

‘NAVIGATING ASSOCIATIONS THROUGH PRIVACY AND DATA PROTECTION REQUIREMENTS’

by **MARIJKE ROELANTS**



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www.boldlaw.eu

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Background Marijke Roelants

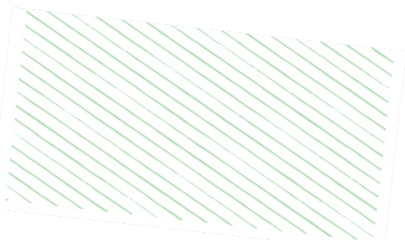
- Germanic languages KU Leuven
- European Studies UCL and intern European Parliament
- Law studies KUB and VUB (know-how assistant Allen & Overy, Paralegal at Bogaert & Vandemeulebroeke PwC)
- Lawyer since 2004 (International law firms NautaDutilh, Dechert, ...)
- Managing Partner BoldLAW since 2018
- Member Editorial Board TRV-RPS (Legal Magazine on company law, association law, financial law and tax law) since 2009
- President Belgian National Committee of the Union Internationale des avocats since 2023
- Author of articles on legal topics such as associations, partnerships and director liability and seminars on legal governance for the Belgian Institute for tax advisors and accountants

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TERMS TO REMEMBER



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Privacy and personal data

Umbrella for all rights and freedoms related to the safeguarding of an individual's **private life, personal sphere and personal data**

Legislation aiming to protect personal data :
GDPR
(EU, UK, Switzerland, Turkey, ..)

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Personal data

- Any information relating to an **identified or identifiable natural person** (data subject)
- You are able to identify the person by reference to an **identifier** such as name, profession, online location, ...

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Processing

- Any operation performed on personal data.
- Collection, recording, organisation, structuring, storage, adaptation, consultation, ...

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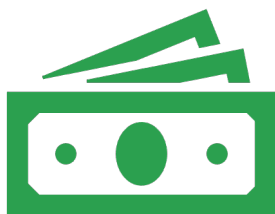
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Controller versus Processor

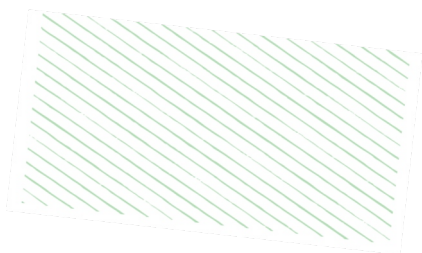
- **Controller** determines the purposes and the means of the processing of personal data.
- **Processor** processes personal data on behalf of the controller.

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ROADMAP



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Setting up your privacy policies and practices



Phase 1: Mapping the personal data processed by your association



Phase 2: Legal analysis of the legal obligations when processing the identified personal data



Phase 3: Drafting privacy documents



Phase 4: Setting up the register of personal data processing activities

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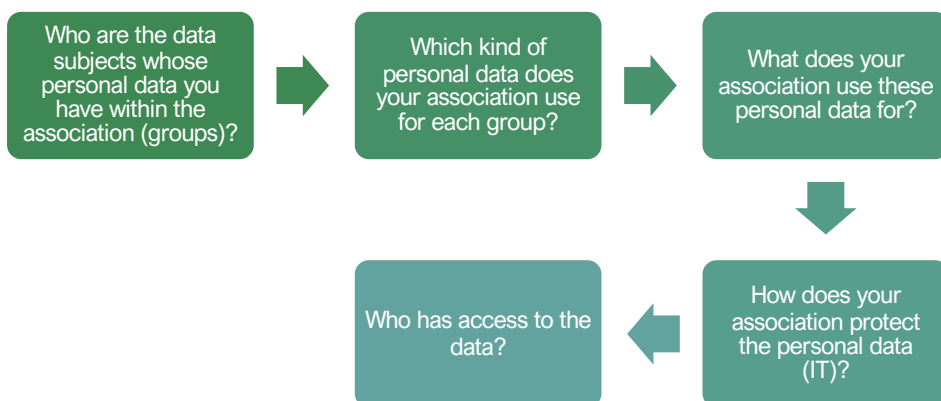
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PHASE 1- MAPPING



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Mapping - checklist



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Legal analysis – lawfulness – legal grounds



Data subject's **consent**



Photo : Olga Kononenko (Unsplash)



No **consent** required:

1. Performance of a contract
2. Compliance
3. Legitimate interest
4. Protection of vital interests
5. Task in the public interest

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Legitimate interest balancing test



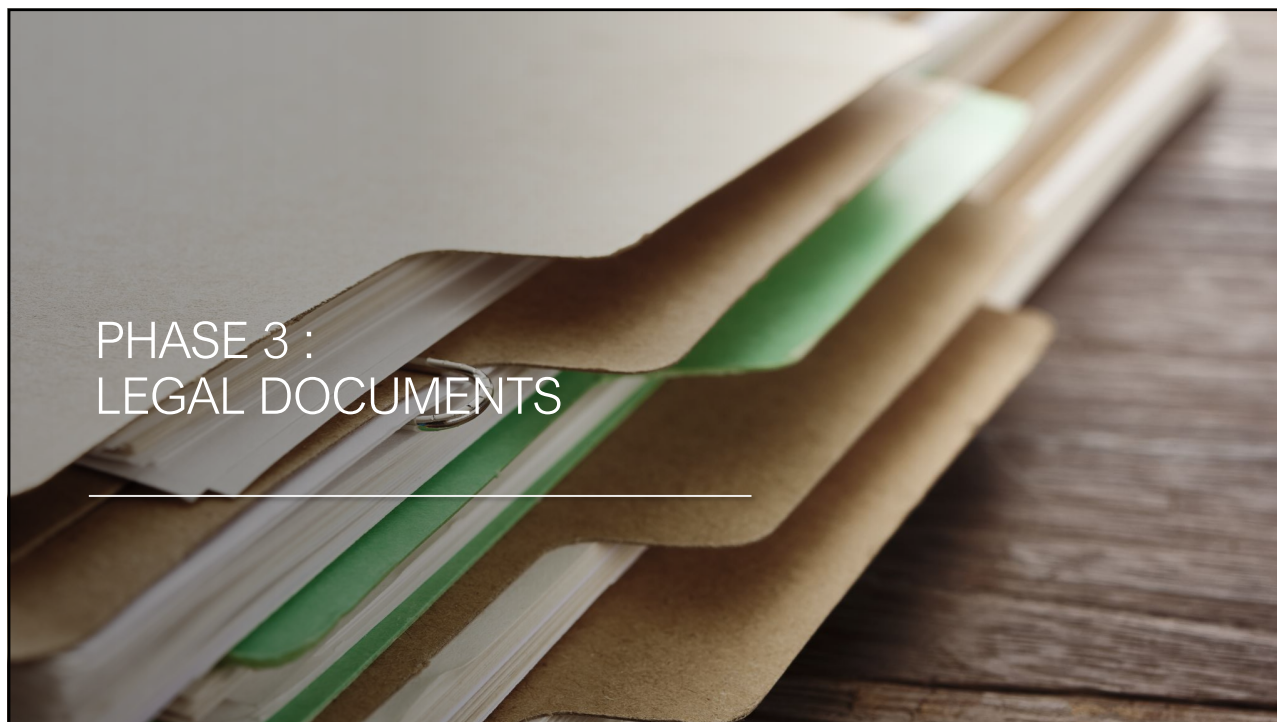
Interest of the controller or a third party
(benefit)

3 conditions

- interest must be **legitimate** (lawful, precisely articulated and present)
- there is a **need** to process personal data
- the interests or fundamental freedoms and rights of the **data subject** are not more important

Document the test (for internal purposes)

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Drafting privacy documents



Privacy statement



Data processing agreement between controller and processor



'Data sharing agreement'

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Register of personal data processing activities

- Controller and processor (also if located outside EU, when the association is processing data of EU data subjects)
- Small organisations if the data processing is routine (member management, supplier management, human resources)
- Content:
 - Who is processing? Controller, list of processors, DPO?
 - Which categories of personal data from which categories of data subjects are processed?
 - What are the purposes for processing these personal data?
 - To whom are these personal data provided and are there recipients outside the EEA?
 - How long is the personal data needed?
 - What are the technical and organizational measures to ensure a level of security appropriate to the risk?

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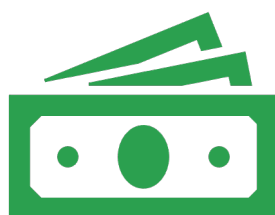
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Model of the Belgian DPA (spreadsheet)

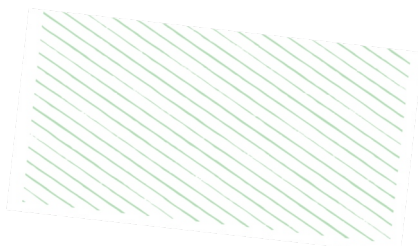
- Dutch version:
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DATA PROTECTION OFFICER



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Data protection officer (DPO)

01

inform and advise
the association of
their personal data
protection
obligations

02

monitor compliance
with data protection
legislation and
report to
management

03

contact point for
the supervisory
authority and data
subjects

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When is a DPO required?

if the processing is carried out by a public authority or body (irrespective of what kind of personal data is being processed and how); or

core activities of the association = processing operations, which require regular and systematic monitoring of data subjects on a large scale; or

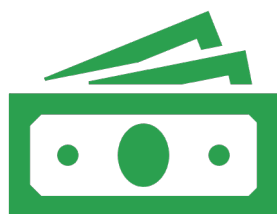
core activities of the association = processing on a large scale of special categories of data or personal data relating to criminal convictions and offences.

Tip:

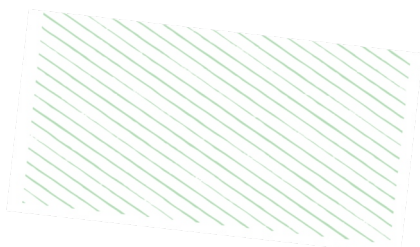
- Appointing a DPO can also be a voluntary choice
- Document the decision (not) to appoint one

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DATA BREACH



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Data breach

- Personal data becomes accessible to third parties, personal data is lost or changed (without legal basis)
- **Internal reporting procedure** and responsible contact person : data breach register
- **External reporting obligation** only if likely to result in a **high risk** to the rights and freedoms of the data subject:
 - To the data protection authority (72 hours)
 - To the data subjects concerned (as soon as possible) unless:
 - Controller has taken subsequent measures which ensure that the high risk is no longer likely to materialise
 - Disproportionate effort and there has been a public communication of the breach (e.g. press release)

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