

**Status of implementation of the amendment to
Article 5.3 of Directive 2002/58/EC (the “EU Cookie Law”)**

1. Overview

Article 5.3 of Directive 2002/58/EC, which regulates the use of cookies and similar, was amended in 2009. The amended legislation now requires consent to be given by users before most cookies can be stored on a user’s computer. The change was due to be implemented in the national law of Member States by May 2011.

This document sets out the status of implementation around the 28 Member States of the European Union in April-May 2015. From the responses, it can be seen that 25 countries have implemented the change, 1 has legislation that implements the change but such implementation is considered incomplete; and 2 have not implemented the change and have no concrete plans yet to do so.

2. Status Map

Figure 1 below shows the status of implementation around the EU ‘at a glance’. Countries shown in: (i) red have implemented the change to the EU Cookie Law; (ii) orange have implemented the change but the implementation remains incomplete; and (iii) green have not implemented the change and there are no plans at present to do so.

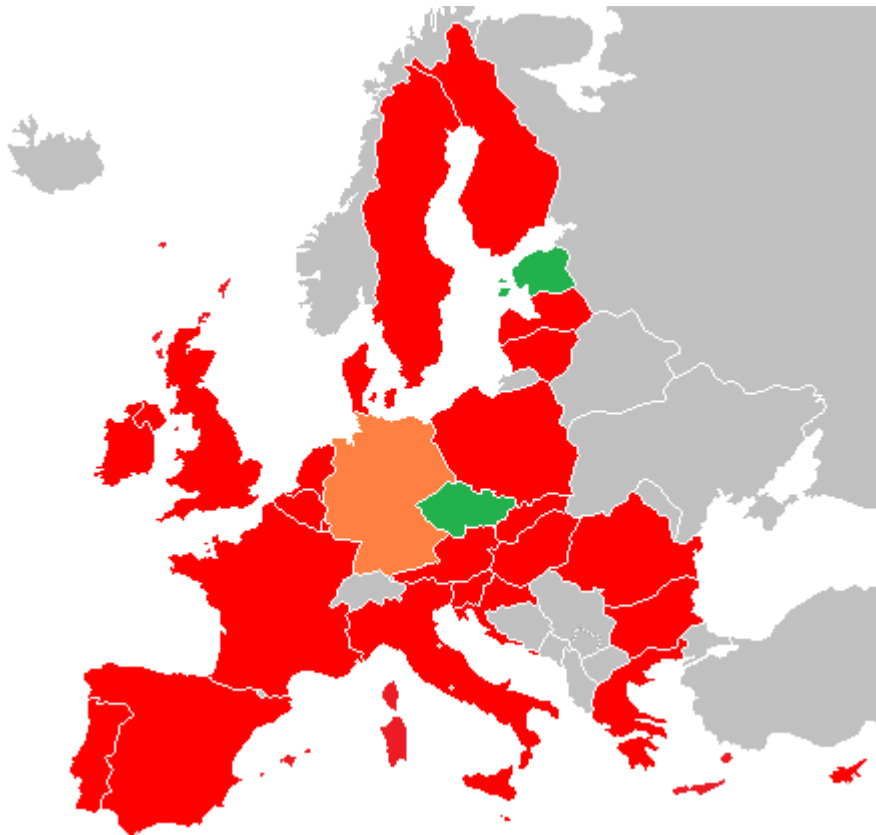


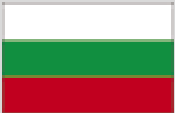





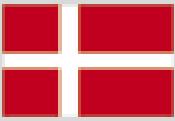


Figure 1: Status of implementation of the change to the EU Cookie Law in the European Union.


3. Country-by-Country Summary of Advice




To view the full advice for a particular country, Ctrl+Left click on the country name within the left column.



Country	Advice provided by	Last updated	Summary of implementation of the EU cookie law amendment
 Austria	Schönherr Rechtsanwälte	April 2015	<p>Amendment implemented</p> <p><i>Browser settings:</i> Legislative explanatory remarks explain that consent can be expressed via browser settings if “technically feasible”, although no further requirements are given.</p> <p><i>Guidance:</i> No regulator guidance available.</p> <p><i>Transition:</i> No transitional period, however, there is to date no known enforcement.</p> <p><i>Compliance:</i> Primarily by updating privacy policies.</p>
 Belgium	Koan Lorenz	April 2015	<p>Amendment implemented</p> <p><i>Browser settings:</i> The Belgian Privacy Commission indicated in its formal advice, in which it commented on the draft of the implementing act, that consent cannot be obtained validly through browser settings, unless they are configured in a way that they reject and delete third party cookies by default. The cookies guidance No 01/2015 on the use of cookies confirms that consent may not be obtained through the browser settings.</p> <p><i>Guidance:</i> On February 4, 2015, the Belgian Privacy Commission issued a recommendation No 01/2015 on the use of cookies following a public consultation.</p> <p><i>Transition:</i> No transitional period.</p> <p><i>Compliance:</i> The general compliance level is medium. The majority of Belgian websites have not implemented an explicit opt-in consent mechanism (such as a banner on the home page with an opt-in button). The most common practice is that a specific cookie policy or a specific section regarding cookies is included in the privacy policy on the website to inform users about the use of cookies and their ability to refuse cookies by changing browser settings. In 2014, the Privacy Commission launched a public consultation that resulted in the publication of a cookies guidance. Accordingly, the general level of awareness and compliance with the cookies rules is expected to have considerably increased.</p>




 <p>Bulgaria</p>	<p>Dimitrov, Petrov & Co.</p>	<p>May 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> No express reference in the legislation. However, the wording used suggests that browser settings are probably not sufficient.</p> <p><i>Guidance:</i> No regulator guidance available.</p> <p><i>Transition:</i> No transitional period.</p> <p><i>Compliance:</i> Compliance exists to some extent. Some Bulgarian websites inform users about cookies through a pop-up screen or a banner at top/bottom of the screen and few of these obtain separate express consent for cookies by clicking OK or similar button. There are also websites which include information about the use of cookies in their General Terms and Conditions The majority of websites, however, do inform the users about cookies.</p>
 <p>Croatia</p>	<p>Vukmir & Associates</p>	<p>May 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Not specified</p> <p><i>Guidance:</i> No regulator guidance available</p> <p><i>Transition:</i> A general transitional period for the implementation of amendments to the electronic communications law expired on 10 November 2011.</p> <p><i>Compliance:</i> Medium. The majority of Croatian websites have started implementing specific mechanisms for informing users about cookies, as well as for obtaining user consent for the use of cookies.</p>
 <p>Cyprus</p>	<p>Lellos P. Demetriades Law Office</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Not applicable.</p> <p><i>Guidance:</i> No specific regulator guidance available, but information on the amendment can be found in the Matters of Interest section of the regulators' website. The amendment is also discussed in the Annual Report of 2012 issued by the regulator in June 2012.</p> <p><i>Transition:</i> No transitional period.</p> <p><i>Compliance:</i> Compliance exists to some extent. According to our experience, most major websites have a privacy policy statement with a detailed section on cookies. An increasing number of websites have started implementing practical mechanisms for obtaining users' consent.</p>

 <p>Czech Republic</p>	<p>Vobornik Nigrini Kipiel</p>	<p>April 2015</p>	<p>Amendment not implemented</p> <p>Although an amendment has not been implemented, the regulators have conflicting views on whether an amendment is necessary. Prevailing view is that an opt-in system is not implemented. There are also interpretations that in case of a dispute, Czech courts should follow the EU opt-in system. No final implementation plan has been issued so far, but we believe that the opt-in system will be introduced within the next amendment of the Act on Electronic Communication.</p>
 <p>Denmark</p>	<p>Bech-Bruun</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Consent via browser settings will not suffice.</p> <p><i>Guidance:</i> Regulator guidance is available: https://erhvervsstyrelsen.dk/sites/default/files/media/engelsk-vejledning-cookiebekendtgorelse.pdf</p> <p><i>Transition:</i> The regulator had previously informed the public that based on the updated guidelines, it would start enforcing the cookie legislation and that any ‘informal’ transition period was definitely over. However, subsequently the regulator has stated that the “enforcement” will primarily consist of guidance.</p> <p><i>Compliance:</i> The majority of websites have implemented not only privacy and cookie policies but have also begun using bars at the top of or elsewhere on the website to inform and collect consent on cookies. The bar seems to be a preferred solution for ensuring compliance.</p>
 <p>Estonia</p>	<p>NJORD Advokaadibüroo – Estonia</p>	<p>April 2015</p>	<p>Amendment not implemented</p> <p>It is opinion of the regulator that the existing law is sufficient and the amendment has been implemented. However, legal experts suggest that the existing law follows the old opt-out regime and that prior consent is not currently enforced.</p> <p><i>Compliance:</i> Organisations are updating their privacy policies or creating cookie policies but there are no known examples of implementing practical mechanisms for obtaining consent.</p>
 <p>Finland</p>	<p>Backström & Co</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Consent can be given via browser settings – the law is flexible in this respect.</p> <p><i>Guidance:</i> Regulator guidance is available.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> Information about cookies and the data collected is provided in privacy policies but there are no known plans for the introduction of mechanisms to obtain specific consent for cookies.</p>

 <p>France</p>	<p>ALP-Avocat</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Consent cannot be given via browser settings.</p> <p><i>Guidance:</i> Regulator guidance is available at: http://www.cnil.fr/english/news-and-events/news/article/what-the-telecoms-package-changes-for-cookies/#</p> <p><i>Transition:</i> No, however it is only in July 2014 that the Regulator has launched a compliance monitoring programme, to be continued in 2015 and, where applicable, to take appropriate measures (formal warnings, sanctions/penalties, and publication of the sanctions).</p> <p><i>Compliance:</i> More and more websites have implemented not only privacy and cookie policies but have also begun using bars at the top of or elsewhere on the website to inform and collect consent on cookies. The bar seems to be a preferred solution for ensuring compliance, but the regulator pointed out numerous non-compliances in this respect (e.g. cookies deposit without any action of the user).</p>
 <p>Germany</p>	<p>Oppenhoff & Partner</p>	<p>April 2015</p>	<p>Incomplete implementation</p> <p><i>Incomplete implementation:</i> In 2014, the German government stated that no implementation was necessary at all because the German law already covered the legal situation according to the amended Art. 5 (3) of Directive 2002/58/EC. This statement was officially confirmed by the European Commission. However, this view is disputed by the data protection authorities who are of the opinion that the implementation is incomplete.</p> <p><i>Guidance:</i> No guidance available. At present, it is likely that guidance from the Art 29 Working Party, foreign regulators or individual German state regulator guidance will be referred to.</p> <p><i>Transition:</i> No transitional period is expected.</p> <p><i>Compliance:</i> Level of implementation is rather low at present, even considering that the existing law already provides severe restrictions on cookies.</p>
 <p>Greece</p>	<p>Zannos and Associates Law Firm</p>	<p>May 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Possible, however the predetermined acceptance for the storage of all cookies through the browser's settings is not deemed to be consent by the Authority.</p> <p><i>Guidance:</i> Instructions by the Greek Data Protection Authority are available.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> Several companies have updated their policies and implemented practical mechanisms ('opt-in' system) to obtain consent; however the majority of websites have only integrated a notice about cookies into their terms of use.</p>

 <p>Hungary</p>	<p>Bán, S. Szabó & Partners</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Consent given via browser settings is unlikely to be considered valid consent.</p> <p><i>Guidance:</i> No regulator guidance is available. The regulator refers to the opinions of Article 29 Working Party that have to be followed.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> Not aware of any practical mechanisms that have been implemented to obtain consent from visitors.</p>
 <p>Ireland</p>	<p>Matheson</p>	<p>May 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Consent may be given by browser settings where it is technically possible and effective, as long as reliance is not placed on default browser settings.</p> <p><i>Guidance:</i> Regulator guidance is available at: Guidance Note on Data Protection in the Electronic Communication Sector (PDF)</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> Several companies have updated their policies and many are using methods to obtain “implied” consent to the use of cookies.</p>
 <p>Italy</p>	<p>Martini Manna Avvocati</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Consent may be given by browser settings, as long as the subject is given information in accordance with the D.P.A.’s 8 May 2014 Directive explained herein.</p> <p><i>Guidance:</i> The Regulator has published an FAQ document and a tutorial. The 8 May 2014 Directive on devices to provide information and obtain consent with regard to cookies contains many explanatory notes.</p> <p><i>Transition:</i> No transition from previous regime, but grace period until 2 June 2015 to comply with the 8 May 2014 Directive concerning devices to provide information and obtain consent with regard to cookies.</p> <p><i>Compliance:</i> Many websites over the last 2 years have upgraded their privacy policy to make it compliant. A significant number of websites have started implementing mechanisms based on ‘implied consent’ and ‘cookie banners’, in advance of the expiry of the grace period for compliance with the D.P.A. directive of 8 May 2014.</p>

 <p>Latvia</p>	<p>Baltic Law</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> No express reference to browser settings in the relevant legislation.</p> <p><i>Guidance:</i> No regulator guidance available. Just refer to EU documents 02.10. 2013.</p> <p>http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2013/wp208_en.pdf</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> Increasing numbers of organisation's websites generally obtain consent to the use of cookies in a privacy or cookie policy.</p>
 <p>Lithuania</p>	<p>IPnovus Law</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Current browser settings cannot be relied on to obtain consent.</p> <p><i>Guidance:</i> Regulator guidance is available:</p> <p>Recommendations re cookies usage: tips for electronic communications services users, 2011 (orientated towards users, in Lithuanian only) - Rekomendacija dėl slapukų naudojimo: patarimai elektroninių ryšių paslaugų naudotojams, 2011);</p> <p>Recommendations re cookies and similar means (orientated towards service providers, in Lithuanian only - Rekomendacija dėl slapukų ir panašių priemonių naudojimo, 2011);</p> <p>Guidelines re usage of cookies and similar means approved by the Order of the Director of State Data Protection Inspectorate of July 25, 2013 No. 1T-32 (1.12.), entered into force on August 2, 2013 (orientated towards service providers, in Lithuanian only – Gairės dėl slapukų ir panašių priemonių naudojimo, 2013).</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> A large number of organisations have implemented practical mechanisms to comply.</p>
 <p>Luxembourg</p>	<p>MNKS</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Consent can be given via browser settings where technically possible and effective.</p> <p><i>Guidance:</i> No regulator guidance available.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> Companies are integrating a notice about cookies into their privacy policies.</p>

 <p><u>Malta</u></p>	<p>GVTH Advocates</p>	<p>May 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> Might be used to provide consent as this is not excluded by law, however only the mechanism meets the requirements for valid consent.</p> <p><i>Guidance:</i> No regulator guidance available.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> Many businesses (and the developers they rely on) are unaware of the requirements of the law and so adoption of measures to obtain consent has been slow.</p>
 <p><u>Netherlands</u></p>	<p>De Brauw Blackstone Westbroek</p>	<p>May 2015</p>	<p>Amendment implemented</p> <p><i>Browser Settings:</i> Currently no. However, the legislature has not ruled out that consent may be facilitated via browser settings in the future.</p> <p><i>Guidance:</i> ACM issued an updated Q&A (Veelgestelde vragen over de nieuwe cookieregels) on this topic in March 2015.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> An increasing number of Dutch websites are introducing information notices and banners as a means to comply with Dutch cookie legislation. ACM is understood to have developed automated software to detect non-compliance.</p>
 <p><u>Poland</u></p>	<p>Soltysinski Kawecki & Szlezak</p>	<p>May 2015</p>	<p>Amendment implemented</p> <p><i>Browser settings:</i> The wording of the law, as well as the official justification to the law (that accompanied the draft legislation), seem to allow consent to be given via browser settings.</p> <p><i>Guidance:</i> There is no guidance available at the moment. One can rely on the text of the official justification that accompanied the draft legislation (available only in Polish: http://www.sejm.gov.pl/sejm7.nsf/druk.xsp?nr=627 and http://orka.sejm.gov.pl/Druki7ka.nsf/0/6766667061929B14C1257A470043B113/%24File/627-cz.1.pdf).</p> <p><i>Transition:</i> There was a 90 days transitional period (it expired on 22 March 2013).</p> <p><i>Compliance:</i> There is a common awareness of the new regulations, which implemented more stringent requirements for the use of cookies. Most website owners merely comply with the information requirement (by using various banners or bars). The banners (bars) seem to be a preferred solution for ensuring compliance. The same policy is applied on the websites of Polish regulators responsible for e-commerce issues, e.g. the Electronic Communication Office and the Ministry of Administration and Digitalization.</p>

 <p>Portugal</p>	<p>PLMJ</p>	<p>May 2015</p>	<p>Amendment implemented</p> <p><i>Browser Settings:</i> Nothing is provided regarding the specifics of the consent's form. Prior consent is required and must be based on clear and complete information according to the Data Protection Law, in particular concerning the objectives pursued with the processing. Prior consent shall not be necessary only in situations of technical storage or access that: a) has as its sole purpose the transmission of a communication over an electronic communications network; and b) is strictly necessary for the vendor to provide an information society service explicitly requested by the subscriber or user.</p> <p><i>Guidance:</i> No regulator guidance is available.</p> <p><i>Transition:</i> There is no transitional period with regard to cookies-related matters.</p> <p><i>Compliance:</i> Organisations have begun to work on achieving compliance, but some organisations have expressed concerns about the extent of the changes that they are obliged to make to their systems (because of the new paradigm of prior consent) within a short timeframe (as there is no transitional period).</p>
 <p>Romania</p>	<p>Popescu Magdalena-Daniela Law Office</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser Settings:</i> The amended law provides that user consent can be given by using browsers settings.</p> <p><i>Guidance:</i> No regulator guidance is available.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> Romanian websites generally obtain consent to the use of cookies in a privacy or cookie policy.</p>
 <p>Slovakia</p>	<p>Bianchi Malach Tomanova</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser Settings:</i> Browsers settings are regarded as user consent.</p> <p><i>Guidance:</i> No regulator guidance is available.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> While many websites refer to the information on the use of cookies, only some of them require an express consent. However, express consent is not mandatory, as browser settings are sufficient in this respect.</p>

 <p>Slovenia</p>	<p>Law Offices Rok Koren</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser Settings:</i> Consent may be given via browser settings.</p> <p><i>Guidance:</i> Regulator guidance is available at https://www.ip-rs.si/novice/detajl/informacijski-pooblascenec-izdal-smernice-glede-uporabe-piskotkov/?cHash=5842ad1118a2ae1915f350cc1aa98c22</p> <p>and</p> <p>https://www.ip-rs.si/fileadmin/user_upload/Pdf/smernice/Smernice_o_uporabi_piskotkov.pdf</p> <p><i>Transition:</i> Yes – until 15 June 2013.</p> <p><i>Compliance:</i> Mostly in accordance with provisions of Article 157 of the Electronic Communication Act. From Information Commissioner annual report 2013; there were 35 reports related to 141 persons – website operators, concerning little or no notice about cookies and inadequate mechanisms for obtaining consent. Web operators against which inspection procedures were initiated in most cases dealt with the irregularities or violations based on knowledge of the irregularities detected and so regulatory decisions from the Information Commissioner were not required.</p>
 <p>Spain</p>	<p>Uria Menendez</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser Settings:</i> Browser settings could theoretically be used as a legitimate means of obtaining consent “where technically feasible” and provided that the user actively sets the browser “through an action expressly determined for this purpose.”</p> <p><i>Guidance:</i> Regulator guidance is available at: http://www.agpd.es/portalwebAGPD/canaldocumentacion/publicaciones/common/Guias/Guia_Cookies.pdf.</p> <p><i>Transition:</i> There is no transitional period.</p> <p><i>Compliance:</i> A significant proportion of Spanish websites have implemented mechanisms for obtaining an informed consent. These mechanisms generally rely on the use of a ‘cookie’ banner and a cookie policy. The Spanish DPA has issued certain legal reports answering specific questions related to the use of cookies (among others, that opt-out consent is not sufficient). The Spanish DPA continues encouraging companies to implement information/consent mechanisms following the examples provided in the Spanish DPA’s guidance issued in April 2013.</p> <p>Regarding its enforcement activity, as far we know, the Spanish DPA has warned (<i>apercibido</i>) seven (7) infringing companies and has imposed economic fines to two (2) companies of EUR 25,000 and EUR 3,500 respectively.</p>

 <p><u>Sweden</u></p>	<p>Nord & Co Advokatbyrå KB</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser Settings:</i> Consent may be given via browser settings depending on the particular settings and circumstances in each case.</p> <p><i>Guidance:</i> Regulator guidance is available at http://www.pts.se/en-GB/Industry/Regulations/Legislation/Electronic-Communications-Act/QA-about-cookies/</p> <p><i>Transition:</i> There is no transitional period but the regulator has stated that it understands that it may take some time for businesses to achieve compliance.</p> <p><i>Compliance:</i> The majority of Swedish websites have not implemented an explicit consent mechanism, but there is a considerable awareness among larger businesses. The Interactive Advertising Bureau Sweden has initiated self-regulation but this is not approved by the regulator.</p>
 <p><u>UK</u></p>	<p>Bristows</p>	<p>April 2015</p>	<p>Amendment implemented</p> <p><i>Browser Settings:</i> The regulator has said that consent cannot be given via settings currently available on browsers.</p> <p><i>Guidance:</i> Regulator guidance available is at: https://ico.org.uk/for-organisations/guide-to-pecr/cookies/</p> <p><i>Transition:</i> The transitional period expired on 25 May 2012.</p> <p><i>Compliance:</i> A significant proportion of UK websites have implemented mechanisms for obtaining consent. These mechanisms generally rely on 'implied consent' and use a combination of a 'cookie' banner and cookie policy. The ICO remains active in promoting compliance with the consent requirement. However its enforcement activity to date has had limited breadth and is targeted at sites (i) which are very popular with UK users and (ii) about which it has received at least one complaint. The ICO's current approach is to write to organisations it is concerned about and follow up with those that continue to take little or no steps to comply. No fines have been issued to date.</p>

4. Full Responses (Country By Country)

4.1 Austria

*Günther Leissler
Schönherr Rechtsanwälte*

4.1.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Sec 96 of the Austrian Telecommunications Act 2003 (the “TKG”).

4.1.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.1.3 *If so, please enter the name of the law which implements the change.*

Revision of the TKG through BGBl I Nr 102/2011, which entered into force on 22.11.2011 and amended Sec 96 TKG accordingly. Through this revision it was also clarified that not only providers of public communications networks but also providers of information society services are obliged to obtain prior user consent.

4.1.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.1.5 *Information about the Regulator’s response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Joint competencies: RTR - Rundfunk und Telekom Regulierungs GmbH (the telecom regulator; www.rtr.at) and the Data Protection Authority (the data protection regulator; www.dsb.gv.at). Administrative fines for being in breach with the privacy regulations of the TKG will, however, be imposed by local administrative authorities.

4.1.6 *Has the regulator produced any guidance in relation to the amendment?*

No specific guidelines so far.

4.1.7 *If not, please state when, if known, guidance will be published.*

We are not aware of any respective guidelines being published in the near future.

4.1.8 *If so, please list and provide links if possible.*

Not applicable.

4.1.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.1.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Despite the competent regulators so far having refrained from issuing any respective guidance it is, however, explicitly stated in the (non-binding) legislator's explanatory remarks that the user has to give his prior consent and that such consent of the user can be expressed through the browser settings or similar features if that is "technically feasible".

4.1.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Like the recitals to Directive 2009/136/EC, the legislator principally states in his explanatory remarks that browser settings may signify user consent. However, the respective explanatory notes do not provide for any further details such as how the browser settings should be designed.

4.1.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No. We are, however, not aware of any business in Austria so far being subject to investigations or prosecution for not being compliant with its setting of cookies in the light of Sec 96 TKG.

4.1.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

The revised Sec 96 TKG now asks for an explicit consent of the users but in general the accompanying legal framework in by and large remained unchanged. As before, the law asks the user to be provided with all-embracing information about which of his data is to be processed, on which legal grounds, what purposes for and for how long his data will be stored (according to the legislator explanatory remarks such information also can be provided in the *impressum* of the provider's website). With this, for those providers already having been compliant under the former regulatory framework there is not much need for any substantial adaptations.

Basically, we have seen companies updating their privacy policies and we are aware of companies implementing opt in consent solutions, e.g. by providing consent boxes in banners on their websites, or similar. Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.

Usually, companies deal with their setting of cookies by providing the user with respective information. Examples can be found on the websites of Chevrolet Austria and Maestro:

<http://www.chevrolet.at/datenschutz-und-cookies.html>

<http://www.maestrocard.com/at/privatkunden/index.html>

4.2 **Belgium**

*Jan Dhont and Delphine Charlot
Koan Lorenz*

4.2.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Section 129 of the Electronic Communications Act of June 13, 2005 (official title: *Wet betreffende de elektronische communicatie/Loi relative aux communications électroniques*), published in the official journal of June 20, 2005, as amended.

4.2.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.2.3 *If so, please enter the name of the law which implements the change.*

Section 90 of the Act of July 10, 2012 Containing Various Provisions on Electronic Communications (official title: *Wet houdende diverse bepalingen inzake elektronische communicatie/Loi portant des dispositions diverses en matière de communications électroniques*), published in the official journal of July 25, 2012.

4.2.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.2.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Privacy Commission (<http://www.privacycommission.be/en/>); and

Belgian Institute for Postal Services and Telecommunications: (<http://www.bipt.be/Home.aspx?levelID=1&lang=nl>).

4.2.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes. The Belgian Privacy Commission published a guidance No 01/2015 on the use of cookies, dated February 4, 2015. The guidance was released following a public consultation launched on July 31, 2014. The initiative was triggered by the high number of questions the Privacy Commission received from companies.

4.2.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.2.8 *If so, please list and provide links if possible.*

The guidance is available at:

http://www.privacycommission.be/sites/privacycommission/files/documents/recommendation_01_2015_0.pdf

4.2.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The Privacy Commission recommends that businesses apply the following steps:

- Banner: Consent should be explicit (opt-in) and it should be collected via a clear and visible banner – preferably at the top or the bottom of the home page. The banner must provide a link to a full cookie policy. Consent may be collected through clicking on the banner, or, alternatively, inferred from a positive action from the user (see answer to question 4.2.10 below).
- Privacy Policy: A detailed Privacy Policy should be accessible from each page of the website. The Policy must categorize the types of cookies or the purposes for which they are collected. At a minimum, the policy must detail the following points:
 - o Purpose of each type of cookie and/or types or purposes of these cookies.
 - o Categories of information stored.
 - o Data retention periods and deletion requirements.
 - o Possible disclosure of data to third parties.
- Immediate deletion of undesired cookies: Users should be able to withdraw previously given consent at any time and they should be informed about the impact of such withdrawal. Data controllers must delete the cookies as soon as users withdraw their consent.
- Sanctions on companies: A data controller is liable for complying with its own cookies policy. A breach of the cookies policy requirements would qualify as unfair behaviour or misleading information to consumer.
- Disclosure to third parties: Users must be informed of any data that will be communicated to third parties. Third party advertisers must include links next to the advertisements so that users have access to their full policies.

4.2.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Valid consent requires an affirmative action by the user, such as clicking on an icon or ticking a box. Furthermore, users must have the opportunity to accept certain or all cookies or refuse them. They must also be able to modify their choice at any moment.

Consent may be inferred by other positive user action. For instance, further browsing to other pages of a website may amount to valid consent where (i) the user is informed beforehand about what specific action will be interpreted as consent and (ii) the information is necessary to collect user consent for each type of cookies. Social website banners and buttons should not be activated until users have accepted the cookies.

Pop-up windows are not advisable as they are too prominent and are often blocked.

4.2.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

No. Opt-in consent may only be obtained through an active action of a user on the website, in light of the specific information on cookies that is available on the website.

4.2.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

The regulator has not determined any transitional periods for businesses to achieve compliance with the new requirements for the installation and use of cookies. Therefore, businesses are required to comply with the new requirements from the moment the implementing act enters into force (i.e. August 4, 2012).

4.2.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

The general level of compliance is medium. However, the number of Belgian websites which have implemented a mechanism to obtain opt-in consent for the use of cookies on their websites is increasing. Currently, most websites have implemented at least a cookie policy or provide a specific section on cookies in their privacy policy, in which they explain the use of cookies and the possibility to refuse cookies by changing browser settings.

Belgium did not participate in the September 2014 cookies sweep that was initiated as part of a joint action by various DPAs in Europe. According to the 2013 annual report, the Belgian Privacy Commission investigated 4 cases of non-compliance with the cookies rules in 2013. The 2014 annual report will be published soon.

4.2.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

As mentioned above, websites do increasingly implement a mechanism to obtain the express consent of their users for the use of cookies, via a specific banner that remains visible until the users click on it.

Examples:

- <http://www.ryanair.com/fr-be/>
- <http://www.lafourchette.be;>
- <http://www.aspriaclub.be/en;> and
- <https://www.europabank.be/welkomand>

Other websites have implemented a mechanism to obtain implicit consent of users by displaying a notice in a banner that disappears after users have browsed on the website. Examples:

- <http://telenet.be;> and
- <http://www.opel.be.>

4.3 **Bulgaria**

*Desislava Krusteva
Dimitrov, Petrov & Co.*

4.3.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Electronic Commerce Act.

4.3.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.3.3 *If so, please enter the name of the law which implements the change.*

Electronic Commerce Act (ECA).

4.3.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.3.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

The regulatory authority responsible for applying the Electronic Commerce Act is the Commission for Consumer Protection ("CCP"): (<http://www.kzp.bg>).

4.3.6 *Has the regulator produced any guidance in relation to the amendment?*

No. No public guidance is expected in the near future either. It could be said that Art. 4a of the ECA is a very abstract rule and cannot be applied very well in practice.

4.3.7 *If not, please state when, if known, guidance will be published.*

Currently there are no indications as to whether and when such guidance would be published.

4.3.8 *If so, please list and provide links if possible.*

Not applicable.

4.3.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.3.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.3.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

The law does not provide indications on whether browser settings could be used as a means to provide user consent. Considering the wording of Art. 4a of the ECA, it seems unlikely that browser settings will be considered a valid means of providing the required consent.

No guidance to this regard by the regulator has been found.

4.3.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

Neither the regulator, nor the law, has provided for a transitional period. The new rules were promulgated in State Gazette on 29 December 2011 and became applicable at the same time - 29 December 2011. Such immediate entry into force is an exception under Bulgarian law: all legal rules become applicable three days after their promulgation, unless otherwise explicitly provided by law.

4.3.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Currently, as far as we are aware, the level of compliance is low. Nevertheless, it seems that gradually companies/websites are beginning to acknowledge and comply with the provisions on cookies. Three main approaches can be outlined at the moment. First, there are a few websites which provide an option for an express consent through pop-up screens or banners (at the top or bottom of the screen), whereby they should click an OK or similar button accepting the use of cookies, thus complying with the regulatory requirements. Other websites use pop-up screens informing users that the website uses cookies. In these cases, the website states that by continuing to browse through the website, the user is agreeing to the use of cookies, i.e. an implied consent. Last, some websites' approach is to inform users of the use of cookies by including this information in their General Terms and Conditions. However, it is arguable whether those Terms and Conditions are done as a part of the implementation of the new rules or have existed prior to that. In these cases users are generally not given the opportunity to refuse the storing or accessing of information gathered through cookies while continuing to use the service. In all of the above cases users are able to control the cookies through their browser settings.

4.3.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

Some of the websites which obtain an express consent for both registered and unregistered users are:

- [http://www.electrolux.bg/;](http://www.electrolux.bg/)
- [http://ravenol-bg.com/;](http://ravenol-bg.com/)
- <http://www.volkswagen.bg/7/1/4;>
- <http://www.volvo Trucks.com/trucks/bulgaria-market/bg-bg/Pages/home.aspx;>
- <https://farmhopping.com/bg;>

As follows you can find websites which state that by continuing to browse through the website, the user is agreeing to the use of cookies:

- <http://natgeotv.com/bg;>
- <http://www.britishcouncil.bg/privacy-and-terms;>
- <http://www.michelin.bg/web-content/cookies;>
- [http://www.microsoft.com/bg-bg/mobile/privacy/privacy/cookie/cookie-policy/;](http://www.microsoft.com/bg-bg/mobile/privacy/privacy/cookie/cookie-policy/)

Some of the websites which explicitly mention the use of cookies in their Terms and Conditions are listed below. However, where cookies are mentioned, the consent is yet given for the whole document at once. Such consent is given as a part of the registration process and is not specifically addressed to the use of cookies. Some examples to this regard are the following websites (in Bulgarian language):

- <http://vbox7.com/show:toc>

- <http://passport.netinfo.bg/terms/>
- <http://www.alphabank.bg/?page=terms>

While the Terms and Conditions of some websites state that unregistered users are bound with the Terms and Conditions as of the moment of accessing the respective website, this action could hardly be considered as any kind of consent by unregistered users, and it could certainly not be considered as explicit consent of such users for cookies.

4.4 Croatia

Andrea Kožul Pedišić
Vukmir & Associates

4.4.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Article 5.3 of Directive 2002/58/EC, as amended by Article 2(5) of Directive 2009/136/EC, was implemented by the ECA Amendment published in the Official Gazette No. 90 from the year 2011. The respective national statutory provision is contained in Article 100 Paragraph 4 of the ECY and fully corresponds to the provision of Article 5.3 of the Directive.

4.4.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.4.3 *If so, please enter the name of the law which implements the change.*

The Act Amending the Electronic Communications Act (the Official Gazette No. 90/11).

4.4.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.4.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

HAKOM – Croatian Regulatory Authority for network industries (cro. HAKOM – Hrvatska regulatorna agencija za mrežne djelatnosti;
<http://www.hakom.hr/default.aspx?id=7>).

4.4.6 *Has the regulator produced any guidance in relation to the amendment?*

No.

4.4.7 *If not, please state when, if known, guidance will be published.*

Not known.

4.4.8 *If so, please list and provide links if possible.*

Not applicable.

4.4.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.4.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.4.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Not specified.

4.4.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

The general transitional period, including for the provisions of Article 100, Paragraph 4, expired on 10 November 2011.

4.4.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Croatian websites have started implementing specific mechanisms for informing users about cookies, as well as for obtaining user consent for the use of cookies. Moreover, many of websites do regulate cookies in their general terms of use or privacy policies.

4.4.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

The local American Express website contains relatively detailed information about cookies as well as information on settings options in this regard including how to accept cookies from the site. The Cookies Information is available in the Croatian language at: <http://www.americanexpress.hr/zastita-privatnosti/pravila-o-koristenju-web-stranica/o-cookie/>.

Other examples of local Croatian sites that have implemented mechanism more in line with a consent approach are 24sata, Tportal and Večernji which are news portals. This can be found at: http://www.24sata.hr/?meta_refresh=true,

<http://www.tportal.hr/> (http://www.tportal.hr/WebResources/Documents/T-Portal_uvjeti_koristenja.pdf), <http://www.vecernji.hr/> / http://www.vecernji.hr/uvjeti_koristenja/. A pop up appears which links to this page containing more information about privacy and the use of cookies.

Also family sites Klokantica, (<http://www.klokanica.hr/>), (<http://www.klokanica.hr/info/opci-uvjeti-koristenja>), Roda, <http://www.roda.hr/> and Zadovoljna, <http://zadovoljna.dnevnik.hr/>, a telecommunication sites Iskon, <http://www.iskon.hr/> (<http://www.iskon.hr/extra/Uvjetei-koristenja#>), Hrvatski Telekom, <https://www.hrvatskitelekom.hr/>, Tele2, <http://www.tele2.hr/> and Mobis <http://www.mobis.hr/>, Erstebank <http://www.erstebank.hr/hr/> (http://www.erstebank.hr/hr/Zastita_privatnosti), contain information on cookies as well as have implemented a consent approach.

4.5 Cyprus

Michalis Fieros

Lellos P. Demetriades Law Office

4.5.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Section 99(5), The Regulation of Electronic Communications and Postal Services Law, Law No. 112(I)/2004 as amended ('Law')

4.5.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes, the Law was amended by the Amendment of the Regulation of Electronic Communications and Postal Services Law, Law No. 51(I)/2012 on the 18/05/2012.

4.5.3 *If so, please enter the name of the law which implements the change.*

Section 99 (5), The Regulation of Electronic Communications and Postal Services Law, Law 112(I)/2004 as amended ('Law').

4.5.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.5.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

There are two, namely:

- a) The Commissioner for the Regulation of Electronic Communications and Postal Services was responsible for amending the Law (<http://www.ocecpr.org.cy>); and

- b) The Commissioner for the Protection of Personal Data (“Data Commissioner”) is responsible for the application of Section 99 according to Section 107 of the Law (<http://www.dataprotection.gov.cy>).

4.5.6 *Has the regulator produced any guidance in relation to the amendment?*

No. Specific guidance has not been published in relation to the amendment of the Law. However, the Data Commissioner’s annual report for 2012 (published in June 2012) discusses the amendment of Article 5(3) of Directive 2002/58/EC and its national implementation through section 99 (5) of the Law. In the report it is stated that websites using cookies have to obtain users’ prior consent and are required to initially inform the users about the manner in which cookies will be used.

Furthermore, information about the amendment of the Law is provided in the note (in Greek) issued on 16.12.2013 by the Office of the Data Commissioner. (<http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/All/8CBF6E0E97A198EDC2257C43002477BA?OpenDocument>)

The note makes reference to the amendment of Article 5(3) of Directive 2002/58/EC and its’ implementation into national law through section 99(5) of the Law. In addition it is stated that websites using cookies have to obtain users’ prior consent and are required to initially inform the users about the manner in which the cookies will be used. The note also refers to Opinion 04/2012 on “*Cookie Consent Exception*” and Document 02/2013 which provides guidance on obtaining consent for cookies both issued by the Article 29 Data Protection Working Party on 07.06.2012 and 02.10.2013 respectively.

Cookies are also discussed in existing Guidelines issued by the Commissioner on the use of the Internet (“Internet Guidelines”). The Internet Guidelines state that there are legitimate reasons for the use of cookies, maintaining that cookies may be used for monitoring, the formation of a profile in relation to preferences and/or consumer habits, with the ultimate goal being the provision of more informed promotion or advertising of certain products. It is further stated that users have to be informed of the use of their information by a website and have to be provided with the option to refuse.

4.5.7 *If not, please state when, if known, guidance will be published.*

It is understood that a specific Guidance (Guidelines) will be published in the future by the Office of the Commissioner for the Protection of Personal Data.

4.5.8 *If so, please list and provide links if possible.*

N/A.

4.5.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

N/A.

4.5.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Unofficially, the Data Commissioner has said that the pop-up/header-footer bar method is considered good practice.

4.5.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

N/A.

4.5.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No. Initially, the Office of the Data Commissioner unofficially stated that it did not intend actively to enforce the Law until consensus was reached in the EU about the means of obtaining users' consent. At present, the Data Commissioner expects businesses to comply with the Law.

4.5.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Compliance exists to some extent. According to our experience, most major websites have a privacy policy statement with a detailed section on cookies. An increasing number of websites have started implementing practical mechanisms for obtaining users' consent.

4.5.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

<http://cy.playstation.com/>
<http://www.pamenafame.com/>
<http://www.soldoncyprus.com/>
<http://www.godivecyprus.co.uk/>
<http://beautyline.com.cy/>

4.6 **Czech Republic**

Martin Voborník

VOBORNÍK•NIGRINI•KIPIEL

4.6.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Article 89 section 3 of the Act No. 127/2005 Coll., Act on Electronic Communications, as amended.

- 4.6.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

No. The valid wording of the respective law still contains the wording reflecting the Directive 2002/58/EC before the amendment made by the Directive 2009/136/EC (the duty of the provider to offer the right to refuse the data processing). We are of the opinion that the opt-in system required by the respective Directive has not been introduced into the Czech legal system yet.

- 4.6.3 *If so, please enter the name of the law which implements the change.*

Not applicable.

- 4.6.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

We are not aware of any pending legislation which would deal with this issue.

It needs to be also mentioned that the Ministry of Trade responsible for electronic legislation is in line with the respective EU legislation. The Office for Personal Data Protection issued a standpoint sharing our view that the respective changes have not been implemented yet, but then based on some further communication they reached the conclusion that the evaluation of the existing Czech legislation will depend on the further discussions on the EU level regarding interpretation of certain aspects of the new EU legislation. They have not issued any final standpoint till now.

- 4.6.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

The regulator responsible for the area of electronic communications in the Czech Telecommunication Office. In the particular areas where personal data might be involved the Office for Protection of Personal Data should be involved.

- 4.6.6 *Has the regulator produced any guidance in relation to the amendment?*

No.

- 4.6.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

- 4.6.8 *If so, please list and provide links if possible.*

Not applicable.

- 4.6.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.6.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.6.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Not applicable.

4.6.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

Not applicable.

4.6.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Not applicable.

4.6.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

Not applicable.

4.7 Denmark

***Arly Carlquist and Marie Albæk Jacobsen
Bech-Bruun***

4.7.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Act No. 169/2011 on electronic communications networks and services.

4.7.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.7.3 *If so, please enter the name of the law which implements the change.*

Executive Order No. 1148/2011 on the requirements for information and consent, when storing or gaining access to information in the end user's terminal equipment.

4.7.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

N/A.

4.7.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

The Danish Business Authority: (<http://www.erst.dk/>).

4.7.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes.

4.7.7 *If not, please state when, if known, guidance will be published.*

N/A.

4.7.8 *If so, please list and provide links if possible.*

Yes, the Danish Business Authority has published the following guidance: <https://erhvervsstyrelsen.dk/sites/default/files/media/engelsk-vejledning-cookiebekendtgorelse.pdf>

4.7.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The guidance recommends the following steps:

1. Check if your service is storing or gaining access to information in users' terminal equipment.
2. Check if the information, stored or gained access to, is even necessary.
3. Check if your service's storing or gaining access to information in users' terminal equipment is exempted for the requirements for information and consent.
4. Decide how to provide users with comprehensive information and collect consent.

4.7.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

The guidance does not provide an explicit statutory method for obtaining consent but does state that it may be obtained *e.g.* by:

- i) ticking a box, clicking a button or completing a form in connection with provision of the necessary information, or
- ii) active use of a service where it must be expected that the user will be informed that storage of or access to information will take place (if not already denied).

The guidance makes room for the individual services to develop new, innovative fitting solutions that heightens user control.

4.7.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

The law defines consent as being a voluntarily, specific, and informed declaration of will. Consent by means of a user's browser settings is not currently accepted in Denmark as it is the general opinion of the regulator that the current browser solutions do not fully ensure compliance with the user's non-acceptance of cookies.

4.7.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No – a statutory transitional period will not apply. The regulator had previously informed the public that based on the updated guidelines, it would start enforcing the cookie legislation and that any 'informal' transition period was definitely over. However, subsequently the regulator has stated that "enforcement" will primarily consist of guidance.

4.7.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

The majority of websites have implemented not only privacy and cookie policies but have also begun using bars at the top of or elsewhere on the website to inform and collect consent on cookies. The bar seems to be a preferred solution for ensuring compliance.

4.7.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

One explicit example is found at the homepage for the Danish Ministry of Business and Growth: <http://www.evm.dk/english>. However, as above, the bar seems to be a preferred solution for ensuring compliance.

4.8 **Estonia**

Timo Kullerkupp

NJORD Advokaadibüroo – Estonia

4.8.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Relevant law is Electronic Communications Act (in Estonian: Elektroonilise side seadus).

4.8.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

It is the opinion of the relevant authorities that the rules set forth in Section 102 sub-clauses 3 and 4 (include also the rules prescribed in Article 2 (5) of Directive 2009/136/EC) and it has notified the European Commissioner accordingly. However, it is our view that these rules still only require the provision of an opportunity to opt-out rather than obtaining consent.

The rules states as follows:

A communications undertaking is required to maintain the confidentiality of all information which becomes known thereto in the process of provision of communications services and which concerns subscribers as well as other persons who have not entered into a contract for the provision of communications services but who use communications services with the consent of a subscriber; above all, it must maintain the confidentiality of:

- 1) information concerning specific details related to the use of communications services;
- 2) the content and format of messages transmitted over the communications network;
- 3) information concerning the time and manner of transmission of messages.

A communications undertaking may process the (i) information concerning specific details related to the use of communications services, (ii) the content and format of messages transmitted over the communications network, and (iii) information concerning the time and manner of transmission of messages if the undertaking notifies the subscriber, in a clear and unambiguous manner, of the purposes of processing the information and gives the subscriber an opportunity to refuse the processing. Additionally it is stated that the above obligation does not restrict the right of the undertaking to collect and process, without the consent of a subscriber, information which processing is necessary for the purposes of recording the transactions made in the course of business and for other business-related exchange of information. In addition to the above, the restriction provided does not limit the right of a communications undertaking to store or process information without the consent of a subscriber if the sole purpose thereof is the provision of services over the communications network, or if it is necessary for the provision, upon a direct request of the subscriber, of information society services within the meaning of the Information Society Services Act.

4.8.3 *If so, please enter the name of the law which implements the change.*

Not applicable.

- 4.8.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

According to our knowledge there is no implementation legislation pending on the matter.

- 4.8.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Data Protection Inspectorate (www.aki.ee).

- 4.8.6 *Has the regulator produced any guidance in relation to the amendment?*

No.

- 4.8.7 *If not, please state when, if known, guidance will be published.*

We are not aware of any such activities.

- 4.8.8 *If so, please list and provide links if possible.*

Not applicable.

- 4.8.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

- 4.8.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

- 4.8.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Not applicable.

- 4.8.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

Not applicable.

- 4.8.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

We have seen that large organisations are in the process of updating their privacy policies with more detailed notice about cookies (or have created a separate cookie policy).

For example: https://www.elfa.se/elfa3~ee_en/elfa/mime?file=help/cookies.html

We are not aware of any organisation that has implemented a practical mechanism for obtaining consent from visitors to its websites. The regulator has not undertaken any enforcement action in relation to cookies and has suggested that it has no plans to do so at present.

4.8.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

We have not found any examples of companies that have introduced a mechanism to obtain express consent in Estonia.

4.9 Finland

*Markus Lampinen
Backström & Co.*

4.9.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Act on the Protection of Privacy in Electronic Communications (516/2004). This Act was abolished and replaced by the Information Society Code (917 / 2014) as of 1 January 2015.

4.9.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.9.3 *If so, please enter the name of the law which implements the change.*

Act on the Protection of Privacy in Electronic Communications (516/2004, amendment 365/2011). This Act was abolished and replaced by the Information Society Code (917 / 2014) as of 1 January 2015.

4.9.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.9.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Finnish Communications Regulatory Authority (www.ficora.fi).

4.9.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes.

4.9.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.9.8 *If so, please list and provide links if possible.*

The link to the regulator's webpage containing information on cookies is:

<https://www.viestintavirasto.fi/en/cybersecurity/safeuseofservices/cookies.html>

4.9.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The Guidance requires that users are provided with clear and comprehensive information on storage of cookies and the reason why cookies are stored. The methods of providing information and offering the right to refuse cookies must be as user-friendly as possible.

The Guidance makes a reference to the Act on the Protection of Privacy in Electronic Communications (which has now been replaced by the Information Society Code) and clarifies that the user's consent can be obtained by browser settings or settings of other applications in use.

4.9.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Please see the answer above.

4.9.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Yes; this has been stipulated in the preparatory work of the Act on the Protection of Privacy in Electronic Communications (which has now been replaced by the Information Society Code). No specific consent mechanisms are required. The law is flexible in this respect.

4.9.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No transitional period is granted.

4.9.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Generally speaking, websites include information on cookies and information collected. The users are informed that they can reject cookies by changing browser settings. Certain websites also request express consent for cookies.

4.9.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

<http://company.nokia.com/en>

<http://www.nordea.fi/Personal%2bcustomers/760004.html>

4.10 **France**

Anne Perrin
ALP Avocat

4.10.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Legislative Order n° 2011-1012 dated August 24, 2011 relating to the Electronic Communications (the so-called “*Telecom Package Ordinance*”).

4.10.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.10.3 *If so, please enter the name of the law which implements the change.*

Article 32 II of the French Act n° 78-17 dated January 6, 1978 on Data Processing, Data Files and Individual Freedoms (French Data Protection Act 78).

4.10.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.10.5 *Information about the Regulator’s response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Commission Nationale de l’Informatique et des Libertés (“CNIL”) (www.cnil.fr).

4.10.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes.

4.10.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.10.8 *If so, please list and provide links if possible.*

Yes, the CNIL has published a guidance on December 20, 2011 (<http://www.cnil.fr/english/news-and-events/news/article/what-the-telecoms-package-changes-for-cookies/#>), completed on December 5, 2013 (<http://www.cnil.fr/documentation/deliberations/deliberation/delib/300/> - French-drafter only).

4.10.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The CNIL recommends the following steps:

1. Audit cookie use on each website.
2. Categorise cookies by purpose and ‘intrusiveness’:
 - Cookies which are subject, in view of their intrinsic purpose, to user’s explicit consent (opt-in) (e.g. without limitation targeted ads, certain analytics, “sharing button” or similar applications of social networks when enabling data collection without the consent of the individuals concerned) cannot be implemented/activated onto the equipment as long as users’ consent cannot be deemed given. In such case, ads can only be displayed without default tracking until the consent is obtained. To the same, consent shall be obtained each time a new purpose is added to the existing ones, for which the consent has already been obtained. The consent is deemed given for a 13-month duration only, meaning that upon expiration of that period, the technologies should arrange a new consent be obtained. Consent refusal/withdrawal should not lead to serious negative consequences: users who refuse a cookie might still be in a position to benefit from the service.
 - Some cookies are exempted from obtaining consent when necessary to the performance of a service required by the user (e.g. shopping basket cookies, session ID cookies for the session duration, or in limited cases, persistent cookies restricted to few hours; authentication cookies; session cookies generated by a multimedia player; persistent cookies enabling the customization of the user interface). Certain analytics might also be exempted from users’ consent, provided that (i) a fair information notice is provided to users who can still oppose to the processing, (ii) data collected is not cross-linked with other processing, (iii) the cookie is only intended to the production of anonymous statistics and does not allow any browsing tracking on different services, (iv) the cookie is stored for a full 13-month period only, which cannot be extended as a result of new further connections, and (v) use of IP address for geolocation purposes does not allow the identification of the user street.
3. Choose an appropriate means of obtaining consent based on the categorisation (a two-steps process):

- “User’s information”: User, who connect to the service for the first time, shall be properly informed (e.g. by means of a banner on the home screen or dedicated screen) of (i) the specific purposes of each of the contemplated cookies, (ii) the possibility to oppose to such cookies and to modify accordingly the relevant settings by clicking on the appropriate link displayed on the banner or screen, and (iii) the fact that their continuous browsing or use of the service implies their consent to the implementation of cookies onto his/her equipment. As a matter of example, information could be drafted as follows: *“By continuing using this service, you agree to the use of [cookies or other trackers] intended to offer you [ads tailored to you areas of interests] and [to carry out general statistics on the use of the service]. To learn more and configure cookies, click here.”* Since consent shall not be ambiguous, the banner/screen shall not disappear as long as users have not opened another screen of the service or clicked on any other items of the first one. Unless users have consented in advance, implementation or effective activation of cookies cannot be carried out if (i) users do not continue using the service (the simple absence of any action cannot be considered as an expression of will), or (ii) users click on the link and refuse the implementation of cookies.
- When users have clicked on the *“To learn more and configure cookies, click here”* link, they must be provided with efficient solutions to oppose to the implementation of cookies. The choice to consent to, or refuse cookies (i) shall be possible for all of the tracking technologies used by the operator (cookies, flash cookies, fingerprinting, plugins, pictures stored on the browser, memory space specific to each browser, etc.), and (ii) be offered considering each cookie purpose (e.g. ads, analytics, social networks). Effective exercise of user’s choice may vary, and consist without limitation of (a) cookies settings mechanism directly available on the service or the application; (b) redirection to tracking opposition tools that are proposed by solutions of analytics, ads or social networks, provided that such solutions remain easy-to-use and operational on any and all devices and browsers, and that no personal data of users who opposed to cookies is collected; (iii) under certain circumstances, browser settings.

4.10.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

In addition to the above, the CNIL suggests the following means might be used to obtain consent.

- The display of a banner or specific screen that (i) describes the purposes of the cookies, (ii) explicitly requests to users whether they consent to the cookies deposit by cookies families, and (iii) explains the means to withdraw subsequently users consent,
- An overprinting space of request for consent,
- Check boxes upon the first registration to, or activation of the service, that allow users to consent to cookies by categories of purposes,

- Specific buttons to activate functionalities of a given service allowing cooking implementation (e.g. social networks plugins).

The CNIL considers the following means as inappropriate:

- Pop ups windows , since often blocked by browsers,
- Acceptance of the Service T&Cs or of any changes thereto, since a user might be willing to accept those terms, but also to specifically refuse the clause stating that he/she accepts cookies for targeted ads or other “intrusive” purposes,
- Browser settings.

4.10.11 Can consent be given by a user’s browser settings under the law and the regulator’s guidance in your jurisdiction?

Like the recitals to Directive 2009/136/EC, Art. 32 II of the French Data Protection Act expressly states that the user consent may result from appropriate settings of his/her connection device or any other device under his/her control. However, the CNIL considers companies cannot rely on browser settings at present, as this Authority considers that:

- alone, this solution is insufficient because it does not provide the user with “clear and comprehensive” information along with the consent request;
- today, a website that would want to rely this mechanism has no means to verify that the user’s browser settings are effectively enabled correctly;
- these settings would be applied to all cookies, even those that are exempted from prior consent, because the browser has no way to make such a distinction;
- these settings are complex to enable for the user, and vary significantly from one browser to another.

Since current browsers alone do not offer settings that address the requirements of the law, the Legislator has foreseen other possibilities by specifying that the user’s consent may also be expressed by “any other device placed under his control”. This could be, for example, a browser plug-in or a web consent management platform.

4.10.12 Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?

No. However, the CNIL was aware that effective compliance would take longer to implement for some websites than others. It was only on July 11, 2014 that the CNIL has launched a programme to monitor the legal compliance of the relevant operators (around 50 controls/inspections performed during the second semester of 2014).

4.10.13 Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?

The CNIL’s annual report for 2014 points out numerous non-compliances (implementation of cookies on the first visit of a homepage, serious negative

consequences on users who refuse a cookie, cookie-related information storage duration, security). Based on these findings, the CNIL has decided on the continuation of the monitoring programme and, where applicable, to take appropriate measures (formal warnings, sanctions/penalties, publication of the sanctions).

4.10.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

<http://www.dassault-aviation.com/fr/>

<http://www.renault.fr/>

<http://www.carrefour.fr/>

<http://www.fnac.com/>

<http://www.interflora.fr/>

4.11 Germany

***Dr. Jürgen Hartung
Oppenhoff & Partner***

4.11.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

In relation to cookies, Sections 13 and 15 (and potentially Section 12) of the German Telemedia Act apply (*Telemediengesetz*; German version available under <http://www.gesetze-im-internet.de/tmg/index.html>).

4.11.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

There has been no explicit implementation in Germany yet. However, there has been some dispute if the current law already covers this amendment. According to Sec. 13 Telemedia Act, users need to be informed about cookies and based on Sec. 15 Telemedia Act, a provider may use traffic data (usually collected by cookies) only (i) for the delivery of services or, (ii) otherwise (for purposes like advertising) only without personal data (e.g. by use of an alias) and subject to an opt-out right of data subjects, or (iii) with consent as required for other purposes based on Sec. 12 Telemedia Act. Certainly, the current law does not cover issues like applicability to information other than personal data.

4.11.3 *If so, please enter the name of the law which implements the change.*

Not applicable

4.11.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

On June 17, 2011, the chamber of German parliament representing the federal states (*Bundesrat*) suggested to implement in the Telemedia Act a wording almost

identical to the wording of the amended Art. 5 (3) Directive 2002/58/EC. The German government (*Bundesregierung*) rejected this proposal on the basis that it wanted to cover the issue within the planned implementation of changes to the German Telecommunications Act (*Telekommunikationsgesetz*). However that law, passed on February 9, 2012, did not include the necessary amendments.

Consequently, another draft bill was presented to the competent chamber of German parliament (*Bundestag*) on January 24, 2012, again proposing the wording suggested by the Bundesrat. However, again, this proposal did not pass parliament.

Finally, in 2014, the German government stated that no implementation was necessary at all because the German law already covered the legal situation according to the amended Art. 5 (3) of Directive 2002/58/EC. This statement was officially confirmed by the European Commission.

In February 2015, a joint declaration of all Federal States' data protection authorities and the Federal Commissioner for Data Protection was published. There, the data protection authorities criticize the German government for not implementing the amendment of Directive 2002/58/EC. They share the opinion that the current law is only an incomplete implementation of the Directive and prompted the legislator to immediately implement Art. 5 (3) of Directive 2002/58/EC into German law.

However, with a view to the upcoming data protection regulation, it is rather unlikely that any amendment of the current legal situation (as described above in 4.11.1) will be made.

4.11.5 Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?

For the application of the Telemedia Act, there is no central regulatory responsibility established in Germany. Accordingly, the federal data protection officer (*Bundesbeauftragter für Datenschutz und Informationsfreiheit*, www.bfdi.bund.de) is only responsible for telecommunications and postal companies. Apart from that, the respective state regulators of the 16 German states are responsible (overview¹).

4.11.6 Has the regulator produced any guidance in relation to the amendment?

No.

4.11.7 If not, please state when, if known, guidance will be published.

Probably due to the ongoing discussion about the question whether there is a need to amend the existing laws, no guidance has been published up to date and it has not been announced when any official guidance will be available. Due to the fact that 17 regulators need to agree on guidelines, this usually will take a considerable time until uniform guidance is available. Until then, it is expected that German

¹ http://www.bfdi.bund.de/DE/AnschriftenUndLinks/AnschriftenUndLinks_node.html.

regulators will apply guidance available from the Art. 29 Working Party, from foreign regulators or single German regulators that may issue guidance.

4.11.8 *If so, please list and provide links if possible.*

Not applicable.

4.11.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.11.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.11.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Not applicable.

4.11.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

Not applicable as there is both no amendment of the laws and no guidance is available.

4.11.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Assuming that in Germany, while there is no law explicitly implementing the amendment, it has been argued that the current law already provides severe restrictions on cookies (please refer above), we consider the level of implementation of the current law as rather low.

Due to the ongoing legal uncertainty caused by the lack of implementation of the amended Art. 5 (3) of Directive 2002/58/EC, only few organisations take care of being compliant with the amended Art. 5 (3) of Directive 2002/58/EC. Those organisations who do try to implement the requirements of the amended Art. 5 (3) of Directive 2002/58/EC have the same practical problems like in other countries, in particular implementing practical mechanisms for obtaining consent from visitors to websites and control of cookies at the 'back end'.

4.11.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

As above, we are not aware of any such examples.

4.12 Greece

Sevy Stefanidi

Zannos and Associates Law Firm

4.12.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Law 3471/2006 (art. 4 par. 5).

Title: Protection of Private Data and Privacy in the Electronic Communications sector and amendment of Law 2472/1997 about Protection of Private Data.

4.12.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.12.3 *If so, please enter the name of the law which implements the change.*

Law 4070/2012 implemented the amendment of Art. 5.3 of Directive 2002/58/EC and reformed the respective article of Law 3471/2006 (art.4 par. 5).

4.12.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.12.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

The Greek Data Protection Authority is the competent authority for supervising compliance with the regulations in the sector of Private Data Protection and for issuing opinions and guidelines about specific individual matters relating to the use of personal data (<http://www.dpa.gr>).

4.12.6 *Has the regulator produced any guidance in relation to the amendment?*

The Greek DPA, adopting the opinions 2/2010, 16/2011 and 4/2012 of the Article 29 Data Protection Working Party (which refer to the following matters in regard to the storage of cookies), has published certain *instructions* on its website:

1) The storage of cookies under certain requirements and the amendment of Law 3471/2006

http://www.dpa.gr/portal/page?_pageid=33,146950&_dad=portal&_schema=PORTAL

2) Ways of informing the user or the subscriber about the storage of cookies

http://www.dpa.gr/portal/page?_pageid=33,147142&_dad=portal&_schema=PORTAL

3) Ways of lawfully receiving the consent of a subscriber or user for the storage of cookies.

http://www.dpa.gr/portal/page?_pageid=33,147164&_dad=portal&_schema=PORTAL

4) The exemptions of certain cookies categories from the obligation of receiving informed consent of a subscriber or user.

http://www.dpa.gr/portal/page?_pageid=33,147186&_dad=portal&_schema=PORTAL

5) Cookies which are not included in the above exemption: Advertising cookies.

http://www.dpa.gr/portal/page?_pageid=33,147230&_dad=portal&_schema=PORTAL

6) Cookies which are not included in the above exemption: Web Analytics cookies

http://www.dpa.gr/portal/page?_pageid=33,147274&_dad=portal&_schema=PORTAL

7) Suggested practices for controlling the use of cookies which are installed in a user's or subscriber's computer.

http://www.dpa.gr/portal/page?_pageid=33,147318&_dad=portal&_schema=PORTAL

4.12.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.12.8 *If so, please list and provide links if possible.*

Not applicable.

4.12.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Please see answer to 4.12.6.

4.12.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Extensive and Clear Information

Article 4 paragraph 5 of Law 3471/2006 anticipates that the consent of the user or the subscriber must be given after extensive and clear information in accordance with art. 11 par 1 of Law 2472/1997 – ‘Protection of Private Data’.

Furthermore, the Greek DPA, in its opinion 7/2011 (par.10), which was issued before the amendment of the Directive 2009/136/EC in the Greek Law but acknowledged the above Directive's immediate effect in Greece, said that the Controller can install cookies only in the event that he/she has obtained the user's consent, providing the user with extensive and clear information about:

1. The use of cookies
2. Purpose of use
3. The access right of the Controller
4. The recipients of users' private data (if any)

Moreover, instructions that the Greek DPA uploaded on its website state that a note included in the general terms of use or the policy terms of a website is not considered to be sufficient according to law 3471/2006.

Therefore the Greek DPA suggests that this note should be placed in a discrete area of a website page and to be specific for each case of cookies storage.

Prior Consent

In relation to the mechanisms that should be used in order lawfully to obtain the consent of a user or subscriber, the Greek DPA:

(a) suggests the use of pop-up windows. Such consent can be required only once for all type of cookies that get stored by the same service provider.

(b) refers to art. 4 par. 5 of Law 3471/2006, which anticipates that the consent could be given through appropriate browser settings. However, the DPA clarifies that the implementation of the above provision has a special requirement: the consent must be requested and given for each cookie stored. Therefore the predetermined acceptance for the storage of all cookies through browser settings is not deemed to be consent.

(c) indicates that the user or subscriber must also have the right to revoke his consent by the same means that this consent was given to the service provider.

4.12.11 Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?

Please see answer to 4.12.10 above.

4.12.12 Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?

No.

4.12.13 Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?

While websites, mostly those of big companies, have implemented the opt-in system in accordance with certain requirements indicated by the Greek DPA, the majority of other websites in Greece have not implemented the opt-in system ; they only include the statement in their "terms of use" field that they use cookies and inform users about the purpose of such usage and that they may remove cookies by the browser's settings.

4.12.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

<https://www.wind.gr>

https://www.ote.gr/web/guest/sl/203100/prosfores/home?lastLayoutId=18&productId=double_play_24_economy_18m_portability_offer&gelid=CjwKEAjwm-aqBRD39YPqhbzthzYSJACFj-AtfljsZS0aEwpW13Kb4ya_aLPJ2uVO6hwIVXaQ_6hZzBoCCYrw_wcB#_idRef_double_play_24_economy_18m_portability_offer

<http://www.aroma-elladas.gr/index.php/component/k2/item/156-cookiela>

<http://www.nutri-book.gr>

4.13 Hungary

Dr Péter Szemán

Bán, S. Szabó & Partners

4.13.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Act C of 2003 on the electronic communications (the “Electronic Communications Act”).

4.13.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.13.3 *If so, please enter the name of the law which implements the change.*

Act CVII of 2011 on the amendment of certain electronic communication laws.

4.13.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.13.5 *Information about the Regulator’s response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

National Data Protection and Information Liberty Authority (www.naih.hu) (the “Data Protection Authority”).

National Media and Infocommunications Authority (<http://www.nmhh.hu>) (the “Infocommunications Authority”).

4.13.6 *Has the regulator produced any guidance in relation to the amendment?*

Not yet. Only the Infocommunications Authority issued an announcement about the decisions made by the European Parliament on May 6, 2009 affecting the electronic media communications regulations. The announcement does not contain any details about the local implementation of the new laws. The Data Protection Authority refers to the opinions of the Article 29 Data Protection Working Party.

4.13.7 *If not, please state when, if known, guidance will be published.*

The Data Protection Authority refers to the opinions of the Article 29 Data Protection Working Party, especially opinion 2/2010 on online behavioural advertising and opinion 04/2012 on cookie consent exemption.

4.13.8 *If so, please list and provide links if possible.*

Not applicable.

4.13.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The relevant provision of the Electronic Communications Act gives any guidance which requires the consent of the user or subscriber that is given following information received about the details of the data processing.

4.13.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

The consent should be interpreted in compliance with the 95/46/EC directive and the recommendations of Article 29 Data Protection Working Party.

4.13.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

The Electronic Communications Act does not give any clear answer whether the user's browser settings can be accepted as consent. According to the previous guidelines of the data protection commissioner, the consent should be clear and definite, after receiving proper information about the data processing, so we do not believe that user's browser settings can be interpreted as valid consent.

4.13.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

Since no guideline is applicable, the new regulations must be applied following the effective date of the new provisions that is 3 August 2011.

4.13.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Companies tend to follow the cookie guidelines and put data privacy notice on their website that contains cookie clause as well.

4.13.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

On the following websites consents are requested for cookies:

http://www.budapestbank.hu/info/doc_cookie.php

http://www.electrolux.hu/altalanos/tamogatas/altalanos/felhasznalasi-feltetelek/Electrolux-Cookie-Guideline_hu/

<http://www8.hp.com/hu/hu/privacy/privacy.html#cookies>

4.14 **Ireland**

***John O'Connor
Matheson***

4.14.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Regulation 5 of the European Communities (Electronic Communications Networks and Services) (Data Protection and Privacy) Regulations 2003.

4.14.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.14.3 *If so, please enter the name of the law which implements the change.*

Regulation 5 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011.

4.14.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.14.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

The Data Protection Commissioner ("DPC").

(<http://dataprotection.ie/docs/Home/4.htm>).

4.14.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes.

4.14.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.14.8 *If so, please list and provide links if possible.*

Yes, the DPC has published the following guidance:

[Guidance Note on Data Protection in the Electronic Communication Sector \(PDF\).](#)

4.14.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The DPC recommends that businesses must give clear communication to the user as to what they are being asked to consent to in terms of cookies usage and give them a means of giving or refusing that consent. The exact means of obtaining consent are outlined in 4.14.10 below.

Like Article 5.3 of Directive 2002/58/EC as amended, Regulation 5 provides an exception to the requirement to obtain consent where the storage of, or access to, information is strictly necessary to provide an information society service requested by the user. The DPC states that information on such use should be made readily available to the user in order for this exception to apply.

4.14.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

The DPC guidance suggests that browser settings might be used to obtain consent. In the annual report for 2011, the DPC stated that the scale of the consent, in his view, is relatable to the intrusiveness of the cookie and notes in the guidance that where third party or tracking cookies are being deployed, it is particularly important that the requirements are met. The guidance indicates that practically, for website operators, the DPC suggest that consent is obtained in one of the following ways:

1. by implication by providing a prominent notification at the point of entry to the site, requiring as best practice a positive action to dismiss the notification, and containing a link to a cookie statement which outlines in greater detail how the site makes use of cookies; or
2. expressly, through the use of an opt-in check box which the user can tick if they agree to accept cookies.

4.14.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Like the recitals to Directive 2009/136/EC, Regulation 5 of the 2011 Regulations expressly states that browser settings may signify user consent. However, the DPC has said that reliance should not be placed on default browser settings.

4.14.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No. The DPC in the 2011 annual report stated that “as this is now a well established law we are at the stage where we expect to see significant efforts made by websites to achieve compliance. We are mindful of industry initiatives to improve user knowledge and choice in relation to behavioural advertising but any website dropping or permitting cookies to be dropped or read will need to take some form of action now to meet its responsibilities.”

4.14.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

In Ireland, from what we have seen, it would appear that some large organisations have updated their privacy policy with a more detailed notice about cookies (or have created a separate cookie policy). For example:

- http://www.aerlingus.com/i18n/en/htmlPopups/privacy_policy.html
- <http://www.thejournal.ie/cookies-policy/>
- <http://www.oireachtas.ie/parliament/privacypolicy/>

There are no objective statistics currently available on the level of compliance in Ireland. Ireland was not included in the “cookie compliance sweep” undertaken by the Article 29 working party and the most recent exercise of its kind in Ireland took place in December 2012, when the DPC wrote to 80 websites seeking information on the steps that they have taken to meet the obligations placed upon them. The DPC stated at that time that it was disappointed with the response of websites. The 2014 Annual Report of DPC states that throughout 2013, it engaged with the websites to ensure they achieved compliance with the revised rules. As a result of the exercise the DPC produced revised guidance (discussed above) to assist organisations whose websites deploy cookies.

4.14.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

As above, there are very few examples of companies that have introduced a mechanism to obtain express consent in Ireland. However, from our experience to date, it appears that many organisations are using pop-ups or banner ads, which serve as a prominent notification to inform users of the use of cookies. This is known as giving consent by implication (ie, continuing to use the website) in relation to such cookies. For example:

- <http://www.aib.ie/personal/home>
- <https://www.bankofireland.com>
- <http://www.rte.ie/>

4.15 Italy

*Luigi Manna and Michele Papa
Martini Manna Avvocati*

4.15.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Data Protection Code (Legislative Decree no. 196/2003), Article 122.

4.15.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes. However, the earlier version of the relevant Article of the Data Protection Code (Article 122) already required consent; actually, it provided a stricter regime on cookies than the amended one. As a result, the implementation of Directive 2009/136EC has actually made it easier for ISPs to use cookies under Italian laws.

4.15.3 *If so, please enter the name of the law which implements the change.*

Legislative Decree no. 69 of May 28, 2012.

4.15.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.15.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Garante per la protezione dei dati personali (<http://www.garanteprivacy.it>).

4.15.6 *Has the regulator produced any guidance in relation to the amendment?*

It has provided a FAQ document in Italian and English and a web tutorial; furthermore it has issued a Directive on "Simplified arrangements to provide information and obtain consent regarding cookies" which is quite detailed as to how to comply.

4.15.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.15.8 *If so, please list and provide links if possible.*

[FAQs on Cookies](#)

[Web tutorial](#)

[Directive on Simplified Arrangements to Provide Information and Obtain Consent Regarding Cookies](#)

4.15.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The “Simplified Arrangements to Provide Information and Obtain Consent Regarding Cookies” document states that for businesses it is sufficient to adopt a suitably sized banner, popping up as soon as a user accesses the website, containing a short information notice (with a link to an extended information notice) and a statement that, by continuing browsing the website, the user gives his/her implied consent.

4.15.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

1) Implied consent, provided that the banner cautions as to the actions that imply consent; 2) Express consent to single cookies; 3) Browser settings.

4.15.11 *Can consent be given by a user’s browser settings under the law and the regulator’s guidance in your jurisdiction?*

Yes.

4.15.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

Not to the main 2012 law; but it has granted until June 2, 2015 to comply with the 2014 Directive.

4.15.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Medium.

4.15.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

<http://www.fiat.it>

www.ducati.it

www.mazda.it

www.experian.it

www.morellato.com

www.chebanca.it

4.16 Latvia

Juris Eglītis *Baltic Law*

4.16.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

[Law On Information Society Services](#)

http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Law_On_Information_Society_Services.doc

4.16.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.16.3 *If so, please enter the name of the law which implements the change.*

[Law On Information Society Services](#) (last amendments came into force on 18 July 2012).

4.16.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.16.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

DATA STATE INSPECTORATE (hereinafter 'DSI') –
<http://www.dvi.gov.lv/eng/>

4.16.6 *Has the regulator produced any guidance in relation to the amendment?*

No.

They refer EU working document on obtaining consent for cookies (adopted 02.10.2013) but it is not published by regulator.

http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2013/wp208_en.pdf

4.16.7 *If not, please state when, if known, guidance will be published.*

Unknown.

4.16.8 *If so, please list and provide links if possible.*

Not applicable.

4.16.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.16.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.16.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Not applicable.

4.16.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No.

4.16.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

The level of compliance is quite low. However, increasing number of companies have started to comply with these requirements.

4.16.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

www.nordea.lv

<http://www.riga.bentleymotors.com/legal/>

<https://www.maini.lv/en/privacy-policy/>

4.17 **Lithuania**

Jolanta Kaminskaite and Ruta Andriuleviciute
IPnovus Law

4.17.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Law on Electronic Communications of the Republic of Lithuania.

4.17.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.17.3 *If so, please enter the name of the law which implements the change.*

Law on Electronic Communications of the Republic of Lithuania No. IX-2135 (the amendments came into force on August 1st, 2011).

4.17.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.17.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

THE STATE DATA PROTECTION INSPECTORATE (hereinafter – DPI), www.ada.lt.

4.17.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes, DPI produced Recommendations and Guidelines.

4.17.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.17.8 *If so, please list and provide links if possible.*

Yes, DPI has published the following Recommendations and Guidelines:

- i) Recommendations re cookies usage: tips for electronic communications services users, 2011 (orientated towards users, in Lithuanian only - [Rekomendacija dėl slapukų naudojimo: patarimai elektroninių ryšių paslaugų naudotojams](#), 2011);
- ii) Recommendations re cookies and similar means (orientated towards service providers, in Lithuanian only - [Rekomendacija dėl slapukų ir panašių priemonių naudojimo](#), 2011);
- iii) Guidelines re usage of cookies and similar means approved by order of the Director of the DPI of July 25, 2013 No. 1T-32 (1.12.), entered into force on August 2, 2013 (orientated towards service providers, in Lithuanian only – [Gairės dėl slapukų ir panašių priemonių naudojimo](#), 2013).

4.17.9 Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?

Cookies can be used only where user has consented in advance of receiving them, having first been provided with clear, comprehensive, understandable information related to their use. The following information on cookies usage has to be provided to the user:

- information on person that intends to use cookies:
(i) if natural person – identity and permanent residence address; (ii) if legal person – name, legal person’s code and registered address;
- information on cookies, intended collection of personal data and purposes of personal data processing. It is recommended to list the used cookies in a consent form as well as provide interactive reference to their description;
- information on a possibility to revoke given consent with explanation on how to do that, as well as explanation on related consequences;
- other additional information to the extent requested for protection of user’s rights (e.g. on the use of third party’s cookies);
- information on cookies for which, based on legal regulation, the user’s consent is not required (e.g. technical storage, etc.). Such information can be presented on homepage, privacy policy, terms and conditions of website, etc.

The DPI states that consent of user has to be valid for certain limited period of time (e.g. one year). If further use of cookies is intended, new consent from user shall be obtained.

4.17.10 In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?

The DPI stated that the following means might be used to obtain consent:

- Browser settings;
- Pop ups;
- Information line in website;
- In registration terms and conditions.

4.17.11 Can consent be given by a user’s browser settings under the law and the regulator’s guidance in your jurisdiction?

As stated the above, the DPI includes browser settings as optional mean that might be used to obtain consent. However, the DPI has noted that organizations cannot rely on browser settings at present, thus other means should be used for that purposes.

4.17.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No.

4.17.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

As far as we are aware, a large number of organisations have implemented practical mechanisms for obtaining consent from users of their websites.

4.17.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

Examples of websites obtaining express consent for cookies from unregistered visitors in Lithuania:

Website of the DPI: <http://www.ada.lt/go.php/lit/English> (on the top of homepage);

Website of Information Society Development Committee under the Ministry of Transport and Communications: <http://www.ivpk.lt/en/enhm/about-isdc> (on the bottom of homepage, left corner); for more information users are referred to privacy policy <http://www.ivpk.lt/en/information-about-isdc-website-cookies> (available in English);

Website of The Communications Regulatory Authority of the Republic of Lithuania: <http://www.rrt.lt/en/home.html> (on the bottom of homepage, left corner); for more information users are referred to privacy policy <http://www.rrt.lt/lt/privatumo-politika.html> (in Lithuanian only);

Website of Research Council of Lithuania: <http://www.lmt.lt/lt/pradzia.html> (pop-up, users are referred for more information on used cookies to <http://www.lmt.lt/lt/slapukai> (in Lithuanian only);

Website of LLC “Bite Lietuva” (telecommunication company): <http://www.bite.lt/> (information line on the top of website, for more information users are referred to privacy policy <http://www.bite.lt/lt/apie/mus/privatumo-politika> (in Lithuanian only);

Website of LLC “Delfi” (online news portal): <http://www.delfi.lt/> (information line on the top of website, users are referred for more information on used cookies to <http://www.delfi.lt/help/cookies.php> (in Lithuanian only).

It should be noted that a lot of organizations state information on cookies in their registration terms and conditions.

4.18 Luxembourg

Marielle Stevenot and Rima Guillen
MNKS

4.18.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Act of 30 May 2005 on protection of persons in relation to processing of personal data in the sector of electronic communications, as amended.

4.18.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.18.3 *If so, please enter the name of the law which implements the change.*

Act of 28 July 2011 modifying the Act of 30 May 2005 on protection of persons in relation to processing of personal data in the sector of electronic communications.

4.18.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.18.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Commission Nationale pour la Protection des Données - National Commission for Data Protection - (the "CNPD") (www.cnpd.public.lu).

4.18.6 *Has the regulator produced any guidance in relation to the amendment?*

No.

4.18.7 *If not, please state when, if known, guidance will be published.*

Not known.

4.18.8 *If so, please list and provide links if possible.*

Not applicable.

4.18.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.18.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.18.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Yes, the Act on protection of persons in relation to processing of personal data in the sector of electronic communications provides that where it is technically possible and effective, the user's consent to processing may be expressed by appropriate settings of a browser or other application.

4.18.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No.

4.18.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

In Luxembourg, from what we have seen, it would appear that many companies are integrating the notice about cookies in their privacy policies and deem that the consent would be expressed by accepting the privacy policy itself. We are not aware of any case where the CNPD would challenge such consent or would confirm that it is sufficient.

4.18.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

We are not aware of any websites in Luxembourg that would provide the possibility of giving the express consent for cookies (other than indirectly through the acceptance in the privacy policy).

4.19 **Malta**

Michael Zammit Maempel
GVTH Advocates

4.19.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

The relevant law is the Data Protection Act (“**Act**”) (Chapter 440 of the Laws of Malta) and the regulations issued under it, in particular, the Processing of Personal Data (Electronic Communications Sector) Regulations, S.L. 440.01 (hereinafter referred to as the ‘Regulations’). The Regulations were originally promulgated by Legal Notice 16 of 2003 and were last amended by Legal Notice 429 of 2013.

4.19.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.19.3 *If so, please enter the name of the law which implements the change.*

Article 5 of the Regulations (as amended by Legal Notice 239 of 2011).

4.19.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.19.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Information & Data Protection Commissioner

Level 2 – Airways House

High Street,

Sliema SLM 1549

MALTA

www.idpc.gov.mt

Tel: (+356) 2328 7100

Fax: (+356) 23287198

Email: idpc.info@gov.mt

4.19.6 *Has the regulator produced any guidance in relation to the amendment?*

No.

4.19.7 *If not, please state when, if known, guidance will be published.*

We have no indication of any such date.

4.19.8 *If so, please list and provide links if possible.*

Not applicable in this instance but guidelines and other publications by the office of the Commissioner are typically uploaded on the Commissioner's site www.idpc.gov.mt

4.19.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.19.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.19.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

The principal regulations offer no specific details on this particular point; the matter is therefore not excluded in terms of the regulations, and is therefore not contrary to law, provided it fulfils the requirement of consent.

4.19.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

We are not aware of any decision on this matter.

4.19.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Our impression is that businesses have been slow to adopt these changes, and in our experience many are completely unaware of the requirements of the law – given that they rely almost blindly on their site developers, and who in turn are also very unaware of these requirements.

4.19.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

We are not aware of any examples of companies that have introduced a mechanism to obtain express consent in Malta.

4.20 Netherlands

Wanne Pemmelaar

De Brauw Blackstone Westbroek

4.20.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Dutch Telecommunications Act (Telecommunicatiewet).

4.20.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes, the updated Telecommunications Act (implementing the amendment) has entered into force on 5 June 2012 and has been updated on 1 January 2013 and 11 March 2015.

4.20.3 *If so, please enter the name of the law which implements the change.*

Modification of the Dutch Telecommunications Act (new Article 11.7a). A new Article 11.7a has been added to the Telecommunications Act. This Article applies to the placing and reading of data on terminal equipment of a user by means of an electronic communications networks. Thus, the law applies to cookies, but (as also indicated by the legislature) also to other means such as device fingerprinting and potentially digital television. The new clause requires the informed and prior opt-in consent for the above, unless an exemption applies. Information about the use of cookies should comply with the Dutch Data Protection Act, i.e. clear and unambiguous information about the purpose of the cookies place.

Exemptions to the information and consent requirements are: where the technical storage or access is strictly necessary (i) to carry out the communication on an electronic network, (ii) to provide the requested service to the subscriber or user and the storage or access of data is strictly necessary for that purpose, or (iii) for analytical cookies that do not infringe or have a low impact on the user's privacy.

4.20.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

In addition, the Dutch legislature introduced a legal presumption (which entered into force on 1 January 2013) that cookies that are used to collect, combine or analyse information of a user across multiple websites are considered to be processing personal data. As a result, not only will the regime of the Dutch Data Protection Act (Wet bescherming persoonsgegevens) be presumed to be applicable to such cookies (which in practice are also called tracking cookies), but also the burden of proof that such cookies may in fact not process personal data shifts to the party placing such cookies.

On 11 March 2015 the Dutch legislature amended the Dutch Telecommunications Act exempting analytic cookies with a low impact on the privacy from the information and consent requirements. The exemption will apply to both first- and third party analytics cookies, and to the extent that they only process aggregated information. All other analytics cookies will not fall under the exemption and will require informed consent. Google Analytics is likely to be exempted only if websites owners follow the privacy by design instructions (https://cbpweb.nl/sites/default/files/atoms/files/handleiding_privacyvriendelijk_in_stellen_google_analytics_0.pdf) of the College Bescherming Persoonsgegevens (Dutch Data Protection Authority).

4.20.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Autoriteit Consument & Markt (ACM) (Authority for Consumers & Markets). Due to a name change effective 1 April 2013, regulator OPTA is now called ACM.

4.20.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes. ACM issued an updated Q&A (*Veelgestelde vragen over de nieuwe cookieregels*) on this topic in March 2015. In this Q&A, ACM cites the new Article 11.7a in the form as it applies since 11 March 2015 and emphasises the aforementioned legal presumption. ACM also states that the sole fact that a user fails to provide consent multiple times cannot be construed as providing implicit consent. Furthermore, the Q&A state that although a website is legally permitted to condition access to the website upon the acceptance of cookies (i.e. effectuating a 'cookie wall'), the use of such cookie wall is contradictory to the purpose of the amendment, and is generally discouraged. Governmental websites (or websites serving a particular public interest) however, are not allowed to place "cookie walls" that refuse access to visitors not accepting the cookies.

4.20.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.20.8 *If so, please list and provide links if possible.*

Q&A on ACM website (available only in Dutch).
<https://www.acm.nl/nl/download/publicatie/?id=13987>

4.20.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

ACM recommends organisations to inform and request consent where the new Article 11.7a Telecommunications Act applies, unless an exemption is applicable. If a user does not provide consent for the placing of cookies, a website may not work properly. According to ACM, a website is not required to provide access to a user and may make access dependent upon receiving consent.

In the Q&A ACM also indicates that a (vague) reference to the general terms, privacy policies or permission statements is not sufficient. The information provided must make clear to the user why and for what he/she grants permission as well as the extent of the permission.

ACM recommends mentioning and explaining all cookies and techniques used. ACM refers organisations to the Interactive Advertising Bureau Nederland which, together with the Dutch Dialogue Marketing Association, developed ready-to-use texts containing all necessary information in order to inform users properly about cookies.

Furthermore, the Ministry of Economic Affairs will launch an online tool which enables organisations to generate proper privacy statements. This tool will be launched through www.veiliginternetten.nl in the second half of 2015.

4.20.10 In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?

The Q&A leaves the way in which consent is requested open, but provides examples of request through a pop-up, floating box, info bar or overlay. ACM indicates that consent does not need to be provided upon each visit. The consent will be valid for the duration of the cookie, unless a user deletes the cookie. In addition, consent will no longer be valid when the nature of the consent changes, e.g. through a change in the cookie or privacy policy.

4.20.11 Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?

No. According to ACM, browser settings are currently not sufficient to provide the required consent as the current Do Not Track systems are not considered adequate. However, the legislature has not ruled out that in the future consent may be facilitated via browser settings. The Dutch legislature will thereby also look to and consider efforts that are made on a European level. ACM emphasises that it is not allowed to postpone the implementation of cookie rules pending the developments in this field.

Consent could however be facilitated through other means, such as limited instances of implicit consent. According to the Minister, consent is given explicitly when a user has been informed duly and continues using the website after he has been informed that doing so implies he has given his consent.

4.20.12 Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?

No. ACM will apply enforcement actively and is allowed to impose fines up to EUR 450,000.

4.20.13 Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?

On 17 February 2015, the Article 29 Working Party published a Cookie Sweep Combined Analysis Report. The sweep was conducted to assess compliance with Article 5.3 of the e-Privacy Directive 2002/58/EC. ACM swept 59 Dutch websites (selected as being amongst the 250 most frequently visited by individuals). There were 12 (20%) Dutch sites which showed no notification on the first page visited and were therefore not compliant with the cookie legislation. However, we also take from the report that an increasing number of Dutch websites are introducing information notices and banners as a means to comply with Dutch cookie legislation.

Since the adoption of Article 11.7a, the topic of the new cookie requirements has been given priority by many companies, which have started internal discussions on compliance programs. Companies are advised to update their information policies regarding the use of cookies and to internally review and discuss options to facilitate the consent requirement.

4.20.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

The website <http://www.werkenbijdebrauw.nl> is a good example of a website that obtains express consent for cookies. The user is informed through a pop-up. The user has the option to ignore the pop-up, to configure the cookie settings, or to give his consent. If the user ignores the pop-up, only functional (exempted) cookies will be placed. If the user chooses to configure the cookie settings he can choose between the standard setting (functional cookies only), the web analytics setting and the social media setting. If the user gives his consent, the social media setting will be used. Please note that such system is only compliant to the extent that the default setting is that no cookies (other than exempted cookies) are placed. Only then can it be considered to be opt-in consent.

Many websites currently merely comply with the information requirement or use an opt-out mechanism. Some (media) websites have started using advertising platforms to facilitate consent for online advertising through the use of cookies (such as <http://www.youronlinechoices.eu/nl/>). However, such initiatives or websites often do not provide for an opt-in consent (prior to placing cookies). Such mechanisms, in our opinion, should be construed as opt-out and are therefore not compliant with the applicable law.

Furthermore, we note that ACM has developed software to screen websites on conformity with the new Article 11.7a Telecommunications Act. ACM has indicated that websites which place cookies without prior obtained consent and whose cookies can only be removed inconveniently by a user, will be fined immediately.

4.21 **Poland**

***Mikołaj Sowinski
Soltysinski Kawecki & Szlezak***

4.21.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Art. 173 of Polish Telecommunication Law (PTL).

4.21.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.21.3 *If so, please enter the name of the law which implements the change.*

Art. 173 of PTL amended by Art. 1 Point 122 of the Law of 16 November 2012 on the amendment of the Act – Telecommunication Law and other acts (Journal of Law dated 21 December 2012, No. 1445 (the “**Amendment**”).

4.21.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.21.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

The Office of Electronic Communication (Urząd Komunikacji Elektroniczej, "UKE") is a regulatory authority dealing with the telecommunication sector. In addition, the General Inspector for Personal Data Protection has been granted the authority to receive notifications of suppliers of publicly available telecommunications services about the violation of personal data.

4.21.6 *Has the regulator produced any guidance in relation to the amendment?*

No. However, the Amendment is accompanied by its formal justification that includes comments on all amendments to PTL. In addition, certain additional information is available on the website of the Ministry of Administration and Digitalization.

4.21.7 *If not, please state when, if known, guidance will be published.*

We do not expect any separate guidelines at this stage. However, as mentioned above, the authorities prepared the justification which accompanies the bill.

4.21.8 *If so, please list and provide links if possible.*

(in Polish only): <http://mac.bip.gov.pl/prawo-i-prace-legislacyjne/projekt-ustawy-o-zmianie-ustawy-prawo-telekomunikacyjne-oraz-niektorych-innych-ustaw.html> and <https://mac.gov.pl/aktualnosci/spam-i-cookies-twoje-prawa-twoj-wybor> .

4.21.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

As mentioned above, at the moment there is no official guidance on compliance. Thus, when implementing the provisions of the PTL undertakings can rely only on the wording of the law (i.e. the Amendment and its justification).

The Amendment and its justification increase the scope of information obligations and give users the right to oppose storage of and access to *cookies* by changing the web browser's settings.

Pursuant to the Amendment, the storage or accessing of information already stored on the user's computer is allowed, under the following conditions:

a) the website owner provides the user with a clear and comprehensive information about:

(i) the purpose of the storage or access to that information; and

- (ii) the possibility to determine conditions for storing or accessing the information by software settings installed on the computer used by the user or through a configuration of the service;
- b) the user, after receiving the information above, grants its consent (see, however, comments at 4.21.10 below); and
- c) the stored information or accessing the information shall not result in a change of settings of the user's computer or the software installed on this device.

The Amendment does not indicate how detailed the information about cookies should be. Nevertheless, it seems that the information about cookies should be clear so that the user could understand what cookies are installed on his/her computer, and at the same time, it should be specific enough to enable the user to make a proper configuration of his browser.

4.21.10 In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?

The Amendment does not stipulate any specific means for obtaining the consent. It allows the user to grant a default consent through browser settings.

The Amendment requires that the user should be clearly informed how to oppose storage of and access to *cookies* by using settings of the web browser (see comments above).

4.21.11 Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?

Yes. The PTL allows the granting of consent by a user's browser settings. However, it is a common understanding that the website owner may rely on such "implied" consent of the user only where it has previously properly informed the user about the use of cookies on its website.

In particular, simple use of the website by a user may be considered insufficient to show that the user granted default consent for the installation of cookies. Although the website owner is not required to apply for a separate consent from the user in respect of the installation of cookies on his computer, the website owner is required to provide the user with complete and unambiguous information about the cookies which are used on its website and mechanisms for their installation (or blocking such installation), so that the user can grant his consent through browser settings or configuration of the service. Only a user who has received complete information about the cookies used on the website and the mechanism for blocking their installation, is in a position to decide whether he agrees to the use of the cookies, and to implement, on his own, proper browser settings.

4.21.12 Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?

According to the Amendment, the transitional period lasted 90 days and expired on 22 March 2013.

- 4.21.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

Level of compliance – medium.

In practice, in order to fulfill the information requirement relating to cookies, many website owners have decided to use various banners, pop-ups or bars informing that a given website is using cookies and transferring the user to a separate document dealing with cookies in more detail.

It is also common practice that the cookie policy includes a description of the types of cookies used and specific information about mechanisms for blocking the installation of cookies.

- 4.21.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

We have found one website where the website owner applies for an express consent of the user: <https://www.makro.pl/pliki-cookie>.

The general market practice is that companies do not apply for an express consent of the user, but rather prefer to rely on the user's "implied" consent (which is granted through the settings of the user's browser) and include respective provisions in their website policies, as displayed, for example, here: <http://ofirmie.onet.pl/cookies> (available in Polish only). The same policy is applied on the websites of Polish regulators responsible for telecommunication matters, e.g. the Electronic Communication Office (<http://en.uke.gov.pl/privacy-policy-12263>) and the Ministry of Administration and Digitalization (<https://mac.gov.pl/polityka-prywatnosci>; in Polish only).

4.22 **Portugal**

Manuel Lopes Rocha
PLMJ

- 4.22.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Law 41/2004, of 18 August.

- 4.22.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

- 4.22.3 *If so, please enter the name of the law which implements the change.*

Law no. 46/2012, of 29 August.

4.22.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.22.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

As far as we are concerned, there is no single regulator responsible for this area in our jurisdiction.

However, the Law no. 46/2012 had its origin in a Proposal drawn up by ICP - ANACOM (Portuguese National Communications Authority). In addition, CNPD (Portuguese Data Protection Commission), CNC (the National Consumer Council) and AOT (Association of Telecommunication Operators) were consulted in the process of approving the new Law.

4.22.6 *Has the regulator produced any guidance in relation to the amendment?*

There is no guidance directed at organisations. However, opinions were given by ICP – ANACOM, CNPD, CNC and AOT when they were consulted in the process of approving the new Law.

4.22.7 *If not, please state when, if known, guidance will be published.*

Not known, but the public discussion has intensified, with some companies directing proposals to CNPD, which is presently analysing them and will probably issue some kind of guidance soon.

4.22.8 *If so, please list and provide links if possible.*

Not applicable.

4.22.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.22.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

No specific means/mechanisms for obtaining prior consent have been specified either in guidance or in the Law no. 46/2012. As mentioned above, Article 5 of this Law states that prior consent is required and must be based on clear and complete information according to the Data Protection Law, in particular concerning the objectives pursued with the processing.

In order to comply with the EU recommendations concerning the use of Cookies (Working Document 02/2013 providing guidance on obtaining consent for cookies/Data Protection Working Party) we have recommend that the website operator should make available – besides the Cookies Policy – a pop-up mechanism to obtain the consent of the user. This consent mechanism should

include each of these main elements: specific information, prior consent, indication of wishes expressed by user's active behaviour and an ability to choose freely.

We suggest the following text for the mechanism: *"In order to improve our site, we use "cookies" to maintain a record of your visit. A cookie is a small amount of data that is transferred to a web browser by a web server and can only be read by the server that gave it to you. We may use cookies to improve the quality of our service by storing user preferences and tracking user trends, offering a better session beginning and personalized advertising. Click here for more information. Do you accept cookies? Yes, I accept cookies / No, I do not accept cookies"*.

Prior consent shall not be necessary only in situations of technical storage or access that: a) has as its sole purpose the transmission of a communication over an electronic communications network and; b) is strictly necessary for the vendor to provide an information society service explicitly requested by the subscriber or user

4.22.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

As above, according to the Law no. 46/2012, consent cannot be given by user's browser settings, but only "on condition that the subscriber or user concerned has given his or her consent, having been provided with clear and comprehensive information on the purposes of such processing".

4.22.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No, there is no transitional period with the objective of allowing companies to achieve compliance.

4.22.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

No public information on this matter available. We are nevertheless aware that some organisations have expressed concerns regarding the extent of changes that they are obliged to make to their systems (because of the new paradigm of prior consent) within a short timeframe (as there is no transitional period).

4.22.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

Companies are generally using one of the following two models to obtain the user's consent: (1) a pop-up window that shows up automatically when the webpage is opened containing a message that only allows the user to proceed if he or she accepts the website's cookies (e.g. www.expresso.pt). Once the user accepts the cookies, the message will not show up anymore in the following visits to that webpage; (2) a message that asks the user to allow the cookies, but does not prevent him/her from browsing the webpage even if no consent has been given (e.g. www.tap.pt).

4.23 Romania

Magda Popescu

Popescu Magdalena-Daniela Law Office

4.23.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Art. 4, paragraphs 5 and 6 of Law no. 506 of 2004, concerning the processing of personal data and the protection of privacy in the electronic communications sector, as amended by Government Emergency Ordinance no. 13 of April 24, 2012 (published in the Monitory Official no. 277 of April 26, 2012).

4.23.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes, in the following wording:

“Art. 4, para 5 - The storing of information or obtaining the access to the information stored in the terminal equipment of a subscriber or of a user is allowed only if all of the following conditions are met:

- a) the subscriber or user concerned has given his/her consent
- b) the subscriber or user was provided, in advance to expressing the consent, in accordance with art. 12 of Law no. 677 of 2001 (n.n. – implementing Directive 95/46/EC), with clear and comprehensive information that:
 - (i) are expressed in an easy-to-understand and easy-to-be-accessed manner to the subscriber or user;
 - (ii) include notes about the purposes of the processing of the information stored by the subscriber or user or of the information the latter has access to.

In case the provider allows to third parties the storing or access to information stored in the terminal equipment of the subscriber or user, the informing according to (i) and (ii) above includes the general purpose of processing this information by the third parties and the manner in which the subscriber or the user can use the settings of the application of Internet browsing or similar technologies for removing stored information or for refusing the access to such information to third parties.

Art. 4, para 5 - The consent provided for at art. 5 (a) above can also be given by using the settings of the application of Internet browsing or of similar technologies whereby it may be considered that the subscriber or user has expressed his/her consent.

Art. 4, para 6 – The provisions of art. 5 do not prevent the possibility of technical storage or access to the stored information in the following cases:

- a) for the sole purpose of carrying out the transmission of a communication over an electronic communications network,
- b) as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user.”

4.23.3 *If so, please enter the name of the law which implements the change.*

Art. 4, paragraphs 5, 5₁ and 6 of Law no. 506 of 2004, concerning the processing of personal data and the protection of privacy in the electronic communications sector, as amended by Government Emergency Ordinance 13/24.04.2012, published in the Monitor Official no. 277 of 26.04.2012.

4.23.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.23.5 *Information about the Regulator’s response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

The National Supervisory Authority For Personal Data Processing (“ANSPDCP”) (www.dataprotection.ro).

4.23.6 *Has the regulator produced any guidance in relation to the amendment?*

No.

4.23.7 *If not, please state when, if known, guidance will be published.*

Not available.

4.23.8 *If so, please list and provide links if possible.*

Not applicable.

4.23.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.23.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.23.11 *Can consent be given by a user’s browser settings under the law and the regulator’s guidance in your jurisdiction?*

Yes, please see Art. 4, para 51 in section 4.22.2 above.

4.23.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

Not applicable.

4.23.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

In Romania, generally, a cookie policy is posted on the website.

4.23.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

<https://www.roviniete.ro/ro/info/politica-confidentialitate>

<https://www.ejobs.ro/disclaimer.php?req=conf>

<http://www.grandhotel.ro/confidentialitate>

4.24 **Slovakia**

Marcel Baker

Bianchi Malach Tomanova

4.24.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Act No. 351/2011 Coll. on Electronic Communications.

4.24.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes. Actually, the whole Act No. 351/2011 Coll. on Electronic Communications was adopted in September 2011 only, so it already reflects the provisions of the amended Directive.

4.24.3 *If so, please enter the name of the law which implements the change.*

See above.

4.24.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.24.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Regulatory Authority for Electronic Communications and Postal Services:
(<http://www.teleoff.gov.sk/index.php?ID=9>)

4.24.6 *Has the regulator produced any guidance in relation to the amendment?*

No.

4.24.7 *If not, please state when, if known, guidance will be published.*

We do not know of any intention of the Slovak Regulatory Authority for Electronic Communications and Postal Services to publish such a guidance.

4.24.8 *If so, please list and provide links if possible.*

Not applicable.

4.24.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Not applicable.

4.24.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Not applicable.

4.24.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Under Slovak law, browser settings are regarded as consent of the user.

4.24.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No.

4.24.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

We do not have any information about the general level of compliance.

4.24.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

www.tesco.sk

4.25 Slovenia

Rok Koren and Mirela Murtič
Law Offices Rok Koren

4.25.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Electronic Communications Act.

4.25.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.25.3 *If so, please enter the name of the law which implements the change.*

New Electronic Communications Act; ZEKom-1, Article 157 named 'cookies'.

4.25.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.25.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Information Commissioner.

4.25.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes.

4.25.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.25.8 *If so, please list and provide links if possible.*

[https://www.ip-rs.si/novice/detajl/informacijski-pooblascenec-izdal-smernice-
glede-uporabe-piskotkov/?cHash=5842ad1118a2ae1915f350cc1aa98c22](https://www.ip-rs.si/novice/detajl/informacijski-pooblascenec-izdal-smernice-glede-uporabe-piskotkov/?cHash=5842ad1118a2ae1915f350cc1aa98c22)

[https://www.ip-
rs.si/fileadmin/user_upload/Pdf/smernice/Smernice o uporabi piskotkov.pdf](https://www.ip-rs.si/fileadmin/user_upload/Pdf/smernice/Smernice_o_uporabi_piskotkov.pdf)

4.25.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Companies should:

- carefully check what kind of cookies they use, for what purpose, how invasive they are etc, and pay special attention to the use of cookies by third parties and their conditions.
- check which cookies can be regarded as exceptions that do not require consent and which cookies do require consent.
- consider which mechanism they should use to obtain the most reliable and valid consent.

- carefully design a visible, clear and understandable notice of the use of cookies and insert the information about the use of cookies in the declaration on the protection of personal data.

4.25.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

Pop-ups, banners and other similar techniques (for example ‘splash screen’).

4.25.11 *Can consent be given by a user’s browser settings under the law and the regulator’s guidance in your jurisdiction?*

Yes.

4.25.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

Yes: until 15 June 2013.

4.25.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

From Information Commissioner annual report 2013:

In mid – June 2013 the provisions of Article 157 of the Electronic Communications Act entered into force. From then until end of 2013 the Information Commissioner received 35 reports related to 141 persons – website operators, concerning little or no notice about cookies and inadequate mechanisms for obtaining consent. Web operators against which inspection procedures were initiated in most cases dealt with the irregularities or violations based on knowledge of the irregularities detected and so regulatory decisions from the Information Commissioner were not required.

When reviewing the reports against website operators the Information Commissioner found the violation of Article 157 of the Electronic Communications Act in practice quite common. Websites were informing their customers about the cookies but they did not always provide adequate control mechanisms that would actually allow or prohibit the installation of cookies. In particular, there were several cases where the website installed the cookies where explicit consent is needed already at the first visit of the website, as well as cases where web operators interpreted the exceptions where explicit consent is not needed too broadly. Particularly problematic were advertising and analytical cookies and cookies from specific plug-ins from third parties – tracking cookies.

The Information Commissioner in majority of the cases noted that the web operators were willing to cooperate and eliminate the shortcomings immediately after the Information Commissioner noticed them, therefore before issuing a final decision.

4.25.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

Examples of mechanisms used to obtain express consent can be seen on different websites; newspapers, commercial, government, etc.

<http://www.delo.si/>
<http://www.vecer.com/>
<http://www.vlada.si/>

4.26 **Spain**

Reyes Bermejo Bosch
Uria Menendez

4.26.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

E-Commerce and Information Society Services Act 34/2002.

4.26.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.26.3 *If so, please enter the name of the law which implements the change.*

Royal Decree 13/2012 (which entered into force on April 1, 2013) and, after that, Law 9/2014 on telecom (which entered into force on May 11, 2015.) Both versions reproduced similar language to that in Article 5(3) of the Directive 2009/136/EC.

4.26.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.26.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Agencia Española de Protección de Datos ("AEPD") (www.agpd.es).

4.26.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes: Guidance has been issued in April 2013 by the AEPD regarding the amendment of Article 5.3 of Directive 2002/58/EC. In addition, the AEPD has issued four (4) legal reports and nine (9) penalty procedures. All the information is available at:

<http://www.agpd.es/portalwebAGPD/canaldocumentacion/cookies/index-ides-idphp.php>.

4.26.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.26.8 *If so, please list and provide links if possible.*

http://www.agpd.es/portalwebAGPD/canaldocumentacion/publicaciones/common/Guias/Guia_Cookies.pdf.

4.26.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

Clear, accessible, permanent and prominent information by layers (and preferably not included in the privacy policy or in the terms and conditions) on (i) the existence of cookies and their purpose and (ii) the procedure to deactivate them and the consequences of doing so.

Consent by any user's explicit action. Consent inferred from the user's inactivity shall not be considered valid (the AEPD has confirmed that opt-out mechanisms are not valid).

4.26.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

The Guidance mentions the following possibilities:

- (i) through the explicit acceptance of the website terms and conditions or privacy policy upon user registration;
- (ii) during the configuration of the website or app settings (settings-led consent);
- (iii) upon the application for a new feature offered in the website or app (feature-led consent);
- (iv) before a service or app that is offered in the web is downloaded by the user;
- (v) through the information by layers format, provided that an active and conscious action of the user is carried out signifying consent; and
- (vi) through the browser settings (see 4.26.11 below).

4.26.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

Browser settings could theoretically be used as a legitimate means of obtaining consent "where technically feasible". The new wording introduced by Law 9/2014 deleted "provided that the user actively sets the browser through an action expressly determined for this purpose."

The AEPD guidance mentions this possibility by reference to the Opinion 2/2010 of the Working Party on behavioural advertisement (http://ec.europa.eu/justice/policies/privacy/docs/wpdocs/2010/wp171_en.pdf),

which states that providing information and enabling the user to reject cookies through browser settings (by explaining how this can be done) cannot generally be deemed as informed consent *ex* Article 5.3 of the Directive 2002/58/EC and Article 2.h of Directive 95/46/EC.

4.26.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No.

4.26.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

A significant proportion of Spanish websites have implemented mechanisms for obtaining an informed consent. These mechanisms generally rely on the use of a 'cookie' banner and a cookie policy.

In addition, according to recent legal reports issued by the AEPD, new requirements must be met, amongst others, regarding the use of third parties cookies (e.g., if the third parties and the purposes of their cookies are not clearly identified, editors must provide the user with the relevant links to the third parties' policies which must be workable and not outdated; in addition, the content of such policies must be in Spanish -or in other co-official language in Spain-).

The AEPD has also warned (*apercibido*) seven (7) infringing companies and has imposed economic fines to two (2) companies of EUR 25,000 and EUR 3,500 respectively.

4.26.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

It is not market practice in Spain; we have just found one (1) example:

<http://www.blogseitb.com/bilbao/2011/10/03/vocabulario-bilbaino-basico/>

4.27 **Sweden**

Charlotta Poehler
Nord & Co Advokatbyrå KB

4.27.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

The Electronic Communications Act (2003:389).

4.27.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.27.3 *If so, please enter the name of the law which implements the change.*

The Electronic Communications Act (2003:389) Amendment (2014:734).

4.27.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.27.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

The Swedish Post and Telecom Authority ("PTS") pts@pts.se.

4.27.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes, PTS has a FAQ on their website. PTS also encourages businesses and business organisations to find their own solutions in order to comply with the rules.

4.27.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.27.8 *If so, please list and provide links if possible.*

The FAQ at PTS's website: <http://www.pts.se/en-GB/Industry/Regulations/Legislation/Electronic-Communications-Act/QA-about-cookies/QA-for-website-owners-regarding-cookies/>

4.27.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The PTS states that it is not yet possible to indicate in detail how the rule shall be applied to a particular website. PTS wants to provide website owners the time and space to produce a solution that works for both websites and users.

The PTS recommends the following steps:

- Inform visitors to the website of the fact that the website contains cookies and the purpose for which cookies are used.
- Ensure that the visitor consents to the use of cookies.

The PTS also advises concerning which information the business should provide regarding the cookies.

4.27.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

The PTS says that the exact appearance and function of the technical design to enable businesses to obtain consent is not something that PTS can specify in advance. PTS considers that website owners are best equipped to produce

functioning and secure solutions for how consent should be provided. PTS would like to give those responsible for websites the time and space to produce such solutions.

4.27.11 *Can consent be given by a user's browser settings under the law and the regulator's guidance in your jurisdiction?*

The PTS has not issued any statement concerning this issue so there is no general answer. Whether consent can be considered to have been obtained will therefore depend on the web browser settings and the circumstances in each case.

4.27.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

No, the PTS are able to take action after the amendment was enacted on 1 July 2011. However PTS has stated that they understand that it may take some time for the business to achieve compliance.

4.27.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

The PTS had, during 2012, an assignment from the Swedish government to investigate this matter. The result of the investigation is presented in a report dated 19 December 2012 (Report No. PTS-ER-2012:28, "Effekter om reglerna om kakor"). The PTS found that a large number of webmasters are aware of the amendments to the regulatory provisions, but that the use of cookies has largely remained the same. The attention that the new regulations attracted has resulted in an enhanced awareness of the problems associated with cookie usage. Many of the webmasters consider that the provisions are difficult to interpret and consequently difficult to implement in practice. The amended regulations have however resulted in an improvement in the information provided about cookies. The PTS also found that only a small proportion of Swedish websites have introduced new functions or dealt with the new requirement for consent in some other way. This may be due to uncertainty concerning how the requirement should be interpreted. Please find a link to the report below.

http://www.pts.se/upload/Rapporter/Internet/2012/effekterna-av-reglerna-om-kakor-pts-er-2012_28.pdf

A new investigation by the PTS regarding the compliance of the amendment is ongoing. The result of this investigation will be presented in the fourth quarter of 2015.

The IAB (*Interactive Advertising Bureau*) Sweden has, together with several other organisations and businesses, initiated a self regulation regarding the use of cookies called *Recommendation on the use of cookies and comparable technology*, see link below:

http://www.minacookies.se/wp-content/uploads/2011/11/Rekommendation_-_cookies_nov18_2011_English_version.pdf

(Please note that this recommendation is not approved by PTS).

4.27.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

Examples of websites that are obtaining express consent:

<http://www.prv.se/en/>,

<http://www.fi.se/Folder-EN/Startpage/>,

<http://www.migrationsverket.se/English/Private-individuals.html>.

4.28 **United Kingdom**

***Bathilde Waquet
Bristows***

4.28.1 *Please enter the name of law which implements Article 5.3 of Directive 2002/58/EC.*

Regulation 6 of the Privacy and Electronic Communications (EC Directive) Regulations 2003.

4.28.2 *Implementation of Article 2(5) of Directive 2009/136/EC which has amended Article 5.3 of Directive 2002/58/EC (primarily to require consent to be given) - Has your country implemented this amendment into national law?*

Yes.

4.28.3 *If so, please enter the name of the law which implements the change.*

Regulation 6 of the Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011.

4.28.4 *If not, please can you provide details of any pending implementing legislation that you are aware of, and the likely dates that legislation will be in force?*

Not applicable.

4.28.5 *Information about the Regulator's response to the amendment - What is the name of the regulator responsible for this area in your jurisdiction?*

Information Commissioner's Office ("ICO") (www.ico.org.uk/).

4.28.6 *Has the regulator produced any guidance in relation to the amendment?*

Yes.

4.28.7 *If not, please state when, if known, guidance will be published.*

Not applicable.

4.28.8 *If so, please list and provide links if possible.*

Yes. The ICO has a specific webpage for cookies which includes the latest version of its guidance, published in May 2012, and which is available at: <https://ico.org.uk/for-organisations/guide-to-pecr/cookies/>. The ICO also has a dedicated webpage on its enforcement activity with respect to cookies. This webpage is updated regularly and is accessible at: <https://ico.org.uk/action-weve-taken/cookies/>

4.28.9 *Guidance on compliance - In brief, what steps does the guidance recommend that businesses take to comply?*

The ICO recommends the following steps:

1. Audit cookie use on each website
2. Categorise cookies by purpose and ‘intrusiveness’
3. Choose an appropriate means of obtaining consent based on the categorisation.

4.28.10 *In brief, what means/mechanisms does the guidance suggest can be used to obtain consent?*

The ICO suggests the following means might be used to obtain consent (as appropriate):

- Pop ups, header/footer bars/banners and similar techniques
- As part of the process of changing website preference settings or requesting new functionality
- In registration terms and conditions

In its most recent guidance, the ICO has also confirmed that implied consent is a valid form of consent provided: (a) there is some action taken by the consenting individual from which their consent can be inferred and (b) the individual has a reasonable understanding that by taking that action they are agreeing to cookies being set. That said, the ICO has emphasised that it should not be merely relied on the fact that users might have read a privacy policy. Further, explicit consent may be more appropriate in some circumstances (e.g. where sensitive personal data is collected).

4.28.11 *Can consent be given by a user’s browser settings under the law and the regulator’s guidance in your jurisdiction?*

Like the recitals to Directive 2009/136/EC, Regulation 6 (2003) as amended expressly states that browser settings may signify user consent. However, the ICO has said that, in its view, companies cannot rely on browser settings at present.

4.28.12 *Transitional periods - Has the regulator in your jurisdiction granted any transitional periods for businesses to achieve compliance?*

The transitional period expired on 25 May 2012.

4.28.13 *Compliance - If your country has implemented the amendment, as far as you are aware, what is the general level of compliance in your country to date?*

A significant proportion of UK websites, particularly those of large organisations, now have a mechanism for obtaining user consent for the use of cookies and similar. The majority use a combination of a pop up header/footer banner with a short consent statement about the website's use of cookies, together with a link to more detailed information in a dedicated cookie mini-site, policy or section of a privacy policy.

Although many UK companies have completed audits of the cookies used by their websites, most cookie policies (particularly those for the websites of larger organisations) have chosen not to provide a detailed list of cookies used on the site and instead indicate the categories of cookies used. However, there are some exceptions, such as www.vodafone.co.uk.

Some websites have a dedicated means for users to exercise choice about whether the website may use different categories of cookies. These are either contained in the consent banner or linked to from the cookie policy. Websites displaying targeted advertising often link to industry opt-out mechanisms (such as www.youronlinechoices.eu operated by the IAB). Several websites continue to rely on browser settings as the means by which users can exercise choice.

Regarding enforcement, the ICO has steadily backed away from the hard line it promoted at the end of the transitional period in May 2012. It has accepted implied consent as a means of compliance and has recently switched to using implied consent on its own website (having previously sought to obtain express consent). It recently stated that it considers cookies to represent a consumer threat level of 'low' due to the low levels of complaints it receives (particularly between April and December 2014). The number of complaints it receives has decreased significantly since the end of the transitional period (see <https://ico.org.uk/action-weve-taken/cookies/>). However, the ICO continues to write to UK websites it receives complaints about, focusing on those with high levels of UK traffic and those that are doing nothing to raise awareness of cookies or get their users' consent. Additionally, the ICO reviews on a quarterly basis the UK websites of those organisations it has contacted and which needed to take steps to improve compliance.

No fines have been issued by the ICO to date in relation to the setting of cookies.

4.28.14 *Examples - Please provide links to any examples in your jurisdiction where websites are obtaining express consent for cookies. In particular, for unregistered visitors to a website.*

Examples of mechanisms used to obtain consent can be seen across some of the UK's most popular websites, such as: www.bbc.co.uk, www.guardian.co.uk and www.tesco.com.

5. Disclaimer

The responses contained in this document have been provided by the participating law firms on an 'information only' basis and do not constitute legal advice.

6. Editor and ownership

This survey was initiated and coordinated by Bathilde Waquet of Bristows. The rights in this document are owned by Bristows and in the responses by the respective contributing law firms / lawyers.

7. Contributors by Country

Austria

Günther Leissler

Schoenherr
Schönherr rechtsanwälte gmbh
tuchlauben 17
A-1010 vienna
Austria

Tel: (+43) 1 534 37 227
Fax: (+43) 1 534 37 6100
Email: g.leissler@schoenherr.eu
Website: www.schoenherr.eu

Bulgaria

Desislava Krusteva

Dimitrov, Petrov & Co.
28 Todor Alexandrov Blvd., fl.7
1303 Sofia,
Bulgaria

Tel.: (+359) 2 421 42 01
Fax: (+359) 2 421 42 02
Email: desislava.krusteva@dpc.bg
Website: www.dpc.bg

Cyprus

Michalis Fieros

Lellos P. Demetriades Law Office LLC
The Chanteclair House,
2 Sophoulis Street, 9th Floor,
CY1096 Nicosia,
Cyprus

Tel: (+357) 22676060
Fax: (+357) 22676061
Email: michalis@ldlaw.com.cy
Website: www.ldlaw.com.cy

Belgium

Jan Dhont
Delphine Charlot

Koan Lorenz
Brussels Office
Boulevard du Souverain, 100
1170 Brussels
Belgium

Tel: (+32) 2 239 2006
Fax: (+32) 2 239 2002
Email: j.dhont@koanlorenz.com
d.charlot@koanlorenz.com
Website: <http://koanlorenz.com/>

Croatia

Andrea Kožul Pedišić
Vukmir & Associates
Gramača 2L,
10000 Zagreb,
Croatia / Hrvatska

Tel: (+385) 1 376 0511
Fax: (+385) 1 376 0555
Email: Andrea.KozulPedicic@vukmir.net
Website: www.vukmir.net

Czech Republic

Martin Voborník

Vobornik, Nigrini, Kipiel
Kladská 1489/5
120 00 Praha 2
Česká republika

Tel: (+420) 224 811 737-8
Fax: (+420) 224 819 429
Email: vobornik@v-n.cz
Website: www.v-n.cz

Denmark

Arly Carlquist
Marie Albæk Jacobsen

Bech-Bruun
Langelinie Allé 35
2100 Copenhagen
Denmark

Tel: (+45) 72270000
Fax: (+45) 72270027
Email: ac@bechbruun.com
maja@bechbruun.com
Website: www.bechbruun.com

Finland

Markus Lampinen

Backström & Co Ltd.
Kasarmikatu 44,
FI-00130 Helsinki,
Finland

Tel: (+358) 9 6689 940
Fax: (+358) 9 6689 9410
Email: markus.lampinen@backstrom.fi
Website: www.backstrom.fi

Germany

Dr. Jürgen Hartung

Oppenhoff & Partner
Konrad-Adenauer-Ufer 23
50668 Köln
Germany

Tel.: (+49) 221 2091-633
Fax: (+49) 221 2091-333
Email: juergen.hartung@oppenhoff.eu
Website: www.oppenhoff.eu

Hungary

Dr Péter Szemán

Bán, S. Szabó & Partners
H-1051 Budapest, József Nádor Tér 5-6.
Hungary

Tel.: (+361) 266-3522
Fax: (+361) 266-3523
Email: pszeman@bansszabo.hu
Website: www.bansszabo.hu

Estonia

Timo Kullerkupp

NJORD Advokaadibüroo – Estonia
Rotermanni 8,
10111 Tallinn,
Estonia

Tel: (+372) 66 76 440
Fax: (+372) 66 76 450
Email: timo.kullerkupp@njordlaw.ee
Website: www.njordlaw.com

France

Anne Perrin

ALP Avocat
5, rue de la Rochefoucauld
75009 Paris
France

Tel: (+33) 6 73 88 88 58
Fax: (+33) 1 40 50 84 16
Email: aperrin@alp-avocat.com

Greece

Sevy Stefanidi

Zannos & Associates Law Firm
64, Skoufa Str.
Athens 106 80
Greece

Tel: (+30) 210 3633662
Fax: (+30) 210 3642895
Email: stefanidi@zpslaw.gr

Ireland

John O'Connor

Matheson
70 Sir John Rogerson's Quay
Dublin 2
Ireland

Tel: +353 1 232 2000
Fax: +353 1 232 3333
Email: John.OConnor@matheson.com
Website: www.matheson.com

Italy

Luigi Manna

Martini Manna Avvocati
Via Savona n. 123
Milano 20144
Italy

Tel: (+ 39) 02 45074727
Fax: (+ 39) 02 45070327
Email: luigi.manna@martinimanna.com
Website: <http://www.martinimanna.com/>

Lithuania

Jolanta Kaminskaite
Ruta Andriuleviciute

IPnovus Law
Siauliu St. 10-32
Vilnius 01134
Lithuania

Tel.: (+370) 5 203 1378
Email: jolanta.kaminskaite@ipnovus.com
ruta.andriuleviciute@ipnovus.com
Website: www.ipnovus.com

Malta

Michael Zammit Maempel

GVTH Advocates
192, Old Bakery Street,
Valletta, VLT 1455,
Malta

Tel: (+356) 2122 8888
Fax: (+356) 2122 8808
Email: michael.zammitmaempel@gvthlaw.com
Website: www.gvthlaw.com

Poland

Mikołaj Sowinski

Sołtysiński Kawecki & Szlęzak
ul. Jasna 26
00-054 Warszawa
Poland

Tel: (+48) 22 608-7000
Fax: (+48) 22 608-7070
Email: Mikolaj.Sowinski@sklegal.pl
Website: www.sklegal.pl

Latvia

Juris Eglitis

Baltic Law
Strelnieku Str. 9-8
Riga, LV-1010
Latvia

Tel: (+371) 67212940
Fax: (+371) 67224494
Email: juris.eglitis@balticlaw.com
Website: www.balticlaw.com

Luxembourg

Marielle Stevenot
Rima Guillen

MNKS
Vertigo Polaris Building
2-4 rue Eugène Ruppert (2nd floor)
L-2453
Luxembourg

Tel: (+352) 26 48 42 1
Fax: (+352) 26 48 42 35 00
Email: stevenot@mnks.com
guillen@mnks.com
Website: www.mnks.com

Netherlands

Wanne Pemmelaar

De Brauw Blackstone Westbroek N.V.
P.O. Box 75084
Claude Debussylaan 80
1070 AB Amsterdam

Tel: (+31) 20 577 1488
Fax: (+31) 20 577 1775
Email: wanne.pemmelaar@debrauw.com
Website: www.debrauw.com

Portugal

Manuel Lopes Rocha

PLMJ
Lisboa Av. da Liberdade, 224
Edifício Eurolex
1250-148 Lisboa
Portugal

Tel.: (+351) 21 319 73 00
Fax: (+351) 21 319 74 00
Email: manuel.lopesrocha@plmj.pt
Website: www.plmj.com

Romania

Magda Popescu

Popescu Magdalena-Daniela Law Office

10 Splaiul Unirii Street,
Bl. B5, Entr. 1, Ap. 10,
4th District,
040033 Bucharest,
Romania

Tel: (+40) 21 311-1628
Fax: (+40) 21 315-4462
E-mail: magda.popescu@legal2m.com

Slovenia

Rok Koren
Mirela Murtič

Law offices Koren
Komeskega 12
1000 Ljubljana
Slovenia

Tel: (+386) 1 475 0 999
Email: rok.koren@koren.si
mirela.murtic@koren.si

Sweden

Charlotta Poehler

Nord & Co. Advokatbyrå KB
Engelbrektsgatan 3
P. O. Box 1435
SE-111 84 Stockholm
Sweden

Tel: (+46) 8 407 37 00
Fax: (+46) 8 678 12 20
Email: charlotta.poehler@nordcompany.se
Website: www.nordcompany.se

Slovakia

Marcel Baker

Law Office Bianchi • Malach • Tomanová
Jakubovo námestie No. 13,
811 09 Bratislava 1
Slovakia

Tel: (+421) 2 5292 4062 (4)
Fax: (+421) 2 5296 4078
Email: baker@bmt.sk
Website: <http://www.bmt.sk/>

Spain

Reyes Bermejo Bosch

Uría Menéndez
Colón 28-5^a
46004 Valencia
Spain

Tel.: (+34) 96 352 9191
Fax: (+34) 96 353 1764
Email: reyes.bermejo@uria.com
Website: www.uria.com

United Kingdom

Bathilde Waquet

Bristows LLP
100 Victoria Embankment
London EC4Y 0DH
United Kingdom

Tel: (+44) 207 400 8241
Fax: (+44) 207 400 8050
Email: bathilde.waquet@bristows.com
Website: www.bristows.com