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Law . Tax

Your CMS guide to a successful cookie policy across CEE



Basic ingredients

- Dedicated Data Protection specialists across CEE
- The ability to call upon the resources of the entire CMS network
- True client focus

The secret of a good cookie policy is to know all the small details that make the difference across the board. Our dedicated Data Privacy Specialists across CEE have put together a compact “menu” for each CEE country to provide you with a clear overview of all the specific requirements, differences in legislation, and important issues you need to be aware of to ensure you are compliant. We are here to help you with any of your legal issues regarding hot data. Please feel free to contact us at **smartcookie@cms-cmck.com**

The revised e-Privacy Directive introduced significant changes on the use of cookies. Website users shall be provided with clear and comprehensive information about the types of cookies used, the purpose for which the cookie is stored and accessed, and shall freely give unambiguous, specific and informed consent to the use. However a simplified recipe for each individual country does not exist. Variety is good when it comes to cookies, but what happens to multinationals, or to companies that have operations in more than one country?

In the last three years, EU Member States implemented various solutions to comply with the new rules - data protection authorities and practitioners were trying to clarify how to meet the legal requirements without disrupting user experience. The increasing activity from the regulators is making cookies hot again. The Spanish DPA has already issued fines against two companies in the jewellery sector, and the Dutch DPA also concluded its first investigation against an online advertising agency that used tracking cookies without consent. Recently, the Article 29 Working Party launched the European “cookies sweep day” initiative, to verify whether major EU websites are complying with EU cookie law requirements, and more cookie audits may be ahead.



The purpose of this multi-jurisdictional recipe is to provide an overview on the existing cookie-related practices in the CEE, to ensure that all of our hot cookies comply.

Bulgaria

- e-Privacy Directive not fully implemented
- direct effect may be inferred
- no specific rules providing for consent through web browser settings
- informed consent and opt-in.

Czech Republic

- e-Privacy Directive not fully implemented (still opt-out)
- local regulator or European Commission may infer a direct effect and require informed consent and opt-in.

Hungary

- e-Privacy Directive implemented into the Electronic Communications Act but cookie provisions are applicable in all industries
- one specific opinion issued by the DPA in March 2013, which, amongst others, generally approved the privacy terms of an operator providing only general information about their cookie use
- implied consent is not permitted
- informed consent and opt-in.

Poland

- e-Privacy Directive implemented by the provisions of the Telecommunications Act
- various authorities take the view that cookie provisions apply to all website providers
- cookies cannot change the configuration of the device or software installed on the device of the end user
- informed consent and opt-in; however, after obtaining appropriate information, consent can be obtained by software/service (browser) settings
- default browser settings allowing for storage of and access to cookies and providing appropriate information may also suffice as the consent.

Romania

- e-Privacy Directive is implemented by the law on personal data processing and the protection of private life in the electronic communications sector
- storage or use of cookies is allowed only if
 - (1) the subscriber/user has given consent and
 - (2) clear and complete information on cookies has been provided prior to the consent (including information on the processing purpose and, in case of 3rd party cookies, on the processing purpose by such 3rd parties and how the subscriber/user may use the web browser settings/similar technologies in order to erase the stored data or to refuse 3rd party access to such data)
- informed consent and opt-in; however, consent may be obtained through web browser settings or similar technologies.

Russia

- informed consent is only required when the cross border transfer of data is involved and/or sensitive or biometrical data are collected
- providing personal data by individuals on foreign websites shall not be considered as a cross border transfer



- new aspects of data processing abroad will arise due to the new “databases localization rules” (effective since September 1, 2016), these would require the databases with the personal data of Russian citizens to be located in Russia, violators of these rules may be banned from the Russian sector of Internet
- consent may be a part of the webpage policy published on the website, or may be obtained through a pop-up window.

Slovakia

- the cookie provisions of the e-Privacy Directive are implemented in Act No. 351/2011
- informed consent and opt-in; however, consent is permitted through web browser settings, no specific information must be provided, other than the processing purpose
- consent is usually obtained through a pop-up window or a banner which would inform the user that by browsing the website he or she consents to the use of cookies
- some websites contain information in their cookie policy located at the bottom part of individual webpages, together with privacy policy or trademark notice
- other websites just rely on the option of obtaining consent through web browser settings.

Ukraine

- e-Privacy Directive is implemented by the law on personal data processing and the protection of private life in the electronic communications sector
- consent of the data subject is necessary if his/her personal data is collected through the cookies
- consent should be clearly identifiable (opt-out is not prohibited)
- no clear regulation or practical guidance on how to obtain consent
- in practice, a pop-up window requesting the site user's consent on use of the cookies and collection of his personal data can be compliant
- the pop-up window should contain a link to the privacy policy that would inform the user on details of his/her data processing.

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To find out more about a successful cookie policy, or for information about our tailor-made trainings, please contact our partners or email [**smartcookie@cms-cmck.com**](mailto:smartcookie@cms-cmck.com)



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