



**MONTENEGRO
AGENCY FOR PERSONAL DATA PROTECTION
AND FREE ACCESS TO INFORMATION**



Number:

Date:

**NATIONAL COORDINATION BODY FOR COMMUNICABLE
DISEASES**

attn President, Mr. Milutin Simović

Deciding upon Request no. 03-11-2261-1/20 of 03/21/2020 sent by the National Coordination Body for Communicable Diseases, requesting an opinion of the Agency for Personal Data Protection and Free Access to Information regarding the public disclosure of the name and residence of persons in self-isolation, according to the decision of the sanitary inspection, solely for the purpose of protecting public health, if it is in accordance with the Personal Data Protection Law, the Council of the Agency at its session held on 21 March 2020 delivered the following

O P I N I O N

Public disclosure of the name and place of residence of persons in self-isolation, according to the decision of the sanitary inspection, solely for the purpose of protecting public health, is not contrary to the Personal Data Protection Law.

Reasoning

The Agency for Personal Data Protection and Free Access to Information was approached by the National Coordination Body for Communicable Diseases with a request for an opinion on whether public disclosure of the name and place of residence of persons in self-isolation, according to the decision of the sanitary inspection, solely for the purpose of protecting public health is in accordance with the Personal Data Protection Law. Furthermore, the National Coordination Body for Communicable Diseases states that the coronavirus outbreak and its spread in Montenegro has led to a large number of persons who have been prescribed self-isolation measures by the sanitary inspection. Despite numerous measures taken to inform and educate the public, as well as recommendations and orders issued by the National Coordination Body for Communicable Diseases, numerous incidents of non-compliance with the prescribed self-isolation measures have been registered. The National Coordination Body is of the opinion that public disclosure of the name and place of residence of persons in self-isolation, according to the decision of the sanitary inspection, would significantly contribute to the promotion of compliance with self-isolation measures, solely for the purpose of protecting public health, if it is in accordance with the Personal Data Protection Law.

Acting in accordance with Article 50, Item 3 of the Personal Data Protection Law (Official Gazette of Montenegro, Nos. 79/08, 70/09, 44/12 and 22/17) - hereinafter: the Law, which states that the Agency delivers opinions with regards to the application of this law, and based on the request in question, the Council of the Agency is of the opinion that the **public disclosure of the name and residence of the persons in self-isolation, according to the decision of the sanitary inspection, solely for the purpose of protecting public health, is not contrary to the Personal Data Protection Law.**

Article 8 of the European Convention on Human Rights states that everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the **protection of health** or morals, or for the protection of the rights and freedoms of others.

Article 10, Item 2 of the Law defines that the **personal data may be processed without the consent of the data subject when processing is necessary for the protection of life and health of an individual who is not in the position to give his consent personally. The same Article, Item 4 defines that the personal data may be processed without the consent of the data subject when processing is necessary for the performance of a task carried out in the public interest or in the exercise of public authority falling within the scope of work or competence of the personal data filing system controller or personal data recipient.** According to Article 9, Item 2, processing of personal data shall mean any operation which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, use, consultation, disclosure by transmission, **dissemination or otherwise making available**, alignment or combination, blocking, erasure or destruction, as well any other operation performed upon personal data.

Article 6 of the Law on Health Care ("Official Gazette of Montenegro", Nos. 03/16, 39/16, 02/17, 44/18, 24/19 and 24/19) entitles citizens to be informed about the protection of their health in case of epidemic and other major disasters and accidents.

Article 18 of the Law on Protection of the Population against Communicable Diseases ("Official Gazette of Montenegro", No. 12/18) stipulates that the collection, processing and exchange of personal data shall be carried out in accordance with this law and the law regulating the protection of personal data.

Article 6 of the Law on Data Collections In the Field of Health Care ("Official Gazette of Montenegro", Nos. 80/08 and 40/11) defines that the provisions of the law regulating the protection of personal data and the law regulating statistical research shall be applied on the issues related to collecting, processing and giving personal data that are contained in data collections. Article 48 also stipulates that the Public Health Institute may also collect the data related to health protection of individuals for the needs of epidemiologic and other researches. In this case, health care providers shall deliver other data as well, at the request of the Public Health Institute, apart from the data as established by this law.

The Personal Data Protection Law stipulates that data must be processed fairly and lawfully. Personal data may be processed only to the extent necessary to achieve the purpose of processing and in a way compatible with the aims for which they were collected. The purpose and the way of processing personal data is determined by the personal data filing system controller, if they are not laid down by the law. The personal data filing system controller may be the state authority, public administration body, local self-government and local administration authority, commercial enterprise and other legal person, entrepreneur and natural person, which carries out processing of personal data.

The processing of data on the health status of citizens falls into a special category of personal data. Article 13 of the Law on special categories of personal data stipulates that data may be processed **without the explicit consent of the data subject** when processing is necessary for the purpose of detecting, preventing or diagnosing of data subject illness or carrying out his medical treatment, as well for the improvement of health services, insofar as the processing is done by a health worker or other person subject to the duties of keeping professional secret.

Article 18 stipulates that personal data may be used only for the period of time necessary to achieve the purpose of use. After the expiry of the period, the recipient of personal data must erase the data, unless otherwise provided by a separate law.

The COVID-19 outbreak in Montenegro, declared a pandemic by the WHO because of its ease of spreading, is a situation that fully justifies the opinion that the public disclosure of the name and residence of persons in self-isolation, according to the decision of the sanitary inspection, solely for the purpose of protecting public health, is not contrary to the Personal Data Protection Law.

In view of the above, the Council of the Agency is of the opinion set out in the operative part.

**Council of the Agency
President, Sreten Radonjić**