



**GARANTE  
PER LA PROTEZIONE  
DEI DATI PERSONALI**

## GUIDELINES ON COOKIES AND OTHER TRACKING TOOLS

### EXECUTIVE SUMMARY

<b>Topic</b>	Cookies and other tracking tools
<b>Applicable legislation</b>	Section 122 Italian DP Law; Articles 4(11), 7, 12, 13 and 25 GDPR
<b>Cookies and other tracking tools</b>	<p>Cookies are, as a rule, text strings that the websites visited by the user (so-called ‘publisher’ or ‘first party’ websites) or else different websites or web servers (so-called ‘third parties’) place and store within a terminal device in the user’s possession – as such, they are referred to as ‘active identifiers’.</p> <p>Similar functions may be performed by other tools that rely on different technology – as such, they are referred to as ‘passive identifiers’; nevertheless, they also allow processing activities that are similar to those carried out by way of cookies.</p>
<b>Technical cookies and other technical identifiers</b>	<p>These are used solely for the purpose of ‘carrying out the transmission of a communication over an electronic communications network, or to the extent strictly necessary for the provider of an information society service explicitly requested by the contracting party or user to provide that service’ (see Section 122 (1) of the Italian DP Law.)</p> <p>They do not require users’ consent, however they must be referred to in the information notice/privacy policy.</p>
<b>First-party and third-party analytics cookies</b>	<p>These can be equated to technical cookies and other technical identifiers exclusively if:</p> <ul style="list-style-type: none"> <li>- They are only used to produce aggregated statistics concerning a single site or a single mobile app;</li> <li>- At least the fourth component of each IP address is masked out as for third-party cookies; and</li> <li>- The third parties do not match the analytics cookies data with any other information (such as customer records or statistics concerning visits to other websites) and do not forward such data to other third parties. However, statistical analyses concerning several domains, websites or apps that can be traced back to the same publisher or group of undertakings are allowed.</li> </ul>

	Where a controller produces, through its own resources, statistics on data relating to several domains, websites or apps that can be traced back to that controller, non-encrypted data may also be used providing purpose limitation constraints are complied with.
<b>Non-technical cookies and other tracking identifiers</b>	These are used to trace specific actions or recurring behavioral patterns in the use of the offered functionalities back to specific, identified or identifiable individuals for the purpose of grouping the different profiles within homogeneous, multi-sized clusters; this is aimed in turn to enable increasingly customized services along with the sending of targeted advertising messages, i.e., messages that are in line with the preferences expressed by users during their web-browsing activities
<b>Main changes under the GDPR concerning cookies and other tracking tools</b>	<ul style="list-style-type: none"> <li>- Accountability;</li> <li>- Expanded information obligations (data storage periods to be specified as well);</li> <li>- Enhanced consent (it must be 'unambiguous' in all cases);</li> <li>- Compliance with privacy by design and privacy by default principles</li> </ul>
<b>Information and consent</b>	<p>How should information be provided:</p> <ul style="list-style-type: none"> <li>- By using simple, accessible language;</li> <li>- In such a way as to be conveyed, without any discrimination, also to individuals needing assistive technologies or special configurations on account of their disabilities;</li> <li>- Also by relying on multi-layered, multi-channel approaches;</li> <li>- If only technical cookies are used, the relevant information may be placed on the website's homepage and/or in the general information notice;</li> <li>- If other cookies and non-technical identifiers are also used, a suitably sized pop-up banner can be used including: <ul style="list-style-type: none"> <li>- A warning to the effect that the website uses technical cookies as well as (subject to user's consent) profiling cookies or other tracking tools along with information on the relevant purposes (short information notice);</li> <li>- A link to the privacy policy containing the extended information notice and mentioning any additional recipients of the personal data, data storage periods and how to exercise the rights under the GDPR;</li> <li>- A warning to the effect that if the banner is closed (e.g. by clicking on the 'X' on its top right corner) the default settings are left unchanged and therefore browsing can continue without cookies or other tracking tools other than technical ones.</li> </ul> </li> </ul>

	<p>Accordingly, the banner will have to contain the following in order to obtain valid consent:</p> <ul style="list-style-type: none"> <li>- The command referred to above (e.g., an 'X' placed on the top right corner) to close the banner without giving one's consent to the use of cookies or other profiling techniques and by keeping default settings;</li> <li>- A command (button) to accept all cookies or tracking tools;</li> <li>- A link to an additional dedicated area where the user can select, individually, the functionalities, the third parties, and the cookies that user consents to install, and where the user can either consent to the use of all cookies (if such consent has not already been given) or withdraw his/her consent, also once and for all. In this regard, a good practice consists in using a graphical sign, an icon or any other technical arrangement to flag (e.g. in the footer of each domain page) the status of the consent declarations given by each user, and to enable changing or updating such declarations.</li> </ul> <p>This dedicated area will have to be accessible also through an additional link to be placed in the footer of each domain page.</p> <p>Soliciting consent repeatedly is not permitted if consent has been withheld, except where any one of the following conditions applies: one or more of the circumstances of the processing changes significantly; it is impossible for the website operator to know whether a cookie has already been stored on the device; at least six months have elapsed since the banner was last presented.</p> <p>Regarding authenticated users (i.e., users having registered accounts), the data relating to their browsing across several devices may not be matched except with the users' prior consent.</p>
<p><b>Additional information to be provided to users</b></p>	<p>Coding criteria of the cookies and other tracking tools deployed, to be communicated to the Garante upon request; possibility for authenticated users to consent to tracking performed also by matching behavioural data across several devices.</p>
<p><b>Assessment of methods to obtain consent</b></p>	<p><i>Scrolling</i>: this is per se unsuitable to obtain valid consent, unless it is part of a broader process enabling a user to generate an event that can be recorded and documented in the website server and can qualify as an explicit action to unambiguously signal that user's intention to consent to the processing.</p> <p><i>Cookie wall</i>: this is unlawful, except where the website enables a user to access equivalent contents or services without consenting to</p>

	the installation and use of cookies. This will have to be assessed case by case and in the light of GDPR principles.
<b>Validity of existing consent</b>	Pre-GDPR consent remains valid if it meets GDPR requirements and was recorded at the time it was obtained, i.e., if it can be documented.
<b>Deadline for bringing systems and processing into compliance with the GDL</b>	Six months from publication of the GDL in Italy's Official Journal (Gazzetta Ufficiale).