

# CLIENT ALERT

## Privacy & Data Protection

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*Other sections of this issue:*

[Privacy & Data Protection](#) | [ISP-Liability & Media Law](#) | [Contracts & E-Commerce](#) | [Electronic Communications & IT](#)

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*The Belgian Act on surveillance cameras of March 21, 2007 (the “Act”), which already entered into force on June 10, 2007, provides for a transitional period with respect to surveillance cameras that had already been installed before its entry into force. With respect to these cameras, the Act holds that controllers only have to comply with the obligations under the Act at the latest three years after that date. The Belgian Data Protection Authority therefore made an appeal to the controllers in order to comply by June 10, 2010.*

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A surveillance camera under the Act is:

- each fixed or mobile observation system;
- for the purpose of:
  - preventing, establishing or tracking down criminal offences;
  - preventing, establishing or tracking down nuisances;
  - safeguarding public order;
- that only processes the images for these purposes.

The Act, among others, provides that:

- a separate thematic notification should be filed with the Belgian Data Protection Authority when surveillance cameras are installed;
- the controller of the data processing should make sure that the cameras are not directed towards areas with respect to which the controller is not authorized to process the data;
- a camera that films a private entrance opposite a public area, should be installed in such a way that the filming of this public area is limited to the strict minimum. The necessary technical measures need to be taken;

- the personal data that cannot be used in order to clarify facts that are punishable by criminal law, are not kept for longer than one month;
- the cameras cannot provide images which would harm the intimacy of the data subject or images that would aim at collecting information about philosophical, religious, political or trade union beliefs, about ethnic or racial origin, about sex life or about the state of health;
- the controller should at the entry of the filmed area install the pictogram indicating that there is camera surveillance and this in the format as set forth by law;
- the controller who wants to install cameras to film areas that are not enclosed (streets, squares, ...), should first obtain a positive advice from the town council, which needs to consult with the superintendent of the relevant police district.

It is also important to note that next to this Act, specific obligations apply under Belgian law with respect to cameras installed *at the working place*. These are provided for in the Collective Bargaining Agreement n° 68. In certain instances, both the provisions of the Collective Bargaining Agreement n° 68 as well as the obligations under the Act, will have to be complied with (e.g. cameras installed in shops in order to film the employees but also to prevent theft by third parties).

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