

Paris, 11 April 2024  
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LE PRESIDENT

Madame Ursula von der Leyen  
Présidente  
Commission européenne  
Rue de la Loi / Wetstraat 200  
1049 Brussels  
Belgique

**Object:** EUCS, the decline of an ambition

Madam President,

On 26 October 2022, the main organisations representing European professional users of digital services wrote to Commissioner Thierry Breton, reminding him of our respective members' need to protect their sensitive and strategic data. In this letter, we affirmed our need for a certification scheme for cloud services that would include, as part of its highest level of requirements, guarantees of immunity from non-European legislation with extraterritorial scope for data and associated processing. This letter, which you will find attached to this letter, is still relevant and our position on the matter remains unchanged.

Furthermore, in April 2022, AISBL Gaia-X adopted its framework for labelling cloud services for data sharing and exchange. These labels, which are organized around three levels of certification, correspond to the expressed needs of the association's members - companies using cloud services and European and non-European cloud providers - in terms of the security and protection of their data. The Gaia-X Association has reached a consensus among its members to include in its highest-level label requirements for the immunity of cloud services to non-European legislations with extraterritorial scope.

I am writing to you to highlight a major concern that is currently affecting all our members, 155 major French companies and public administrations, and which, more broadly, is undermining the European Union's digital sovereignty.

We are particularly concerned to note that the latest version of the EUCS project seems to be moving away from its essential objective of guaranteeing a high level of security and immunity against non-European extraterritorial legislation. Pressure from both the US technology industry and certain diplomatic interventions suggests that the EUCS could be downgraded, depriving European businesses and public administrations of an essential tool for protecting their data against extraterritorial actors.

This situation is unacceptable and runs counter to the European Union's ambition for strategic and technological autonomy, which we are promoting for the benefit of our members.

Yet the ruling of 16 July 2020 by the Court of Justice of the European Union, invalidating the Privacy Shield, highlighted the significant risks associated with American intelligence services gaining access to European personal data. We cannot be satisfied with the persistent confusion between the protection of personal data, now governed by the RGPD and the adequacy decision for safe and trusted data flows between the European Union and the United States, and that of sensitive and strategic non-personal data held by European companies and public administrations.

The latter remain vulnerable and without adequate protection against economic intelligence activities carried out by foreign powers, for example under section 702 of the Foreign Intelligence Surveillance Act (FISA) or China's National Intelligence Law. Such legislation allows intelligence agencies to collect non-personal data on a massive scale for economic intelligence purposes, without the guarantees of proportionality or necessity that are in line with European values.

In this context, the certification scheme for EU cloud services is of paramount importance. It is imperative that the EUCS incorporates a high level of certification, offering robust and clearly defined protection against extraterritorial interference in the collection of non-personal data.

Certain foreign powers now have a capacity, unparalleled in the history of intelligence, to conduct their economic intelligence activities in the European digital space without any particular hindrance. The introduction of such a level of certification within the EUCS would be a direct response to the threat posed by these surveillance practices and would send out a strong signal as to our continent's ambition to protect its strategic information assets, well beyond just personal data.

Madam President, Cigref calls on the European Commission to take immediate steps to clarify and strengthen the protection of sensitive and strategic non-personal data within the EUCS, and to do so free from external pressure and vested interests. It is essential that this certification scheme can offer a reasonable guarantee that our most critical data is secure against any form of foreign interference, in line with the principles of security, confidentiality and independence that the European Union and its economy need.

I remain at your entire disposal to discuss these issues and to work together to develop appropriate solutions.

Yours sincerely,

Jean-Claude Laroche