LAW AND DIGITAL TECHNOLOGIES
ELECTRONIC COMMUNICATIONS

ePrivacy

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roadmap

- confidentiality of communications
- communication without identification
- unsolicited commercial communications

- *security obligations (breach notification)*
- *no tapping, monitoring (eg deep packet inspection)*
- *requirements re traffic data*
- *cookies…!*

spam (e-mail, sms, social networks) and telemarketing

- directory services (‘secret telephone number’), no reversed search
- calling line identification
- not-itemized billing

subscriber

user

end-user

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confidentiality of communications

Art. 5 ePR

Art. 4(1) ePD

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. 33-34 GDPR Art. 4(3) ePD

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, f the breach without undue delay

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

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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.

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Security

Gemalto: NSA, GCHQ hacked us – but didn't snatch crucial SIM keys

'Investigation' admits to attacks, but says phone crypto secrets stayed secure

25 Feb 2015 at 08:00, Simon Sharwood

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Gemalto, the world's biggest SIM card maker, has investigated the NSA's and GCHQ's infiltration of its computers – and says that while the agencies did get into its network, they didn't get in far enough to siphon off phone-call encryption keys.

Files leaked by intelligence whistleblower Edward Snowden appeared to show the US and UK had broken into Gemalto's systems to obtain thousands, if not millions, of secret encryption keys (K_i) which are baked into every SIM – and used to safeguard conversations from eavesdroppers.

AUTORITEIT PERSOONSGEGEVENS

Meldloket

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

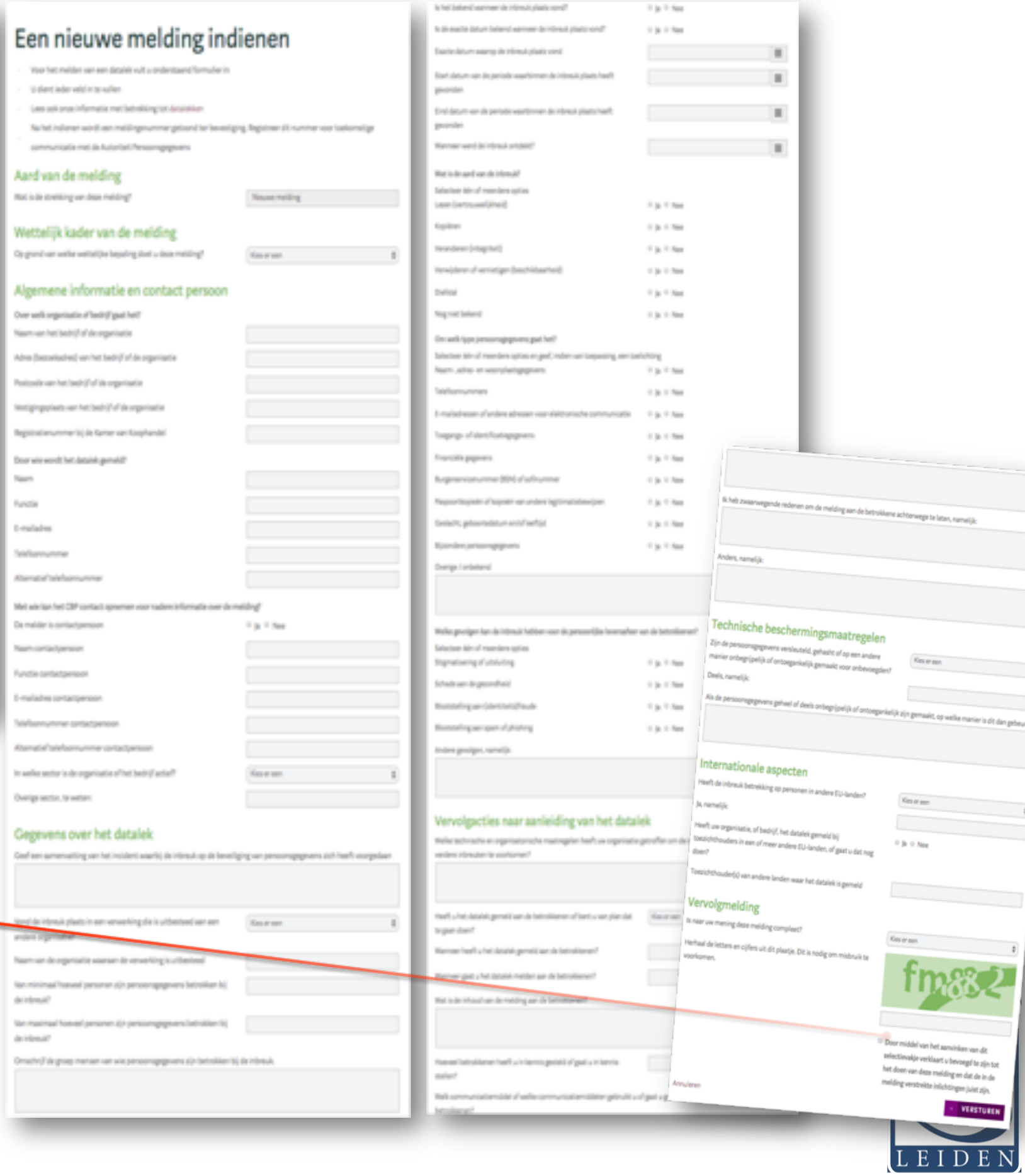
Kies voor een bestaande melding aanpassen, indien u een eerder ingediende melding wilt aanpassen of aanvullen. Let er op dat u uw meldingsnummer, dat u met het indienen van een nieuwe melding heeft gekregen, moet invullen. Houdt u deze daarom bij de hand.

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...?



Art. 6 EPR

Art. 5(1) ePD

"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..?

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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

as defined by each Member State in its national law

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

Art. 8 ePR ∩ Art. 5(3) ePD

cookies! device fingerprinting, pixels etc..

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"

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Consent should not be regarded as freely given if the data subject has no genuine or free choice or is unable to refuse or withdraw consent without detriment

pop-ups or banner

explicit or implied consent

commercial tracking cookies

cookie retention terms

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

communication without identification

Art. 7, 8 and 12 ePD

subscriber has the right to have invoice without details

non-itemized billing

calling line identification

directory services

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

user has the right to

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

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unsolicited commercial communication

Art. 13 ePD

exemption for own similar products and services

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

what is commercial?

opt-in for

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

opt-out for

- telemarketing

exemption for own similar products and services

do-not-call register

outbound and inbound?

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questions?

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