



## **Using Cloud Services Key Takeaways – What You Should be Aware of ?**

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*Summary*  
*from the 2nd part of 3rd JPM Jankovic Popovic Mitic*  
*Data Protection Conference*

**As government bodies and institutions and private companies are liable for personal data that citizens share with them for whatever reason and the Serbian Government makes an effort to provide government bodies and private companies with the possibility to use cloud services offered by the State Data Cloud Center in Kragujevac, we have gathered insights from European and national level stakeholders about mandatory and best practice requirements to be provided and required by CSPs.**

**This matter gains increased significance as, according to the Law on E-Government, all our personal data that the government bodies and institutions are responsible for will be stored on the server located in the premises of the State Data Cloud Center in Kragujevac.**



### **I STEPS TO BE CARRIED OUT BEFORE SIGNING SLA AND DPA:**

- Controllers shall ensure that data privacy requirements are incorporated in the request for proposal of cooperation or in technical specifications, as part of tender documentation;
- The business must understand that privacy is an important element of the cloud services – SaaS, PaaS, and IaaS assume data management and therefore is of privacy concern;
- Non-compliance with privacy regulations is strategic and not an operational risk – non-compliance can have long-term consequences for the rights and freedom of data subjects.

## II PRIVACY RISKS WITH CSPS – EXPERIENCES:

- a. State bodies and institutions and private companies (controllers) must perform due diligence to check CSPs level of transparency. CSPs must provide information on security infrastructure and implementation of privacy by design and by default principle in an organized and easily understandable way for users and auditors. The absence of readiness of CSPs to reveal such details can influence controllers' transparency;
- b. The concept of externalization and outsourcing when using cloud services per se bears risks for personal data. CSPs must provide strong guarantees that they implement strict and comprehensive access control policies and regulations. The absence of applicability of the said controls and regulations may result in a lack of trust between users and CSPs and stop the users from using cloud services;
- c. Cases when the cloud infrastructure is distributed at different locations, i.e., personal data are stored under different jurisdictions may pose risks of unauthorised access to personal data by public authorities; Concept of sharing computational resources, data storage, applications, and services among different "tenants" shall be avoided. Such concept maximises profit for CSPs, but, on the other side, exposes users at risks;
- d. By increasing tenants and computational capacity on cloud, there is increasing of risks for the management of virtual tenants' machines, as well as risks of hypervisor management of physical and virtual machines, including increased motivation of hackers to attack CSPs.

### **III) CONTENT OF DATA PROCESSING AGREEMENT**

To avoid the risks identified, controllers shall conclude a comprehensible SLA with a data protection annex.

The representative of the Serbian Commissioner advised controllers located in Serbia when using services of CSPs located in third countries, to use standard contractual clauses issued by the Serbian Commissioner or data processing agreement for data transfer to locations in countries which provide adequate protection of personal data.

To ensure adequate protection of personal data, standard contractual clauses or data processing agreements shall be supplemented or contain the following elements:

1. instructions to the CSP on how to process personal data and for which purposes;
2. security physical and logical security policy shall be deployed by the CSP;
3. measures applicable and information shall be provided to the controller in case of a data breach process;
4. reference to adherence to standards applied by CSP;
5. the obligation of CSP to cooperate regarding DSARs;
6. confidentiality obligation for subcontractors or freelancers hired by the CSP;

7. information on the location of data;
8. transfer impact assessment and TOMs to be applied in case personal data are transferred to a third country;
9. obligation not to disclose personal data to a third country in case location is in the EU – otherwise, the CSP would be considered as controller;
10. the obligation of CSP to destroy personal data after termination of SLA;
11. right to audit CSP;
12. applicability of the same measures by subprocessors.

#### **IV APPLICABLE CSPS SOLUTIONS**

Current applicable Serbian regulations do not prevent competition, i.e., the use of CSPs solutions for the management of data by state bodies and private companies at the national level.

The representative of Microsoft demonstrated a high level of compliance for CSPs with the concept of Microsoft for Cloud Sovereignty and Microsoft Cloud Azure.

More information on this concept can be found at this [LINK](#) and this [LINK](#)

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