



Cookie ‘consent’ rule: EEA implementation

The table below sets out EEA Member States’ implementation of Directive 2009/136/EC (the “**Directive**”). The Directive amends Article 5(3) of Directive 2002/58/EC (“**e-Privacy Directive**”) to introduce new rules for online service providers that require them to obtain visitors’ “consent” before serving cookies and similar tracking devices to users’ computers. In particular, the table identifies whether strict ‘opt-in’ consent requirements apply in each Member State (i.e. prior, express, informed consent) or whether consent can be inferred, for example, through appropriate browser / application settings or other means.

At the date of this table, cookie consent requirements have been adopted in 24 out of 30 EEA Member States.

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Austria 	Yes	<ul style="list-style-type: none"> An amendment of the Austrian Telecommunications act implementing Article 5(3) came into effect on 22 November 2011. 	Unclear	<ul style="list-style-type: none"> <u>Information Requirement</u>: Inform the user on the types of data processed (including cookies), the legal basis for and the purpose of processing the data, and the duration of storage.

¹ In instances where Article 5(3) has not yet been implemented, local counsel have provided their assessment as to the likelihood that a strict ‘opt-in’ regime will apply. This assessment has been based on currently available information and the historic approaches of the local legislator and regulator.

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				<p>This information can be provided in General Terms and Conditions or a Privacy Policy.</p> <ul style="list-style-type: none"> • <u>Opt-In</u>: Opt-in consent for processing the data (including cookies) required, except where for technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communications network, or as strictly necessary in order for the provider of an information society service requested by the subscriber or user to provide the service. • <u>Implied Consent</u>: Legislative notes to the amendments to the Telecommunications Act suggest that consent may also be inferred from browser or other application settings.

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Belgium 	Yes	<ul style="list-style-type: none"> The Belgian Chamber of Representatives adopted an amendment to the Belgian Electronic Communications Act 2005 implementing Article 5(3). An earlier 2010 consultation paper published by the Belgian Telecommunications regulator initially proposed "<i>prior and written consent</i>". However, this proposal for prior, written consent has not been implemented into law. 	No	<ul style="list-style-type: none"> Cookies may be served if the user gives consent, having been provided with clear and comprehensive information about why their personal data will be collected and processed. In the absence of further guidance, website operators may rely on "implied" consent, provided it is "freely given, unambiguous, specific and informed".
Bulgaria 	Yes	<ul style="list-style-type: none"> An amendment to the Bulgarian Electronic Messages Act implementing the amended Article 5(3) came into effect on 29 December 2011. Online service providers must provide 	No	<ul style="list-style-type: none"> Online services providers must give users a mechanism for refusing consent. Collected data must be destroyed after expiration of the term specified.

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		<p>"clear and comprehensive information" about the use of cookies and give individuals "the opportunity to refuse" those cookies. In all cases, the use of an online service cannot be made dependent on the user's consent to cookies.</p>		
<p>Cyprus</p> 	Yes	<ul style="list-style-type: none"> An amendment to the Regulation of Electronic Communication and Postal Services Law, implementing Article 5(3) of Directive 2002/58/EC as amended, came into effect on 18th May 2012. 	Yes	<ul style="list-style-type: none"> Storing information or accessing information already stored in the terminal equipment of a user is only allowed if the user has given his or her consent, having been provided with clear and comprehensive information.
<p>Czech Republic</p> 	Yes	<ul style="list-style-type: none"> The current legal standard to use cookies in the Czech Republic is notice and opt-out (even though some government authorities maintain an unofficial position that opt-in is the 	No	<ul style="list-style-type: none"> To the extent that notice and opt-out is recognised as the current legal standard, this remains the case.

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		<p>actual standard required for "non-necessary" cookies).</p> <ul style="list-style-type: none"> Legislation implementing the Directive and the revised Article 5(3) did not alter the previous cookie requirements (i.e. notice and opt-out). This implementing legislation came into force on 1 January 2012 		
<p>Denmark</p> 	<p>Yes</p>	<ul style="list-style-type: none"> The Danish implementation of the revised Article 5(3) came into effect on 14 December 2011. The Danish regulator issued updated guidelines in April 2013 regarding the Danish rules concerning cookies. 	<p>No</p>	<ul style="list-style-type: none"> The Danish implementation is an almost verbatim reproduction of Article 5(3). However, according to the updated guidelines, notice must be given to the visitor the first time the visitor visits the website. This must include information on the use of cookies, including potential use of third party cookies.

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				<ul style="list-style-type: none"> • The notice can include an express mechanism to accept or decline the use of cookies or can state that further use of the website constitutes consent. This means that implied consent can be obtained through the 'informed actions' of the visitor. • To achieve this, the notice should include a broadly-worded "consent" message, and link to a more detailed cookie policy providing a description on how to reject the website's uses of cookies. A cookie-consent tool is recommended to adjust cookie settings, as browser settings are unlikely to suffice. • The website's detailed cookie policy must always be available when visiting the website, i.e. in the top or bottom of the website page, next to

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				the "Terms of Use" and the "Privacy Policy" as seen on most websites.
Estonia 	N/A	<ul style="list-style-type: none"> In Estonia, the Ministry of Economic Affairs and Communications is responsible for implementing Article 5(3) into national law. The Ministry has taken the position that Article 5(3) is already covered by the Article 102 of the Estonian Electronic Communications Act, and therefore that no further implementation measures are necessary 	No	<ul style="list-style-type: none"> No further implementation needed. The local Data Protection Authority indicates that a 'consent' requirement applies for serving of cookies in Estonia. However, commentators believe that Estonian law will continue to allow consent to be obtained using a notice and opt-out approach.
Finland 	Yes	<ul style="list-style-type: none"> New legislation (amending the Act on the Protection of Privacy in Electronic Communications) has implemented article 5(3) and entered into force on 25 May 2011. 	No	<ul style="list-style-type: none"> Finish law includes the wording of the revised Article 5(3) plus some elements of recital 66, which recognise the possibility of obtaining consent via browser or other application settings.

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				<ul style="list-style-type: none"> The legal requirement is therefore 'consent' qualified by an express reference to the ability to rely on browser or other application settings.
<p>France</p> 	Yes	<ul style="list-style-type: none"> Legislation implementing the revised Article 5(3) came into effect on 27 August 2011 (available online here). 	<p>Yes, for most cookies (e.g. tracking cookies)</p> <p>Limited exemptions apply for analytics cookies.</p>	<ul style="list-style-type: none"> The legal requirement is 'consent' qualified by an express reference to the ability to rely on browser or other application settings. The CNIL has published guidance on obtaining cookie consent. The main points are as follows: <ul style="list-style-type: none"> - Information on cookies and consent must be given / obtained <u>prior</u> to service of the cookie. This information must include the specific purposes of the cookies. - The user's consent must be

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				<p>obtained for <u>each</u> cookie with a different purpose. A provision in general website terms and conditions is not sufficient.</p> <ul style="list-style-type: none"> - Browser settings that accept all cookies without distinguishing between the different purposes cannot obtain valid consent. - Cookies set for storing expressed user preferences (e.g. language preferences) or for maintaining website security do not require consent. - Analytics cookies are exempt from the consent requirement provided that certain home page disclosure requirements are fulfilled, that the user can refuse use of analytics cookies, and that certain other criteria in

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				<p>terms of purpose limitation, access and data retention are also met.</p> <ul style="list-style-type: none"> • The CNIL indicates the (non-exhaustive) mechanisms that it considers compliant are: <ul style="list-style-type: none"> - consent banner on the top of a webpage; - consent request overlaid on the page; - tick boxes while subscribing to a service online. • The CNIL has provided two examples of consent wording on its website.
Germany	No	<ul style="list-style-type: none"> • A Bill to amend the 	No	<ul style="list-style-type: none"> • The Directive has not been

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		<p>Telecommunications Act was first published on 4 March 2011.</p> <ul style="list-style-type: none"> The latest draft Bill was published on 4 May 2011 and states: <i>"Individual issues of implementation of the amendment of Article 5 paragraph 3 of Directive 2002/58/EC are currently the subject of extensive consultations at European level, which include self-regulatory approaches of the advertising industry. The results of this process shall be awaited before the decision about further legislative action will be made."</i> The draft Bill has been discussed in Parliament on 12 May 2011 and referred to several committees (including the Committee of Economics and the Legal Committee) for further discussions. There has been 		<p>implemented yet but the legal requirement is likely to recognise a self-regulatory approach.</p> <ul style="list-style-type: none"> If this is the case, the legal requirement will probably be consent qualified by an explicit reference to the ability to rely on browser settings.

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		<p>substantial criticism of the draft legislation and it is believed unlikely to become law.</p> <ul style="list-style-type: none"> Therefore, the process of implementing Article 5(3) into the German Telecommunications Act and the Teleservices Act is currently delayed. 		
<p>Greece</p> 	<p>No</p>	<ul style="list-style-type: none"> Amended Article 5(3) has <u>not</u> been implemented into Greek law yet. However, the Greek Data Protection Authority issued an opinion (7/14-12-2011) that Article 4, paragraph 5 of Law 3471/2006 (which transposed the old "notice and opt-out" regime under EU Directive 2002/58/EC) should be interpreted <u>as if</u> cookie consent requirements have been implemented. Consequently, the regulatory position 	<p>No</p>	<ul style="list-style-type: none"> While not yet implemented into law, the regulatory requirement is "consent" qualified by the ability to rely on browser or other application settings.

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		(if not the technical legal position) is that cookies can be served only where the user has given his or her consent, having been provided with clear and comprehensive information about cookie use.		
<p data-bbox="315 687 427 719">Hungary</p> 	Yes	<ul data-bbox="763 687 1223 1190" style="list-style-type: none"> • The Amendment to the Hungarian Act on Communications (the Act CVII of 2011 implementing Article 5(3) of the e-Privacy Directive) entered into force on 3 August 2011. • The original bill submitted to the Parliament required 'prior' consent to access and storage of cookies. However, during its debate in the Hungarian Parliament, the bill was amended to remove the requirement for consent to be 'prior'. 	No	<ul data-bbox="1601 687 2045 1249" style="list-style-type: none"> • The Directive has been implemented and the requirement to obtain consent may be met through appropriate browser or other application settings. • Local commentators believe that consent may be given <u>after</u> cookies have been served, due to the removal of the 'prior' wording. • The new Section 155 (4) of the Act on Electronic Communications provides that "<i>Data may be stored or accessed on the terminal equipment</i>

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				<p><i>of the subject end-user or subscriber after the provision of clear and comprehensive information – including the purpose of data processing – if consent of the end-user or subscriber has been granted hereto.”</i></p> <ul style="list-style-type: none"> Hungarian law has <u>not</u> implemented the exemptions to Article 5(3) that allow cookies (or similar technologies) to be served without consent where strictly necessary to provide a user-requested service.
<p>Iceland</p> 	No	<ul style="list-style-type: none"> The Icelandic Government put forward a bill in Parliament in 2012 which envisaged implementation of the revised Article 5(3). However since Directive 2009/136/EC has not been formally adopted into the 	No	<ul style="list-style-type: none"> The proposed implementation prescribes that clear and comprehensive information should be given to the user. The proposals also recognise the possibility of obtaining consent via

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		EEA-agreement, the Government has currently postponed implementation of Article 5(3).		browser or other application settings.
Ireland 	Yes	<ul style="list-style-type: none"> Ireland has implemented the revised Article 5(3) through the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 which came into force on 1st July 2011. The Data Protection Commissioner has published a Guidance Note on the new Regulations but it makes no reference to a lead in period. In December 2012, the Data Protection Commissioner identified approximately 80 websites and wrote to the operators seeking confirmation of their intended 	No	<ul style="list-style-type: none"> The Regulations do not prescribe how information is to be provided or consent is to be given. They state that the methods of providing information and giving consent should be as “user-friendly as possible” but that “where it is technically possible and effective...the user’s consent to the storing of information or to gaining access to information already stored may be given by the use of appropriate browser settings or other technological application by means of which the user can be considered to have given his or her consent”.

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		<p>compliance approach, indicating that enforcement action may be taken.</p>		<ul style="list-style-type: none"> According to the Guidance Note, the Data Protection Office considers that the settings currently available on website browsers are not sufficient to obtain consent.
<p>Italy</p> 	<p>Yes</p>	<ul style="list-style-type: none"> Cookie consent requirements were fully implemented in Italy with effect from the end of May 2012. 	<p>No</p>	<ul style="list-style-type: none"> The storing of information in the terminal equipment of a user is allowed on the condition that the user has given his or her consent, having been provided with clear and comprehensive information, in particular through browser or other application settings. Consent is not needed for cookies that are necessary to deliver user-requested services nor for session cookies. The Italian DPA is expected to issue further guidance on how consent

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				<p>may be obtained and a public consultation involving key industry and consumer stakeholders was launched in December 2012.</p> <ul style="list-style-type: none"> In the meantime, the DPA has published FAQs on its website, clarifying that the users' consent can be obtained through means including: <ul style="list-style-type: none"> - Browser settings; - Plug-in software; and - Do-not-track tools.
<p>Latvia</p> 	<p>Yes</p>	<ul style="list-style-type: none"> Latvia has implemented Article 5(3) through amendments to the Law on Information Society Services. The amendments became effective 	<p>Yes</p>	<ul style="list-style-type: none"> The implementation of the Directive into Latvian law does not expressly address the use of browser settings to obtain consent, indicating that a

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		from 8 June 2011.		strict 'opt-in' consent requirement may apply.
Liechtenstein 	No	<ul style="list-style-type: none"> Implementation of the revised Article 5(3) is currently in progress but details have not yet been made available. 	Unknown	N/A
Lithuania 	Yes	<ul style="list-style-type: none"> Amendments to the Law on Electronic Communications, implementing the revised Article 5(3) of the e-Privacy Directive, came into effect on 1 August 2011. The Lithuanian State Data Protection Inspectorate issued recommendations regarding use of cookies and other similar means in December 2011. 	Yes	<ul style="list-style-type: none"> Cookies can be served only where the individual has consented in advance of receiving them, having first been provided with clear and comprehensive information about their use. Consent is not required for technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communications network, or as strictly necessary for the provision of an information

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				<p>society service explicitly requested by the subscriber or user.</p> <ul style="list-style-type: none"> Any website operator intending to use cookies must disclose what cookies will be used and for what purpose(s) in order to assess for which cookies prior consent must be obtained. The State Data Protection Inspectorate indicates the following possible ways to obtain consent: (a) informative line in the web page (e.g., on the top of page); (b) pop-ups; (c) registration in the web page (but note that where users have already consented to data protection terms as part of a previous registration, it is not sufficient simply to amend these terms to obtain cookie consent – a 'fresh' cookie

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				consent must be obtained).
Luxembourg 	Yes	<ul style="list-style-type: none"> Luxembourg implemented the revised Article 5(3) of the e-Privacy Directive plus some elements of recital 66 on 28 July 2011. These came into effect on 1 September 2011. 	No	<ul style="list-style-type: none"> Prior informed consent of subscriber or user is required The act provides that (i) the methods of providing information and offering the right to refuse should be as user-friendly as possible and (ii) where it is technically possible and effective, the user's consent to processing may be expressed by appropriate browser or other application settings.
Malta 	No	<ul style="list-style-type: none"> New regulations (Legal Notice 239 of 2011) have been adopted that, by and large, copy the wording of the revised Article 5(3). However, these are yet to come into 	No	<ul style="list-style-type: none"> The new regulations do not mandate the form or type of consent required. However, while the new regulations do not prohibit obtaining consent through browser settings, there have

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		force and there is currently no indication when this will happen.		been suggestions that the local DPA will recommend against relying on browser settings to establish consent.
<p>Netherlands</p> 	Yes	<ul style="list-style-type: none"> The new law implementing the revised Article 5(3) (set out in article 11.7a Telecommunications Act) came into effect on 5 June 2012. In addition to introducing a requirement for consent when using cookies, the new law also imposes a "burden of proof" requirement. This creates a legal presumption that visitor data collected across commercial websites using cookies qualifies as personal data processing - unless the website operator can establish otherwise. This burden of proof took effect on 1 January 2013. 	<p>For the time being, yes</p> <p>However, proposed amendments expected to allow implied consent.</p>	<ul style="list-style-type: none"> Website operators must provide users with information and obtain their express prior consent before storing or accessing cookies. An exemption applies for cookies which are: <ul style="list-style-type: none"> a) necessary for the purpose of performing the network communication; or b) strictly necessary to perform a user-requested service. Cookies served to collect information for analytical or targeted advertising purposes will be presumed to qualify

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		<ul style="list-style-type: none"> <li data-bbox="763 400 1234 887">• The relevant Dutch regulators, the Independent Postal and Telecommunications Authority (the "OPTA", which will enforce article 11.7a Telecommunications Act) and the Dutch Data Protection Authority (which regulates personal data processing) have both stated that enforcing cookie consent rules will be a priority in 2013. In February 2013 the OPTA issued updated policy guidelines with respect to the article 11.7a. <li data-bbox="763 919 1234 1238">• In February 2013, following concerns raised about the impact of a strict opt-in requirement to online businesses and consumers' online experiences, the Minister for Economic Affairs announced that the cookie law would be amended to accept (a) implied consent and (b) exemption for first 		as personal data processing requiring unambiguous consent.

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		party analytics cookies. This amendment has not yet been published.		
Norway 	No	<ul style="list-style-type: none"> The Norwegian government has issued a proposal to amend the cookie legislation. The changes are likely to enter into force by summer 2013. 	No	<ul style="list-style-type: none"> According to the proposal, a predefined setting in the user's browser will constitute a sufficient consent as long as there is clear information available on the website on what kinds of cookies and similar technologies are being used, what information is being processed, the purpose of the processing and who is processing the information.
Poland 	Yes	<ul style="list-style-type: none"> Changes to the Telecommunications Law governing cookies took effect on 22 March 2013. The amendment introduces a general informed consent requirement for cookies. 	No	<ul style="list-style-type: none"> From 22 March 2013, individuals' informed consent is required for cookies unless: (i) the cookie is for the sole purpose of carrying out a transmission and/or (ii) the cookie is

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				<p>necessary to provide a service requested by the user.</p> <ul style="list-style-type: none"> • However, under the amendment, consent can be given via appropriate software settings, including browser settings. Further, the two main regulator's websites in Poland have both adopted an implied cookie consent banner approach and even the Polish Ministry of Administration and Digitization (Ministerstwo Administracji i Cyfracji) has indicated it supports consent obtained through browser settings. • On this basis, implied consent seems to suffice for Poland at present. More information available on the FFW Privacy Law blog at http://privacylawblog.ffw.com/2013/poland-and-cookies-whats-the-story.

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Portugal 	Yes	<ul style="list-style-type: none"> Portugal has implemented the revised Article 5(3) through Law n.º 46/2012, of 29 August amending Law n.º 41/2004. The amendments came into force on 30 August 2012. The Portuguese Data Protection Authority has announced that guidelines will be issued in 2013 and that there will be a “grace period” (without having stated the period of time) before taking any enforcement action for non-compliance. At the time of publication, these guidelines have still to be issued. 	Yes	<ul style="list-style-type: none"> Prior consent of the user is required, unless the cookies are necessary to perform a user-requested service. In addition, prior, clear and comprehensive information must be given to the user. The new law is silent about the use of browser settings to obtain consent. Guidance is therefore needed from the Portuguese Data Protection Authority as to whether website operators can rely on browser or other application settings.
Romania 	Yes	<ul style="list-style-type: none"> The provisions of the amended Article 5(3) of the e-Privacy Directive became effective on April 26, 2012, the publication date in the Official Gazette of Romania of Government Emergency 	No	<ul style="list-style-type: none"> Storage of cookies is generally allowed subject to the following conditions: <ul style="list-style-type: none"> (i) the user has been given clear and comprehensive information

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		<p>Ordinance No. 13/2012 ("G.E.O. No. 13/2012") amending and completing Law No. 506/2004 on processing of personal data and the protection of private life in the field of electronic communications.</p> <ul style="list-style-type: none"> • Currently, the Romanian Data Protection Authority (the "RDPA") has not published any guidelines or opinions in respect of how the new rules should be implemented 		<p>(including transparency information complying with Romanian data protection rules when processing individuals' personal data), and</p> <p>(ii) the user has given his or her consent.</p> <ul style="list-style-type: none"> • Consent may be given: <ul style="list-style-type: none"> - expressly - implicitly, by the use of internet browser settings or similar technologies <p>However, when assessing the validity of the express or implicit consent, the RDPA will seek to determine whether the data subjects were fully informed and aware that they were agreeing to cookies being set.</p>

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Slovakia 	Yes	<ul style="list-style-type: none"> Slovakia's amendments to the Act on Electronic Communications implementing the amended Article 5(3) were approved by Parliament on 1 June 2011. The Act became effective on 1 October 2011. 	No	<ul style="list-style-type: none"> The amended Act includes the wording of the revised Article 5(3) plus some elements of recital 66, which recognise the possibility of obtaining consent via browser or other application settings. The legal requirement is "<i>consent given on the basis of clear and complete information; as the user's consent is also deemed the using of the appropriate settings of a browser or other application</i>".
Slovenia 	Yes	<ul style="list-style-type: none"> Slovenia has implemented the Directive through the new Electronic Communications Act (ZEKom-1), which came into force on 15 January 2013. The relevant cookie consent provisions 	No	<ul style="list-style-type: none"> Cookies may be served as long as individuals have provided their consent, having been given clear and comprehensive information about the data controller and the purposes for which their personal data will be processed.

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		will become effective on 15 June 2013.		<ul style="list-style-type: none"> The legal requirement is qualified by an explicit reference to the ability to rely on browser settings or other applications. No consent is required if the cookie is served for the sole purpose of carrying out the transmission of a communication or which is strictly necessary to provide a user-requested service.
<p>Spain</p> 	Yes	<ul style="list-style-type: none"> The law on the Information Society and Electronic Commerce (34/2002) was amended by Royal Decree 13/2012. The amendment came into force on 2 April 2012. The Spanish regulator has also issued guidelines in April 2013 regarding the 	No	<ul style="list-style-type: none"> Cookies may be served as long as individuals have provided their consent, having been given clear and comprehensive information, in particular about the purposes for which their personal data will be processed. Express consent is <u>not</u> required, although the guidelines

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		Spanish rules concerning cookies.		<p>indicate a preference for express consent.</p> <ul style="list-style-type: none"> • A <u>conscious and positive action</u> from the user is required. The user must be informed what action amounts to consent. While a 'click to accept' is the preferred mechanism, obtaining implied consent via the user's behaviour is accepted. • Clear and comprehensive information must be given about the use of cookies and in particular about their purposes. This must include a description of how to revoke consent and remove cookies. • The guidelines recommend that information about cookies is provided <u>separately</u> from the terms of use and privacy policy.

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				<ul style="list-style-type: none"> Finally, the guidelines encourage session cookies wherever possible over permanent cookies. If permanent cookies are used, their expiry should be kept to the minimum necessary.
<p>Sweden</p> 	Yes	<ul style="list-style-type: none"> Changes to the Telecommunications Act came into effect from 1 July 2011 to implement the revised Article 5(3). In its initial implementation work, the Government indicated that the cookie "consent" rule should not be interpreted as a change from the old regime per se, and therefore that users' web browser settings will as far as possible be considered to indicate consent. However, the Government has also indicated that since the consent rule comes from a European Directive, it 	No	<ul style="list-style-type: none"> The Directive has been implemented and requires users' consent to cookies. For the time being, this is understood to mean that consent can be achieved relying on browser settings. However, this should be kept under review in light of future regulatory decisions. Some authorities have chosen to actually collect consent instead of relying to the governments statement, but that seem to be a

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		cannot be too deterministic about how the cookie consent rule will apply. Instead, it intends to leave regulation of the application to the relevant regulatory authorities.		more “to be on the safe side” approach.
United Kingdom 	Yes	<ul style="list-style-type: none"> The UK has implemented the Directive through the Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011, which came into force on 26 May 2011. The Information Commissioner's Office (ICO) published initial guidance on how UK businesses can comply with the new Regulations, together with details of how it proposes to enforce the new Regulations. The latter indicated that ICO would afford businesses a period of 12 months (to 25 May 2012) to adapt to 	No	<ul style="list-style-type: none"> The legal requirement is qualified by an explicit reference to the ability to rely on browser settings. Advice from the ICO indicates that current browser settings are not sufficient to obtain users' consent. The ICO expects organisations to audit their website cookie use, assess the intrusiveness of the cookies they serve, and then determine appropriate cookie consent strategies. Guidance published by the ICO

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		<p>the new consent regime before it would take any enforcement action for non-compliance.</p> <ul style="list-style-type: none"> • That 12 month grace period has now come to an end and ICO has published further guidance on the new cookie rules. These confirm the validity of implied consent. • In December 2012, the ICO published a report describing the concerns of consumers with regard to the use of cookies by website operators and the possible enforcement actions the ICO may pursue in instances of non-compliance. More information available here. • In April 2013, the ICO said it will continue to focus on those websites i) that are doing nothing to raise 		<p>acknowledges the validity of implied consent solutions.</p> <ul style="list-style-type: none"> • However, for implied consent to be valid, users must be made fully aware that their actions will result in cookies being set. Privacy policy disclosures on their own are not sufficient. • In limited circumstances, the ICO advises explicit consent may be more appropriate, such as where sensitive personal information is collected.

Country	Has Article 5(3) been implemented?	Implementation status	Strict 'opt-in' consent required (or expected)? ¹	Legal requirement
		awareness of cookies; ii) are failing to obtain user's consent; or iii) which are most-visited by users; or where they continue to receive the most complaints by users.		

Table last updated: 6th May 2013

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