the apps shall be supervised by the Data Protection Office of the Slovak Republic which shall be obliged to undertake a specific inspection, retention periods were implemented, DPA shall be conducted by the PHA etc. - The data could be processed for the period necessary to achieve the statutory purpose, however, by 31 December 2020 at the latest. - As far as the state quarantine has been replaced by individual home

		quarantine and testing after the arrival from the countries which are not listed as less risky countries, the eQuarantine app is no longer used, even if the pertinent Act is still valid.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	Yes, some of the technological measures described above are recommended (collection of data with the data subject´s consent) and repeatedly promoted by the Slovak government. This conclusion also naturally stems from the fact that both pieces of legislation were adopted based on the governmental proposals.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	We are not aware of any companies which would voluntarily provide such data to the Slovak government in order to track individuals. However, certain level of cooperation between the mobile phone providers and the Slovak government could have been observed as regards to the text messages which are sent to the individuals entering Slovakia from abroad. By this way, relevant persons are informed in particular about the obligations ordered by the governmental measures as regards to the COVID-19 as well as on potential sanctions in case of non-compliance with applicable restrictions.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	To the best of our knowledge, we are not aware of any other relevant legal developments in the Slovak Republic regarding tracking individuals in relation to combating COVID-19.

Spain

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Last updated: 16 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	*Description* *Geolocation system. DATACOVID-19* *Status of the legislation* Already implemented. *New or existing data* It is provided by the telecom companies to the Statistics National Institute. *Access* The Statistics National Institute is responsible of the data treatment and the telecom companies are in charge of the data treatment. *Safeguards* Aggregated and anonymised data will be collected in accordance with Regulation 2016/679 and Spanish Act 3/2018. *End-date* Ended when state of alarm ended.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	RADAR COVID: It is an app that the citizen can download on a voluntary basis and can notify if they are positive in COVID- 19. The General Secretariat for Digital Administration has been developing, with the knowledge and agreement of the Ministry of Health, an application for contact traceability in relation to the pandemic caused by the COVID-19 called "COVID Radar". In July 2020, with the agreement of the Ministry of Health's Directorate-General for Public Health, Quality and Innovation, the SGAD successfully carried out its pilot project, the success of which guarantees the viability of the proposed solution for tracking close contacts. The Ministry of Health and the competent Regional Ministry of Health of the Community concerned "will appear as the

		persons responsible for the processing of personal data and the SGAD as the processor".
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	*Companies voluntarily providing data* All the telecom data. *Data provided* Movement of all the devices, without identifying the devices. Before, during and after COVID-19 situation. *Reasoning behind providing the data* The aim is to protect the Health and Safety of citizens as well as to offer additional channels of information. Also to have real information on citizens´ mobility that will have an impact on the hospitals capability in each region. *Access* Statistics national institute. *End-date* Ended when the state of alarm finished.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	N/A

Sweden

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Last updated: 16 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	No, the Swedish government has not (yet) introduced any legislation aimed at tracking individuals and identifying people they have come into contact with due to COVID-19. To date, the Public Health Agency of Sweden has determined that it would not be effective to use such technology, which has been respected by the Swedish government. However, this may change in the future.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	No, the Swedish government has so far not recommended or promoted the voluntary use of technology measures to track individuals and identifying people they have come into contact with. However, the Swedish Public Health Agency has in a recent report defined tracing and testing as two of the most important measures to combat the spread of COVID-19 during 2021.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	No, but the Public Health Agency of Sweden is obtaining anonymised and aggregated data from the network operator Telia about its Swedish customers, for the purpose of analysing if they follow the Swedish government's recommendations in connection with the spread of COVID-19 (e.g. limit domestic travels). Also, a number of suppliers have offered to develop different kind of apps to track and monitor the virus, either by the use of geolocation data or data on symptoms. One supplier have also offered to rebuild the chain in the pandemic management system. It should also be noted that researchers at Lund University in Sweden have launched a free app to help map the spread of infection in Sweden and increase knowledge of the coronavirus. The app's ambition is provide decision makers with

		valuable insight into how contagious the virus is and what drives its spreads.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	The Swedish Data Protection Authority has issued guidance on personal data and COVID-19 (which includes guidance on what types of information constitute health related data and what employers should consider when processing employee personal data when combating the virus), digital infection tracking and digital teaching. In addition to the guidance, it has also published answers to frequently asked questions on the subject. The Swedish Work Environment Agency has issued guidance regarding work environment risks relating to COVID-19, e.g. due to increased work from home.

Switzerland

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Last updated: 12 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	Yes, on Federal level, Switzerland has introduced legislation aimed at tracing individuals by use of an app or similar means on a voluntary basis. Additionally, Switzerland has introduced legislation aimed at tracing individuals returning to Switzerland from countries or cities/areas with high infection rates on a mandatory basis. Unlike the voluntary use of an app as described below, this tracing is executed with a low-tech approach, i.e. with calls made based on flight itineraries, border controls, self-declaration and similar measures. On state level, some cantons have introduced legislation aimed at tracing of individuals on a mandatory basis by use of contact details provided by those individuals in specific situations. For more information on this, please refer to Question 4. On 19 June 2020, the Swiss Parliament has adopted legislation (Art. 60a of the Epidemics Act) to allow the Swiss Government the operation of the Swiss PT-App ("PT" stands for "Proximity Tracing"). The Swiss PT-App, often also referred to as the "SwissCovid App", has been launched for use by the general public on 25 June 2020. Use of the Swiss PT-App is voluntary. *Purpose* During the current state of fighting the COVID-19 pandemic, an important measure is the tracing and interrupting of infection chains. The launch of the Swiss PT-App is aimed at supplementing such tracing already practiced at the start of the pandemic (and as still ongoing) by cantonal authorities via telephone calls.

		The Swiss PT-App was created by two leading Swiss universities (namely the EPFL and the ETHZ) in collaboration with the Federal Office of Public Health (FOPH). The necessary backend (server) IT-system was developed and is operated by the Federal Office of Information Technology, Systems and Telecommunication (FOITT) on behalf of the FOPH. *Operations and functions* The Swiss PT-App functions as follows: - Recording of contacts: The Swiss PT-App is an application software installed on the smartphone (with either the latest version of iOS or Android as operating system) that can be downloaded from the app store. For such download, no personal information such as phone number, name or e-mail address is required. At installation, a random initial encrypted ID is generated. After installation, the smartphone sends out encrypted IDs via Bluetooth (Low Energy). These are long, random and daily changing character strings that do not contain any information on the person using the app, such person's location or the kind of device used. If another smartphone, on which the same Swiss PT-App is installed, is less than 1.5 meters away for a total of more than 15 minutes on end, the devices exchange their encrypted IDs. This creates a local list of encrypted IDs received from devices that the person has been close to for a longer time and so registers the epidemiologically relevant encounters. Users do not have to enter or change any settings, but must simply and only carry their smartphone with them with the Bluetooth function turned on. After two weeks, all encrypted IDs collected are automatically deleted from the device. As long as no infection is notified by the user (see below), no data are centrally stored within the PT-system.

		- Notification mechanism: If a Swiss PT-App user tests positive for COVID-19, he or she receives a so-called "Covidcode" from the cantonal medical service, whereby the code is created via the FOPH's website and via the backend-server operated by FOITT respectively. This step is important to prevent abuse, as the app's notification function can only be activated by the user with this Covidcode. After such activation, which is entirely voluntary, the other app users are automatically – by retrieving the relevant information via the backend-server – informed that they had close contact with a person who tested positive and that they themselves may be infected. The notified persons only receive information on the date, but not on the time or place of the potentially infectious contact. Due to the encrypted and changing IDs, this information is generated anonymously, i.e. neither users, nor the federal authorities hosting the application on their server will know who the infected person is and the privacy of users is guaranteed throughout. Now the informed user can contact the hotline mentioned in the app and clarify the next steps (e.g. quarantine, testing, treatment etc.). In summary, the Swiss PT-App does not collect any personal data, location data or motion data of the user. The contact data (i.e. the exchanged encrypted IDs) are also not centrally stored, but only locally on the respective devices. Consequently, the Federal Data Protection and Information Commissioner (FDPIC, i.e. the Swiss National Data Protection Authority) as well as the National Ethics Committee have approved of the use of the Swiss PT-App. The Swiss PT-App has only been designed to fight COVID-19 and as soon as the app is not needed anymore for this purpose, it will be discontinued and all data will be deleted.

		Use of data for statistical purposes Certain anonymous data, such as (i) the number of generated activation codes (Covidcodes) per canton, (ii) the number of calls to the specific hotline for the informed users, and (iii) the number of app downloads from the Apple or Google store are used for statistical purposes. *Necessity of legislation* Federal bodies that systematically obtain data from a large number of personal sources, such as mobile phones, and process it automatically must, in view of the associated risks to privacy and informational self-determination, be able to base themselves on a legal basis within the meaning of Article 17 para. 1 of the Swiss Data Protection Act (DPA). This requirement also applies if the use of the app is voluntary. Consequently, despite the voluntary use of the Swiss PT-App, the implementation of respective legislation was necessary, as the Swiss PT-App's backend is integrated into the FOITT's infrastructure. Furthermore, the FOPH is responsible for the operation of the app and qualifies as controller of the data file in the sense of the DPA. *Content of legislation* The legislation, which consists in an urgent adaptation of the existing Epidemics Act, authorises the FOPH to operate the Swiss PT-App, regulates the basic principles of the app's purpose and functions as well as the purpose of the data processing connected therewith (all as described above). In addition, it contains a prohibition of discrimination or preference based on participation or non-participation in the PT-system, so that the principle of voluntary participation and the right of informational self-determination are preserved. The legislation further provides that the operation of the PT-system may only last as long as is necessary to fight the COVID-19 pandemic. It also authorises the Federal Council to conclude agreements with other states with regard to the interoperability of similar systems. Further, a right of users

		who have been informed via the Swiss PT-App of an encounter to take a COVID-19 test for free (costs borne by the Swiss Federation) as well as the possibility to discontinue the Swiss PT-App in case it proves to be ineffective has been adopted. The details on the Swiss PT-App's operation are regulated in a separate implementation ordinance (Ordinance on the Proximity-Tracing System for the Coronavirus Sars-CoV-2). *Swiss PT-App as medical device* With the technical implementation as outlined above and in particular with regard to the health-related recommendations provided, the Swiss PT-App qualifies as medical device under Swiss law. According to the Federal Council's dispatch for the attention of the Swiss Parliament with regard to the legislation to be implemented ("*Botschaft*"), the Swiss PT-App fulfils all respective regulatory requirements under the Therapeutic Products Act.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	Yes, the use of the Swiss PT-App is voluntary but recommended. The Federal Council promotes the use of the Swiss PT-App, inter alia by way of a mass media campaigns (TV-spots, banners etc.). According to a survey conducted at the end of April 2020, 70% of Switzerland's population was in favour of the introduction of a PT-app. Most of the questioned persons confirmed that they were likely to install and use the app themselves. On its first day (25 June 2020), the app has been downloaded 150'000 times. Today (October 2020) and according to numbers published by *statista* (website last visited on 12 October 2020), however, it is clear that the SwissCovid App is only actively used by around 1.6 million people. I.e. only around 18.5% of the Swiss population have downloaded it and have Bluetooth activated. For more information on the app and its functions, see answer to Question 1.

3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	No. However, Swisscom, the state-owned and largest Swiss mobile phone network provider, had provided the FOPH with certain information about the mobility of the population and size of local gatherings throughout the COVID-19 "lockdown". The purpose of this information was to enable the FOPH to ascertain whether the Federal Council's prohibition of gatherings of more than 5 people at the time had generally been adhered to. This information was not shared entirely voluntarily, as the FOPH had issued an order based on the Epidemics Act obliging Swisscom to grant access to its pre-existing Mobility Insights Platform (MIP). Swisscom and the FOPH both stated that no personal data was disclosed to the FOPH, but still the cooperation was subject to critical media coverage. Due to these media reports, the FDPIC started a summary enquiry, the results of which can be accessed here in in German. The FDPIC came to the conclusion that Swisscom (and the FOPH) had rightfully stated that only anonymised data was shared with the FOPH. In particular, it held that: - localisation data had been pseudonymised as early as possible by hashing and subsequent aggregation; - no organisational measures had been described, but that there was no reason to believe that there were obvious deficiencies, since the product (MIP) had been in operation for a number of years; - Swisscom made available statistical and visualised information to the FOPH, but none of the non-obfuscated ("*Klardaten*") or pseudonymised data that underlied the MIP; and - the data made available to the FOPH had been anonymised. However, the FDPIC criticised that information to the public about the cooperation had been scarce and not easily found, which is why he requested Swisscom to make available detailed information about the data processing

		underlying the cooperation. Swisscom had complied with that request and issued an FAQ, detailing the FOPH's access to the MIP. The FAQ is available here in German. Additionally, the FOPH had released a media statement, which inter alia showed what the visualisations it received looked like. This statement is available here in English.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	As mentioned above, several cantons have implemented legislation aimed at tracing individuals based on contact details which have to be provided by those individuals in specific situations. For example, in the canton of Zurich, restaurants are obliged to request contact details from their customers (name, first name, zip code, mobile number, e-mail address, time of entry and leaving of the establishment) to enable the cantonal authorities to trace such customers in case of an infection of another person who was present at the restaurant at the same time. In the case of dance clubs, the clubs also have the obligation to verify the mobile phone number.

Taiwan

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Last updated: 27 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	Yes, according to Taiwan Communicable Disease Control Act and Taiwan Personal Data Protection Act, Taiwan implemented a phone tracking system "electronic fence" that uses location-tracking to ensure people who are quarantined stay in their homes. The competent authority may ask the individuals to provide their mobile phone numbers or ask them to carry the provided mobile phone during the 14 days home quarantine.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	For those subjected to a mandatory 14 days home quarantine, the use of such designed technological measure is compulsory under Taiwan laws.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	Under Taiwan laws, Taiwan government is entitled to receive the specific data from the country's major telecoms companies to tracks the location of the quarantined individuals.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	N/A

United Kingdom

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Last updated: 23 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	UK government started "test and trace" scheme on 28 May 2020. A contact tracing app proposed by the NHS digital innovation unit was tested on the Isle of Wight in May 2020 but the app could not be used due to restrictions Apple imposes on how Bluetooth is used by third-party apps. There is now an official NHS app which uses an Apple-Google solution. For further background on the app, see below. UK university Kings College London also developed an app which tracks COVID-19 system and which has been downloaded by almost 4 million users. It has been endorsed by NHS Wales and Scotland, but not England or the UK Government – even though the UK Government has used data from this app. *Test and trace* - people must complete online test for COVID-19. If test comes back positive, contact tracing or public health teams will get in touch and ask person who they have been in contact with. Any of those contacts deemed at risk of catching the virus will be emailed or texted with instructions to go into isolation for 14 days, whether they are sick or not. The contact tracing app was originally developed by the NHS technology team based on a centralised database. This was a bespoke system without collaboration with Google or Apple. There is an image of the contrast between the NHS approach and the decentralised approach of the Google & Apple platform here. The original app was intended "not to store any personal data". Of course, it collected health data from users, but the NHS claim was based on the fact that it was not necessary to enter name or address information – it did however collect location data.

		As of 18 June 2020, it was announced that there were significant problems with the app – specifically it could not recognise the vast majority of Apple devices (c. 96%). As a result, the NHS stopped developing this version of the App and switched to a version based on the Google and Apple developed platform (as in the cases of the German and Italian Apps). Further details can be seen here. *Status of the legislation* No legislation yet in force, aside from existing privacy legislation. *New or existing data* New data gathered, either via online test and follow up, or via NHS app. *Access* Contact tracing/public health teams, and the government. Not yet clear who else may have access. *Safeguards* No legislation yet in force, but DPA 2018 and GDPR provide protections. *End-date* Not yet clear.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	See above (Question 1).
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	Mobile phone operators and tech companies have been discussing how to work with the government to tackle COVID-19, but it is not yet clear what the outcome of those discussions has been, or what data (if any) companies would be willing to provide to the government.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	None.

United States of America

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Last updated: 20 October 2020

	Question	Answer
1	Has your jurisdiction introduced any legislation aimed at tracking individuals (either by use of an app, by obtaining data from mobile communication providers or otherwise) and identifying people they have come into contact with? Or is the government in your jurisdiction planning to do so?	No. Please keep in mind I work in Ohio, other states might have done so, but I am not aware any have implemented anything along those lines.
2	Has your government recommended or promoted the voluntary use of technological measures to track individuals and identifying people they have come into contact with?	No. Please keep in mind I work in Ohio, other states might have done so, but I am not aware any have implemented anything along those lines.
3	Have any companies in your jurisdiction storing movement and/or communication data (e.g. mobile phone providers) voluntarily offered to provide data to your government to enable the tracking of individuals and identification of people they have come into contact with?	Not that I am aware of. Please keep in mind I work in Ohio, other states might have done so, but I am not aware any have implemented anything along those lines.
4	Are there any other relevant legal developments in your jurisdiction regarding tracking individuals in relation to combatting COVID-19 you would like to share with us?	No.

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