Cloud e-commerce: the gap between technologies and laws
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Abstract:
Apparently this is a trivial operation, a simple click, however the buying mode with e-commerce in recent years have generated numerous legal issues.
Nowadays the online channel has become very important in the distribution of goods and services, with obvious consequences for the European and international trade. Today, therefore, it is necessary to try to standardize the regulation of these transactions that involve companies and consumers around the world.
One of the most interesting challenges in this scenario is the preservation and security of the data, as well as the moving from the usage of classical data center to the cloud computing.
In order to handle the shortage of economic resources, enterprises have discovered the cloud computing. The application of the cloud for e-commerce activities has permitted to solve the problems of the shortage of funds to strengthen the required technology for make more secure and competitive own business.
If on one hand the companies have understood the convenience of this tool and they have followed the technology to enrich their activities, on the other hand the national and supranational legislators was not be able to regulate, with the same speed, the phenomenon of the use of cloud computing in the e-commerce activities. Currently, the gap between technological and legislative innovation is so broad as to arrive at jeopardize the position of both consumers and companies involved in the transactions.
Actually, there is a big lack of protection regarding this aspect. Just recently, some legal experts have started to address this issue, that has serious repercussions on the European, which looks very favorably to e-commerce, and on the international trade.
It must then sift the regulatory fragments scattered in a river of rules, which are hardly reconcile in a unique system, in order to reconstruct the legal framework concerning this topic.
Each issue opened by the progress of technologies is a potentially new challenge for the legal system. First of all, probably, the aspects of responsibility and safe handling of the data requested and released by users.
In order to better understand the importance of this issue, consider the European Directive on data protection, the national laws which have implemented the Directive about the data retention and the e-commerce requirements on cookies and the e-discovery.
Is the European legislation trying to prove that it can keep up with technological change, which permits that a potentially infinite number of data can be stored in a cloud, managed by a different entity from who has collected them in the first instance, so far considered as the only owner of the treatment?
This work consider not only the positive law, traditionally meant as supranational, national and regional, but also as tools of national and European *soft law*. As well as the contributions of independent administrative authorities and the considerations of the more careful doctrine, even extra-legal, in the belief that the interdisciplinarity in this field is not a choice, at the discretion of the individual, but an imperative epistemological.