

LAW AND DIGITAL TECHNOLOGIES
ELECTRONIC COMMUNICATIONS

ePrivacy & Security

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the roadmap for today

- confidentiality of communications
 - security obligations (*breach notification*)
 - no tapping, monitoring (eg *deep packet inspection*)
 - requirements re *traffic data*
 - *cookies...!*
- communication without identification
 - *directory services* ('*secret telephone number*'), *no reversed search*
 - *calling line identification*
 - *not-itemized billing*
- unsolicited commercial communications
 - *spam (e-mail, sms, social networks) and telemarketing*

Art. 4(1) ePD

Art. 5 ePR

security obligation

appropriate technical and organisational measures to safeguard **security** of the [electronic communication] services, if necessary in conjunction with the provider of the public communications network with respect to network security

having regard to the state of the art and the cost of their implementation, these measures shall ensure a level of security appropriate to the risk presented.

Art. 4(3) ePD

Art. 33-34 GDPR

breach notification

- notify the personal data breach to the competent national authority
- also notify the subscriber or individual, if likely to adversely affect the personal data or privacy of a subscriber or individual, of the breach without undue delay

*24 hours? 72 hours?
what's the startingpoint?*

breach notification to DPA

In the case of a personal data breach, the controller shall without undue delay and, where feasible, not later than 72 hours after having become aware of it, notify the personal data breach to the supervisory authority [...], **unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons**

notification to data subject

When the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall communicate the personal data breach to the data subject without undue delay.



Meldloket datalekken Autoriteit Persoonsgegevens

Welkom op het meldloket datalekken van de Autoriteit Persoonsgegevens. U kunt hier een melding van een datalek indienen, een bestaande melding aanpassen of een bestaande melding intrekken. Kies hieronder de gewenste actie.

Lees ook onze informatie met betrekking tot datalekken en de beleidsregels meldplicht datalekken die hiervoor gelden.

Alle beleidsregels van de Autoriteit Persoonsgegevens zijn te vinden op [deze pagina](#).

Wilt u melding maken van een datalek, maar bent u geen vertegenwoordiger van de organisatie, dan kunt u gebruik maken van ons [tipformulier](#).

Telefonische informatie over de meldplicht datalekken

Op deze website vindt u informatie en antwoorden op vragen over de meldplicht datalekken. Heeft u op deze website geen antwoord op uw vraag gevonden? Dan kunt u contact opnemen met de Autoriteit Persoonsgegevens. Het telefoonnummer is 0900-3282535 (voor dit nummer betaalt u uw gebruikelijke telefoonkosten).

Kies voor een nieuwe melding indienen, indien uw organisatie een datalek heeft geconstateerd.

NIEUWE MELDING

Kies voor een bestaande melding aanpassen, indien u een eerder ingediende melding wilt aanpassen of aanvullen. Let er op dat u uw meldingsnummer, dat u met het indienen van een nieuwe melding heeft gekregen, moet invullen. Houdt u deze daarom bij de hand.

BESTAANDE MELDING WIJZIGEN

Kies voor een bestaande melding intrekken, als u een eerder ingediende melding ongedaan wilt maken. Let er op dat u uw meldingsnummer, dat u met het indienen van een nieuwe melding heeft verkregen, moet invullen. Houdt u deze daarom bij de hand.

MELDING INTREKKEN

authentication...?

Een nieuwe melding indienen

- Voor het melden van een datalek vult u onderstaand formulier in
- U dient ieder veld in te vullen
- Lees ook onze informatie met betrekking tot datalekken
- Na het indienen wordt een meldingsnummer getoond ter bevestiging. Registreer dit nummer voor toekomstige communicatie met de Autoriteit Persoonsgegevens

Aard van de melding

Wat is de strekking van deze melding?

Wettelijk kader van de melding

Op grond van welke wettelijke bepaling doet u deze melding?

Algemene informatie en contact persoon

Over welk organisatie of bedrijf gaat het?

Naam van het bedrijf of de organisatie

Adres (bezoekadres) van het bedrijf of de organisatie

Postcode van het bedrijf of de organisatie

Vestigingsplaats van het bedrijf of de organisatie

Registratienummer bij de Kamer van Koophandel

Door wie wordt het datalek gemeld?

Naam

Functie

E-mailadres

Telefoonnummer

Alternatief telefoonnummer

Met wie kan het CBP contact opnemen voor nadere informatie over de melding?

De melder is contactpersoon Ja Nee

Naam contactpersoon

Functie contactpersoon

E-mailadres contactpersoon

Telefoonnummer contactpersoon

Alternatief telefoonnummer contactpersoon

In welke sector is de organisatie of het bedrijf actief?

Overige sector, te weten:

Gegevens over het datalek

Geef een samenvatting van het incident waarbij de inbreuk op de beveiliging van persoonsgegevens zich heeft voorgedaan

Vond de inbreuk plaats in een verwerking die is uitbesteed aan een andere organisatie?

Naam van de organisatie waaraan de verwerking is uitbesteed

Van minimaal hoeveel personen zijn persoonsgegevens betrokken bij de inbreuk?

Van maximaal hoeveel personen zijn persoonsgegevens betrokken bij de inbreuk?

Omschrijf de groep mensen van wie persoonsgegevens zijn betrokken bij de inbreuk.

Is het bekend wanneer de inbreuk plaats vond? Ja Nee

Is de exacte datum bekend wanneer de inbreuk plaats vond? Ja Nee

Exacte datum waarop de inbreuk plaats vond

Start datum van de periode waarbinnen de inbreuk plaats heeft gevonden

Eind datum van de periode waarbinnen de inbreuk plaats heeft gevonden

Wanneer werd de inbreuk ontdekt?

Wat is de aard van de inbreuk?

Selecteer één of meerdere opties
Lezen (vertrouwelijkheid) Ja Nee

Kopiëren Ja Nee

Veranderen (integriteit) Ja Nee

Verwijderen of vernietigen (beschikbaarheid) Ja Nee

Diefstal Ja Nee

Nog niet bekend Ja Nee

Om welk type persoonsgegevens gaat het?

Selecteer één of meerdere opties en geef, indien van toepassing, een toelichting
Naam-, adres- en woonplaatsgegevens Ja Nee

Telefoonnummers Ja Nee

E-mailadressen of andere adressen voor elektronische communicatie Ja Nee

Toegangs- of identificatiegegevens Ja Nee

Financiële gegevens Ja Nee

Burgerservicenummer (BSN) of sofnummer Ja Nee

Paspoortkopieën of kopieën van andere legitimatiebewijzen Ja Nee

Geslacht, geboortedatum en/of leeftijd Ja Nee

Bijzondere persoonsgegevens Ja Nee

Overige / onbekend

Welke gevolgen kan de inbreuk hebben voor de persoonlijke levenssfeer van de betrokkenen?

Selecteer één of meerdere opties
Stigmatisering of uitsluiting Ja Nee

Schade aan de gezondheid Ja Nee

Blootstelling aan (identiteits)fraude Ja Nee

Blootstelling aan spam of phishing Ja Nee

Andere gevolgen, namelijk:

Vervolgacties naar aanleiding van het datalek

Welke technische en organisatorische maatregelen heeft uw organisatie getroffen om de verdere inbreuken te voorkomen?

Heeft u het datalek gemeld aan de betrokkenen of bent u van plan dat te gaan doen?

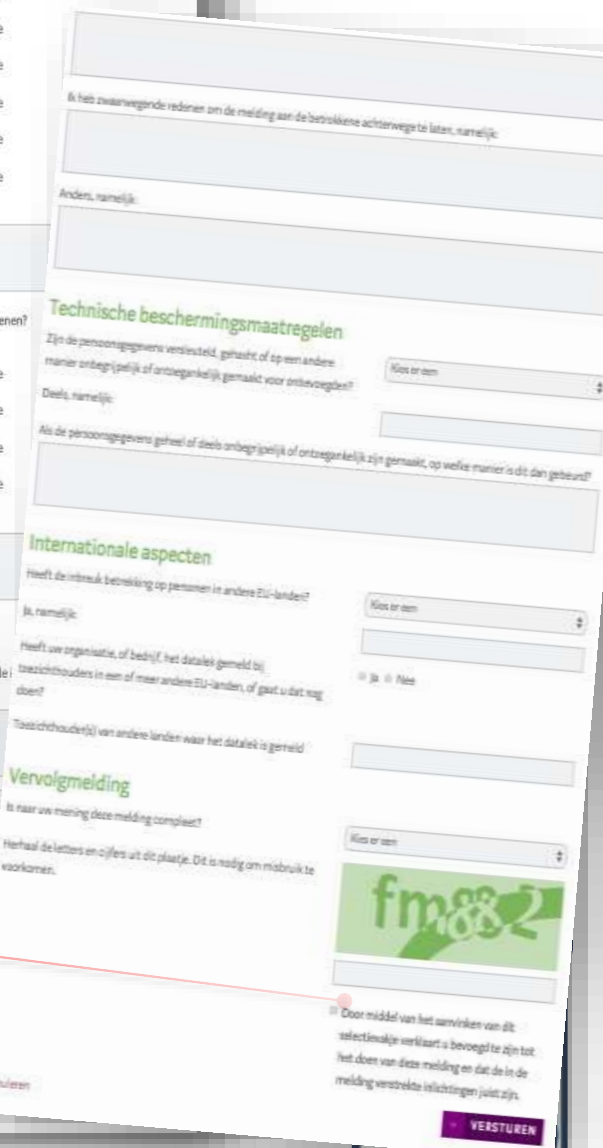
Wanneer heeft u het datalek gemeld aan de betrokkenen?

Wanneer gaat u het datalek melden aan de betrokkenen?

Wat is de inhoud van de melding aan de betrokkenen?

Hoeveel betrokkenen heeft u in kennis gesteld of gaat u in kennis stellen?

Welk communicatiemiddel of welke communicatiemiddelen gebruikt u of gaat u gebruiken?

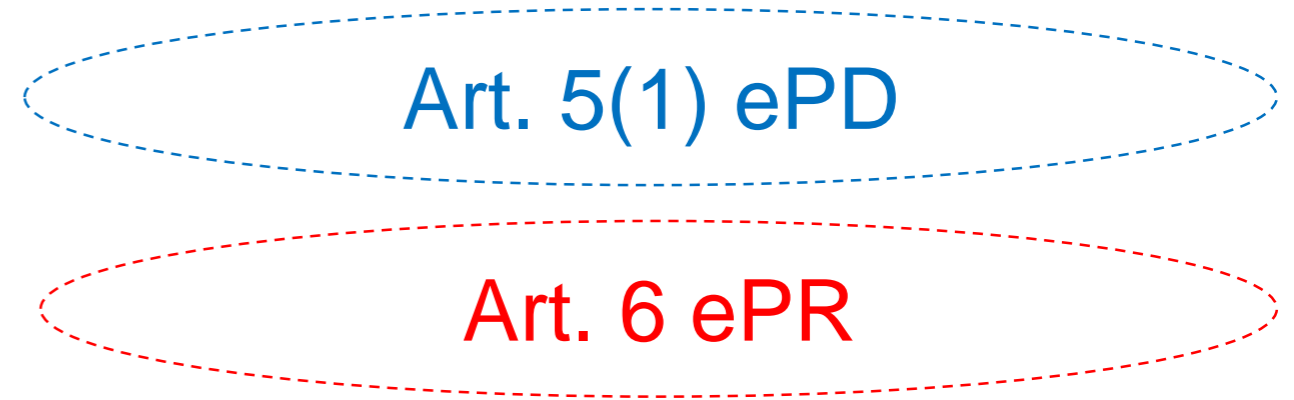


“electronic communications metadata”

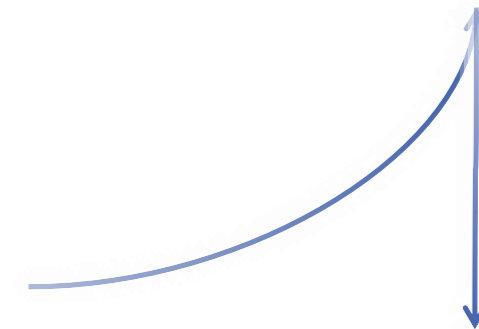


confidentiality of communications and traffic data

no listening, tapping, storage or other kinds of interception or surveillance of communications and the related traffic data by persons other than users, without the consent of the users concerned



deep packet inspection (“dpi”)



net neutrality debat...

spam filter..?

Art. 6 ePD

traffic data relating to subscribers and users must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication

with user or subscriber data may be used for the purpose of marketing electronic communications services or for the provision of value added services

processed and stored by the provider of a public communications network or publicly available electronic communications service

2006/24/EC

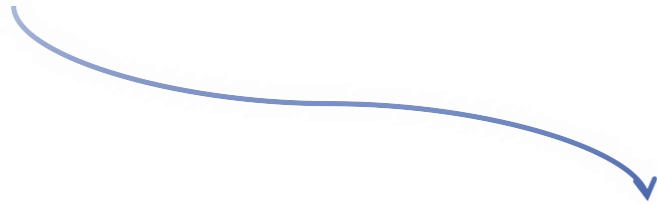
6 to 24 months

data retention obligation for the purpose of the investigation, detection and prosecution of serious crime

Data Retention Directive 2006/24/EC annulled by CJEU 8 April 2014 C-293/12 and C-594/12

as defined by each Member State in its national law

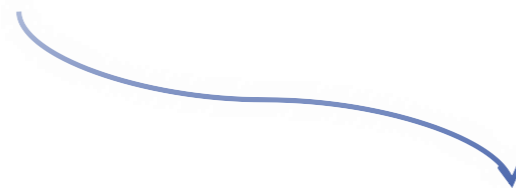
*cookies! device
fingerprinting,
pixels etc..*



Art. 5(3) ePD

Art. 8 ePR

the storing of information, or the gaining of access to information already stored, in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned has given his or her consent, having been provided with clear and comprehensive information



*but functional or technical cookies are
allowed nevertheless*

“cookies”

*where technically possible and feasible
[...] consent may be expressed by using
the appropriate technical settings of a
software application enabling access to
the internet.*

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, **end-users** are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, **end-users** are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by **end-users** when establishing **its** general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the **end-user** and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as **gatekeepers**, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.

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Text proposed by the Commission

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Amendment

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communication without identification

Art. 7, 8 and 12 ePD

non-itemized billing

subscriber has the right to have invoice without details

calling line identification

directory services

user has the right to

- subscriber must be informed about inclusion in directories (incl purposes), and*
- provided a choice (opt-in or opt-out)*

- block cli-presentation of his/her own calls*
- reject cli-blocked calls from others*
- block cli-presentation of calls from others*

unsolicited commercial communication

Art. 13 ePD

exemption for own similar products and services

opt-in for

- automated calling (communication) devices
- commercial fax and e-mail

opt-out (or opt-in) for

- telemarketing

*who is (are) sender(s) in the context of affiliates networks?
what is commercial?*

exemption for own similar products and services

*do-not-call register
outbound and inbound?*

Thanks!

