

Contribution regarding:

Guidelines 05/2021 on the Interplay between the application of Article 3 and the provisions on international transfers as per Chapter V of the GDPR

By:

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Feedback:

Huge amounts of personal data is stored in datacenters. Datacenters can 'rent out' data storage capacity, which can in turn be deployed to offer datacenter services.

In many cases, companies from a third country, i.e. the USA, could rent a part of this capacity, and while these companies are offering datacenter storage services, or even platform as a service, or Software as a Service, this legal entity is in the USA, but the data are stored by the customer in this server, located in the EU.

In fact, the personal data have never left the EU. A transfer to a third country has not taken place. Still, one can wonder if, now that the contract is made between the customer with an establishment in the EU and the datacenter lessee who happens to be established in the USA, Chapter V may still be applicable. Or not. That is the question. What is prevalent: establishment or actual transfer?

END OF CONTRIBUTION