Data Sharing in Search for Sovereignty
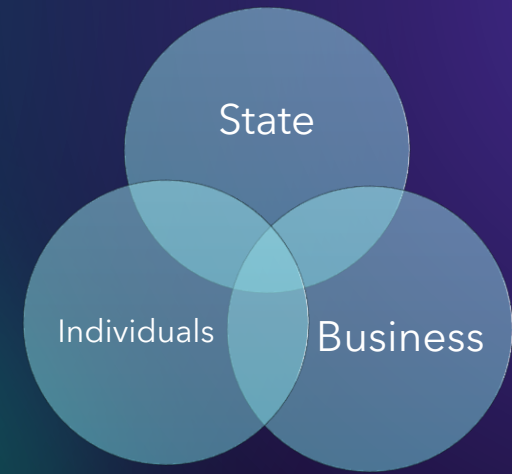
THE CASE OF THE EU CLOUD

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The ambition: 4 pillars

State

Individuals Business

- ENSURING THE ROLE OF EU AS:

- Protective power for individuals

- Standard-setter of fundamental values

- Global interlocutor for innovation

- Open legal space for data sharing

In July 2020, the German government, in its official program for its presidency of the European Council, announced its intention to "establish digital sovereignty as the leitmotif of European digital policy"(The German Presidency of the EU Council, 2020, p. 8).

WHY NOW

- **LAW**
- **TECHNOLOGY**
- **POLICY & Data Governance**

What is Digital Sovereignty?

In the context of the GAIA-X project, digital sovereignty is defined as the 'possibility of independent self-determination by the state and by organisations' with regard to the 'use and structuring of digital systems themselves, the data produced and stored in them, and the processes depicted as a result' with specific focus on 'complete control over stored and processed data and also the independent decision on who is permitted to have access to it.

SHORTCOMINGS

LACK OF CLARITY ON THE WORD «SOVEREIGNTY»

LOW CONTROL OF DIGITAL INFRASTRUCTURES

DEMOCRATIC LEGITIMACY

INTERPLAY WITH THE CYBERSOVEREIGNTY

SOVEREIGNTY OR SOMETHING ELSE
(property, control, authonomy, independence)

How to ensure EU values: alias, what could be the added value of the EU?

- Ursula von der Leyen, President of the European Commission, has referred to "*tech* sovereignty" as the capacity of Europe "to make its own choices, based on its values, respecting its own rules" (von der Leyen, 2020)

- Bottom-up o top-down approach?

- Building a EU infrastructure to limit foreign platforms' influence
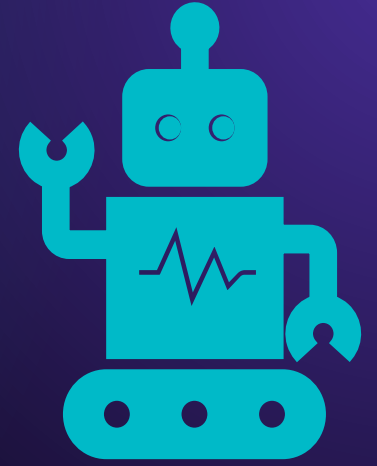
- Data sharing and shared control

INGREDIENTS
-GOVERNMENTAL CONTROL
-ECONOMIC INDEPENDENCE
-SOCIAL SELF-DETERMINATION

Controllership: Capacity to store data

- Data and European companies not subject to foreign rules

- Competitiveness of EU companies

- Enchancing citizenship and business through an idea of composite control

- Fostering cybersecurity

- EXAMPLE: GAIA-X is not a cloud provider but a non-profit organization that was built on as a platform offering services to EU companies although not competing directly with EU companies

TWO DIMENSIONS: IN/OUT

Data governance

Tension between bans of localization for non-personal data within MS

Limits to data-transfers

Compliance with EU standards to enter the EU market

Non-European Platforms

They offer the infrastructures: are legal standars competitive with infrastructures?

Regulation must go hand in hand with investments in industries and infrastructures

RISKS

Technology cannot be left alone because it only takes into account the output of the technical performance

We need to look at the impact of regulatory choices in the context of international relations

The law is not a make-up operation!
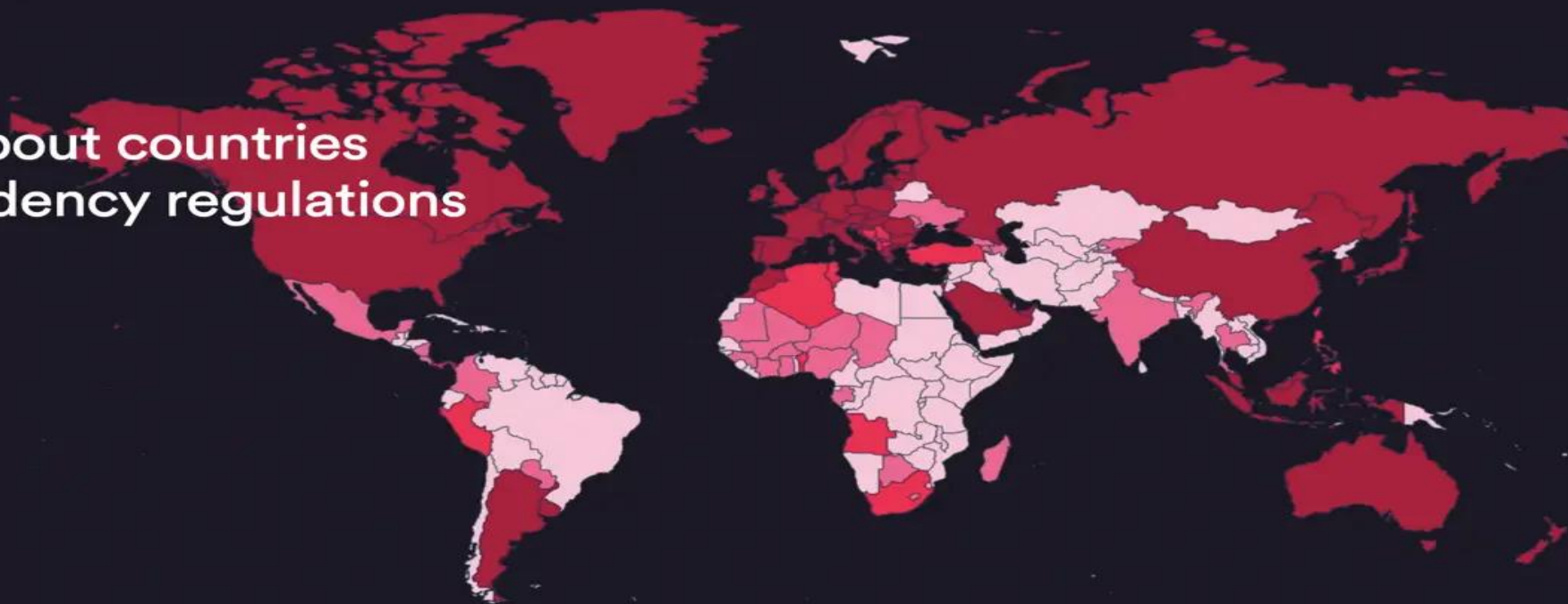
EXTRATERRITORIALITY

DATA NATIONALISM

What's the exit strategy?
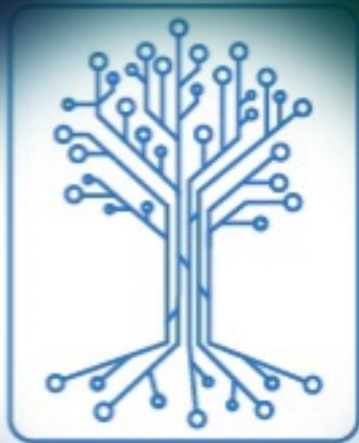
Technological Territories

Learn more about countries with data residency regulations

Health data regulations

- HEAVILY REGULATED
- REGULATED
- LIGHTLY REGULATED
- PENDING

THE PROMISE: DIGITAL SPACES NOT DIGITAL BORDERS

The creation of a data infrastructure based on EU CLOUD is per se an outcome!

GAIA-X

SHAPING EUROPE'S DIGITAL FUTURE

DATA LOCALIZATION FOR A BORDERLESS EUROPE?

European Data Strategy

- **GDPR**
- **Regulation on the use of non-personal data**
- **Open Data Directive**
- **Data Governance Act (**Regulation (EU) 2022/868)
- **Data Act**
- **Data Services Act**
- **Data Market Act**
- **Artificial Intelligence Act**
- **NIS Directive**
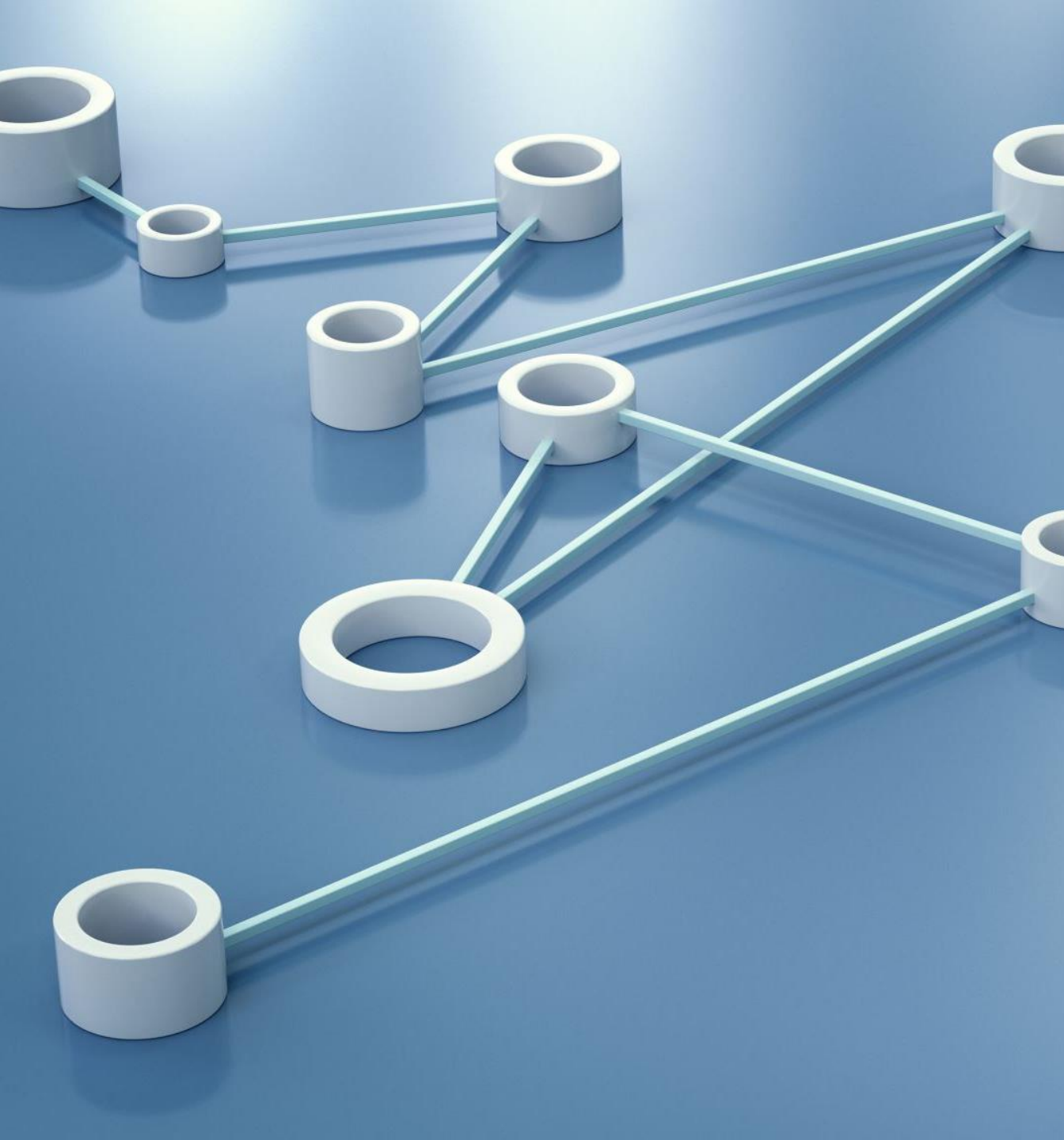
WHY A EU CLOUD?

- model enabling on-demand continuous and cost-effective access to a shared pool of configurable computing resources (e.g. networks, servers, storage, applications and services) that can be rapidly provisioned and released with minimal management effort or interaction with the service provider

- cloud computing is based on data mirroring, whose copies are archived on separate servers in different jurisdictions

- data sharing between trusted partners (providers, users and intermediaries) who use same standards to process and share data

- Interest in data sharing as a legal basis for jurisdiction

BRUSSELS EFFECT v. BEIJING EFFECT

- European Data Strategy (pieces of regulation) v. satellites and fyber optic cables

- Interoperability of data and technical and legal standards v. Interoperability of digital ecosystems

- GDPR (EU) v. global and telecommunication services (CHINA) v. standards of international trade (US)

- Data spaces (clusters) v. virtual borders

CONCLUSIONS: WHERE DOES EUROPE GO?

- Talking about digital sovereignty in Europe is completely different from doing it in China or US – non-comparable notion!

- Mimetic competition among digital sovereigns cannot ensure equality because it depends on the leverage of their capacity to control infrastructure

- Data localization without investments on infrastructures is illusory and counterproductive

Thank you very much for your attention!

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