

Legal Process Modeling for Dataprotection –how to implement Privacy-by-Design

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On 25 May 2018 the General Data Protection Regulation (GDPR)¹ will enter into force for the Internal Market. The GDPR will nearly substitute the European Data Protection Directive² and the National Data Protection Codes as the German Data Protection Law (Bundesdatenschutzgesetz). According to the GDPR the controller shall, in particular using new technologies, implement a Data Protection Compliance Management System³ by adopting internal policies and undertaking appropriate technical and organisational measures preventing the risks and possible damages related to the processing of personal data.

Evaluating risks means that the protection of personal data is not an absolute right and must be considered in relation to its function in society and balanced against other fundamental rights. Therefore, there is no prevalence of the Right of Informational Self-determination. The principle of proportionality leads to the application of the criteria as follows:

- Likelihood and severity for rights and freedoms of natural persons posed by the processing,
- State of the Art,
- Cost of implementation and
- Nature, scope, context and purposes of processing.

Dataprotection-Compliance shall meet the requirements of prevention and evidence. According to the GDPR Privacy-by-Design means to implement the collection and use of personal data lawfully, fairly and in a transparent manner while designing products and services using personal data. The controller may classify the data according to what is adequate, relevant and limited to what is necessary in relation to the purposes and to the likelihood and severity of data protection infringements, e.g. in case of loss of data. Privacy-by-Default means the obligation to limit the collection and use of personal data to what is necessary for each specific purpose while relying on measures as anonymisation or pseudonymisation. Offering such products or services may limit the product opportunities as specification for customers needs.

Critical success factor for the implementation of requirements of privacy-by-design is the integration into the product development process. Business Process Management Tools (BPM) are widely used to organize the companies activities and processes according to the business strategy and the product performance. Aim of the presentation is to show how BPM can be developed to a Legal Process Management (LPM) which integrates the requirements of Data Protection, e.g. Privacy-by-Design, into the business processes. Challenges are to bring law codes and standards into a process pattern, which is to analyse and disassemble them into individual parameters and to attribute them to single process steps. We will show the Legal Process Modeling of the Research Group „Law in Sustainability, Compliance and IT“ and the experience gained in the project sd-kama.

Track

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