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General Data Protection Regulation:
Challenges for the Cloud

Master's thesis

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Abstract

This thesis recognizes and analyses some of the fundamental challenges that the General Data Protection Regulation poses for cloud computing. Its aim is to answer the question whether the GDPR can be regarded as cloud friendly. The hypothesis that is proposed and tested is that it cannot be, since it includes concepts and wording that are impractical in cloud computing. This is assessed based on how different cloud computing services function. The thesis therefore lays down foundations of both legal and technical understanding of the data protection in the cloud in the first chapters. The analysis of the challenges then builds on this knowledge. The challenges of the GDPR for the cloud are divided into five groups. Firstly, what is regulated as personal data in the cloud is considered with regard to the concepts of anonymisation, pseudonymisation and encryption. Secondly, controller – processor relationship and their obligations in the complex cloud environment are deconstructed. The issues concerning distinguishing between the controller and the processor in the cloud, new specific obligations of cloud service providers who act as processors and compulsory provisions of the data processing agreements, which do not make sense in the cloud are highlighted. The concepts of data protection by design and by default are also dealt with. Thirdly, the most relevant rights of the data subjects in the cloud are analyzed. These are the right to erasure and the right to data portability. Another challenge recognized concerns the emphasis that the GDPR puts on transparency principle and how that forces even SaaS service providers to uncover layers of cloud computing to the data subjects. Lastly, aspects of extraterritoriality and international transfers relevant in the cloud are acknowledged. The thesis then ascertains whether cloud codes of conduct, the emergence of which the GDPR presumes, can help to tackle the recognized issues and concludes with the discussion on whether the GDPR is cloud friendly based on the analysis provided.

Key words: GDPR, cloud, data protection