

EU cybersecurity certification scheme on cloud services

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I. Key messages

Following the final adoption of Regulation 2019/881 of 17 April 2019, deliberations on the candidate EU cybersecurity certification scheme on cloud services (EUCS) started in December 2019. The French Association of Large Companies (AFEP) welcomes the work conducted by the ENISA to construct a harmonized cybersecurity certification scheme across the EU.

The challenge of protecting their sensitive data is strategic for the management of large French companies regardless of their sector of activity. Indeed, **sensitive data represent a huge European economic asset and the EU should therefore encourage the establishment of a European data storage supply that can guarantee their storage on European territory.**

AFEP member companies are therefore concerned by the recent removal of the extraterritorial access protection requirements from the main scheme in the last draft issued by the ENISA.

AFEP member companies need to be able to ensure full protection of their most sensitive data against non-European legislation with extraterritorial application. AFEP is convinced that this protection is crucial to the resilience and competitiveness of the European economy.

AFEP member companies also note that the EUCS is conceived as and should remain a **voluntary certification scheme**, and that the highest level would only apply to the most sensitive data. **This will lead to a higher level of transparency and would allow cloud users to better understand the security level effectively offered by cloud providers to their data and thus to choose the best offer corresponding to their needs.** This should not impact the possibility for European companies to choose which providers are able to meet their massive needs for advanced cloud and cloud-enabled services, particularly for advanced cloud, data analytics, AI, quantum, and edge-computing services.

Moreover, this would allow the emergence of a harmonized standard at the EU level participating in the consolidation of the internal market, an increased competition between market players, and the **development of a new offer on the European cloud market to meet an already existing market demand.**

Such removal comes also in a context in which non-European countries have adopted measures in their legislation that could reinforce their unrestricted access to data and processing hosted by their companies. **It is also not consistent with the resilience objectives officially stated by the Commission and the European Parliament** in the context of the forthcoming European elections, as well as the recently adopted conclusions of the Telecommunication Council on the future of cybersecurity. Finally, a reintroduction of this protection would be consistent with the existing Gaia-X labelling framework.

II. AFEP Position on the draft certification scheme

Thus, **AFEP insists that the inclusion of extraterritorial access protection requirements is necessary to ensure the highest protection of European organizations' most sensitive data, avoid the fragmentation of the internal market, and encourage the development of autonomous cloud solutions across Europe:**

- The inclusion of EU headquarters and European control requirements, as well as employee control requirements, is necessary to mitigate the risk of unlawful data access on the basis of foreign legislation. If a future EUCS scheme leaves this risk unaddressed, **European cloud users would face the risk of having their data accessed by foreign entities.**
- The harmonization of security requirements for cloud services in the EU can only be achieved by setting out a uniform set of provisions in the main body of the EUCS. **Companies should not have to implement different national schemes to ensure the conduct of their cross-border activities.**
- Such supply would answer the **growing demand from European cloud users**, who ask for transparency about the level of protection of their data as well as immunity to non-European legislation with extraterritorial scope. If a future EUCS scheme leaves the risk of unlawful data access unaddressed, European cloud users would rely on the highest level of EUCS without being adequately protected or informed about the risk of unlawful access to their most sensitive data. Ultimately, **this would impede investments and the development of secured cloud solutions across Europe.**

This inclusion should be done while keeping in mind that the EUCS is conceived as a **voluntary certification scheme**, and that extraterritorial access protection requirements in the highest level (high +) would only apply to the most sensitive data of companies and represent a small fraction of the cloud market in Europe.

Given the implications of such modifications to the EUCS, AFEP member companies finally observe that there is absolutely no urgency to regulate on this subject. On the contrary, policymakers should take the necessary time to fully take into account and discuss the impacts of such removal on European cloud providers, European cloud users, and the European economy in general.

ABOUT AFEP

About AFEP

Since 1982, AFEP brings together large companies operating in France. The Association, based in Paris and Brussels, aims to foster a business-friendly environment and to present the company members' vision to French public authorities, European institutions and international organisations. Restoring business competitiveness to achieve growth and sustainable employment in Europe and tackle the challenges of globalisation is AFEP's core priority. AFEP has around 113 members. More than 8 million people are employed by AFEP companies and their annual combined turnover amounts to €2,600 billion.

AFEP is involved in drafting cross-sectoral legislation, at French and European level, in the following areas: economy, taxation, company law and corporate governance, corporate finance and financial markets, competition, intellectual property and consumer affairs, labour law and social protection, environment and energy, corporate social responsibility and trade.

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