

Feedback on “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”

There is a need for clarifying one additional case regarding what qualifies as a transfer to third country.

An example. Company X is an U.S. company with datacenter in EU/EØS. Company Y in EU/EØS rents server space in a Company X owned datacenter, physically located in EU/EØS, to host their application.

Since the datacenter is owned by a U.S. based company, theoretically has the possibility to get access to the data stored in the datacenter in EU/EØS.

Is this to be considered as a transfer to a third country?

Another example regarding almost the same. Company X is an U.S. company delivers an IT-solution where all the data is stored in EU/EØS. The user of the IT-solution is based in EU/EØS, but the company has some administrators with access to the solution based in U.S.

Is this to be considered as a transfer to a third country?