

EN
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Answer given by Mr Reynders
on behalf of the European Commission
(12.1.2021)

From contacts with the Portuguese authorities in charge of the tracing application Stayaway Covid, the Commission understands that, following a debate on this issue in October 2020, the Portuguese authorities have no plan at this stage to make the installation and use of the application mandatory.

As pointed out in the Commission Guidance on applications supporting the fight against COVID-19 pandemic in relation to data protection¹, under the ePrivacy Directive², imposing the use of an application involving the confidentiality of communications rights set out in Article 5 is only possible through a law, which is necessary, appropriate and proportionate in order to protect certain specific objectives. Given the high degree of intrusiveness of such an approach and the challenges involved, including in terms of putting in place appropriate safeguards, the requirements of necessity, appropriateness and proportionality will not easily be met. For these reasons, the Commission recommends the use of voluntary applications.

¹ Communication from the Commission Guidance on Apps supporting the fight against COVID 19 pandemic in relation to data protection 2020/C 124 I/01, C/2020/2523, OJ C 124I , 17.4.2020, p. 1–9.

² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37–47.