Towards a Data Single Market in the European Union

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Along with the digitisation of the economy, the amount of produced data has increased dynamically. The European Commission (EC) wants to stimulate data usage and sharing between enterprises, citizens, and the public sector in the EU. Creating a "data single market" aims at increasing innovation and economic growth in conditions of extensive international competition. The main challenge is achieving the EU's ambitions of becoming independent from American cloud service providers and growing European enterprises' share in the data market.

European Data Market. In February 2020, the EC presented the European Data Strategy. Its aim is to increase the usage of the growing amount of data in the EU economy by creating, among other things, a legal framework facilitating the use of and access to data (mainly non-personal kind). This is important for the development of new technologies, such as those involving artificial intelligence (AI) systems, which require large amounts of high-quality data. The EC also wanted to initiate innovation in the use of data in strategic areas, including health policy, agriculture, and climate by creating the "common data spaces". Moreover, it planned to strengthen the European cloud storage and processing infrastructure, which is currently less competitive than solutions from the U.S. or China. It also envisaged co-financing small and medium-sized enterprises (SMEs) so that they are technologically prepared to benefit from the unleashed potential of the available data.

The strategy complemented existing regulations on data in the EU. The General Data Protection Regulation (GDPR) has been in force since 2018, and the Regulation on the free flow of non-personal data in the EU has been in force since 2019. That same year, the Open Data Directive and a Directive on the re-use of public sector information was introduced.

"Sovereignty" of European Data. The single market for data is intent on facilitating the "sovereignty" of European data, understood as increasing its accessibility in the economy and society, while maintaining control and ownership by enterprises and individuals that generate this data. One tool for implementing this plan is the development of European cloud infrastructure, which also is intended to respond to the growing demand for services related to data storage and processing. Currently, three American companies, Amazon Web Services, Google Cloud and Microsoft Azure, have almost 70% of the EU market for cloud computing services.

In October 2020, 27 EU countries signed a declaration on the development of cloud services for the private sector and public administration. They agreed on the need for the Commission to prepare rules, standards, and norms for cloud services (Cloud Rulebook) and to launch European platforms facilitating the purchase of cloud services (Cloud Marketplace). Next, in July 2021, the European Commission established The European Alliance for Industrial Data, Edge, and Cloud to deepen cooperation between enterprises, the public sector, and research centres. The entities participating in the project must be legally represented in the EU. The priority of the project is to strengthen the European position on the cloud services market and to increase the use of this technology in European enterprises (in 2020, only 25% of EU companies used this solution; in Poland, 15%).

Parallel to these activities, the Franco-German Gaia-X initiative, the European Association for Data and Cloud, was launched in 2020. Initially uniting industry companies from these two countries, it has opened up to cooperation with EU and non-European cloud service providers. Currently, the members include American Intel and Oracle and

Chinese Haier COSMO IoT Ecosystem Technology. The management board is to develop what it calls a Gaia-X certificate of compliance, which will ensure the consistency of services and products offered by suppliers with European law, including European data security standards and transparency of their use.

New Legal Framework for Data Management. In November 2020, the European Commission published a draft regulation called the Data Governance Act (DGA). This is a framework for the development of a new business data brokerage model that unlocks the potential of the enormous amounts of non-personal data generated by businesses and individuals across the EU. Its provisions are designed to enable enterprises to share their data without fear of misuse or losing their competitive advantage.

Moreover, the DGA aims to provide a safe environment for the re-use of public sector data that is the subject of third-party rights, such as trade secrets, personal data, or data protected by intellectual property rights. This will be possible through the technical capacity of the relevant public authorities in countries to ensure full privacy and confidentiality. The DGA also will encourage companies and individuals to become "data altruists" by providing secure rules for sharing data for the common good, for example, for non-commercial medical research.

The DGA also includes a proposal to establish an advisory body—the European Data Innovation Council—whose task will be to support the Commission in the development of coherent practices in the implementation of the DGA in countries and to monitor the activities of competent national authorities in increasing the interoperability of data brokerage services.

In the first quarter of 2022, the EC will propose a draft Data Act, regulating access to data in relations between enterprises (B2B) and between business and the public sector.

The Challenges of the Data Single Market. Only one in four European companies currently use cloud solutions (25% of SMEs and 48% of large), which stems from the insufficient level of digital competences of businesses, among other reasons. Also significant is the lack of trust in suppliers and the high costs of these solutions. Comprehensive EU funding programmes for digitalisation are needed, especially for SMEs.

Another challenge is how to swiftly increase the share of European entities in the data processing market. Companies from the EU, due to the initially lower demand for this type of service (resulting, among others, from European data protection standards), developed in the industry at a slower pace than competitors from the U.S. or Asia. European entities require large financial resources and a well-thought-out strategy to actually regain control over EU data.

A problem in creating the data single market may be the multitude of initiatives related to building data spaces. In addition to the EU proposals, a number of bilateral or multilateral projects with non-European companies, such as Gaia-X, have been created in parallel. It is not clear yet to what extent, beyond the framework of the DGA, it will actually be possible to harmonise the specific conditions for the use of data.

Conclusions. The implementation of the EU's data single market strategy requires the involvement of states and the European Commission in building a culture of trust in sharing data between companies with the participation of the public sector. Along with improving the level of digital competences of businesses, this is a key condition for making the concept of European data spaces a reality, which will increase the EU's ability to create groundbreaking, welfare-oriented innovation.

In the next few years, the construction of a comprehensive data storage and processing infrastructure in the EU without the participation of American companies is unlikely. Therefore, it is important to coordinate the actions of the Member States towards these enterprises and include them in the European ecosystem that imposes specific requirements, not only in the area of safety and user protection. For example, the growing data centre sector, which globally consumes about 1% of the electricity produced, will need to respect the goals of the Green Deal. The EU is developing solutions to achieve climate neutrality in its data centres by 2030.

For Poland, the data single market is an opportunity for the development of domestic companies, but it requires advance acceleration of the pace of digitalisation of enterprises so that they can take full advantage of the released data. It is crucial to ensure public and private financial resources for this purpose. It is also necessary to boost the digital competences of its citizens, which will increase the demand for digital products.