Privacy Policy

Content

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On April 27 2016, the European Parliament and the European Council adopted Regulation (EU)2016/679 on the protection of individuals 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 or AVG). This regulation is mainly known by its English abbreviation GDPR (General Data Protection Regulation).

This document reflects how the ENMO Group (ENMO BV, ENMO SERVICES BV and ENMO NEDERLAND BV) deals with the various aspects of the AVG.

1. Basic concept

Personal data are any data relating to an identified or identifiable natural person (Article 4.1 AVG). Data that allow to identify a natural person directly or indirectly are also included. When linking puzzle pieces of information (age, gender, zip code, etc.) can lead to the unique identification of a person ("singling out"), each puzzle piece is also personal data. Pseudonymized personal data for which a key exists to reacquire the original personal data is also personal data. Anonymous data and data about deceased persons or legal entities are not personal data.

EXAMPLE:

Are personal data:

- Name, first name and contact information of customers, staff or suppliers;
- history of purchases, outstanding invoices, payment information (insofar as they relate to natural persons);
- staff evaluations and sicknotes;
- location data (e.g., localization via a Smart Phone app);
- camera footage and license plates.

Are not personal data:

- General E-mail address or phone number of a company - e.g. info@enmo.be;
- Company number (except in a one-man business).

The personal data processed at ENMO are those of:

- employees

- clients

- suppliers

- prospects

- applicants

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Sensitive data are personal data that deserve a higher level of protection because their processing may entail significant risks. In principle, the processing of sensitive data is prohibited unless one of the grounds for exception in Article 9 or 10 of the AVG is met. Ordinary personal data from which you can derive sensitive information are also sensitive data. These are:

- o special categories of personal data (Article 9 AVG). This group includes health data, genetic data and biometric data for the purpose of uniquely identifying a person.
- o personal data revealing racial or ethnic origin, sexual orientation and behavior, political opinions, religious or philosophical beliefs, or trade union membership also fall into this special category;
- o judicial data on criminal convictions and offenses (Article 10 AVG).

EXAMPLE:

- a sports app that measures speed, distance, heart rate and calorie burn can reveal information about a person's health status;
- an extract from the criminal record.

No sensitive data is processed at ENMO.

The concept of **processing** is very broad and includes any processing of personal data whether or not carried out through an automated process (Article 4.2 AVG). Examples of processing include the collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction of data.

EXAMPLE:

- collecting customer information through a web page to make online purchases;
- maintaining systematically ordered paper sheets of customer data;
- digitally store, access and manage HR data of your personnel.

⚠️ Although the AVG primarily aims at automated processing of personal data (e.g., storage on a digital medium), one cannot circumvent the law by keeping all personal data on paper media. Keeping systematically arranged files on paper is also processing within the meaning of the AVG.

At ENMO, all customer, prospect and supplier data is processed in the 'Briljant' CRM system. Management of this data lies with the Office Assistant.

Employee data and possibly that of job applicants are kept in a secure folder 'ENMO HR' on the server. Only the HR coordinator and management have access to this. Management rests with the HR coordinator.

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It is also important to determine the **actors** to whom the AVG applies. The entity that determines the purpose and means of processing is the "**controller**" (Article 4.7 AVG). The company that processes personal data in the service of a controller is called the "**processor**" (Article 4.8 AVG). Identifiable or identified persons whose personal data are processed, such as customers or staff, are also referred to in this document by the term "**data subject**" (Article 4.1 AVG). Deceased persons or legal entities are not considered "persons concerned".

EXAMPLE:

- a company is the data controller of its customer and employee data;
- a social secretariat that processes HR data for other companies is often a processor;
- a cloud provider that a company relies on to store data is often a processor.

The ENMO Group is the datacontroller.

2. Basics:

2.1 Legal basis

Any processing of personal data must rely on one of the legal grounds listed in Article 6 of the AVG. The AVG distinguishes six different legal grounds:

Consent, agreement, compliance with a legal obligation, fulfillment of a vital interest, performance of a task of public interest and the legitimate interest of the controller or a third party.

ENMO will primarily rely on consent, agreement and legitimate interest (with regards to customers, prospects and suppliers. See also the foreword in our newsletter, edition 1, year 5, 2018) and to comply with a legal obligation and agreement (with regards to employees and job applicants).

2.1.1   The consent

ENMO may process personal data if the person concerned consents. Please note: consent does not coincide with acceptance of the general terms and conditions!

Moreover, the person concerned may withdraw his or her consent at any time and without justification.

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According to the definition in Article 4.11 of the AVG, any consent must

- Be free:	the perons concerned must have a real choice without being pressured with negative consequences should they not give their consent.
- Be specific:	this means that, for each individual purpose, the person concerned must have the choice whether or not to consent.
- Be informed:	this means that ENMO must explain in advance in understandable language to the person concerned who, what personal data will be used for what purposes.

- Rest on positive action:

  consent may not be inferred from a pre-ticked box on a form (opt-out).

- Be demonstrable: one must always keep proof of obtaining the permission.

- As easily withdrawn as was given

  When applying through ENMO's website, the individual is completely free to check his or her consent to the processing of his/her personal data.

  All requests through the ENMO website are stored with their preference (consent or not) in the CMS of the website.

  The email with the request and confirmation of permission is also stored via info@enmo.be.

  As soon as an offer is made, or information is requested by the customer, the personal data are processed in the context of legitimate interest, so that the requested information can be sent to the customer.

2.1.2   The agreement

ENMO may, upon entering into a contract, process the personal data of a customer, employee or supplier necessary for the performance of that contract. This legal basis also covers pre-contractual measures insofar as they are carried out at the request of the data subject. Thus, the initiative must lie with the data subject. This necessity is not to be interpreted broadly and is limited to those personal data without which the contract cannot be performed.

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EXAMPLE:

- ENMO, as an employer, must process personal data of its employees in order to pay wages. This processing is necessary to perform the employment contract;
- a customer asks ENMO for a quotation. In order to send this quotation and pending its acceptance, ENMO may retain the prospective customer's contact information under this legal basis;

2.1.3   The legal obligation

ENMO may process personal data if required by law. For example, for reporting new employees to the government.

⚠ Notice: if one processes sensitive data, the legal obligation in question must fall under one of the categories of Article 9.2 AVG! However, this does not apply at ENMO.

2.1.4   The Legitimate interest of the controller

ENMO may process personal data if this is necessary for a legitimate interest of the controller or a third party, except where the interests or fundamental rights and freedoms of the person concerned are overriding.

Direct marketing is a common method of customer prospecting and/or informing existing customers. If the direct marketing is not too frequent and aggressive, ENMO may use contact information within an existing customer relationship for direct marketing to promote its own services or products. Note that Article 13 of the e-Privacy Directive (Directive 2002/58/CE)3 imposes some additional conditions. When collecting contact information, ENMO must explicitly inform the customer of the right to oppose direct marketing.ENMO must make it easy to exercise that right.

Under this legal basis, ENMO may process personal data necessary to detect billing fraud and notify their customers of it.

Every employee at ENMO contributes to the provision of correct personal data of customers, prospects and suppliers, which are agreed in advance with the person concerned. The Office Assistant is responsible for managing this data.

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2.2 Purpose

The principle of purpose limitation is a crucial foundation of the AVG. According to Article 5.b AVG, personal data may only be processed for purposes that are explicitly established in advance. In principle - but there are exceptions to this - it is prohibited to further process the obtained data afterwards for another purpose not originally envisaged. This is the basic principle. Three possibilities present themselves if one nevertheless wants to process personal data for a purpose that differs from the purpose for which these data were originally obtained:

• **Separate consent**: one seeks the consent of the person concerned to process the personal data for this new purpose. This consent then constitutes the legal basis of processing for this new purpose; EXAMPLE:

a company develops a customer profile based on purchase and click behavior on its Web site. The customer consents to this in order to optimize their user experience and to be informed of special offers they might be interested in. If the company later wants to resell these profiles to a data broker for advertising purposes, it must separately seek the customer's consent to do so.

• **Legal obligation**: the further processing of personal data results from a legal obligation. The legal obligation in this case constitutes the legal basis of the further processing;

• **Compatibility**: the controller must assess whether the new purpose is compatible with the purposes for which the data were originally obtained. If yes, the processing is supported by the legal basis on which you originally obtained and processed the data.

2.3 Accuracy and data quality

Personal data must be accurate and up-to-date. As soon as ENMO becomes aware of the erroneous or dated nature of personal data, it must update, correct or delete it. Although ENMO does not bear ultimate responsibility if a customer or other person concerned provides incorrect information, proactive efforts must be made to detect and correct obvious errors. Moreover, the person concerned also has a right to correct his personal data. This principle also affects the retention period of personal data. If you keep data for too long, it will no longer be accurate. When a customer or employee communicates a change, ENMO must implement this change as soon as possible..

At ENMO, customer-, prospect- and supplier data are managed by the Office Assistant.

The Office Assistant actively checks customer data to detect erroneous e-mail addresses and contact information, among other things, and contacts the customer for this purpose.

Data concerning ENMO employees are managed by the HR coordinator.

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2.4 Minimal data processing

The collection and processing of personal data must be limited to what is strictly necessary to fulfill the stated purposes. The data requested must be pertinent. This means that for each personal data, ENMO must be able to demonstrate why that information is necessary to achieve the purpose. If ENMO cannot demonstrate this, the personal data is unnecessary and must be deleted.

As far as our employees are concerned, only the data necessary for the professional relationship with the employee are kept.

2.5 Storage period

ENMO must never retain personal data for longer than is necessary to achieve the stated purposes. Once these purposes are accomplished or cease to exist, ENMO must delete the personal data.

- personal data recorded in the books of accounts may only be erased after seven years. Article III.88 of the Economic Law Code requires companies to keep their books for seven years. The same reasoning applies to documents, such as invoices, that ENMO is required to keep by VAT legislation or for direct taxes. This is the responsibility of the manager.
- ENMO deletes an applicant's personal information as soon as it is clear that the person will not be hired. (Suppose ENMO still wants to keep this information, it must inform the applicant and give him or her the opportunity to object.) This is the responsibility of the HR coordinator.
- the personnel file of employees out of service is archived and kept at least in accordance with personal data recorded in the accounts (Article III.88 of the Code of Economic Law). This is the responsibility of the HR coordinator.
- Personal data of customers, prospects and suppliers are regularly checked for accuracy. At the request of the person concerned, the data are communicated, and where necessary amended or deleted. This is the responsibility of the Office Assistant.

2.6 Transparency

Without necessary information about their rights, the how and why of the processing activity, persons concerned cannot exercise their rights. Therefore, transparent communication is crucial. As a data controller, ENMO must communicate proactively so that persons concerned know exactly who is processing personal data, why and to whom they can turn in case of problems.

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2.7 Protection

Actions regarding the security of personal data are both organizational and technical. ENMO must protect personal data from unauthorized access or processing, loss and damage.

2.7.1   Organizational actions

This document should be used as a guide to how ENMO processes personal data.

At ENMO, all sales staff, project coordinators and assistants have the ability to process personal data of customers and prospects in the CRM system. The Office Assistant manages this data and bears final responsibility for it.

The HR coordinator is responsible for employee and applicant data.

Overall final responsibility lies with the Managing Director.

All employees should always contribute to the quality and accuracy of the data supplied and already processed.

2.7.2   Technical actions

A number of measures are being rolled out in ENMO's IT infrastructure:

- ➢ use of a virus scanner with timely updates;
- ➢ systematic backups to protect data from loss;
- ➢ systematic and automatic software updates;
- ➢ website through a secure https connection;
- ➢ a "firewall"(both hardware and software);
- ➢ each employee has his own login credentials for the ENMO network and CRM . Security is based on permissions, so not every user has access to all data;
- ➢ the WiFi network is split into an internal and guest network;
- ➢ the site in NL is connected to the site in BE over a secure VPN connection, this is established over an IPSec VPN

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3. Rights of persons concerned

Any person concerned can exercise the following rights (see also relevant articles AVG):

1. the right to information (art 13/14 AVG)

2. the right of inspection (art 13 AVG)

3. the right to rectification (art 16:19 AVG)

4. the right to data erasure (art 17/19 AVG)

5. the right to restriction of data processing (art 18/19 AVG)

6. the right to object (art 21 AVG)

7. the right to data portability (art 20 AVG)

8. the right not to be subjected to automated individual decision-making (art 22 AVG)

If the person concerned exercises one of her rights, ENMO must respond within one month. If the request is complex, ENMO may extend the deadline by two months after informing the person concerned within one month. If ENMO can demonstrate that the request is clearly unfounded or excessive, it may ignore the request.

All inquiries, except employee inquiries, should be submitted via info@enmo.be.

ENMO employees should direct their questions directly to the HR coordinator at HR@enmo.be .

Source: GETTING STARTED with the AVG for SMEs, CBPL

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