



Law workshop document

For student organisations from the Hanze



General transfer document

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Version 1

Groningen, 2023-2024

Preface

Dear reader,

In the academic year 2023-2024, the 'law workshop' was held. This is a workshop that was mainly about the legal side of a study association. The PowerPoint has been summarised in this document for your support. This way, general and simple questions can be answered through this document.

We hope this document can support you during your board year.

Enjoy reading and good luck.

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Statutes

Every association has its articles of association. The constitution is the foundation and provisions that underpin the association. So very simply put, it is the entire foundation of the association. Without the bylaws, there is no clear direction and foundation on which the association can build.

The following sections are compulsorily present in every constitution:

1. Name of association.
2. Township where the party is based.
3. The purpose of the association.
4. The obligations that members have or the way in which those obligations are determined.
5. The method of convening for the general membership meeting.
6. How the board is appointed or dismissed.
7. What happens to the remaining money should the party be dissolved, or how that will be decided by then.

The association naturally has members. These members can terminate their membership in several ways, namely:

1. By death of the member, unless the articles of association permit transfer under inheritance law;
2. By termination by the member;
3. By termination by the association;
4. By removal:

Removal may only be pronounced if a member acts contrary to the statutes, regulations or outside the association, or unreasonably harms the association.

By-laws

By-laws are a supplement to the statutes. So this is where you can put everything about the day-to-day running of the association. For example, the internal organisation, how meetings are held and what the rules are within the association. The by-laws support the statutes and concretise the functioning of the association. Therefore, the standing orders must not conflict with the statutes; they must complement each other. The by-laws are an official document but they do not need external publication, which is why they do not need to be approved at an ALV.

AVG

AVG stands for General Data Protection Regulation or privacy law. . The purpose of the AVG is to place more responsibilities on organisations that process personal data. This means that people whose personal data is processed have been given more rights under the AVG.

The AVG states that a personal data is: any information about an identified or identifiable person. This means that information is directly about someone or can be traced back to that person. Definition of personal data is in Article 4(1) AVG. Examples of obvious personal data are:

- Name
- Address
- Phone number
- Passport photo
- Date of birth

There is also less obvious personal data, as they are traceable. See below:

- What a person buys on the internet
- What allergies a person has
- Footage from surveillance camera showing the person recognisably on it

In addition to 'ordinary' personal data, there are also 'special' personal data. Special personal data is data that is so privacy-sensitive that it could have a greater impact on someone if processed. This is why these data are given extra protection in the AVG. This is stated in Article 9 AVG. Special data are prohibited from processing under the AVG unless an exception applies (Article 9 AVG). This is the case, for example, if the person whose personal data is being processed gives explicit consent for it to be processed. Below are examples of special personal data:

- Personal data revealing a person's racial or ethnic origin;
- Personal data revealing a person's political opinions;
- Personal data revealing a person's religious or philosophical beliefs;
- Personal data evidencing membership of a trade union;
- Data concerning a person's health;
- Data about a person's sexual behaviour or sexual orientation;
- Genetic data (in practice, this mainly concerns heredity and genetic characteristics resulting from, for example, a sample);
- Biometric data (intended for the unique identification of a person, such as fingerprints).

Now that a little explanation has been given about what personal data is and what the AVG means, let's go back to the association. What exactly are you allowed to store from your members? The starting point is very easy, namely as little as possible. In addition, it is important to monitor who has access to your members' personal data. Often, this is only the chairman and secretary. The treasurer may have access at times of collection. Not just anyone should have access to your members' personal data. There will also be times when the personal details are requested, the person in question can do that. As an association, you are then obliged to show that data. The person concerned can indicate that those data should be changed. Under some circumstances, the data subject can also ask for the data to be deleted. This request must always be complied with unless there is a legal obligation to keep the data.

If we are talking about members' personal data, members may also unsubscribe at some point. Then the question is how long the personal data can be kept. The AVG does not specify a concrete retention period for personal data. Organisations decide for themselves how long they keep personal data. The basic principle is that personal data should not be kept longer than necessary. What is necessary depends on the situation. So the goal is to keep personal data as short as possible. Examples of when personal data may be kept.

- as long as someone is a member the data may be kept;
- When a former member or visitor to an activity still owes money to the association.

It may also happen that a data breach occurs, this may be intentional or unintentional. In any of these cases, a member can file a complaint with the Privacy Information and Reporting Point of the Personal Data Authority (AP). This mainly happens when a member is convinced that the association does not handle his or her personal data with care. It is therefore important to handle this very carefully.

Privacy policy

We just talked about the AVG, of course, which is about who you are and what characterises you as a person, namely your personal data. Then the next step is the privacy policy, which is about what you as an association do with those personal data and why.

According to privacy laws, you have a duty of information, which means you have to explain your privacy policy to new or existing members. In principle, it does not matter in what way this is done, but it must be clear to find and understand. In addition, the privacy policy should also be in clear and understandable language. Below are a few more topics that should be in the privacy policy anyway:

- Name and contact details of the controller. This is the organisation that determines why and how the personal data is used, or its representative in the EU.
- What good reason (legal basis) do you have for processing personal data.
- Who gets the personal data.
- Whether you transfer the data outside the EU and, if so, on what legal basis.
- How long you keep the data.
- What the customer's rights are if they want to withdraw consent to process the personal data.
- Where the customer can lodge a complaint.
- Whether and why the customer is obliged to give the personal data to you and what happens if the customer does not give consent.
- Whether you use automated decision-making and how you do so.
- Whether you have obtained the data from another organisation and which organisation this is.

If you need help creating your own privacy policy, you should visit veiliginternetten.nl. A basic text for your own privacy policy can be created there.

Liability

As an association, you also have committees, some of these committees relatively speaking have quite a large budget with which they may proceed. Now it so happens that sometimes a mistake is made by a committee member resulting in the association losing a lot of money all at once. Money that could have been spent differently according to the budget. So who is liable when and what can you do to make sure this does not happen.

Committee members are primarily liable for their actions. Does a committee member agree to a new club building, for example, and later lead to major financial problems? Then the committee member in question can be held (jointly) liable for the costs. Even if this committee member voted against and the decision was taken by majority vote.

But, if the body that sets up the committee (usually the board) has approved the decision in writing (statement with signature) they assume responsibility and the liability attached to it.

Of course, it varies by activity when and for what a study association is liable. Below are a few examples:

- Accidents: If injury occurs during an activity, the study association may be held liable if negligence or unsafe conditions are involved.
- Contractual obligations: If the study association enters into contracts for venue hire or catering, for example, and fails to fulfil these obligations, this may result in liability.
- Property damage: If participants' property is damaged during an activity, the study association may be held liable if this is due to negligence or carelessness.
- Unlawful act: If the study association is guilty of unlawful acts causing damage to others, this may lead to liability.

Of course, there will also be times when the study association can do virtually nothing about certain situations, in this the study association is also not liable. This could be, for example, as:

- Force majeure: If the damage results from an event beyond the control of the study association, such as natural disasters or political unrest, the association may not be held liable.
- Indemnification: If participants in an activity have agreed in advance to an indemnification clause exempting the study association from liability for certain risks, this may limit liability.
- Own fault: If the damage resulted from reckless behaviour or negligence of the person who suffered the damage, the study association's liability may be reduced or excluded.
- Professional diligence: If the study association has exercised due care and taken reasonable measures to minimise risks, this may limit liability,

For all the above reasons, it is extremely important to make the liability of the study association clear in domestic or international travel contracts and during major events. Then you will have a stick and won't face any surprises. Also make clear agreements on paper with committees at the beginning of the year about making choices and spending money, this can prevent a lot of confusion later in the year. Especially with, for example, a travel committee accidentally spending more money than there is. Domestic and overseas trips have been mentioned a few times above as an example,

mainly because this is where most 'accidents' happen. Before going on a trip as a club, a contract is always signed. This includes who is liable at what time and who is responsible for the costs incurred. Below are some more examples that are useful to include in the contract for all those attending a trip:

- The study association is not liable for any possible damage resulting from participation in the trip. This includes damage to yourself, your property, persons and/or property of third parties. (Recommend taking out travel insurance).
- Everyone should carry proof of identity and health card.
- Follow instructions from the board and committee.
- Agree that photographs will be taken during the trip and what they will be used for.
- Agreements on payment. Example: Each participant agrees to pay the amount stated on the registration form. The amount must be received on account number ... at the latest... .When the regulations for the trip are handed in, the participant enters into an obligation of payment towards the study association. It is therefore not possible to reclaim all or part of the amount.
- Cancellation arrangements
- The board is authorised to refuse a participant on activities if the participant does not comply with general social standards or if the board sees reason to do so.
- The participant is obliged to compensate the study association for any damage caused by the participant's ...
- Rules of conduct
- Don't forget the signature

SEPA authorisation

A SEPA (Single Euro Payments Area) authorisation is a document in which a person or organisation authorises another party (e.g. a company or organisation) to collect payments from their bank account. SEPA authorisation is widely used to automatically collect recurring payments, such as subscription fees, membership fees, rent, utility payments and other regularly recurring charges. A SEPA authorisation typically contains the following information:

- Name and address details: The person or organisation authorising the collection (the account holder) and the name and address details of the collecting party (the organisation that will collect payments).
- Bank account details: The IBAN (International Bank Account Number) and possibly the BIC (Bank Identifier Code) of the bank account from which the payments will be collected.
- Collection details: The specific details of the payments that will be collected, such as the amount of the payments, the frequency of the collections, the start date of the collections and any end date of the authorisation.
- Signature: The authorisation must be signed by the account holder to confirm the authorisation for the collections. This can be a handwritten signature or an electronic signature, depending on applicable laws and guidelines.

SEPA authorisation uses standardised forms and procedures to ensure that collections comply with laws and regulations relating to payment processing and consumer protection. They provide a convenient and efficient way to automate regular payments and are widely used in the European Union and other countries participating in the SEPA payment area.