



Department
of International
Law
Secretariat for Legal Affairs

WEBINAR
“PROTECTION OF PERSONAL DATA:
INNOVATION AND MANAGEMENT DURING AND AFTER
THE PANDEMIC”

JUNE 1ST, 2020

CONCEPT NOTE

INTRODUCTION

The COVID -19 pandemic has forced us to digitize practically all aspects of our daily life (work, social life, medicine, entertainment, etc.), and has led public and private entities to resort to more agile ways of sharing information, adapt their operations and adopt measures that involve the treatment of personal data, including health data, which are considered sensitive, as they affect the privacy of the owner or because their misuse can lead to discrimination, and the treatment of which requires greater security measures and restrictions of movement, access and use.

In recent weeks, we have seen how many governments have deployed digital control devices, either to monitor the spread of the virus, or to track compliance with social distancing rules, relying on the potential of *big data* to defend against the pandemic. On the other hand, for organizations, protecting their employees, clients and partners is a new and urgent challenge that has revealed tensions between their obligations to guarantee the protection of personal data and those obligations protected by other laws, mainly those related to workplace safety and public health.

The relaxation of the containment measures that we are beginning to see in some countries will entail the arrival of more mobile applications (“coronapps”) that, based on our personal data, will try to track the spread of the virus using our own mobile phones to know where, when and with whom we have been, and thus alert us if we have been exposed to the virus.

Therefore, it is important to identify potential risks and ensure that all these measures, created under pressure to find a way out of confinement and detonate economic activity, establish surveillance and data collection systems that comply with the principles that guarantee this right.

OBJECTIVES AND CONTENT

This discussion seeks to promote reflection on the measures taken in the fight against the COVID-19 pandemic by governments and businesses and their impact on the protection of personal data, as well as on the treatment thereof once the crisis has passed. The discussion of the topic will be divided into three presentations:

I. Protection of Personal Data and COVID-19: where are we? This presentation will focus on current efforts to address the pandemic from the perspective of personal data processing, particularly sensitive data. All our movements, interactions and even our body temperature have become susceptible to monitoring.

This includes, among others, the transfer of data with health authorities, the use of telemedicine applications that collect sensitive data, the use of personal devices for remote work that are susceptible hacking, and the creation of databases that contain sensitive data of people affected by COVID-19.

It is also important to alert society and protect it from the risks involved in the surrender of sensitive personal data to web pages, mobile applications and even companies that administer COVID-19 tests, the proliferation of harmful practices such as phishing and malware installation, and the possibility of being re identified.

The questions this presentation aims to answer are:

- Of the measures taken by the majority of the governments of the region to face the pandemic, which are the ones that could have a greater impact on the protection of personal data?
- What measures should companies and governments take to guarantee the protection of sensitive personal data and avoid the re-identification and possible stigmatization of individuals?

II. Looking Ahead: What happens next? New technological tools are playing a key role in the fight against the coronavirus. However, it is important to prevent these emergency measures from ultimately affecting our fundamental right to privacy and, above all, from remaining in place once the pandemic is over.

This presentation will explore the characteristics that a “return to normality” must have from the perspective of the protection of personal data and will seek to answer the following questions:

- Will there be a cultural shift in the level of invasion of privacy that our society considers acceptable as part of the new normal?
- After the pandemic, how should personal data obtained through telemedicine, government applications, and other mechanisms developed in this context be treated?

III. Towards a Regional Model. This presentation will address the work of the Inter-American Juridical Committee (CJI), an advisory body to the OAS in legal matters, in the development of Principles for Privacy and Data Protection whose adoption has contributed and will continue to contribute to strengthening the efforts of several OAS Member States in this area.

These principles are currently being revised to reflect the latest developments in this area and to facilitate the interaction of the Member States with the countries that have adopted the highest standards of data protection, which often require this high level of protection from their business partners.

The pandemic also opens a window to move decisively towards a data protection model that is common to Member States to ensure interoperability of laws at the regional level in light of the frequency of cross-border data flow.

This presentation will focus on the following questions:

- What would be the advantages of having homogenized legal instruments for the protection of data throughout the region?
- What are the main innovations that the CJI seeks to introduce when reviewing the Principles for Privacy and Data Protection?

THE DEPARTMENT OF INTERNATIONAL LAW WILL PREPARE A SUMMARY OF THE CONCLUSIONS OF THE PANELS
AND MAKE IT AVAILABLE IN ENGLISH AND SPANISH AT:
http://www.oas.org/en/sla/dil/international_law.asp