

## Burning legal questions for international associations

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To start with, the differences between the current and **future legislative framework** for (international) associations were pointed out. Two main changes that will feature in the new Unified Code on Companies and Associations were highlighted, viz. the liberalization of commercial activities and the joint and several liability of directors. This Code will be introduced in May 2018 for reasons of simplification, flexibility and adaptation to EU evolutions.

After that, the legal consequences for UK-based international non-profit associations following **Brexit** were pointed out. Associations which are considering to leave from the UK to move to Belgium, for instance, will either have to move their registered office outside of the UK or create a 'presence' in Belgium by means of a representation office, a centre of activities or a non-profit legal entity. This presence will have an impact on eligibility for EU funding. Many EU financing instruments require that the organization is effectively established in a EU Member State, which means having legal personality and an actual seat in a EU member state, e.g. a managing board or principal place of business. It is therefore essential that EU financing instruments are screened in terms of exact eligibility and selection criteria.

The last item raised was the **General Data Protection Regulation (GDPR)** which will be fully applicable as of 25 May 2018. This legislation will apply to all associations with a registered office in the EU, as well as to associations with a registered office outside of the EU that use personal data from EU nationals. New elements will be an increased sanction risk, privacy commissions and a reversal of the burden of proof.

"Personal data" is defined as any information which can identify a physical person, either directly or indirectly. More detailed information was given about the basic principles (lawfulness, fairness and transparency, confidentiality and specified purpose) that need to be respected and the legal grounds for processing personal data (legal obligation, particular interest to process data, necessary for contract performance). Some types of personal data are subject to elevated protection, e.g. sensitive data (race, religion, genetics), national registry number and criminal record and data relating to children.

Finally, an overview was given of the steps to be taken by associations by May 2018. Some of these steps are mandatory, others are not, depending on the type of association:

- 1) Awareness and audit: Inform key people and make sure a written privacy statement is available in which the data subject consents to the processing of personal data
- 2) Data protection team and data protection officer
- 3) Data register
- 4) Technical security and data breach notification

To conclude the presentation, it was again stressed that when processing personal data it is of the utmost importance to request prior written consent from the data subject. This consent must be freely given, specific, informed and unambiguous. In some cases, however, this consent is not mandatory.

After the presentation, a lot of questions were asked by the participants. There was, however, insufficient time left to answer them all.