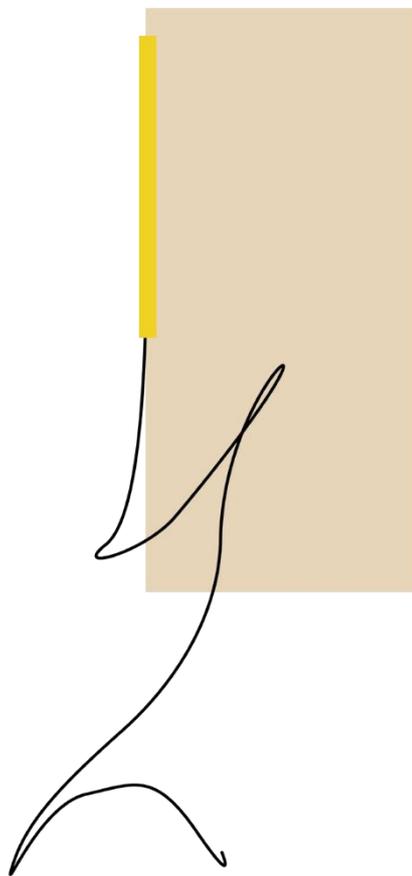


# Corona in Europe:



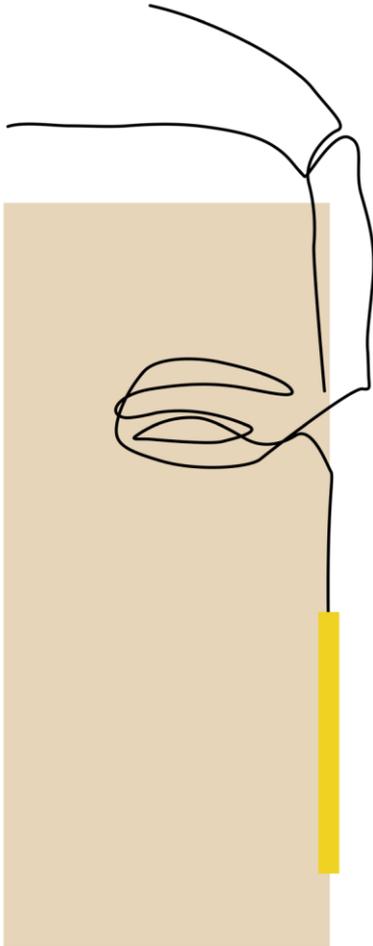
## What do the various European data protection authorities say?

A large number of European data protection authorities have published statements on the processing of personal data in relation to the coronavirus. In addition to the Dutch Autoriteit Persoonsgegevens (AP) (which has changed its advice three times), the French Commission Nationale Informatique & Libertés (CNIL) and the Irish Data Protection Commission (DPC), the European Data Protection Board (EDPB) – the independent European body in which all national authorities are represented – has now also posted a statement on its website.

Below we have a comparative overview of the main topics on which the EDPB and the various supervisory authorities have given their advice:

### 1. On what basis may an organization process personal data?

EDPB	This is possible – depending on the circumstances – based on consent, or if this is necessary for the public interest or vital interests of an individual.
The Netherlands	No advice was given on this point. In any case, it is clear that an organization cannot rely on the ground of consent as far as employees, visitors or suppliers are concerned.
Ireland	Employers have a legal obligation to process certain data. The principle of 'vital interests' only applies in emergencies, where consent is impossible.
Germany	Both processing based on a legal obligation and based on a legitimate interest are conceivable. Processing by public authorities may be legitimate based on the performance of a task of general interest.
Belgium	The 'vital interest' basis must be interpreted restrictively. The processing of company doctors is based on a legal obligation.



## 2. Is there a legal ground for exemption applicable to the processing health data?

EDPB	This is possible – depending on the circumstances – based on consent, or if this is necessary for the public interest or vital interests of an individual.
The Netherlands	An employer is not allowed to process health data from employees, not even during the coronacrisis. Only the occupational health and safety service or company doctor are allowed to do this. However, the mere measuring and reading of the temperature of an employee, visitor or supplier does not fall under het GDPR. It is not allowed for this information to be subsequently saved (digitally or analogously) or used by automated system.
The United Kingdom	No specific ground is indicated, but the processing of certain data is possible.
Ireland	This may be necessary for reasons of public interest or obligations under employment law.
Germany	This may be necessary for reasons of public interest or obligations under employment law.
Belgium	This may be necessary for reasons of public interest or obligations under employment law.
Italy	An emergency law has been passed empowering emergency services to process health data.

## 3. Is it allowed to require an employee to provide certain information to the employer?

The Netherlands	This is a problem of employment law and cannot be decided on by the Dutch AP.
The United Kingdom	This is allowed in principle, but must be limited to what is strictly necessary. For example, whether a risk area has been visited and whether the employee shows symptoms of the coronavirus.
Ireland	This is allowed, if the need can be substantiated. It is more permissible to ask about symptoms or recent journeys rather than to conduct a complete survey.
France	General questionnaires are not allowed, individual reports must be referred to the company doctor.
Germany	This is allowed, and also applies to visitors.

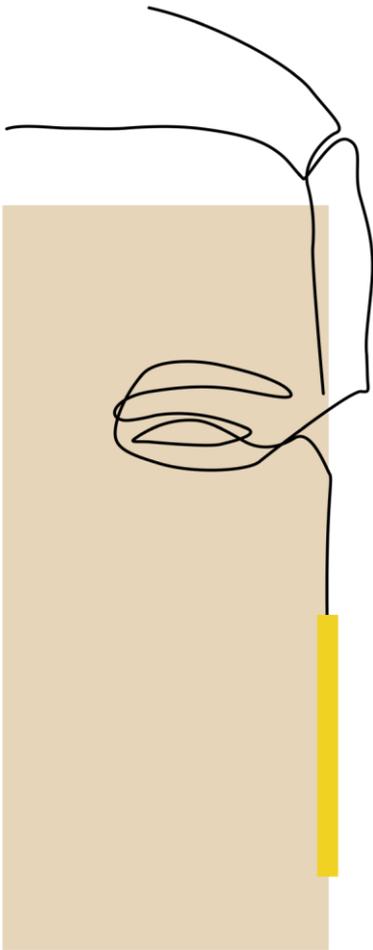
Belgium	This is not allowed and should be done by the company doctor.
Italy	This is not allowed and should be done by the company doctor. It is possible for the employers to set up a channel for employees to report themselves.

#### 4. May the employer take the temperature of employees?

The Netherlands	The mere measuring and reading of the temperature of an employee, visitor or supplier does not fall under het GDPR, so this can be done. It is not allowed for this information to be subsequently saved (digitally or analogously) or used by automated system.
France	This is prohibited.
Italy	On March 14, unions and employers agreed to allow employers to test the temperature of their employees.

#### 5. Who are allowed to access the health data?

The Netherlands	Only the arbodienst or company doctor. If an employee is infected with the coronavirus, this information may be shared with the GGD (Municipal Health Service). Reading the temperature of an employee, supplier or visitor by a thermometer can be done by the organization itself, provided that this information will not be saved (digitally or analogously) or used any further by automated systems.
The United Kingdom	It is allowed to tell the staff that someone is infected by the coronavirus, but it is not necessary to tell who that person is. Data may also be shared with (public health) authorities.
Ireland	It is allowed to tell the staff that someone is infected by the coronavirus, but it is not necessary to tell who that person is. Data may also be shared with (public health) authorities.
Germany	Disclosure of personal data of persons proven to be (suspected) infected by the coronavirus for the purpose of informing contact persons is only lawful if knowledge of the identity is exceptionally necessary due to precautions.
Belgium	Employers are not allowed to disclose the names of the employees who are infected.



## 6. Which personal data can I process as an organization

The Netherlands	No specific advice was given on this point. However, it is clear that the height of a person's temperature can be measured and read to a very limited extent.
The United Kingdom	Whether risk areas have been visited and whether someone is showing symptoms. In case of other information a strict necessity test applies.
Ireland	Whether risk areas have been visited and whether someone is showing symptoms. In case of other information a strict necessity test applies.
Germany	If a person have been visited risk areas, whether an infection with the coronavirus has been diagnosed and whether contact has been made with someone who has been diagnosed with the coronavirus.

## 7. Sources

The full statements of the various supervisory authorities can be consulted via the links below:

[EDPB](#) / [The Netherlands](#) / [United Kingdom](#) / [Ireland](#) / [France](#) / [Germany](#) / [Belgium](#) / [Italy](#)

Would you like to know more about the advice of the various European data protection authorities or can we help you with the specific application thereof in your organization? Please contact [Hester de Vries](#), attorney at law and partner of the privacy section of Kennedy van der Laan.

### Author:

[Hester de Vries](#)  
[hester.de.vries@kvdl.com](mailto:hester.de.vries@kvdl.com)  
+31 20 5506 657

