

I. Appeal to point 7 of the opinion

In my opinion, point 7 of the EROD's opinion needs to be clarified as paragraph 3.

Currently, it reads: *„The importer is in a third country or is an international organisation, irrespective of whether or not this importer is subject to the GDPR in respect of the given processing in accordance with Article 3.“*

In my view, it is not clear what "the importer is in a third country" means. I allow two interpretations here, namely:

1. the importer is established in a third country;
2. the importer can be established in an EEA state but its servers are located outside the EEA.

This may be relevant where entity A based in an EEA country is the controller of personal data and entrusts the processing of personal data to entity B based in an EEA country, which also uses its own servers located outside the EEA. The question then is whether there is a transfer of personal data outside the EEA?