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THE UNDERWATER ROCKS ON THE WAY TO THE DIGITAL SINGLE MARKET ARE NOT BULGARIAN. BUT THEY EXIST NONETHELESS

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Let us just state the most important: 415 billion euro annual income to the European Union from digital economy; competitive and open European industry, based on innovation; milliards connected devices on the territory of the Union, facilitating the everyday life of the citizens and the work of the business thanks to 5G Internet networks; economic policy that gives an adequate response to the projected loss of 800 million jobs globally by 2030 as a result of the automation; guaranteed protection of European businesses and citizens against cyber-attacks and personal data attacks on the Internet.

This is not the present state of the EU economy, however, according to the European Commission it could be its future...its very near future.

The European Union set an ambitious target, shared by the three main institutions - the European Commission, the Council of the EU and the European Parliament - to speedily complete the establishment of the Digital Single Market (DSM) by the end of 2018. This is a broad platform of more than 35 legislative proposals, presented by the Juncker Commission from 2015 until today, aiming to prepare the EU for the exponential development of technology and communication.

What are the main challenges?

The Digital single market is indeed more than just an individual policy area - it is a platform for the development of the EU, as it concerns areas such as telecommunication, e-commerce, media,



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cybersecurity, data management and protection. At the same time, it has an economic dimension, as well as a political, a social, and even a geopolitical one. This therefore means an integral program for reforms in multiple EU policies, having the development of the digital technologies as a point of intersection.

The complexity in the implementation of this integral reform program stems above all from its diffuseness in multiple sectors. A few examples:

- The emergence of new business models and shifting viewer behaviour creates the need for redefinition of the rules in the area of audiovision - there is, for example, an emerging need for the protection of minors from hate speech and violence within the video sharing platforms.
- The growth in the development of these platforms, and the emergence of new services such as the so called on-demand services (Netflix, Amazon Prime) create the need for regulation on the matters of intellectual property.
- Data, provided by the European Commission, indicates that the digital economy exerts a growing pressure on the skills, needed in the labour market, which becomes more flexible and looser, but at the same time, more insecure. Statistics that are widely cited in the European documents indicate that two thirds of today's primary school students will be employed in profession that do not exist yet. Even if we consider it speculative, this data nonetheless demonstrates progressing transformations in the labour market, which cannot be neglected.

- Cybersecurity becomes a decisive factor for the competitiveness of the European economy - during the last few years 80% of the European companies have become victims of at least one cyberattack.

Even this far from exhaustive enumeration clearly indicates that the topic concerns political spheres that are not directly interlinked. The institutions and stakeholders engaged in the execution of these policies are also diverse, heterogeneous and their work is not necessarily synchronized, and in certain occasions, even contradictory. Last but not least, the instruments needed for the execution of the policies in each of the spheres related to the digital economy, are also diverse. All of the above, which is in fact just a small part of the actual complexity of the challenge, excludes the possibility for a common policy in the field of the Digital Single Market.

One cannot neglect the considerable imbalances that exist within the EU in the degree of development of the digital economy and its regulation - some Member states such as the Scandinavian Finland, Sweden and Denmark are unquestionable leaders, while other states, such as Bulgaria, Romania and Greece are lagging behind, according to data on the State of Innovation of the EU.

A third, but not a less important challenge, is the dilemma of having more or less regulation. The Digital Single Market Strategy stems from the conception of the leading role of the public institutions in the regulation of the digital economy - even the number of areas that require regulation according to the European Commission is indicative - practically, all dimensions of the Digital Market. This standpoint, however, certainly does not lack an alternative. Many analysts warn that management strategies related to "digital

protectionism”, namely, to too much regulation, can be counterproductive - they can suffocate the innovations in the sector. The challenge is to find the right balance in the creation of conditions that allow both innovation and protection of the personal communication.

What has been done so far?

Series of Presidencies of the Council have been well-disposed to the development of the ambitious strategy of the Juncker Commission and willing to work on the Digital Economy priority: the Dutch Presidency placed innovations in the center of EU politics; the Slovak Presidency almost entirely focused on the Single Market as one of its two main priorities (the second was migration); the emblematic Estonian Presidency declared itself to be the digital Presidency of the EU; the Bulgarian one set the digital economy as one of its 4 priorities; the Austrian one adopted it as well and continues to work on this priority.

Despite this mutual consent between all EU institutions about the priority of the Digital Single Market, the results achieved so far are ambivalent - considerable progress in the volume of legislation in the sphere, but at the same time, a delay in the key areas. (1)

The mid-term review of the implementation of the European Commission's Digital Single Market Strategy, presented by the Commission in the middle of the Juncker Commission's mandate, expectedly did not leave room for criticism of this institution burdened with legislative initiative. Since 2015, the EC has accounted for the adoption of 35 legislative proposals in all areas of the digital economy - from telecommunications and audiovisual, to

cybersecurity and data movement, to digital skills and key competences.

It is obvious, however, that this work cannot be accounted as complete - even though with the end of the Commission's mandate approaching, it becomes politically essential to account for achievements. In fact, the work is yet to begin: the task of the European Commission is to convince the co-legislators in the face of the Council of the EU and the European Parliament of the need for the respective legislation, the benefits of its adoption and its effects on the citizens and businesses in the Member States.

The current year 2018 is the final full year of the current European Parliament and European Commission's legislative mandate. Therefore the expectations for progress and completion of major topics, related to the digital economy, are extremely high.

The preceding Estonian (digital) Presidency of the EU, despite the high expectations, did not manage to finalise a large number of legislative initiatives - practically, the negotiations with the EP have been finalised only in regard to the so called geo-blocking, related to the equal rights of users when shopping online within the internal market, and the related regulation on cross-border parcel deliveries. Several important negotiating positions of the Council were also achieved (the so-called "general approach"). This positive but not outstanding result should be attributed to the specifics of the legislative cycle.

On the other hand, the Estonian Presidency undoubtedly had a key contribution in placing the Digital Single Market high on the European agenda and focusing the political and public attention on the subject.

And namely on this basis, in a subsequent stage of the legislative cycle, the Bulgarian Presidency was able to achieve substantial progress in this area: 6 legislative acts with finalised negotiations with the European Parliament and 3 legislative acts with a "general approach". (Although Politico predicted that "Europe's Digital Single Market will hit the Bulgarian rocks" because of the lack of political weight of the Bulgarian commissioner responsible for the digital economy and society). (2)

Among the most important negotiations concluded during the Bulgarian Presidency, the following ones stand out:

- The historic agreement between the co-legislators on a new Electronic Communications Code, as well as on the Body of European Regulators in the field of electronic communications which are key for equipping the EU with high-speed internet connection of a fifth generation. Without this connection, latest technology and communication tools could not be effective;
- The agreement on the free flow of non-personal data which allows the establishment of a competitive data economy where over 7 million people could be employed by 2020;
- The agreement on the audiovisual media services directive which aims to ensure that European citizens have better access to audiovisual and media content, and at the same time - to protect children from harmful content.
- The EuroHPC agreement, which allows European research organizations and ICT scientists to take advantage of the common European resource for high-performance computing and to share the

scientific results of the joint use of this digital infrastructure.

Despite these notable achievements, which certainly bring the EU closer to the end goal - quick completion of the Digital Single Market - quite a lot remains unclear. The Austrian Presidency must conclude the negotiations between the Council and the European Parliament on the Cybersecurity Act, because without this agreement, it becomes impossible to overcome the fragmentation of the EU market for information-communication services and to synchronize the national standards for cybersecurity.

Austria must find a resolution to the crisis in the sphere of copyright legislation, that emerged after the refusal of the European Parliament to give green light to the directive on Copyright in the Digital Single Market, which the reputable online magazine Wired called "dodgy" (3), and many EP members consider to be threatening to the freedom of speech. The controversial proposal provides for an obligation of the sharing platforms to automatically block/delete user content protected by copyright.

The Council finds itself in an equally complicated situation when it comes to the Regulation on Privacy and Electronic Communications (the so called ePrivacy). The fate of this legislative proposal remains unknown after the entry into force of the General Data Protection Regulation on May 25 this year. Many business representatives believe that imposing an additional regulation on an already existing one would cause legal insecurity and hinder economic growth and regulatory coherence in the EU, which increasingly depends on the digital sector. Civil observers, on the other hand, who are in contact with Member states' representatives in Brussels, claim that no

legislative proposal has become a subject of such a massive lobbying by corporate interests for some time.

The Austrian Presidency must continue the work on the implementation of the ideas, outlined in the Third Data Package adopted by the European Commission, and in particular, the Communication "Towards a common European data space". These programme measures stem from the current assessments that the potential of the European data-based economy will exceed 730 milliard euro by 2020 (4). Its implementation, however, depends to a large extent on whether the EU will manage to find a common language between the expectations of the experts who realise the benefits to the economy and the progress from the use of public data, and the fears of those whose data is concerned - namely, the citizens.

The DSM cannot be completed without taking more decisive steps to overcome the obstacles to e-commerce. Data indicates that 84% of the users prefer the local market, be it because of language barriers, or because of geographic proximity and better knowledge of the local rules.

The remaining tasks are more than just a few. And as the researchers from the Brookings Institution (5) warn, the implementation of digital policies must take place in a digital context - namely, to be flexible, and to meet the pace of changing technologies and business models. The development of technologies and the related economy is countless times faster than the speed with which the EU adopts an instrument and the Member States start applying it. Therefore there is an actual risk that today's attempt of the EU to prepare the necessary legislative framework for an unknown

and constantly changing future, may turn out to be ineffective. If the remaining legislation in the sphere of the Digital Single Market does not get adopted as soon as possible, and respectively, if the Member States do not expedite its application, it will be outdated very soon and thus, unable to achieve its goals. The next months of the Austrian Presidency will show which scenario is the most likely - establishment of a Common Digital Market, adequate to the global competition, or over-regulation on the EU level, but still fragmented national markets.

Notes:

1. Analysis by the Delors Institute even define the successes highlighted by the EC in the mid-term review on the Digital Single Market Strategy as symbolic, rather than having a true economic value. <https://institutdelors.eu/wp-content/uploads/2018/01/balancingambitionandpragmatis>
2. The text is available on the following link: <https://www.politico.eu/article/mariya-gabriel-digital-single-market-on-the-rocks/>
3. The article is available on the following link: <https://www.wired.co.uk/article/article-13-eu-copyright-directive-memes>
4. The results from the report are available on this link: <https://ec.europa.eu/digital-single-market/en/news/finalresults-european-data-market-study-measuring-size-andtrends-eu-data-economy>
5. The European Union's Digital Single Market Strategy: A conflict between government's desire for certainty and rapid marketplace innovation? <https://www.brookings.edu/wpcontent/uploads/2016/07/digital-single-market.pdf>