

# Cookies: legal framework and guidelines from the CNPD

Gary Cywie

Data Privacy Day | Take control of your privacy | 28 January 2022



# Agenda

---

1. – What are cookies?
2. – What is the legal framework?
3. – What do the guidelines from the CNPD say?
4. – What are the legal requirements?
5. – Why is it important for your business?

## Our ICT, IP, media and data protection team

---



**Linda Funck**  
Partner



**Gary Cywie**  
Partner



**Emmanuèle de Dampierre**  
Counsel



**Anthony Favier**  
Associate



**Nicolas Wurth**  
Associate



**Florentine Frias**  
Associate



## Magic cookies

---



**You will soon be eating a cookie**



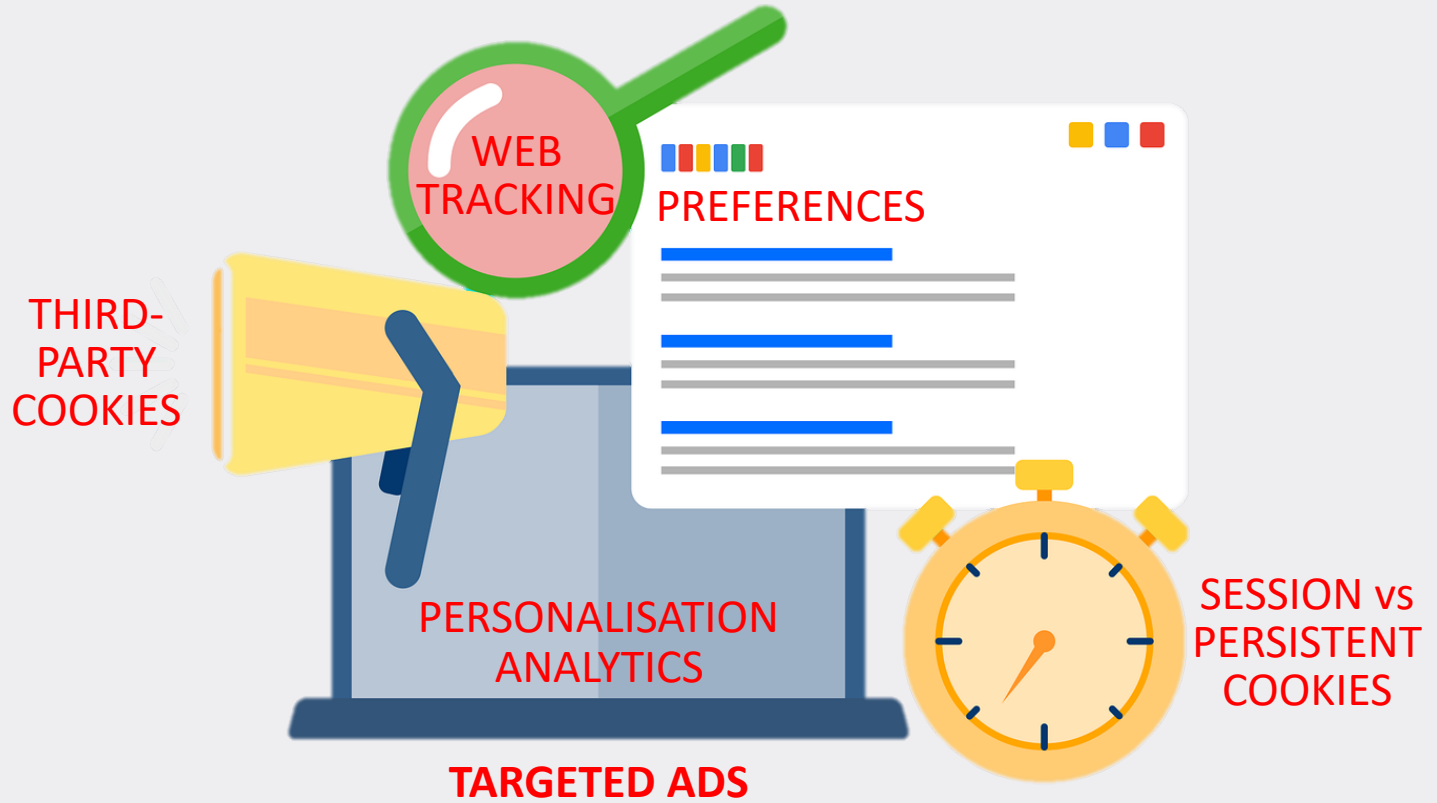
# Cookies

Fingerprints

Pixels

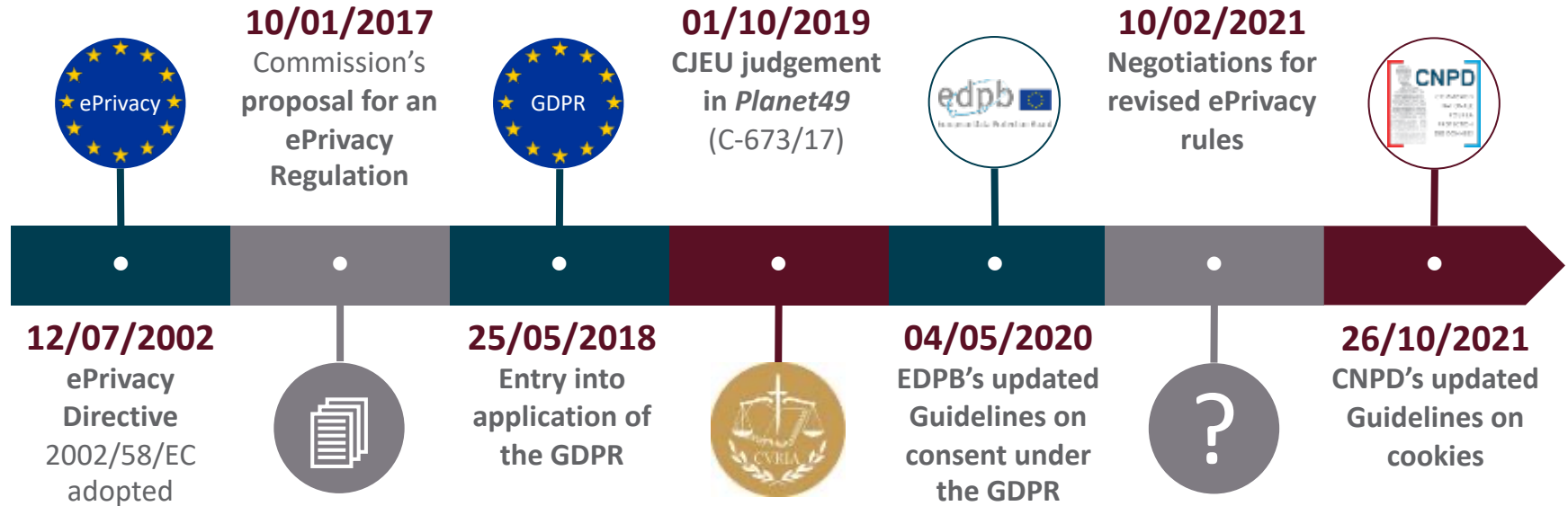
Web beacons

Etc.





## Legal framework





## CNPD's Guidelines on cookies and other tracking devices





---



### Le Règlement Général sur la Protection des Données Lignes directrices en matière de cookies et autres traceurs



## Legal requirements: key principles

Requirements		
Cookies	Information	Consent
<b>Essential</b> (strictly necessary)		
<b>Non-essential</b>		
	Concise, transparent, intelligible, easily accessible Clear and plain language	Free, specific, informed and unambiguous





# Compliance = confidence

We use cookies. Click to continue.

OK

We use cookies. Click no to decline.

YES

We use cookies. Do you agree?

YES

YES

We use cookies. Do you agree?

OK

Options

We use cookies.  
Personalise your choices.

	Legitimate interest	Consent
Advertiser, Inc.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tracker GmbH	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Interactive ads	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Third party vendor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ads manager	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Devil's cookies	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Free analytics	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ABC industry	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tag Manager	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ads by abc	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Ads by def	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ads by xyz	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Social network	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Killer ads	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Private life hacker	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ads Addon	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Video spy	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Accept all

Save & exit

We use cookies.

Click [here](#) for more information.

Accept all

Reject all

Accept only essential cookies

Personalise your choices.

Essential cookies: ☒ Always on

Non-essential cookies:

Geolocation ☐ Off ☐ On  
Targeted ads ☐ Off ☐ On

Save & exit

*For illustration only*



## Why is it important for your business?

---



### AUSTRIA

22 December 2021: DSB says Google Analytics is illegal.

### FRANCE

31 December 2021: the CNIL fines Google **EUR 150.000.000** in total and Facebook **EUR 60.000.000** because users can't refuse cookies as easily as to accept them.

### LUXEMBOURG

In 2021, the CNPD imposed **finances on 16 companies**, focussing on DPO and video-surveillance notably.

Will cookies come next?



## EHLO: our ICT, IP, media and data protection news



GDPR - Adequacy decisions for the UK

ePrivacy Regulation: The return?

GDPR - Transfers of personal data in the UCI world after Schrems II

Luxembourg law recognises issuance of dematerialised securities in blockchains

Artificial Intelligence: the Commission's Regulation Proposal and AI strategy in Luxembourg

European Commission's Action Plan on Intellectual Property

# Thank you for your attention!

---



**Gary CYWIE**  
**Partner**

[garycywie@elvingerhoss.lu](mailto:garycywie@elvingerhoss.lu)  
Tel: +352 44 66 44 5162





Contact us to discuss how we can support  
your business in Luxembourg

**Luxembourg Office**

2 Place Winston Churchill

L-1340 Luxembourg

Tel: +352 44 66 440

Fax: +352 44 22 55

[www.elvingerhoss.lu](http://www.elvingerhoss.lu)

**Hong Kong Office**

Suite 503, 5/F ICBC Tower

Three Garden Road, Central

Hong Kong

Tel: +852 2287 1900

Fax: +852 2287 1988