

Amendment to the Electronic Communications Act - Czechia

Cookies now only in opt-in mode

On 1 January 2022, an amendment to the Electronic Communications Act comes into force, bringing a fundamental change to the Czech legislation on cookies and introducing mandatory prior consent of users for processing cookies.

Cookies are small data files that a website stores on a website visitor's device via an internet browser, so that website can use them when visitors visit the website again to obtain information stored on the website about their previous visits and behaviour.

Opt-in / opt-out

After many years, the amendment removed the conflict with EU directives and introduced an opt-in mode instead of the opt-out mode. Until now, it was sufficient if the user was demonstrably informed about the cookies and their use and was given the opportunity to refuse them. Websites or applications de facto benefited from user's passivity.

But this marks the end of that, and it will now be necessary to obtain the user's active consent to the use of cookies. Without it, cookies can only be used for *"technical storage or access exclusively for the purpose of transmitting a message via an electronic communications network"* or *"for the purpose of providing an information society service explicitly requested by a subscriber or user"*.

Other cookies, such as statistical, analytical, preferential or marketing cookies, can only be stored or otherwise processed after consent has been given. Consent must be given in accordance with the requirements of the GDPR. It must therefore be a free, specific, informed and unambiguous expression of the will of the visitor, who gives permission to process its personal data for a specific category of cookies. In no case is it possible to "force" consent, for example, by means of a cookies banner/wall interfering with a larger part of the site and effectively restricting its use without the option of not giving consent. Of course, merely continuing to browse the site cannot be regarded as valid consent.

Impacts

The change will affect virtually everyone who runs a website or application and uses cookies (or similar means) to collect data about their users. They will have to revise how cookies work on their websites, set up new banners to obtain consent to cookies and adapt the information about processing to the new regulations.

For more information please contact



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