

# Legal keys to kingdom

Stibbe

29 April 2025



## Cloud Sovereignty: A Legal Perspective

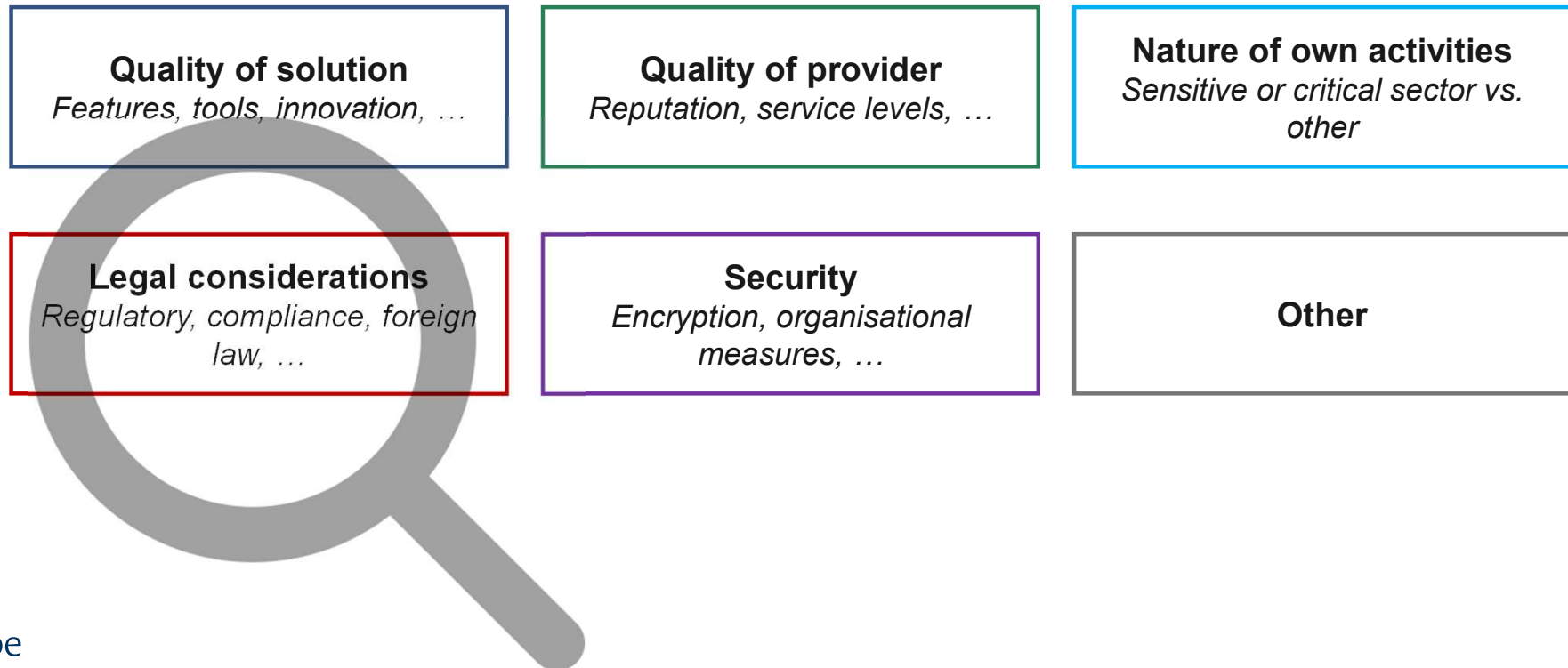
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# 1. How to decide where to store or host data?

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## 2. Sovereign Cloud: a commercial solution to a regulatory risk?

### What is sovereign cloud?



Sovereign cloud is a cloud solution for the secure storage of sensitive or confidential data subject to strict regulations. The sovereign cloud guarantees that all data, including metadata and personal data, remain within the European Union and cannot be accessed from abroad.

easi

At Easi, we refer to the "Sovereign Cloud" as a cloud computing environment where data is stored, managed, and processed within a specific country's borders, adhering to its legal and regulatory frameworks.

In the Belgian context, this means that all your data is stored and managed within Belgium – specifically on Belgian soil and in Belgian data centers.

### What Is a Sovereign Cloud?



A sovereign cloud is a cloud environment that helps an organization meet its digital sovereignty requirements. Under most sovereignty frameworks, organizations look to protect personal information about individuals. However, sometimes the scope is broader, encompassing intellectual property, software, business methods, financial data, information about IT infrastructure, and even metadata that describes how big a data set is and how quickly it's growing. A sovereign cloud may be housed at a facility owned by a cloud computing provider and accessed by an organization's user and non-cloud IT systems over the internet or via dedicated communications links that aren't connected to the internet.

### What is a Sovereign Cloud?

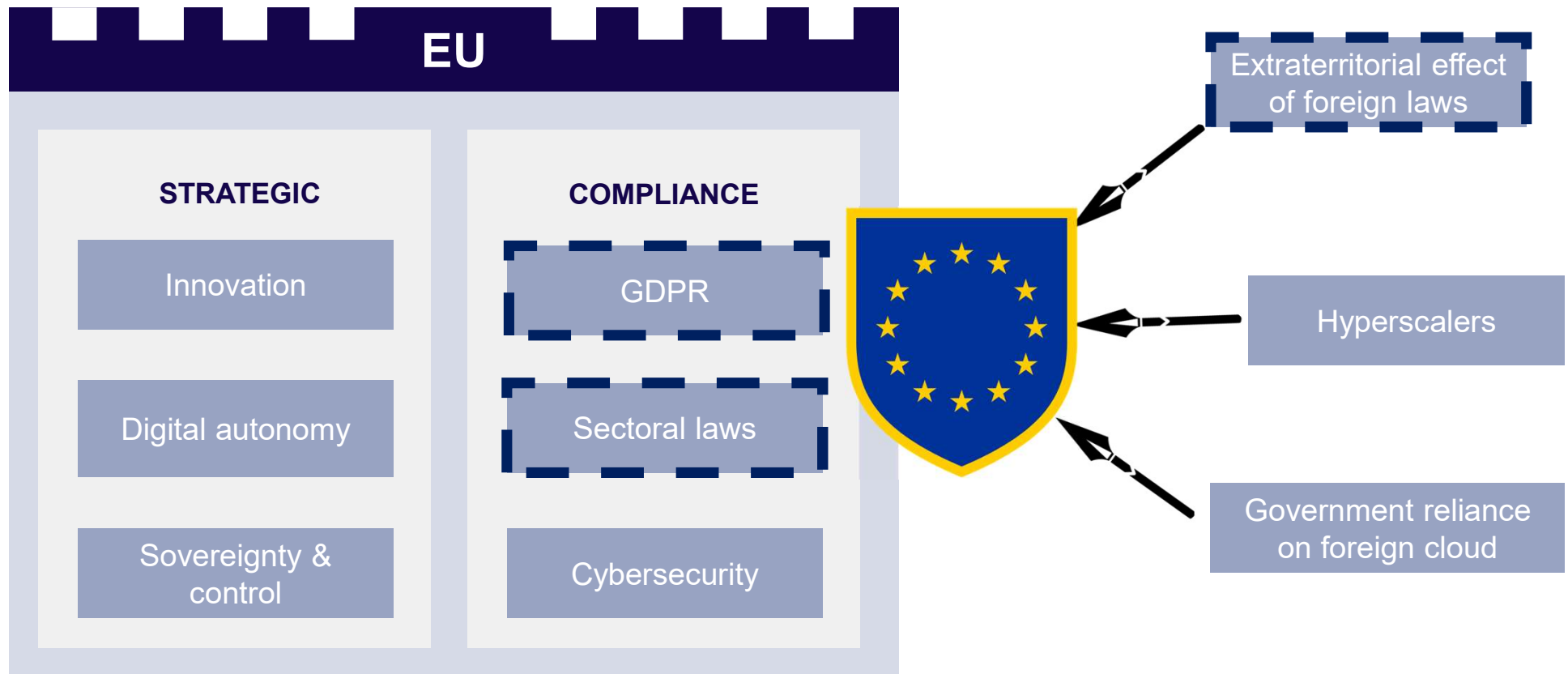
orange™

There is no single, legal definition of the sovereign cloud but the concept is simple - a sovereign cloud is a cloud which ensures all data and related metadata stays on sovereign soil. Sovereign clouds are therefore architected and built to deliver security and data access that meets strict requirements of regulated industries and local jurisdiction laws on data privacy, access and control. They protect and unlock the value of critical data for both private and public sector organizations.

Sovereign cloud

Data sovereignty

### 3. Legal keys to the kingdom



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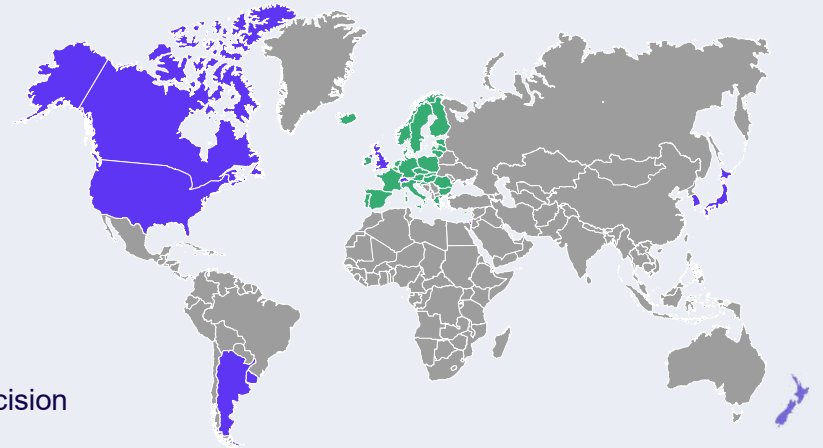
GDPR

Sectoral laws

Extraterritorial effect  
of foreign laws

- › **Transfer** of personal data outside the EEA
  - › Adequacy decision?
  - › Other transfer mechanisms? (SCC, BCRs)
- › Transfer impact **assessment**
- › Data processing agreement

■ EEA  
■ Adequacy decision





### 3. Legal keys to the kingdom

GDPR

Sectoral laws

Extraterritorial effect  
of foreign laws



- › VTC issues **negative opinion on use of AWS** (8/9/2020)
- › Council of State ignores opinion VTC, but recognizes risk of transfer outside EEA + necessity to take **adequate measures** (19/8/21)
- › **SCCs** considered valid transfer mechanism since DPF not yet in effect



- › EDPS finds European Commission in **violation of EU GDPR** due to use of M365 (8/3/2024):
  - › Lack of transparency on international transfers
  - › Lack of appropriate safeguards and supplementary measures for transfer to US
  - › Lack of sufficient transfer impact assessments

### 3. Legal keys to the kingdom

GDPR

**Sectoral  
regulation**

Extraterritorial effect  
of foreign laws



#### **Telecommunications**

Subscriber data must be stored within EU.



#### **Financial entities**

Obligation to list data storage locations



#### **Hospitals**

Medical file to be stored by  
(before: *in*) the hospital



#### **Employment**

Employer must store social documents re. employees on site in Belgium



#### **Tax**

The books must be stored in the office, branch or professional/private location of the taxpayer.



#### **Other**

National security laws, export control laws, ...



### 3. Legal keys to the kingdom

GDPR

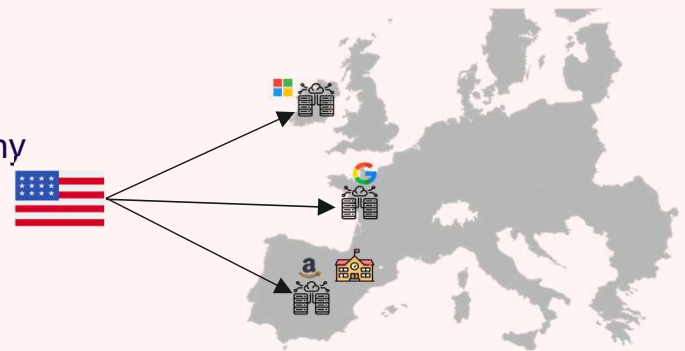
Sectoral laws

**Extraterritorial  
effect of foreign  
laws**

#### **US CLOUD Act**

- › Allows US federal government to access information outside the US
- › Scope:
  - › Material: communication service providers, regarding the content and subscriber information
  - › Territorial : within their *possession, custody or control*, regardless of location of that information
    - › US entities
    - › EU branches of US entities
    - › ...
- › Limited objection grounds, only for US company
- › Gag orders

*Other (US) foreign laws (FISA, EO12.333, ...)*



## 4. Risks and solutions for companies

	Risks	Solutions
GDPR	<ul style="list-style-type: none"><li>• Responsibility of data controller</li><li>• Illicit transfer = violation of GDPR</li><li>• Sanctions, up to 20M or 4% yearly turnover</li></ul>	<ul style="list-style-type: none"><li>• Comply with <b>transfer mechanisms</b></li><li>• <b>Contractual</b> assurances toward processors</li><li>• Ensure <b>hosting location</b> is in EEA</li><li>• Encryption</li></ul>
Sectoral laws	<ul style="list-style-type: none"><li>• Exposure to sanctions under applicable laws</li></ul>	<ul style="list-style-type: none"><li>• Local storage with back-up in (non-EU) cloud (in compliance with GDPR)</li></ul>
US Cloud Act	<ul style="list-style-type: none"><li>• Mandatory disclosure to US government, in conflict with EU/national laws</li></ul>	<ul style="list-style-type: none"><li>• <a href="https://european-alternatives.eu/">https://european-alternatives.eu/</a></li></ul>

## Service categories



### Web analytics services

A web analytics service tracks user behavio...

30 alternatives



### Cloud computing platforms

A cloud computing platform provides on-d...

12 alternatives



### Content delivery network (CDN) services

A content delivery network (CDN) is a geo...

6 alternatives



### Email providers

An email provider provides its users with a...

21 alternatives



### Virtual private server (VPS) hosts

A virtual private server (VPS) hoster provid...

23 alternatives



### Search engines

A search engine allows their users to searc...

6 alternatives



### Transactional email service

A transactional mail service offers users the...

4 alternatives



### Domain name registrars

Domain name registrars are companies tha...

12 alternatives



### Time tracking apps

A time tracking app is an application that h...

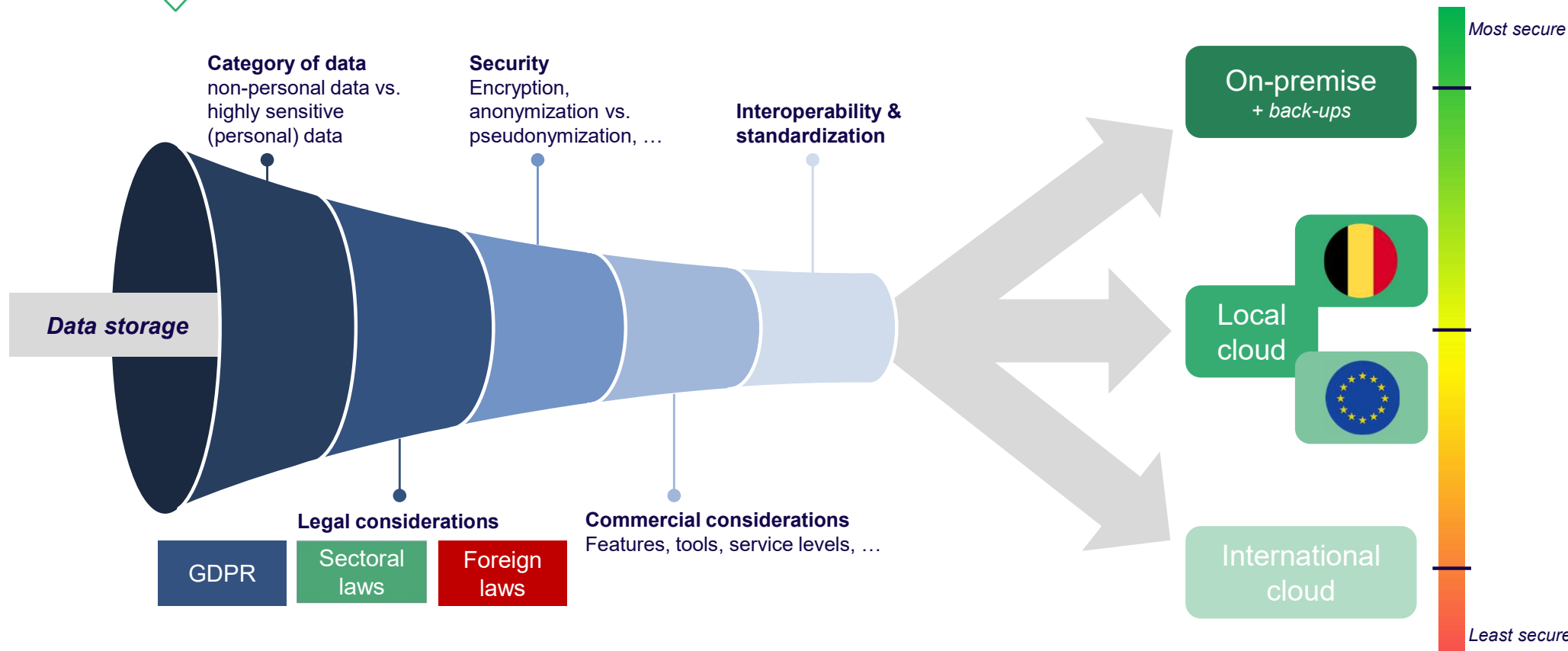
13 alternatives

## US Cloud Act

- Mandatory disclosure to US government, in conflict with EU/national laws

- <https://www.european-alternatives.eu/>

## 5. Conclusion: a multi-factor risk assessment





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