

# DPA approves first European code of conduct for cloud

25 June 2021 | Contributed by AKD

## **Aim of code**

### **Adherence**

### **Covered services**

### **Data transfers to third countries**

On 20 May 2021, after the European Data Protection Board (EDPB) filed a favourable opinion on 19 May 2021, the Belgian Data Protection Authority (DPA) approved the EU Cloud Code of Conduct ('the code'), the first transnational code of conduct adopted in the European Union since the entry into force of the EU General Data Protection Regulation (GDPR). The code has been operational ever since. The DPA also accredited Scope Europe as the monitoring body for ensuring its members' compliance with the code, affording it the authority to impose penalties.

## **Aim of code**

By approving the code, the DPA confirms that it embodies the requirements of Article 28 of the GDPR (on processing) and any other relevant article therein. The purpose of the code is to demonstrate that cloud service providers (CSPs) as processors provide sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing will meet the requirements of the GDPR and ensure the protection of the rights of the data subject, thus making it easier and more transparent for customers to analyse whether cloud services are appropriate for their use case. The code aims to establish good data protection practices for CSPs and contribute to better protection of personal data processed in the cloud.

## **Adherence**

The code consists of requirements for CSPs that wish to adhere thereto, plus a governance section that is designed to support its effective and transparent implementation, management and evolution. The code is a voluntary instrument, enabling CSPs to evaluate and demonstrate their adherence to its requirements, either through self-evaluation and self-declaration of compliance or through third-party certification.

## **Covered services**

The code aims to address all service types of the cloud market (ie, infrastructure as a service, platform as a service and software as a service) and creates a "baseline for implementation of GDPR" for these services. Its purpose is to provide practical guidance and define specific requirements for CSPs.

The code applies only to cloud services where the CSP is acting as a processor. It therefore does not apply to business to consumer services or any processing activities for which the CSP may act as a data controller.

## **Data transfers to third countries**

The code is not intended to provide appropriate safeguards for third-country data transfers pursuant to Article 46(2)(e) of the GDPR. Therefore, adherence to the code is not intended to be a basis for permitting transfers of personal data to third countries as envisaged by Article 40(3) of the GDPR. In line with the Section 5(4) of the code, the DPA stresses that customers and CSPs that transfer personal data to a third country outside the European Economic Area remain responsible for assessing the individual appropriateness of implemented safeguards according to Chapter V of the GDPR. Nevertheless, the EU Cloud CoC General Assembly decided to develop an on-top module to the code to create an effective and accessible safeguard for third-country data transfers.

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