



ICRIS

DATASOEVEREINITEIT

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WIE BEN IK?



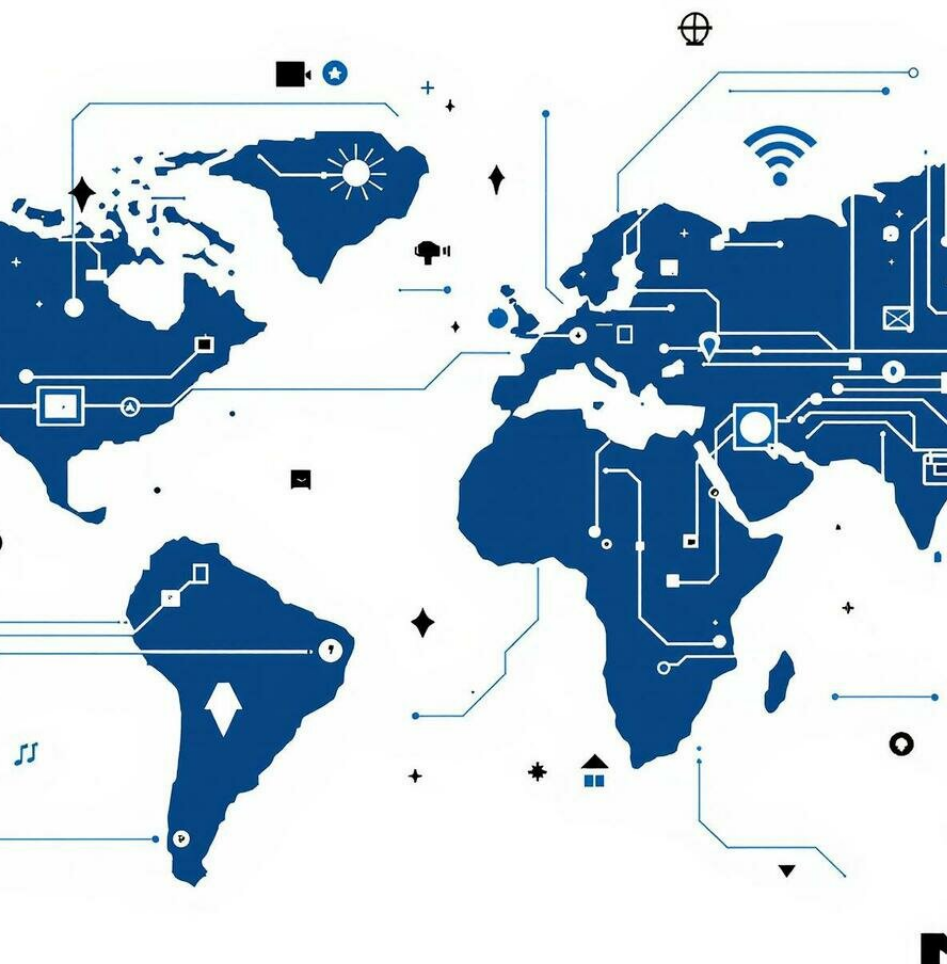
Koninklijke Marechaussee



ICRIS



Nederlandse
Vereniging voor AI-
en Robotrecht
(NVAIR)



WAT GAAN WE BESPREKEN?

1. Juridisch kader datasoevereiniteit
2. Oplossingen Amerikaanse leveranciers
3. Niet-juridische aspecten datasoevereiniteit
4. Europese alternatieven
5. Hoe nu verder?

DATASOEVEREINITEIT?

- **Digitale autonomie:** "*onafhankelijk* van externe partijen (vooral buitenlandse overheden) en *zelfvoorzienend* in het digitale domein kunnen functioneren"
Nota bene: in de praktijk altijd enige afhankelijkheid, geen enkele partij is compleet autonoom
- **Digitale soevereiniteit:** "functioneren in het digitale domein zonder dat een buitenlandse overheid *jurisdictie* in dit digitale domein heeft (alleen onderworpen zijn aan *wetten van zijn eigen land*)"
- **Datasoevereiniteit:** "voor de *toegang tot eigen data* en het *overhandigen ervan* aan derde partijen alleen onderworpen zijn aan *wetten van het eigen land*, d.w.z. zonder dat een buitenlandse overheid *jurisdictie* heeft"

JURIDISCH KADER

Hoe zit het met die Amerikaanse wetten?





MOGEN DE VS WETGEVING MAKEN DIE EFFECT HEEFT BUITEN HUN GRONDGEBIED?

JA, zaak Lotus 1927

Prescriptieve jurisdictie (wetten) mogelijk op basis van:

- nationaliteit van burger of rechtspersoon
 - actief
 - passief
- effectenbeginsel (iets heeft effect op grondgebied van de staat)
- beschermingsbeginsel (o.a. nationale veiligheid)
- universaliteitsbeginsel (o.a. ius cogens)

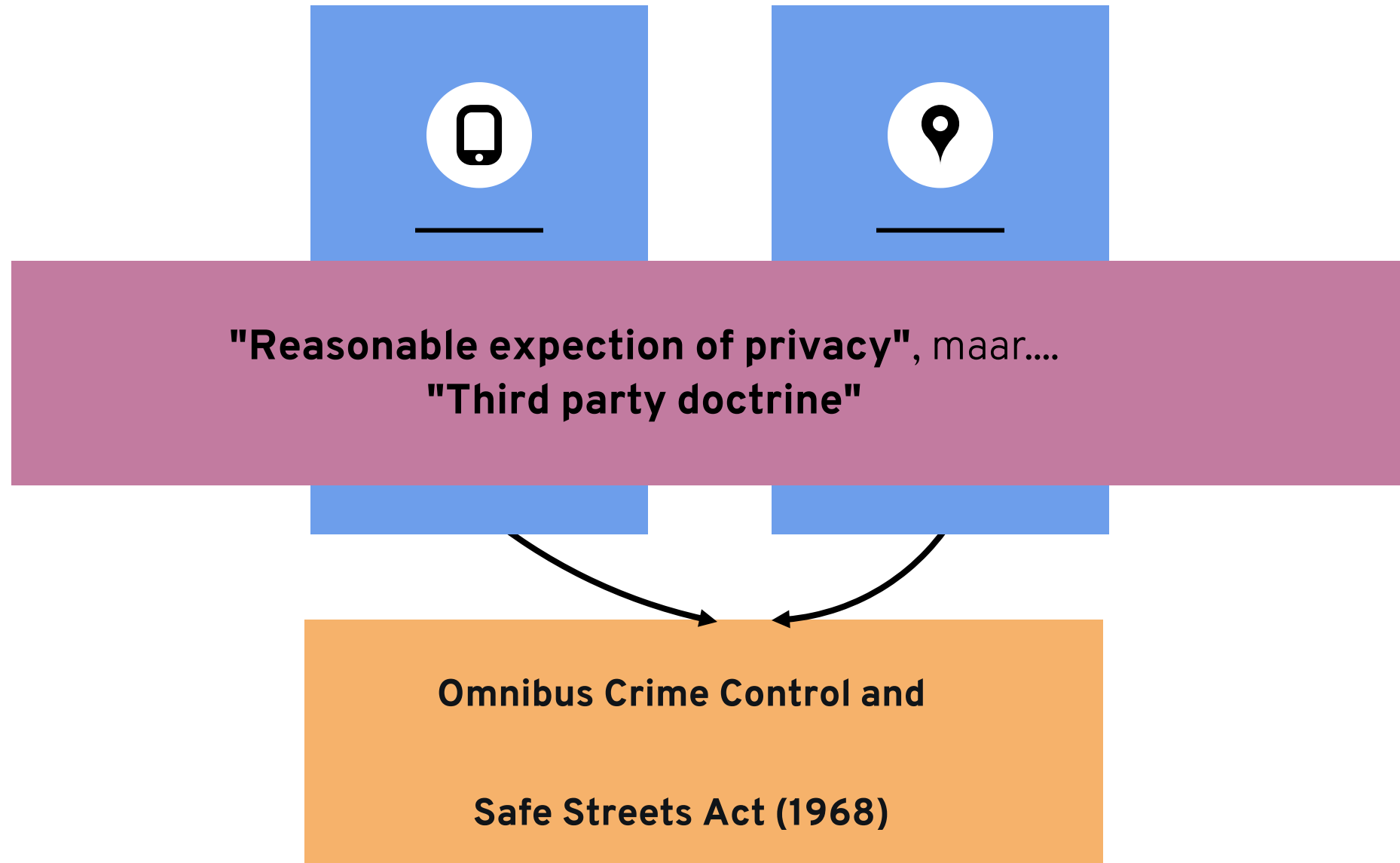
Sommige gronden zijn meer omstreden dan andere.

”

“The **right of the people** to be secure in their persons, houses, papers, and effects, against **unreasonable searches and seizures**, shall not be violated, and no **Warrants** shall issue, but upon **probable cause**, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

– Fourth Amendment to the Constitution (1791)

MEER BESCHERMING TEGEN DE OVERHEID



GOOD EVENING HBO

FROM CAPTAIN MIDNIGHT

\$12.95/MONTH ?

NO WAY !

[SHOWTIME/MOVIE CHANNEL BEWARE!]

Electronic Communications Privacy Act (1986)

Titel 1:

bescherming "wire, oral, and electronic communications" in transit

Titel 2 (Stored Communications Act):
bescherming opgeslagen data

Titel 3:

verbod apparaten voor traceren gebelde nummers en andere routeringsdata

Electronic Comm

EXCLUSIVE

CYBERSECURITY

U.S. Wiretap Systems Targeted in China-Linked Hack

AT&T and Verizon are among the broadband providers that were breached

By *Sarah Krouse* [Follow](#), *Dustin Volz* [Follow](#), *Aruna Viswanatha* [Follow](#) and *Robert McMillan* [Follow](#)

Updated Oct. 5, 2024 12:12 am ET

Act (1994)



**Electronic Communications Privacy Act
(1986)**

**Foreign Intelligence Surveillance Act
(1978)**

Patriot Act (2001)

Patriot Act Reauthorization Act (2006)

FISA Amendments Act (2008)

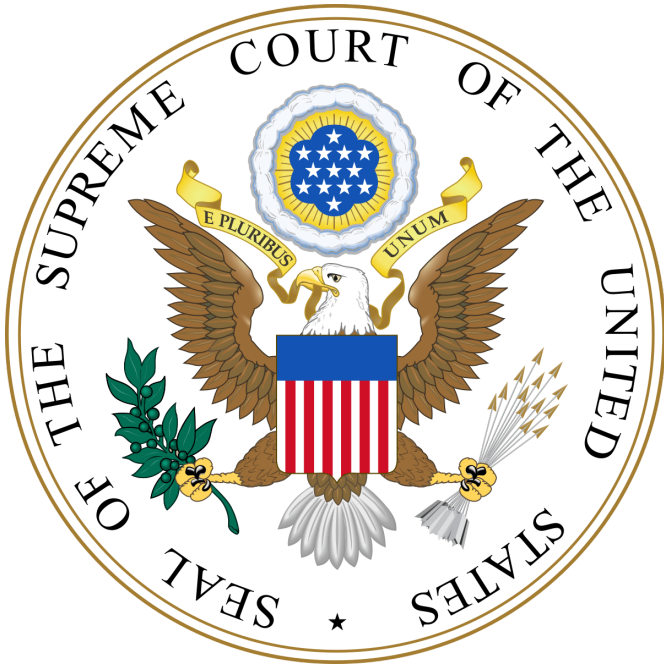
Patriot Act Sunset Extensions Act (2012)

Freedom Act (2015)





Microsoft



Moet Microsoft data op **Europees grondgebied** overhandigen op grond van de **SCA** (onderdeel ECPA)?

verzoek FBI 2013, zaak Supreme Court 2018

**Electronic Communications Privacy Act
(1986), Titel 1 en Titel 2**



Cloud Act (2018)

Accordingly, the second part of the CLOUD Act clarifies that U.S. law requires that CSPs subject to U.S. jurisdiction must disclose data that is responsive to valid U.S. legal process, **regardless of where the company stores the data.**

The CLOUD Act amendment to the SCA **does not give U.S. law enforcement any new legal authority** to acquire data. It **merely confirms** the scope of requirements under the SCA for CSPs that are subject to U.S. jurisdiction.

MEMO CLOUD ACT VAN NCSC (DOOR GREENBERG TRAURIG LLP)

EU Entities can be within the reach of the CLOUD Act, even if the EU Entities are located outside the U.S. In order to completely avoid, it would need to process data using a **non-U.S. entity**, which either:

1. does not have a **corporate relation** to any company within the U.S. and that does not have **sufficient contacts** with the U.S.
2. if it does have a **corporate relationship**, the U.S. company must not have **possession, custody, or control over the data** that is **stored in the EU**.

In no case can the EU Entity have a **U.S. parent company**, as the parent would be considered to have **possession of or control over the data** of its **subsidiary**.

MEMO CLOUD ACT VAN NCSC (DOOR GREENBERG TRAURIG LLP)

Furthermore, it is advisable not to **employ US nationals** who have **access to relevant data**.

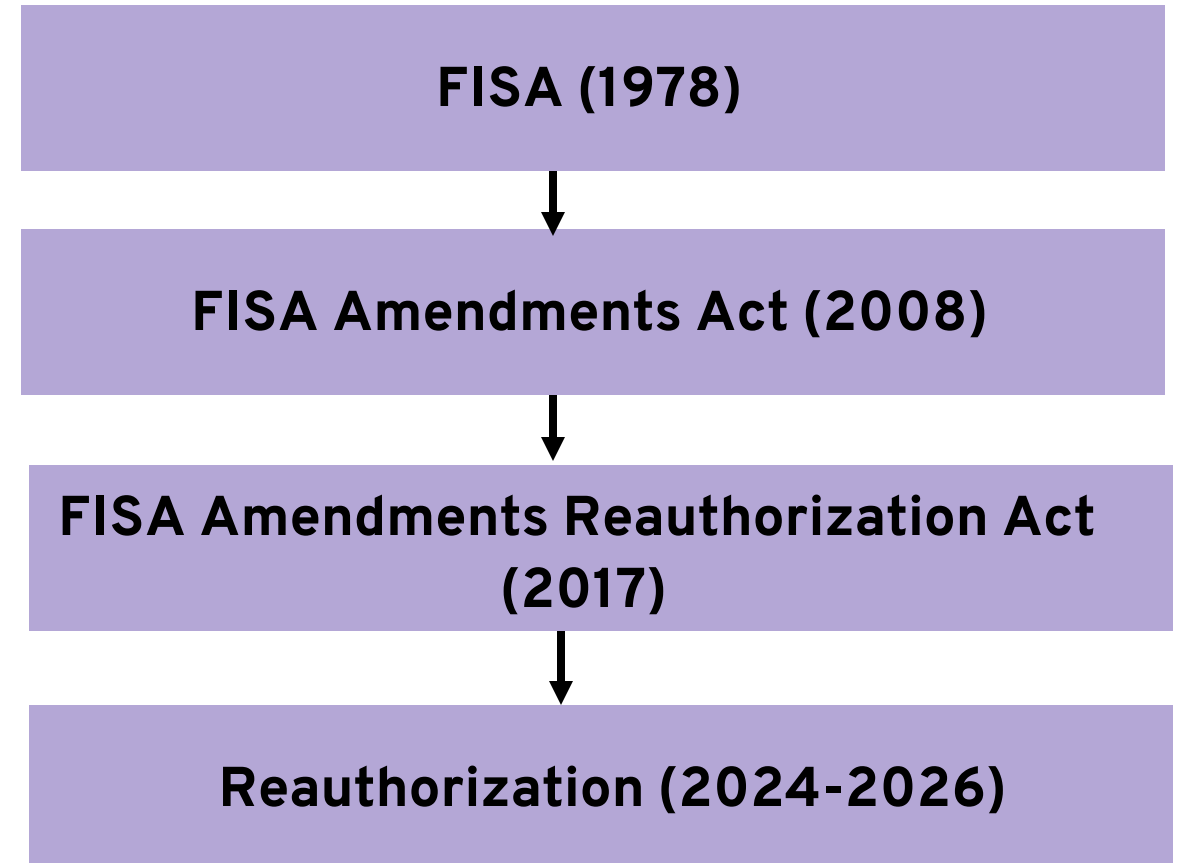
Four ways to get information from US national:

- **voluntary consent**
- **warrant** (vergelijkbaar met dagvaardig)
- **subpoena** (vergelijkbaar met bewijsopdracht)
- **civil investigative demand** (specifiek type bewijsopdracht)

The CLOUD Act is **encryption-neutral** and does not require providers to be capable of decrypting their data.

FISA

Sectie 702 maakt het mogelijk zonder de drempel van **rechterlijke toestemming** op basis van '**probable cause**' informatie in te zien van niet-Amerikaanse burgers buiten het Amerikaanse grondgebied die ervan verdacht worden '**foreign intelligence**'-informatie te hebben.



PERS

Persoon
dat lanc

PRO TECH

Are EU-US data transfers safe from a 'Schrems III' privacy challenge?

After the Latombe challenge failed, Euractiv sat down with privacy activist Max Schrems to discuss where he goes next on EU-US data transfers

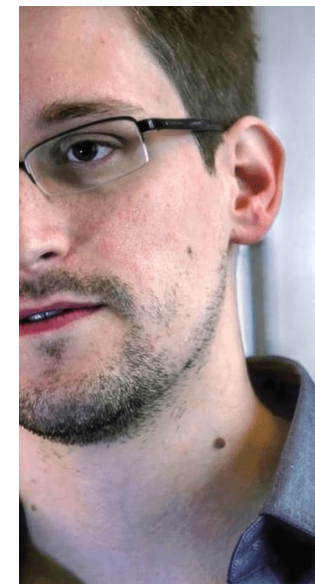
Claudie Moreau  Euractiv



Privacy activist Max Schrems [EPA/JULIEN WARNAND]

U-RECHT

n indien



alleen voor bedrijven
egang door overheid)

PERSOONSgegevens NAAR DERDE LANDEN VANUIT EU-RECHT

Dochterbedrijven van A

ten te houden.

Artikel 48 AVG:

Elke **rechterlijke uitsp**
grond waarvan een ver
doorgeven of verstrek
gebaseerd zijn op een i
doorgifte uit hoofde va

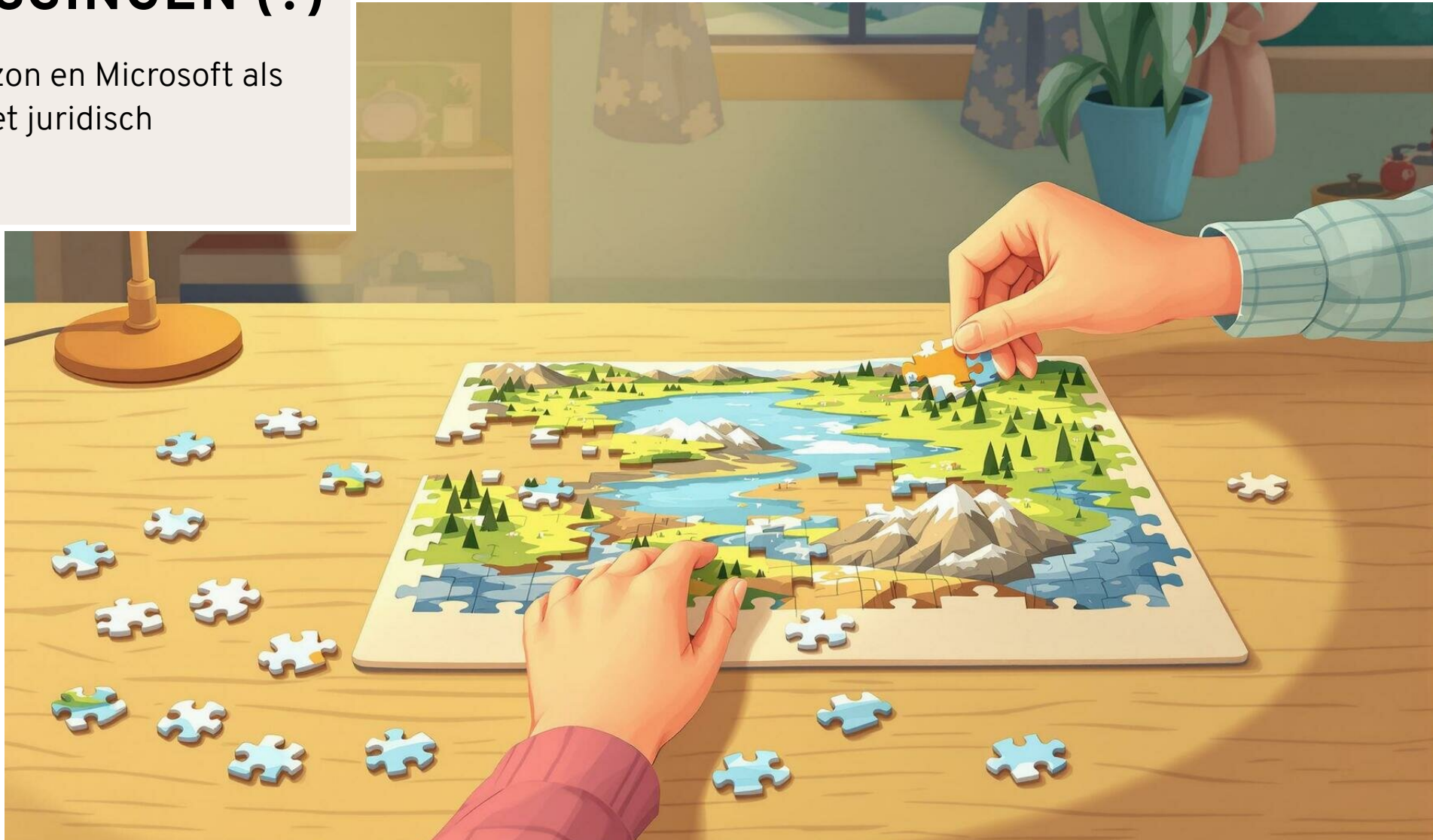


it van een derde land op
gegevens moet
vingbaar zijn indien zij
andere gronden voor

let op: geldt alleen voor persoonsgegevens zoals gedefinieerd in AVG en alleen voor bedrijven
(dus bijv. niet over bedrijfsgeheimen of intellectueel eigendom en voor toegang door overheid)

DE OPLOSSINGEN (?)

Wat bieden Amazon en Microsoft als oplossing voor het juridisch drijfzand?





"Uit een onderzoek dat in opdracht van het Nationaal Cyber Security Centrum (NCSC) is uitgevoerd, blijkt dat hoewel theoretisch mogelijk, de **kans dat de Amerikaanse overheid via de CLOUD Act toegang krijgt tot Europese gegevens in de praktijk zeer klein is.**

Bovendien beschikt Microsoft over **een sterke juridische staat van dienst in het verdedigen van klantgegevens** tegen ongewenste toegang, inclusief meerdere rechtszaken tegen de Amerikaanse overheid waarin we met succes privacyrechten verdedigden, ook voor Europese klanten."

EU Data Boundary

Data Guardian

External Key
Management

Regulated Environment
Management

"With Phases 1, 2 and 3 now successfully launched, Microsoft continues to lead in minimizing data transfers outside of Europe while promoting transparency and trust for its commercial and public sector customers"

"Microsoft personnel residing in Europe control remote access"

"adds additional human and technical oversight whenever engineers outside of Europe need access"

"will be logged in a tamper-evident ledger"

"customers can connect Azure to keys stored on their own Hardware Security Module (HSM) on-premises or hosted by a trusted third party"

"easily manage all these features in one place (for instance, configuring Data Guardian policies or reviewing access log entries)"

”

Non, je ne peux pas le garantir, mais, encore une fois, cela ne s'est encore jamais produit..

– Anton Carniaux, Directeur Publieke en Juridische Zaken Microsoft Frankrijk

Introducing the new AWS European Sovereign Cloud governance structure



Built, operated, controlled, and secured in Europe



Security Leader



Managing Director



Advisory Board

AWS European Sovereign Cloud
parent company

Infrastructure
Subsidiary

Research & Development
Subsidiary

Trust Certificate
Subsidiary

"AWS will establish a new European organization and operating model for the AWS European Sovereign Cloud, with a **new parent company and three subsidiaries incorporated in Germany**. The management team leading this new parent company will include the managing director and a government security and privacy official, who will all be **EU citizens residing in the EU**."

"AWS is committed to independent and continuous operations; the AWS European Sovereign Cloud will have **no critical dependencies on non-EU infrastructure**. Everything needed to operate the AWS European Sovereign Cloud is in the EU: the talent, the technology, the infrastructure, and the leadership."

Bron: <https://www.aboutamazon.eu/news/aws/built-operated-controlled-and-secured-in-europe-aws-unveils-new-sovereign-controls-and-governance-structure-for-the-aws-european-sovereign-cloud>

NSA tapped German Chancellery for decades, WikiLeaks claims

New documents released suggest communications between top officials including Angela Merkel were intercepted by the US spy agency



📷 Cables released by WikiLeaks allege communications were intercepted. Photograph: Arben Celi/Reuters



A REUTERS SPECIAL REPORT

Musk orders satellite surveillance of Greenland territory

Soldiers panicked at

By Joey Roulette, Casse

July 25, 2025 1:00 PM GMT



In drie fases zou Donald Trump Groenland, dat een 'strategische goudmijn' is, voor zich willen winnen. © ANP/HH

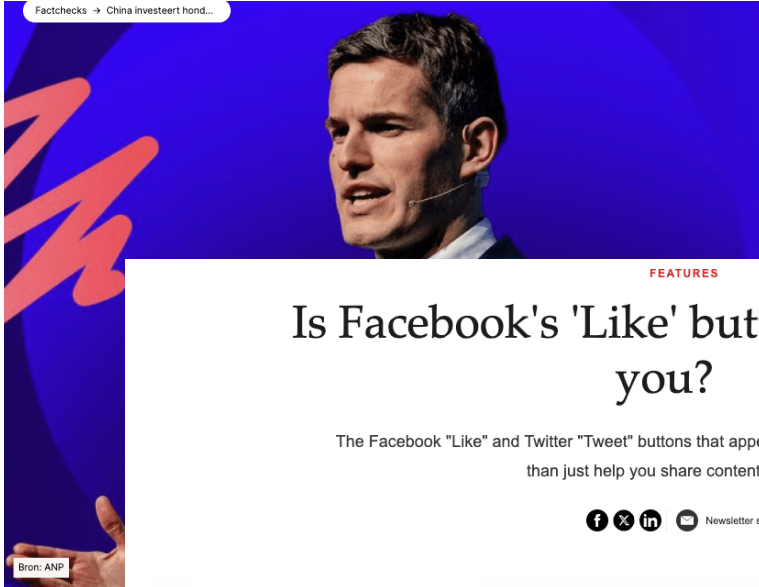
Ambassadeur ontboden

Denemarken woedend op VS na geheime 'infiltratie' in Groenland: 'Nu is er een grens overschreden'



REUTERS/Illustration/Catherine Tai

Factchecks → China investeert hond...



China in
den mili

FEATURES

Is Facebook's 'Like' button spying on you?

The Facebook "Like" and Twitter "Tweet" buttons that appear to just help you share content with friends...

f x in Newsletter sign up

Bron: ANP



(Image credit: CC BY: FindYourSearch)

COMMUNITY

Europe is losing its tech talent: the hidden salary crisis

Europe is losing its best tech workers due to high taxes and lower salaries compared to the US: a brain drain

Published on December 10, 2024



Ukraine and Russia at War > NATO's defence obligations | How prepared is NATO? | What are Gerbera drones?

Poland says Russian drone attack was 'no mistake' after Trump comments

"We would also wish that the drone attack on Poland was a mistake. But it wasn't. And we know it," Polish Prime Minister Donald Tusk said on X, after President Donald Trump's suggestion that the incident could have been accidental.

1 hour ago

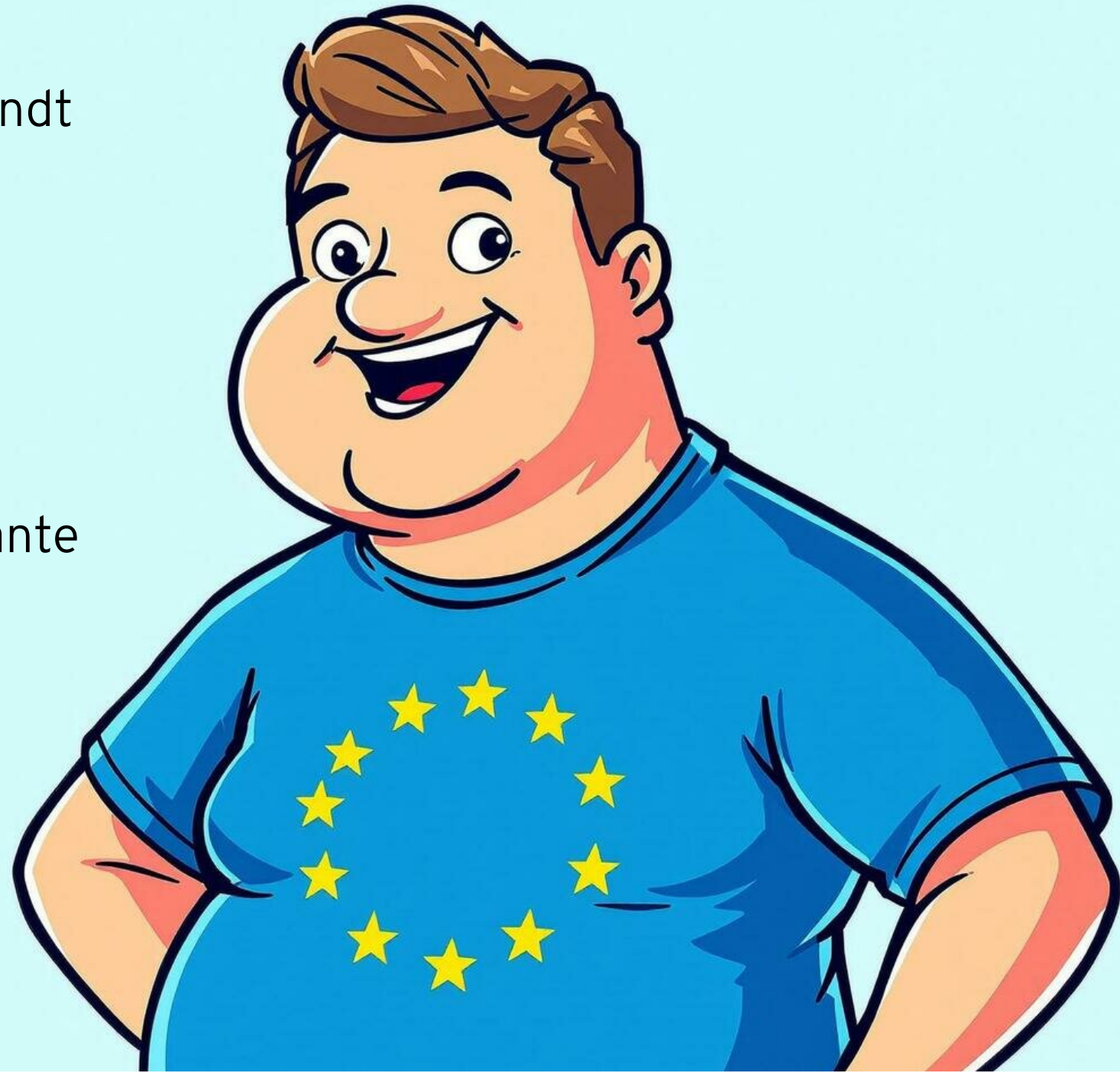


Polish Prime Minister Donald Tusk holds a press conference. Agencja Wyborcza.pl/Tomasz Stanczak via REUTERS

ASML-topman, Peter Wennink, vindt
Nederland zelfgenoegzaam

'dik, dom en blij'

Hoe zorgen we dat we niet alleen
consumeren, maar ook een relevante
speler in de wereld blijven?



”

Sovereignty is simulated, not guaranteed. The real shift concerns the **frame of meaning**. Technological **dependence** is **reinterpreted** as supposed freedom of choice. Europe's debate about digital sovereignty is not being ignored – it is being absorbed, transformed, and translated into architecture **that delegitimizes alternatives before they even emerge**. The result is that those who rely on Microsoft are not just choosing technology – but are choosing **against autonomous infrastructures**.

– Axel Oppermann

EUROPESE ALTERNATIEVEN

Wat heeft de Europese markt te bieden?





Categories

Alternatives

Latest

Blog

About

EN / DE



Search (⌘K)

Sponsored

solidtime

Modern European Open-Source Time Tracker for Freelancers and Agencies

[Learn more](#)

European alternatives for digital products

We help you find European alternatives for digital service and products, like cloud services and SaaS products.



Support local businesses

When you buy from local businesses, you are supporting yourself down the road. Taxes paid by the company come back to you indirectly and the company creates jobs in your region.



Data protection / GDPR

Some companies outside Europe tend to ignore data protection and related laws such as the GDPR or do not implement them correctly.



VAT / Billing

As a business that operates in Europe, it is possible to get a VAT refund for products/services of other European companies. European companies also tend to offer payment methods that are commonly used in Europe.



Similar legal requirements

Within the EU, many laws and framework conditions are set by the EU, which helps to cover a large market without having to consider large country-specific differences. It is also easier to enforce your rights against another company located in the EU.



Proton Mail



Products Solutions Research Resources Pricing Company Try the API > Talk to sales >

Frontier AI. In Your Hands.

Configurable AI for all builders.

Talk to le Chat



What is OVHcloud?

As Europe's leading cloud provider, we deliver public and private cloud products, shared hosting and dedicated server solutions in 140 countries worldwide. We also offer domain name registration, telephony services and internet access to our customers. Founded in 1999, OVHcloud is a French company with an international presence, based on a backbone of datacentres and points of presence spread across the globe.

Whereby

Products Pricing Developers Resources Log in Get started

Secure video calls. Zero hassle.

Whereby offers trusted and reliable video calls in your browser, no downloads required. Have better video calls with Whereby Meetings, or integrate video into your product with Whereby Embedded.

Get started

Collaborate without Compromise

Enterprise-grade messaging, calls, and file sharing protected by invisible, always-on MLS encryption and compliant with the world's strictest standards.

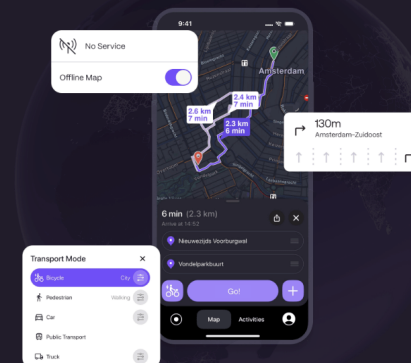
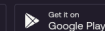
Book Demo

Use Wire Now



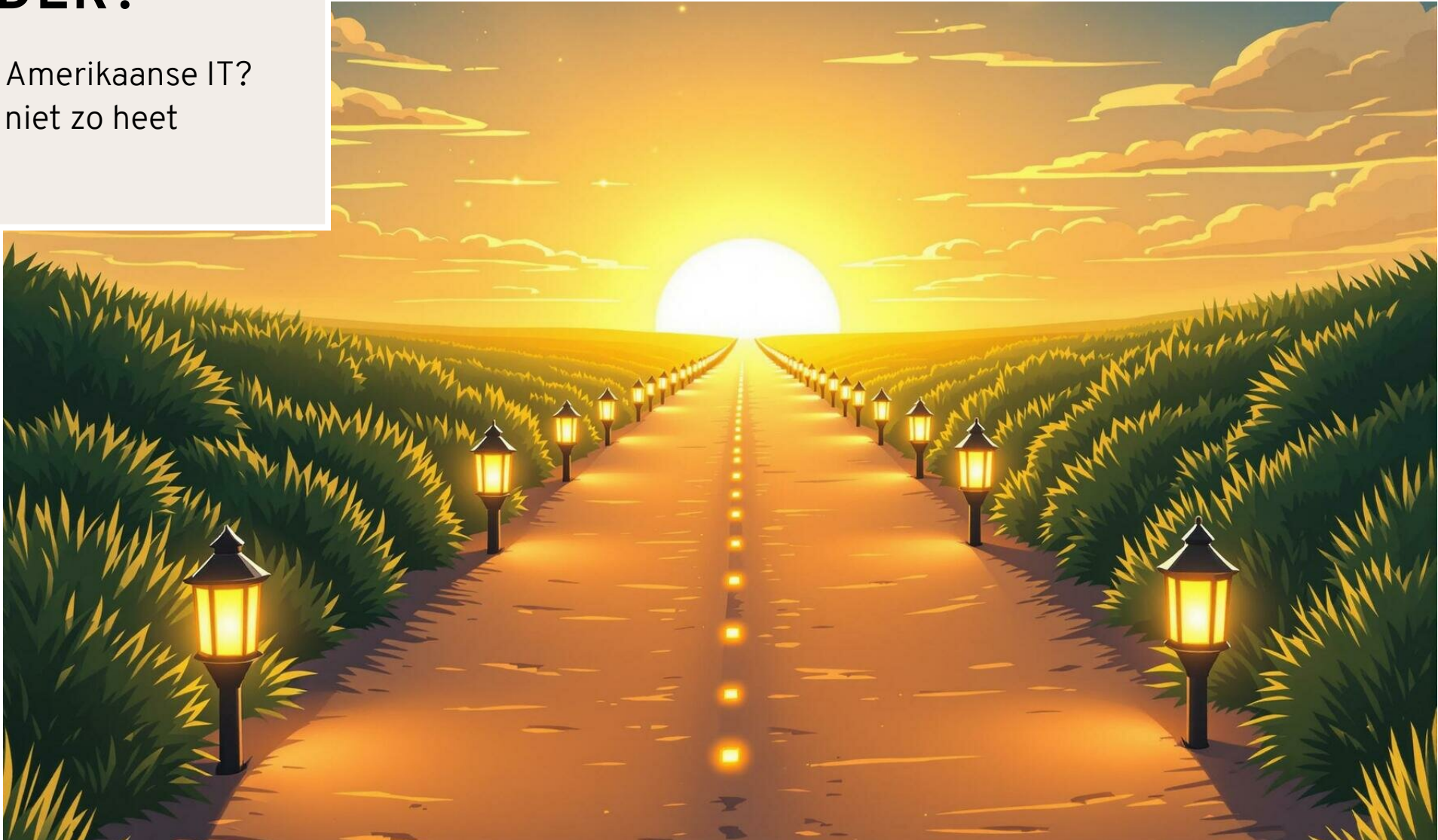
Where smart navigation meets open roads Privacy first, by design

Smooth navigation, live traffic, 3D maps, and offline access to enhance your travel experience.

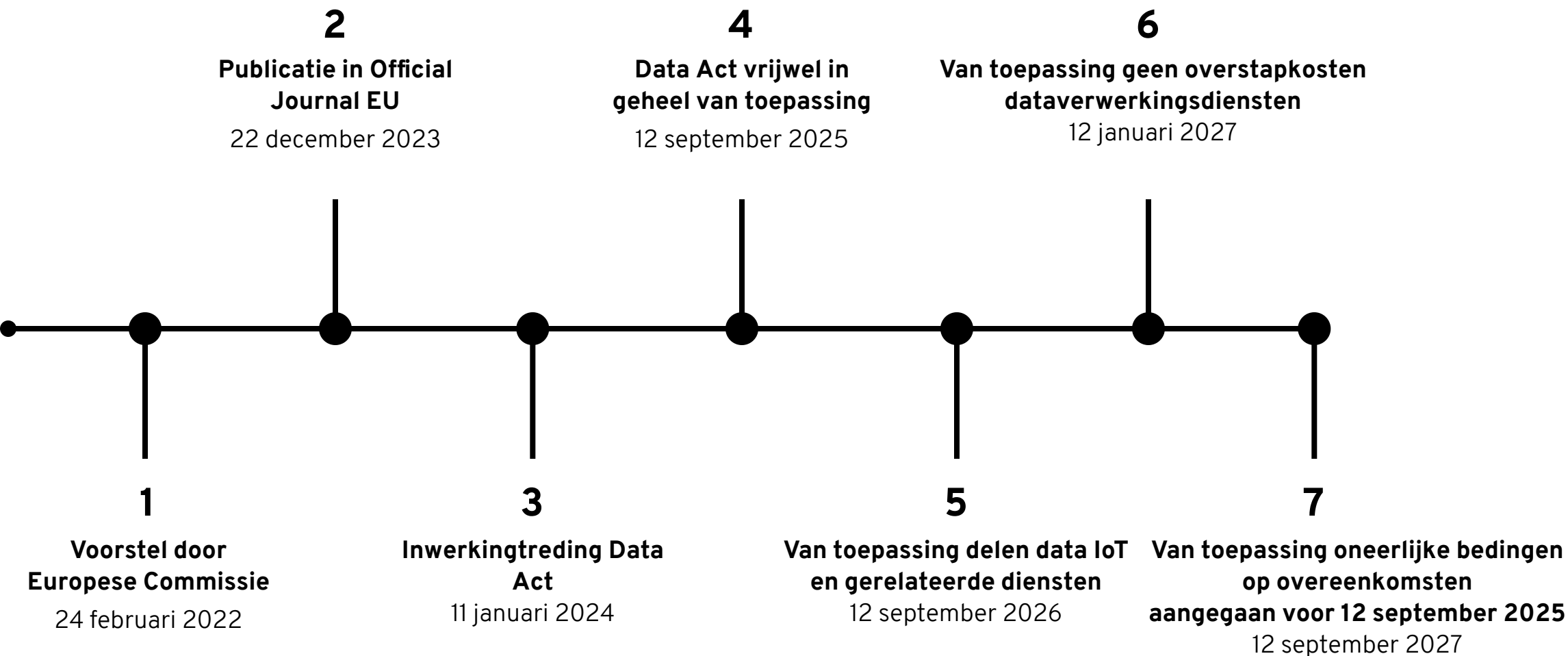


HOE VERDER?

Helemaal weg bij Amerikaanse IT?
Of wordt de soep niet zo heet
gegeten?

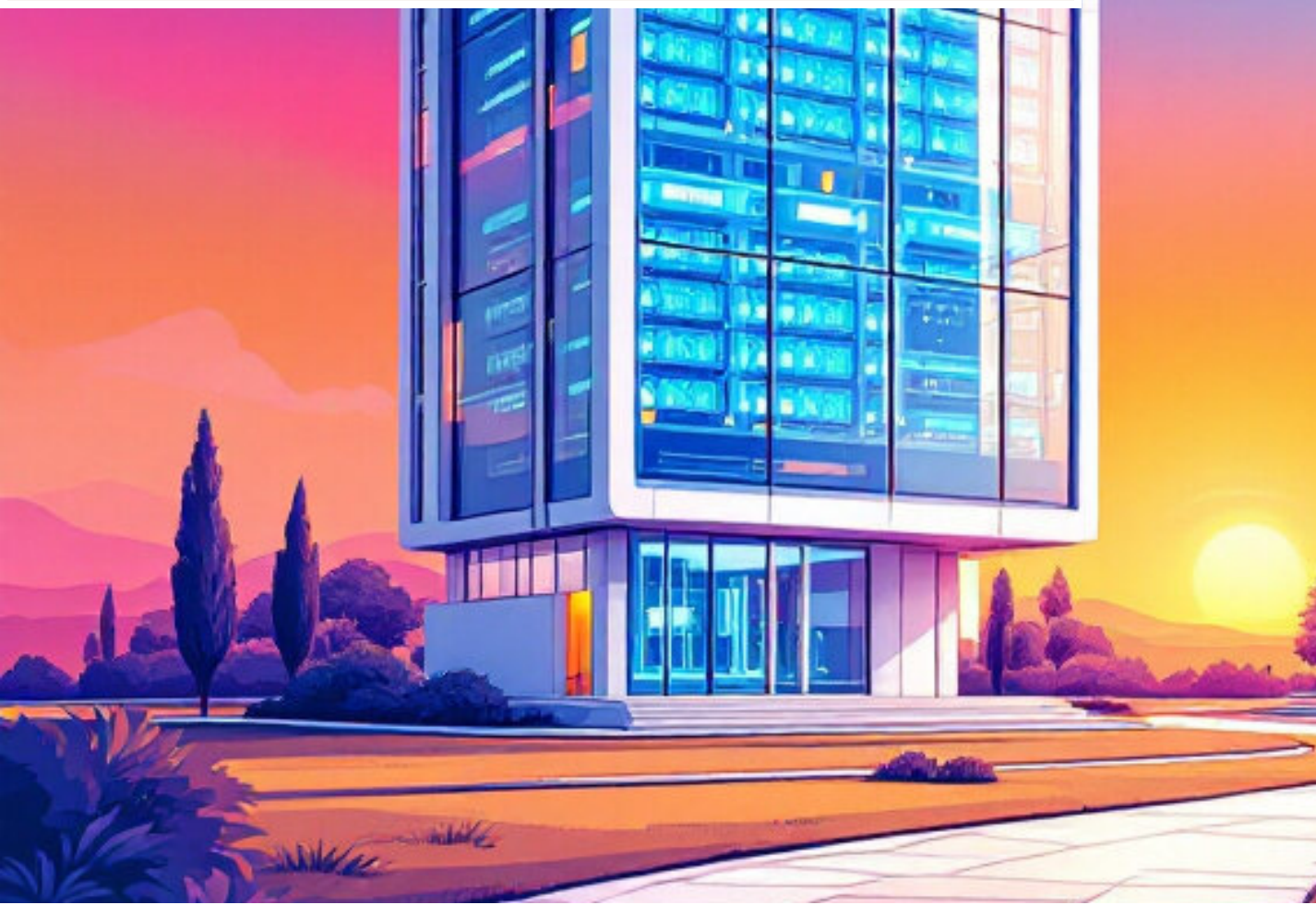


DATA ACT-TIJDSLIJNEN



WISSELEN CLOUD PROVIDER

Verplichting tot interoperabiliteit en mogelijk maken overstap cloud provider (dataverwerkingsdienst)



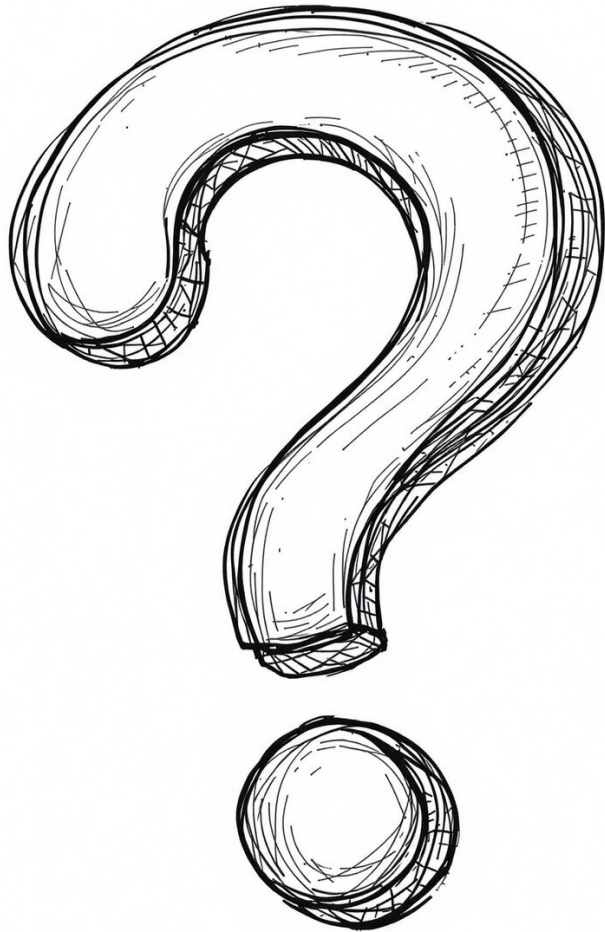
Cloud providers creëren nu bewust **lock-in**. In een competitieve EU-markt moet het mogelijk zijn **naadloos te wisselen** van cloud provider.



ENKELE VRAGEN

- Waarom gebruik je Amerikaanse cloud? (ben je bijvoorbeeld 'een Hyves')?
- Wat is de kans op en het afbreukrisico van een breuk van confidentiality of availability?
- Is er een Europees commercieel alternatief beschikbaar?
- Kan ik zelf open-source een product hosten?
- Hoe graag wil je een Europese markt stimuleren?
- Vertrouw je Amerikaanse leiders en/of Big Tech (en zo ja, welke)?

VRAGEN OF MEER WETEN?



Geschreven uitwerking van deze presentatie ontvangen?

Abonneer je op nieuwsbrief via www.rechtentechniek.nl



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