

Preliminary questions / fact-finding

- Do you set cookies? If yes, please elaborate.
- Which cookies will be set? For which reason?
- Do cookies contain personal data?
(Important: Personal data within the meaning of GDPR can also include data relating to persons who are not specifically known. For example information that a visitor is the same as a previous visitor can already be regarded as personal data).
- How long is the data stored?
- Is there an automatic "extension" of the cookie on access?
(In other words: is the expiry reset when the cookie is accessed?)

This information can well be collected in tabular form:

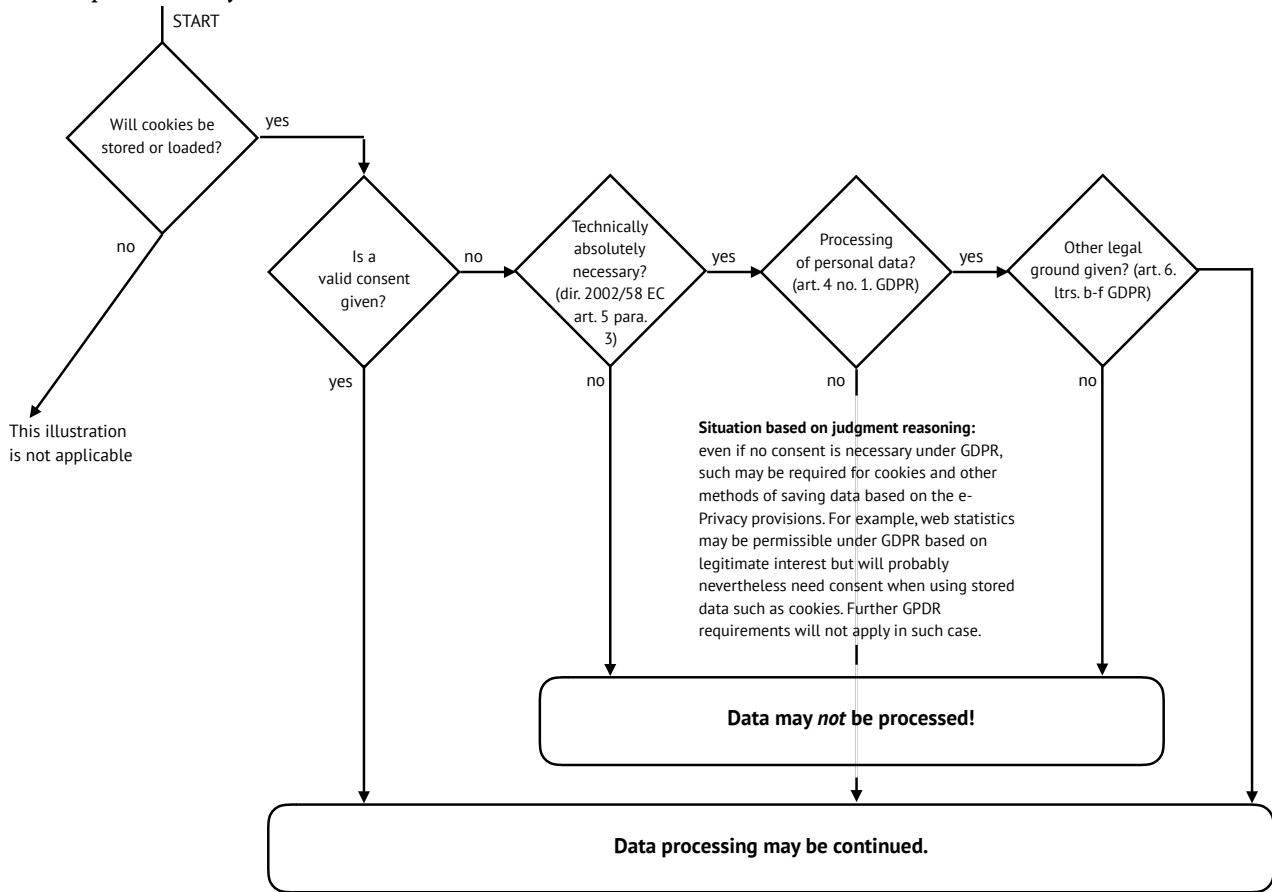
Cookie (name)	Purpose	Content Personal data? - reason and legal ground	Retention duration	Automatic renewal?

Suggested approach

Establish the following regarding each cookie:

- Which data is affected? Is it personal data? If yes, check general GDPR requirements and ensure compliance (requirement unchanged by the judgment).
- Are the cookies technically unavoidable in order to provide the service? If not, consent is required (continue with the following steps):
- What happens to the data? Who gets access to it? What other data is it linked to? For what purposes?
- If consent is required, is it requested before the first corresponding cookie is set?
- Is the text asking for consent clear and unambiguous?
- Does the user have a real choice, i.e. can he/she agree as well as disagree?
- If problems are detected, replace the cookie consent by a revised version!

The steps necessary to be taken and evaluated can be outlined as follows:



A cookie consent banner could be phrased as follows:

Consent to create statistics *[[if transferred to third parties, add a remark!]]*
 We would like to know what is important to you. For this purpose, we would like to create pseudonymous statistics about the user behaviour on our website. Please let us know whether you are fine with us using a cookie to re-identify you. *[[If data is passed on, please add description, incl. Potential recipients.]]*
 For further information, please have a look at our privacy policy.
[[Consent button]] *[[Rejection button]]*

Please beware if introducing a cookie banner: the general obligation to provide the user with imprint and privacy policy remains in place. If the banner covers the corresponding links, you violate these obligations—you should therefore avoid this and place the cookie banner in such a way that these links are easily accessible.

Disclaimer: This document is intended to provide an initial overview and orientation. For the necessary simplification it had to be shortened. This document does not replace any expert legal advice.

I recommend regularly checking whether updated versions of this document have been made available at <https://fingolex.eu/blog/ecj-cookies-2019-10>.