




Privacy and data protection,
transparency and access to
information

Flemish community (Belgium)

Vrije Universiteit Brussel





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Module

- › Belgian law and (relevant) European legislative initiatives are mentioned

Privacy and data protection



REGULATIONS

REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 27 April 2016
on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)
(Text with EEA relevance)

Privacy and data protection

- › HEI's are using (sensitive) personal data for a diversity of goals

Educational administration, e.g. registration, progress monitoring, timetabling, calculation and publication of assessments, provision of references

- › Some anxiety arises...
- › 'Privacy by design' & 'Privacy by default'

Legislation in Flanders (BE)

Constitution

• Art. 22
Ieder heeft recht op eerbiediging van zijn privé-leven en zijn gezinsleven, behoudens in de gevallen en onder de voorwaarden door de wet bepaald.
De wet, het decreet of de in artikel 134 bedoelde regel waarborgen de bescherming van dat recht.

Federal law

Wet tot bescherming van de persoonlijke levenssfeer ten opzichte van de verwerking van persoonsgegevens

Loi relative à la protection de la vie privée à l'égard des traitements de données à caractère personnel

Law on protecting personal life, considering the procession of personal data

Royal Order

Art. 59. Met uitzondering van de §§ 4 en 8, zijn de bepalingen van artikel 17 van de wet niet van toepassing op verwerkingen van persoonsgegevens verricht door onderwijsinstellingen met het oog op het beheer van hun relaties met hun leerlingen of studenten. De verwerking mag alleen betrekking hebben op persoonsgegevens betreffende potentiële, huidige en gewezen leerlingen of studenten van de betrokken onderwijsinstelling. In het kader van de verwerking, mogen geen personen worden geregistreerd op grond van gegevens verkregen van derden. De verwerkte persoonsgegevens mogen alleen in het kader van de toepassing van een wets- of verordeningbepaling aan derden worden meegedeeld en niet langer worden bewaard dan nodig voor het beheer van de relatie met de leerling of student.

Royal Order

Institutions for education are exempted from the duty to declare when they are using personal data, within certain constraints.

- No data from pupils/students from other institutions
- Only information that is delivered by the pupil/student
- Non-public, unless needed for certain legal purposes
- Should be destroyed when the pupil/student isn't connected to the institution anymore

Written consent is necessary (mostly incorporated in registration forms and processes)

Regional (Flemish) law

Decree on Publicity (transparency) of Governance


Materially and formally motivated

Instances

Commission for the protection of the personal life (privacycommission)

Flemish monitoring committee

Privacycommission



The screenshot shows a web page titled 'Ik bezit over mijn privacy' (I own my privacy). It features a blue header with a white arrow pointing right. Below the header, there are two main columns of content. The left column has a green header and contains a link 'Mijn privacygegevens'. The right column has a yellow header and contains a link 'Mijn privacy & toestemmingen'. There are also several smaller links and buttons scattered throughout the page, including 'Mijn privacygegevens', 'Mijn privacy & toestemmingen', and 'Mijn privacy & toestemmingen'. The page is decorated with small icons of people and speech bubbles.

Case(s)

Case(s)

- › Council of State
- › Assumes a previous internal appeal procedure
- › If not, cases are considered inadmissible

RVS 236.708



RVS 236.708

- › Refusal of status of top sportsman by Tennis Federation
- › Pupil (i.e. his father) asks for insight in the documents that would substantiate the refusal.
 - › Appeal procedure (continuous refusal)
- › The decision wasn't formally notulated.

RVS 236.708

- › Violation of the DECREE ON PUBLICITY OF GOVERNANCE Art. 35

RVS 235.802




RVS 235.802

- › Pupil is awarded a B-certificate (can proceed, yet with some limitations)
- › Pupil, nor his parents, received the report
- › Therefore, they were not informed about their possibilities to appeal

RVS 235.802

- › Violation of the DECREE ON PUBLICITY OF GOVERNANCE Art. 35
- › Violation of the CODEX ON SECONDARY EDUCATION Art. 115/6, § 4, 2°

RVS 192.415



RVS 192.415

- › Admission procedure (Royal Military School)
- › Letter: "small tattoo in neck"
- › Called upon the right on personal life to appeal refusal

RVS 192.415

- › No violation of the LAW ON PROTECTING PERSONAL LIFE



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