

The Challenge of Incorporating Legal Rules into Digital Applications: a Theoretical Exploration of Article 25 GDPR

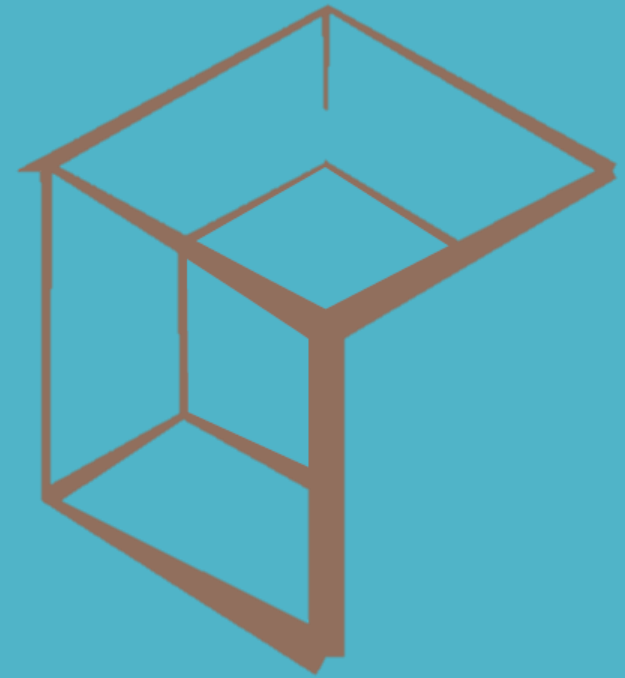
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- **How does article 25 GDPR pursue to shape technology?**
- **How far does the obligation of article 25 reach?**
- **How should we identify applicable measures in accordance with article 25 GDPR?**



- What kind of obligation?
 - An obligation of result
- When?
 - From the moment of determination of the means of processing
- Who should implement data protection by design?
 - Data controllers
 - Designers come into play indirectly



- Further elaboration: *when* does article 25 GDPR apply?
 - The controller designs the digital application
 - The controller acquires the means of processing from a third party

How far does the obligation of article 25 reach?



- Does article 25 GDPR oblige data controllers to automatically comply with all legal obligations set forth in the GDPR?
 - No:
 - There are actions that cannot be implemented in the software of a digital application
 - One cannot predict all possible uses of software
 - Our understanding of legal provisions changes over time



- Elements to be considered:
 - Effectiveness
 - The risk
 - The nature, the scope, the context and the purposes of processing
 - The state of the art
 - The cost of implementation



- Article 25 pursues to influence the design of digital products
- Not a duty of full automatic compliance
- Identification of applicable measures is a question of balancing



Thank you for your attention
Looking forward to the discussion

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