

Summary Privacy Report 2006

on the compliance of Belgian non-profit organizations' and political parties' websites with regard to the processing of personal data in accordance with the Belgian Law on Privacy Protection in relation to the Processing of Personal Data, implementing European Union Directive 95/46/EC

Irina Nock Krishnan

LLB (Hons) London
LLM in Computer & Communications Law (Lon)
CLP (Malaysia)

Jos Wittevrongel

Microsoft Certified Application Developer (MCAD)
Microsoft Certified Professional (MCP)

Lee & White Consultants

153, Gistelsteenweg
8490 Varsenare, Belgium
www.leewhiteconsultants.com

© 2006, Lee & White Consultants®
All rights reserved.

No part of this document may be systematically extracted or in any other way exploited commercially without the prior written consent of Lee & White Consultants®.
Information provided in this report is correct at time of research and does not constitute legal advice.

Alongside businesses and companies setting up websites to mark their presence on the Internet are organizations such as non-profit organizations (hereinafter referred to as NPOs) and political parties. Undoubtedly, the obvious benefits of having a place on the Internet have also influenced these organizations to maintain websites so that information about them is reachable to the general public and specifically to their members. The significance of having a website to these organizations – especially to the political parties is understandably great as it enables them to reach a vast they wish to make known their agenda and standpoints. However, transfer of information goes both ways. Whilst information about an organization is given on its website, information is also usually collected through the website – especially personal information or data. Therefore, conformity to Belgian Law on Privacy Protection in relation to the Processing of Personal Data, implementing European Union Directive 95/46/EC in terms of having a complete online privacy statement reflecting the internal processing of personal data is necessary.

It must be noted however, that the internal compliance is not part of this study.

Unfortunately, out of the 175 websites which were chosen and evaluated from March 2006 – September 2006, not a single website was compliant. These websites either had a very inadequate privacy statement online or none at all. Whilst a handful of these websites made a good effort to comply with the Belgian Data Protection Law by putting up a relatively comprehensive privacy statement, there were still several conditions stipulated in the law which were not mentioned.

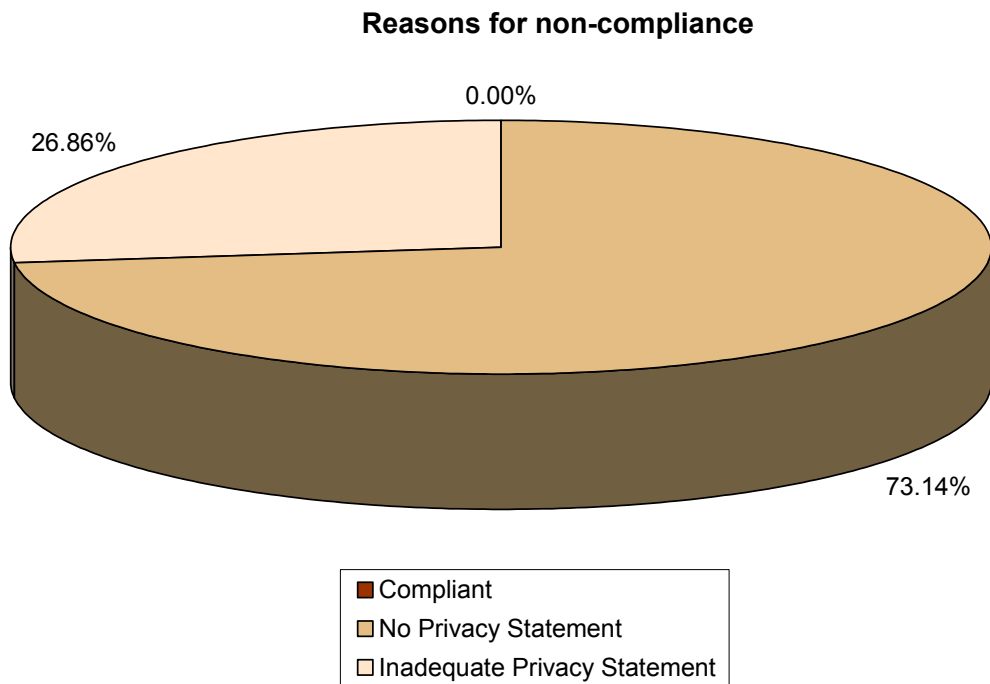


Figure 1 – NPOs including political parties

The chart below illustrates that despite having a privacy statement, most websites do not include all the necessary information and procedures for the Internet user:

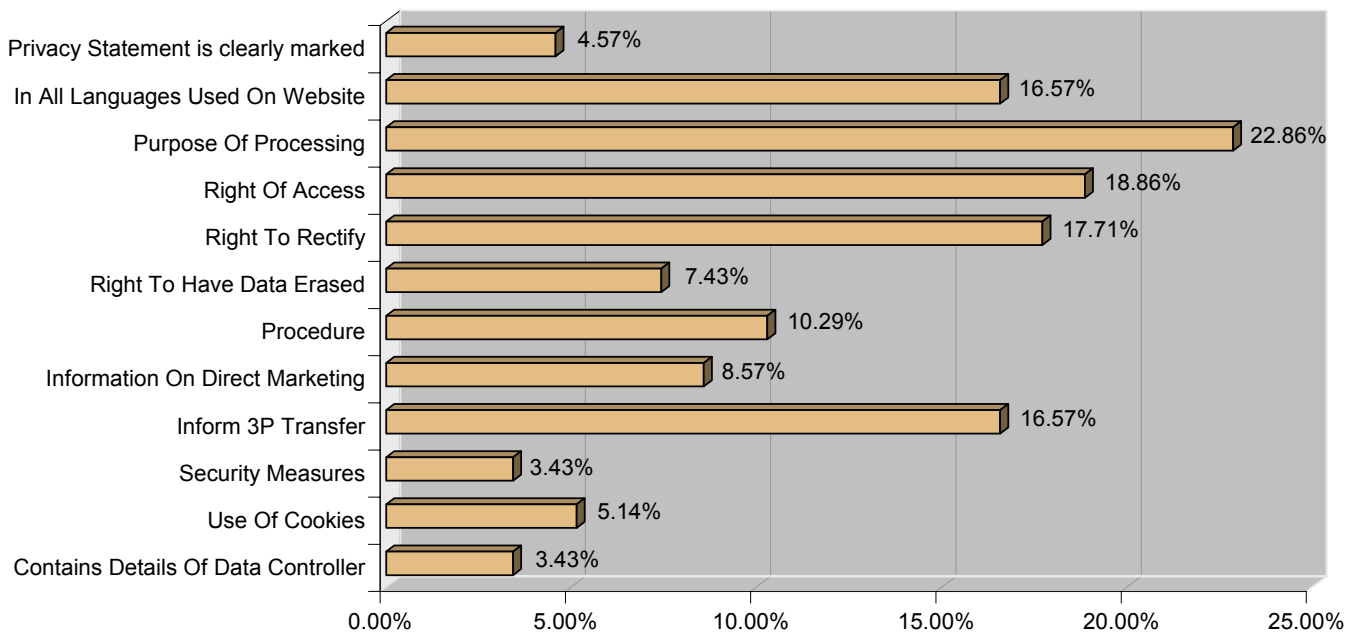


Figure 2 - Privacy Statement assessment

The EU Data Protection Working Party recommends that the title of the heading to click on (for example, 'Privacy Statement') should be sufficiently highlighted, explicit and specific to allow the Internet user to have a clear idea of the content to which he/she is being sent.

However, only 4.57% actually provided a clear title such as "Privacy-disclaimer", "Privacy", "Beleid inzake de bescherming van de private levenssfeer", "Privacy Policy", and "Privacy Statement" with the link leading to a page dedicated to providing the necessary privacy information. The other websites either incorporated their privacy statements within legal disclaimers or terms and conditions, or merely had significantly small one-liner statements at the bottom of an online form,

Moreover, if the data subject's personal data is to be collected from him/her, it is his/her basic right to know why exactly it is asked for. Therefore, all the purposes for processing online must be informed. It is shocking that only 22.86% of the organizations considered it to be important to inform on the website the purposes of processing.

Also, although minors' personal data was processed, not a single website which processed minors' personal data complied with the duty to inform in Article 9 of the Belgian Data Protection Law and the Privacy Commission's recommendation concerning the protection of the privacy of minors on the Internet.

As for those websites which processed medical data, 28.57% had a privacy statement, albeit inadequate:

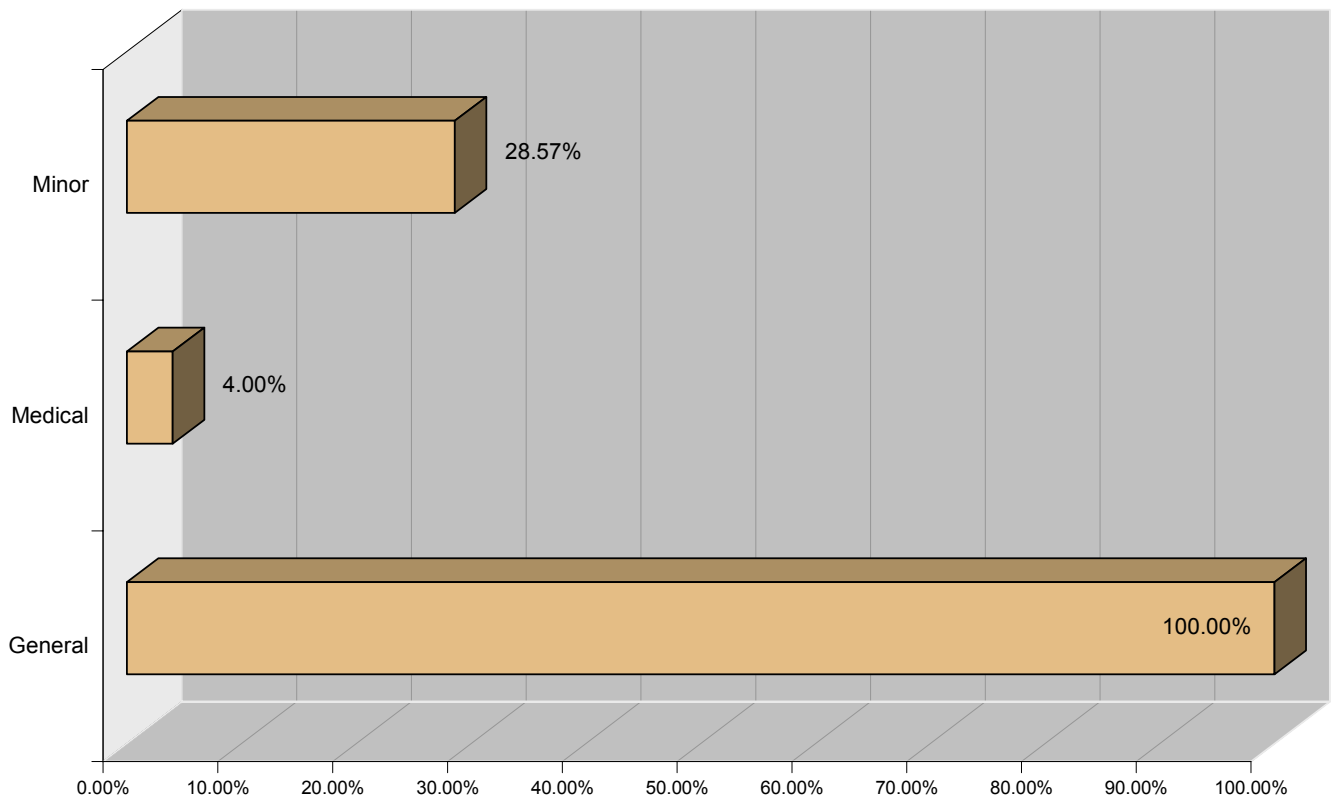


Figure 3 – Type of personal data processed by websites

The full 44 page report contains complete information concerning the issues analysed and how most of them can be easily solved. The points tested therein include:

1. Means by which personal data are collected on the websites – directly and indirectly
2. The issue concerning forms with samples
 - a. Clarity of title on form
 - b. Relevancy of information requested
 - c. Marking of mandatory information requested
3. The recommendations of the Privacy Commission concerning the protection of the privacy of minors on the Internet
4. Medical data
5. Details of the privacy statement assessment
6. Visibility of compliance/non-compliance
7. Sanctions for non-compliance
8. Recommendations for change

The report can be downloaded at <http://www.leewhiteconsultants.com/web/articles.aspx>