

24/2/2025

Solid Community Day

Obligations of proof for employers

Tim Raymaekers



 randstad group

partner for talent.

Goal of research

Discover possible legal issues and opportunities for employers using the datapods

- Paper shortly discusses
 - Decree establishing the Vlaams Datanutsbedrijf (Athumi)
 - Data Governance Act
 - EU Identity Wallet Regulation
 - Obligations of proof
- During this presentation, we will focus on the obligation of proof. Research builds up from 2 use cases:
 - Diploma use case
 - Student certificate (proof of subscription to educational institution)

Risks

Private proof obligations Diploma use case

- Generally sufficient not to have further proof of diploma beyond verification
- Datapod is not sufficient when there exists a risk of accusations of negligence:
 - Recruitment and selection offices
 - Performance of tasks and contracts by protected professions
- Issues with insurance

Public proof obligations Student registration use case

- Requirement of proof upon employer that student is actually a student. This can be provided in any form, but must be accepted by social security authority (RSZ)
- Proof of being a student also important towards the tax authority (for the same reason as the social security authority) and possibly the office of foreign affairs (DVZ) in case of foreign students

Way forward

- Private proof obligations
 - Any proof should fulfil the requirements of “being in writing”
 - Content should be comprehensible
 - Must have a certain durability
 - Integrity must be protected
 - This in turn provides a beginning of proof, where it should not be possible to prove the opposite.
- Public proof obligations
 - Discussions ongoing with the social security services concerning level of proof required (broad leeway for RSZ)
 - Solution would need to be discussed with tax authority and foreign service as well

Conclusion

- In both these cases, we see potential for a zero-knowledge proof, only providing the required information.
- However, this needs to take the prohibition of copying into account that is stated in the law establishing Athumi.

Er geldt een principieel kopieerverbod voor de ontvangende entiteit van persoonsgegevens, opgeslagen in datakluisen. Als dat nodig is, kan de raad van bestuur, in overleg met de aanleverende entiteit, vermeld in artikel 13, §1 tot en met §3, na advies van het adviescomité vermeld in artikel 10, §1, ermee instemmen dat de ontvangende entiteit een kopie maakt van de persoonsgegevens, louter met de bedoeling de latere terbeschikkingstelling van die persoonsgegevens efficiënter te doen verlopen, op voorwaarde dat de ontvangende entiteit (...)

thank
you.

