



**Conceptsamenvatting van de 184^e Overlegvergadering
tussen de Centrale Studentenraad en het College van Bestuur
gehouden op 19 mei 2020**

Van de zijde van de CSR 2019-2020: Pjotr van der Jagt, Alicja Kepka, Ömür Güven Kirli, Hahae Son, Maya Moreno, Tara Olsen, Anna de Koning, Daniëlle de Nobel, Saachi Samani, Pelle Padmos, June Ouwehand en;
Afwezig: Luca Babović, Mariia Lisova, en Artem Gryshchenko;
Gast: -

Van de zijde van het College van Bestuur: Karen Maex (rector magnificus), Geert ten Dam (president CvB), Mariska Herweijer (bestuurssecretaris);
Gast: Miek Krol (Data protection officer) [agendapunt Proctoring]; Frank van Tatenhove (Coördinerend informatiemanager) [agendapunt Proctoring]; Annemarie Zand Scholten (Implementation Proctoring FEB) [agendapunt Proctoring];

Technisch voorzitter: Mees van Rees;
Verslag: Olav Abbring (ambtelijk secretaris CSR);

Publieke tribune: Sergey Kryachkov (Chair FSR FEB)

Conceptagenda

1. **Opening en vaststellen agenda** // Opening and setting the agenda
2. **Vaststellen van de conceptverslagen** // Setting the concept minutes
3. **Doornemen actielijst** // Checking the action list
4. **Mededelingen** // Announcements
5. **Proctoring** // Proctoring
6. **W.v.t.t.k.** // Any other business
7. **Rondvraag en sluiting** // Questions and closing the meeting

1. Opening (14:34uur) and setting the agenda

The technical chair opens the meeting and welcomes all participants.
The agenda is set without changes.

5 2. Setting the concept minutes

The minutes of OV200414 will be discussed during the next OV meeting and are not set during this meeting.

10 3. Checking the action list

200414-01- As agreed with the council, the legal department will compile a written response to the questions of the CSR The action point will be kept on.

200303-01 & 200303-02- Güven Kirli states that with the making of the agenda IP the balance brought up by the CSR have been added to the agenda IP and therefore the action point can be removed.

15 200303-04- The CSR will contact Frank van Tatenhove to discuss the subject of IPv6. The action point will be changed.

200114-04- The finalizing and sharing of the list of recruiters is still being worked on.



200114-05- The Kohnstamm report is being finalized, once it is finished it will be send to the CSR.

4. Announcements

Announcements from the CvB:

- 20 • The CvB thanks the CSR for the positive advice on Flex studying that they have received.
- The letter of consent from the GV on the new studies: Business Analytics; and Data science & Business analytics has also been received.
- A student assessor for the study year 2020-2021 has been selected. The name of the new student assessor will be officially announced this week.
- 25 • The setting of the final document of the Instellingsplan will be postponed until after the summer to take in account the consequences of the effects of the corona situation. Depending on these effects the Instellingsplan will be finalized somewhere before the end of the calendar year.

Announcements from the CSR:

- 30 • The process of elections is going a lot better than expected taking the circumstances in account. There is a WhatsApp group where the elections are discussed with all parties. Next Friday there will be an event promoting the elections. The promotion is also happening via Instagram with Pokémon cards. These cards will be send to the CvB .

35 5. Proctoring

Miek Krol joins the meeting

Introduction

40 Olsen states that the CSR was surprised how fast the decision to use proctoring was finalized after it was announced. Especially because the CSR didn't receive any documents on the final decision. Between the time of the announcement that proctoring would be considered and the implementation of proctoring the CSR has send an unsolicited advice regarding proctoring. Olsen explains that seeing how Proctoring is being implemented at the UvA there are a lot of

45 complaints from students. This is also because faculties are being inconsistent with their use of proctoring and the CSR has been informed that usually no explanation is given why there are no alternatives for certain exams. Because of this the CSR feels it is their duty to gather and discuss these concerns.

De Koning states that during the CSR PV where employees involved with implementing

50 proctoring at the FEB were present, they stated that proctoring is intended to be used only for largescale exams with multiple choice questions if there are no possible alternatives. However, the CSR sees no mention of these criteria in the official documents or in communications with the deans of the faculties. The CSR fears that this promise might not be kept and will lead to large discrepancies between the use of proctoring for examinations and thus impact students greatly. De Koning adds that Moreno could give more specific examples because she is a student of the FEB. Moreno elaborates that for example in the entrepreneurship specialization for Business Administration there was a multiple choice exam that did not use proctoring, and all

55 their exams for the remainder of block 4 and block 5 are not proctored. Also, in the



60 econometrics program in block 4 the dynamical systems and mathematical economics 2 exams
were open ended questions and were not proctored. Now they have the time series analysis
exam, which is the same exam style administered through Canvas, but this one is proctored.
Then there is also the bachelor economics and business economics which has different
specializations; in the finance specialization there are three exams that are proctored with open
65 ended questions and one exam that isn't proctored but also has open ended questions. And in
the accounting specialization, the same bachelor no exams are proctored. Maex states that the
Board of Examiners are in charge of deciding if proctoring should be used for a specific exam.
They are instructed that the goal is to have as many regular exams as possible and only allow
70 proctoring if it is the only feasible possibility or the correct possibility considering the type of
exam, for instance re-sits. The whole batch of exams that are conducted with the use of
proctoring should be reviewed when determining if proctoring has been used correctly. Krol
adds that for answers on questions regarding the use of proctoring at the FEB specifically it
would be good to wait for Annemarie Zand Scholten and Frank van Tatenhove to join the
meeting.

Discrepancies between exams

75 De Koning asks what the CvB will do if any discrepancies occur between exams, because in the
GDPR the necessity criterion is mentioned to validate a breach of privacy. The CSR feels that the
central guidelines aren't strict enough therefore the faculties can formulate their own rules on
when to allow proctoring to be used and how the settings of proctoring will be different for
different exams. Krol states that she will be monitoring for which exams the faculties have
80 chosen to use proctoring. She adds that her positive advice as the data protection officer (DPO)
on the legitimate interest of using proctoring is only valid when there is no alternative way of
examination possible due to the measures during the COVID-19 crisis. If proctoring is going to
be used after the crisis there needs to be a new data protection impact assessment (DPIA). She
adds that if she gets questions from students on why proctoring is used for a certain exam she
85 refers them to the Board of Examiners, because they make the decision on its use for a specific
exam. She states that if there are any questions regarding the GDPR she as the DPO can always
be reached out too. Also adding that there will also be a DPIA of Zoom to see if that can be safely
used to conduct exams as well, as this might be less invasive than proctoring.

Annemarie Zand Scholten & Frank van Tatenhove join meeting

90 Proctoring at FEB

Moreno states that some exams use proctoring and some don't. Even within the same bachelor
at different specializations some exams don't use proctoring at all, while other use it for three of
the four courses. She wonders if there is a different board of examiners for each specialization
and how these assessments are done. Zand Scholten states that the board of examiners that
95 decided on all the proposals is a joint Board of Examiners. She asks Moreno to send the specific
examples on the different exams where proctoring is used **[action]**. Zand Scholten explains that
in terms of policy the interpretation of there not being an alternative is: 1) if the exam is for a
course that is exceedingly large, over 150 students; and 2) if the exam is testing basic
knowledge with multiple choice questions. For these exams proctoring could be used. The Board
100 of Examiners has also determined that all resits have to be proctored. This might explain why
different types of courses are proctored. The director of education has the ability to make an
exception to these criteria. Zand Scholten adds that to her knowledge this hasn't happened yet.

Moreno states that there was also a multiple choice exam for the course Business Administration that did not use proctoring. She wonders why for this exam proctoring wasn't needed. Zand Scholten explains that this exam was conducted by using a format where parallel versions of the exam are used, backtracking is impossible and the order of questions is mixed up. For some courses this is feasible and for other courses it would require an unproportioned amount of work from the course co-ordinator, so it is not an all-embracing solution. Zand Scholten adds that at the FEB the discussion to determine when it is no longer feasible to create alternate versions of exams was held with all the directors of education, the Board of Examiners and exam support.

Monitoring of the cases

De Koning asks how will it be verified that proctoring is indeed applied for as a last resort if the decisions of the Board of Examiners are not monitored case by case, Krol states that the Board of Examiners checks if the application complies with the criteria including if it is really the last resort. Zand Scholten adds that for some courses at some programs the requirements might be different because the subject matter of the program is very different. Krol adds that, as stated earlier, she will monitor which exams have been proctored and why. Olsen adds that there are several proctored exams planned these weeks. She asks how it will be ensured that the rights of the students aren't being violated which might then be discovered during the evaluation via the monitor of Krol in September. Krol states that she always emphasizes that the final decision is made by the Board of Examiners and if a student wants to know why proctoring is allowed for a specific exam the student has to contact the Board of Examiners. If there are doubts regarding the decision it is also advised to inform the Board of Examiners on the possible oversight.

Room-scans

Olsen states that the CSR understood during the PV that the room scans could be switched off if needed, but now the CSR is informed that this option is necessary. Van Tatenhove states that there seems to be a misunderstanding; during the PV it was stated that there are a lot of options in the settings and that the intention is to use a room scan to prevent fraud. Maex adds that all the information is end-to-end encrypted so the gathered information will be secure. Van Tatenhove confirms this. Zand Scholten adds that for individual cases a room scan might result in technical difficulties and that it might be possible that a desk scan will be used for these individual cases. This includes scanning the working area and the direction the examinee is facing.

Eye-tracking

De Koning explains that in documents the Autoriteit Persoonsgegevens (AP) released it was stated that eye-tracking is almost always a too invasive measure to use, but from what the CSR understood, it will be used. Zand Scholten replies that the ProctorIO software is not registering where exactly the examinee is looking on the screen, but that it only registers if the examinee looks away from the screen and back again. This setting is automatic, so it can't be turned off. The setting can be set as low as possible when calculating the suspiciousness level of the conducted exam. De Koning asks if the setting will always be put on the lowest level for the calculation of the suspiciousness level? Zand Scholten replies that she doesn't know this for certain, she does know that the setting is turned on the lowest level for exams where a student has to upload a file, because during these exams students always look away from the screen.

Justification of the measures



De Koning states that it is written in the manual that the CvB is aware that using proctoring creates an invasion of privacy but that it needs to be used anyway. The CSR is wondering how the CvB justifies using proctoring if it results in an invasion of privacy. The CvB responds that all the taken measures to protect and secure the data were an important factor in this decision. Krol adds that the combination of all these measures, the careful process of decision making, the data protection agreement, the privacy statement, the student manual and the DPIA, are the reason for her to give a positive advice to use proctoring during the COVID-19 crisis when there is no possible alternative.

155 **Central framework**

De Koning asks if there are regulations on the central level on the processing of personal information. Ten Dam states that the regulations of the FEB are within the framework of the policy at the central level and the use of proctoring that the faculties have must always be within this framework.

160 **Insurmountable objections**

Olsen asks what is considered as an insurmountable objection, because under the UvA's privacy statement students have a right for their data not to be processed. She asks if invoking that right will be seen as an insurmountable objection. Ten Dam states that because the CvB took so many measures to guarantee the protection of privacy and because there is an exemption possible to conduct the exam on campus, this will not be seen as an insurmountable objection. Krol adds that the possibility of conducting an exam on campus is only possible in very specific circumstances. Olsen argues that this requires that a student is near Amsterdam. Ten Dam agrees, but adds that the CvB has done everything that is possible under the current circumstances for education and exams to take place.

170 Sergey Kryachkov (chair of the FSR FEB) is allowed to speak during the meeting.

The advice of the FSR FEB

Kryachkov states that when the decision was taken to use proctoring at the FEB this went against the advice of the FSR FEB. He states that the argument that students will face study delay if proctoring isn't used is invalid because the examinations can be conducted in July or August on campus. Kryachkov closes with the statement that there are possible alternatives to conduct the exams which are less invasive and he states that the stance of the FSR FEB is that this issue should be discussed on the central level. Maex states the FEB is attempting to conduct as many exams during this situation as possible. If a student doesn't want to take an exam with this method, then the student needs to wait until the current measures regarding COVID-19 have passed.

Central responsibility & legitimacy of ProctorIO

De Koning states that even though the Board of Examiners is independent in deciding which course can use proctoring, the CvB is responsible for allowing the use of proctoring at the UvA, which makes them responsible. Krol states that the CvB is only responsible for the framework. Every exam that uses proctoring needs to fit within this framework. Krol will evaluate the decisions to use proctoring for an exam later in the year and the FSR can also have a discussion with the dean on the exams that it has been used for. Van der Jagt states that he is surprised that using proctoring is allowed after one central decision based on legitimate interest and that the legitimate interest is not weighed per exam. He states that there has been a lot of input from

190 students and that a lawyer even contacted the CSR to inform on the situation at the UvA. Van der Jagt adds that at this moment there isn't a decision made on requesting legal counsel, but there has been contact to get more insight on the lawyer's objections. Van der Jagt states that he understood that for every time that privacy is invaded there needs to be proof of legitimate interest and thus there needs to be a central decision. He also wonders, if the faculties use
195 different rules on proctoring how this can fit within one assessment of the legitimate interest. He adds that he read a research from SURF which was published the 9th of April that concluded that ProctorIO has the worst proctoring software in that research and that ProctorIO doesn't comply with Dutch and European law. Krol states that she read it too, but points out that the SURF report is a research based on the free version of ProctorIO. She adds that the UvA has
200 made clear arrangements with ProctorIO including the signing of a data protection agreement using the model contract of the UvA and because of this Krol and the chief information security officer have given a positive advice on the use of ProctorIO. Zand Scholten adds that SURF retracted this research, because it was not made clear that their information was only based on publicly available information on ProctorIO's websites which caused confusion.

205 **Sharing of information**

Van der Jagt tells the CvB that when the discussion was held on using proctoring all information was asked on this subject to ensure that the privacy of the students won't be violated. He states that the CSR didn't get all information that was available. Ten Dam replies that nothing was deliberately held secret or hidden and if there is any information that would help with the CSR
210 with their consideration the CvB would gladly look into making this information available for the CSR. Herweijer adds that she has received a formal request for documents very recently. The CvB will respond to this. De Koning states that it may not have been formally requested, but that the CSR would have liked to receive the DPIA when it was finished. Also the CSR would now like to receive the data processing agreement between the UvA and ProctorIO and the
215 guidelines on the use of ProctorIO.

Other options

Van der Jagt adds that there has been a lot of talk on legitimate interest until now and he states that it is hard to weigh. He understand that there are three possibilities: not using proctoring, resulting in no video data being stored; using zoom, resulting in being monitored but no video
220 data being stored; and using proctoring, resulting in possibly being monitored and video data being stored. He asks how it could have been concluded that there were no other possibilities to conduct exams in a way that is less privacy invasive? Maex states that in the whole process there are many measures to ensure the protection and security of the data. She adds that looking at all measures these cover the issues that were raised. Zand Scholten adds that other
225 alternatives were also considered, including other suppliers of Proctoring software and the UvA determined that for larger exams no other ways of conducting exams were feasible and that ProctorIO is the best Proctoring software for the UvA.

Breach of contract?

Olsen wonders if the use of proctoring creates a change in the privacy statement which in term
230 creates a breach in contract, because the students, when they enrolled agreed to terms and these included the privacy statement. She wonders if when the terms of conducting an exam are changed the students need to agree to the changed terms. Olsen inquires if it is possible to receive a written answer on this question from the legal department. The legal department of

235 the UvA will send a written response on this question. if allowing proctoring to be used when
conducting an exam will this create a change in the privacy statement of the UvA which creates
a breach of contract if the student didn't agree to this change **[action]**.

Contact regarding AVG and Proctoring

240 De Koning asks if a student will get a timely response if he or she contacts AVG@uva.nl to
complain about an exam being proctored. Van Tatenhove states that reaching out to this
address is not the right way to declare an objection for the use of Proctoring in a specific case.
De Koning asks in which situation a student needs to contact the Board of Examiners and in
which situation the AVG@uva.nl. Krol states that questions on the GDPR can be send to
AVG@uva.nl and questions on using proctoring in a specific case should be send to the Board of
Examiners.

245 The procedure after the exam

Olsen states that the CSR was first told that one trained staff member would review the flagged
material to look if it contains fraudulent behaviour or not. However, the manual mentions that
the exam will be send to the lecturer and the exam board with any screenshots to determine if
fraud was committed. What will be the procedure and how will it be ensured that when the data
250 is being transferred the information is still protected? Zand Scholten states that the Proctors
who are hired for this job, work with a protocol to check the data and they will, when they see
something suspicious, contact the head of online proctoring to let the project lead who is a staff
member working at exam services (an employee of the UvA who is a part of the regular team)
make the decision to contact the course coordinator and the Board of Examiners to review the
255 exam. This review happens by downloading the information, including the exam, the identity of
the student and screenshots. This file is placed on a specific online location so that the file won't
be send around and secure that only the relevant people can access it. De Koning asks if an end-
to-end encryption is used to secure the file someone will always review the exam. Zand Scholten
confirms this. De Koning also asks if it is guaranteed that it will be prohibited to download the
260 information on the reviewer's own computer. Zand Scholten confirms that this option is indeed
available. Kryachkov stresses the results of the recent Maastricht cyberattacks and he
emphasizes that this could also happen to the UvA and that having the proctored data hacked
would be a danger for the UvA and its students.

Response to send questions

265 De Koning asks when an e-mail is send to the ICTO department if they will respond in time
before the exam takes place? Zand Scholten states that she can't answer for every faculty, but
she states that at the FEB they are prioritizing e-mails depending on the date of the exam, they
are trying to reply within one or two days. Zand Scholten adds that there also is a frequently
asked questions (FAQ) available for students and a long manual which includes much
270 information on the use of proctoring. Some of the information changes regularly, this might
create questions which cannot be answered in a FAQ.

Closing statements

275 Son emphasizes the importance of the input Moreno gave regarding the inconsequence in
moments proctoring is being used during examinations at the FEB. Van der Jagt states that it is
important to mention that the CSR has doubts on proctoring The CSR is worried for the
students' privacy and well-being He states that privacy is a serious matter and the CSR doesn't
know if the use of proctoring crosses a legal border. Krol emphasizes that if this would be the

case she wouldn't have given a positive advice on the use of it in specific cases. The CSR will consider if external help is needed to find the answers they are looking for and he adds that
 280 legitimate interest really is a heavy ground to base the use of proctoring on. Ten Dam agrees, but she stresses that this has been weighed many times and the decision was made after very thorough discussions. Son closes with the message that one of the users of ProctorIO, UC Berkley stopped using Proctoring because of the work load and stress due to the current situation. She asks the CvB to really consider the well-being of the students.

285 **6. Any other business**

No any other business.

7. Questions

No other questions.

8. End of the meeting (16.23 hour)

290 The technical chair closes the meeting and thanks all participants for their contribution.

Actielijst OV

- 200519-01 Moreno will send Zand Scholten the specific examples of different exams where proctoring is being used.
- 295 200519-02 The legal department of the UvA will send a written response on the question: if allowing proctoring when conducting an exam will this create a change in the privacy statement of the UvA which creates a breach of contract if the student didn't agree to this change.
- 200414-01 The CvB will ask JZ to organize an information session on the subject "hardheidsclausule" for the CSR.
- 300 ~~200303-01 The CSR will send examples of the imbalance of mentioning students and employees in the IP to the CvB.~~
- ~~200303-02 The CSR will send examples in the IP of cooperation with other institutions in regard to the independence of the UvA.~~
- 305 200303-04 The CSR will set up a meeting with Frank van Tatenhove to discuss the subject of IPv6.
- 200114-04 The CvB will provide the CSR with an overview of recruiters (not complete) that can be used for finding diverse candidates to fill vacancies.
- 200114-05 The CvB will send the Kohnstamm report about first generation students to the council when it is published.
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Pro memorie

- 190619-01 The CvB pays close attention to the involvement of PhD's when getting input from the academic community.
- 181127-02 The CvB keeps the CSR updated about the steps that are taken with regard to (alternatives to) the NSE.
- 315 180904-01 The CvB emphasizes the importance of incorporating the input of the *medezeggenschap* while preparing for the annual talks with the deans.
- 140604-01 *Het College geeft indien van toepassing de CSR een update ten aanzien van de samenwerkingsplannen met andere instellingen of instituten.*
- 320 100907-02 *Het CvB zal de capaciteit van fietsenplekken, studieplekken en ruimtes voor studieverenigingen tijdens het realiseren van de nieuwbouw en verhuizingen scherp in de gaten houden en ingrijpen wanneer een tekort ontstaat.*

Voor het komende artikel24-overleg: