

Measurement of body temperature at the workplace

In order to prevent and restrain the spreading of the new Coronavirus pandemic ("COVID-19"), after the virus appeared in Europe, plenty of employers and other institutions has started to apply instruments suitable for the measurement of the body temperature.

In its notification issued on 10 March 2020, the National Authority for Data Protection and Freedom of Information (in Hungarian: Nemzeti Adatvédelmi és Információszabadság Hatóság; "NAIH") took the view that the introduction of employer-ordered general screening tests to determine the body temperature of employees is not proportional, since the collection and assessment of COVID-19 related data is the task of the health professionals and authorities.

Following the termination of the state of emergency, the Hungarian Government introduced the state of epidemiological preparedness to the country by ordering a health crisis pursuant to Gov. Decree no. 283/2020 (VI. 17.), furthermore Gov. Decree no. 431/2020. (IX. 18.) prescribed that body temperature checks are necessary for entering public education and vocational training institutions. According to the order of the Chief Medical Officer of the State (in Hungarian: Országos Tisztifőorvos) only those persons are allowed to enter the mentioned institutions, whose body temperature is below 37,8 °C.

With respect to the rising number of infections and to the regulations mentioned above, NAIH reviewed its previous opinion concerning the lawfulness of the mass body temperature taking procedures ordered by employers and other institutions. By changing its previous guidelines, in its notification published on 14 October 2020, NAIH took the position that measuring the body temperature is allowed and is considered fundamental, if the following conditions are cumulatively fulfilled:

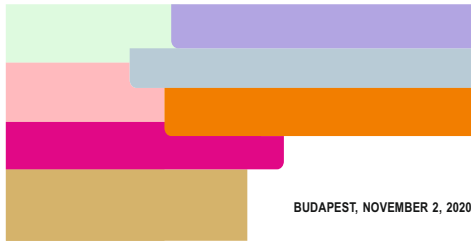
- body temperature measurement takes place at the time of entering the building owned or used by the employer (or other organisations);
- measuring the body temperature uniformly applies to everybody, who wishes to enter the property;
- the person concerned by the temperature measurement is not identified personally for this data processing purpose; and
- the data generated by the measurement will not be recorded, stored or transferred in any ways.

NAIH emphasizes that the employer may not draw any conclusions from the results of the body temperature measurement as to whether the employee has become infected with the COVID-19 virus. Based on the result of the temperature measurement, the employer is only entitled to allow or prohibit the entrance to the property. An important restriction is that

employees shall not be individually identified as having been allowed or not to enter the building by their employer due to the measured body temperature, and only statistical data can be collected from the results of the body temperature measurement (e.g. how many employees have been banned from entering the property because of elevated body temperature).

In the case when the employer prohibits the entrance because of the result of the measurement, the further steps (e.g. contacting the general practitioner; requesting sick leave) shall be taken by the employee.

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