

COUNTRY: **BELGIUM**

Theme/ question:	Under the Directive + National Law	Under the GDPR + National law
Legislation	The Data Protection Act, 1992, Royal Decree implementing the data protection Act of the 8 December 1992	Creation of the Data Protection Authority <u>Act</u> , 3 December 2017 Protection of natural persons with regard to the processing of personal data <u>Act</u> (30 July 2018)
Legal grounds applicable to scientific research purposes	Data concerning health could only be processed with the consent of the data subjects or for scientific research purposes (Article 7§2(k) DPA)	Data concerning health may only be processed with the consent of the data subjects or for scientific research purposes if the condition set in Title 4 of the NDPA are complied with.
Safeguards required - Conditions framing the processing of health data for scientific research purposes	<ul style="list-style-type: none"> - Confidentiality - Supervision of a health professional - Declaration to Data Protection Authority - Additional conditions set in implementation decree (mainly up to date list of habilitated personnel) 	<ul style="list-style-type: none"> - Information of the data subjects - Keep a register of the processing activities; - DPO (when a certain threshold of risk is met), who gives opinions and makes recommendations - DPIA ((when a certain threshold of risk is met), depending on the result notification to the data protection authority
Conditions for further processing of health data	The conditions framing further processing were set in the Decree, namely coding or anonymisation were realised by the initial controller and could not be undone.	Under the NDPA, coding or anonymisation is realised by the initial controller, who keeps the encryptions key. The communication of data is organised by a data sharing agreement.
What are the rights of the data subject?	Data subjects were informed of the identity of the controller and the purpose of the processing, as well as their rights of access and rectification.	The GDPR provides the following rights :right to access by the data subject (Article 15); right to rectification (Article 16); right to erasure (Article 17); right to restriction of processing (Article 18); right to data portability (Article 20); as well as a right to object (Article 21).
Possible derogations from the rights of the data subject	Derogations from data subject's rights were possible when it proved impossible or involved disproportionate efforts to inform the data subject.	Derogations from data subject's rights of access, rectification and objects are possible when it proves impossible or involves disproportionate efforts to inform the data subject.