

EU Refers Five Countries for Failure to Implement Cookie Directive

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Belgium, the Netherlands, Poland, Portugal, and Slovenia have been referred to the European Court of Justice for failing to enact national legislation to implement the update to the EU e-Privacy Directive. These updates have commonly been referred to as the “cookie directive,” and require that website hosts obtain user consent before using non-necessary cookies. Individual EU Member States had until May 25, 2011 to enact national legislation. The EU Commission, which referred the action, has requested daily fines for non-compliance, which would total between approximately \$16,000 (Slovenia) and \$138,000 (Poland) a day. The Netherlands has reportedly indicated that it will soon comply.

TIP: These action shows that the EU is getting more aggressive about cookie directive compliance. Companies that use non-necessary cookies on their websites and are subject to EU jurisdiction should ensure that they have a plan to address the consent requirements.

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