



EU Digital Autonomy, Sovereignty and Identity in the Time of COVID-19

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July 2020

Commentary written for the Jean Monnet Centre of Excellence, which is supported by a grant from the Erasmus+ Programme of the European Union. The Jean Monnet Centre of Excellence is housed at Carleton University in Ottawa, Canada, <https://carleton.ca/ces>.



With the support of the
Erasmus+ Programme
of the European Union

The European Commission's support for the production of this publication does not constitute an endorsement of the contents, which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

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Introduction and Background

On 7 December 2018 the European Commission published its communication “Coordinated Plan on Artificial Intelligence”.² The thrust of this communication is that Europe “is behind in private investments in AI [artificial intelligence]” and consequently that **“in the Union, public and private investments in AI must be scaled up in order to reach the target of EUR 20 billion per year over the next decade”** [bold in the original]. The aim was to promote “an *ethical* [my emphasis], secure and cutting-edge AI strategy made in Europe”. This commentary will consider the scale of the investments announced on 21 July 2020, the goals as expressed in May and June 2020, and the environment in which the proposals are being made.

Part of the background of this important communication on AI are considerations visible, for example, in two documents by leading figures at the University College London Institute for Innovation and Public Purpose, Mariana Mazzucato (2018)³ and Ian Hogarth (2018)⁴. The first of these, *Mission-Oriented Research and Innovation in the European Union* (Mazzucato 2018), had been written at the request of the Commission but contains the views of the author, not the Commission. Similarly, the paper by Hogarth, *AI Nationalism*, is a personal opinion developed independently of any (quasi-) governmental agency but acknowledging stimuli from a number of individuals at various times and in various conferences. He thus expresses shared concerns. The positions presented in these thematically related papers complement each other and form the basis for the discussion below of official EU documents released shortly before the German presidency of the European Council beginning on 1 July 2020 and the subsequent Trio Presidency up to December 2021. The writer of this commentary does not doubt the desirability of the positions taken in the documents, but, given the irruption of the COVID-19 virus, will present a sceptical note about their realisability, including its impact on European identity.

In past papers and commentaries I have been examining statements on national identity in various EU countries (and also Switzerland) which are contained in official documents of political parties and in statements by leading figures in the parties. Many of these views argue for the urgency of protecting national identity and sovereignty from present or incipient threats from outside.

This commentary on EU autonomy, identity and sovereignty in the time of COVID-19 will now look beyond the type of purely national / ethnic / cultural concerns or characteristics advocated by political parties. It will examine the urge to protect and develop central aspects of EU identity (as opposed to individual national identity) in the rapidly evolving world being formed by information

² European Commission. “Coordinated Plan on Artificial Intelligence” (COM(2018) 795 final), dated 7 December 2018.

³ Mariana Mazzucato, *Mission-Oriented Research and Innovation in the European Union: A problem-solving approach to fuel innovation-led growth*, Brussels, European Commission 2018.

⁴ Ian Hogarth, “AI Nationalism” (blog), <https://www.ianhogarth.com/blog/2018/6/13/ai-nationalism>, downloaded 26 June 2020.

technology. The most important of these aspects is what the documents term “sovereignty” and all that this implies. More of this later.

Currently, the ongoing and unavoidable digital revolution and its applications are to a significant extent being directed and conducted by technologies developed and controlled outside the EU. The dependence on these technologies by individuals and entities throughout the private, administrative, political and commercial spheres means that national borders and EU external borders are open to external forces in a way they never were before. Consequently the assertion and maintenance of core EU ethical and legal values, and hence also this important side of the identity of the Union, has become highly problematic.

Mazzucato and Hogarth

Briefly put, Mazzucato is arguing for a mission-driven approach to co-ordinated European cutting-edge research, including the important area of artificial intelligence (AI). Such an approach would, she argues, stimulate cross-disciplinary activity and work strongly to improve the public good in a wide range of areas from a cleaner environment to improved geriatric care. The emphasis is on promoting European research and implicitly, but clearly, freeing it and the EU from Chinese or American technological dependence or dominance: she is arguing for an independent path for Europe as “a major player in the global economy” (p. 5). The stakes are high.

The nearly contemporaneous paper by Hogarth, “AI Nationalism”, starts from the premise that the transformations in the economy and military resulting from developments in the area of AI / machine learning will lead to instability “at the national and international level forcing governments to act” (p. 1). He argues that the advantages to be gained in the two named areas are so great that national governments have already entered a race against each other. The seeds of instability are sown. Implicitly, but clearly, these forces are present both within the European Union and are also influencing the two major (and non-EU) technological powers in the world.

In addition, he writes, powerful non-state actors such as Google, Apple, Amazon, Facebook, Alibaba, Tencent, Baidu, Huawei are in strong competition with governments in the development of AI and are making huge investments. The expertise these businesses already possess in machine learning “leads any state actor at the moment” (p. 5). And these large technology companies are either Chinese or American.

Furthermore, Chinese or American government involvement in AI / machine learning research is extremely intense both in cooperation with, and independently of, the private sector.

In Europe, individual states, particularly France, Germany, the United Kingdom, are separately devoting noticeable sums from their budgets to such research, each promoting their own interests

and each competing for a small pool of talent. However, the McKinsey Global Institute reports that, taken together, the total of state investment is surpassed many times by that of the large technology multinationals. In 2016 alone, for example, the latter spent some 20-30 billion US dollars (Bughin et al 2017)⁵.

Referring to Kai-Fu Lee, Chairman and Chief Executive of Sinovation Ventures and president of its Artificial Intelligence Institute, Hogarth points out that the business world is aware both of the potential for AI's massive and potentially disastrous impact on any country's labour market. It is also aware of the immense profits to be made by technology companies which develop successful AI software for one or more of a range of possible applications (Lee 2017).⁶ This, of course, is in addition to the already huge profits of the current generation of consumer-oriented internet operators based in either China or the United States. See below for the potential impact of this.

The European Commission submitted Mazzucato's report for extensive public comment and to obtain concrete reactions from a large group of stakeholders. The results of this extensive enquiry point to the need and the desire to reinforce all areas of digital research and their application in such a way that Europe can act autonomously for the benefit not just of the economy and shareholders but also to benefit human life in the EU in general.⁷ These aims were reflected in the Communication quoted at the beginning of this commentary, "Coordinated Plan on Artificial Intelligence" with its thrust of creating an ethical European digital industry by means of massive investment over a ten-year period.

And then COVID-19 intervened.

EU Reactions and Proposals

On April 24, 2020 the Presidents of the European Council and the European Commission published a joint "Roadmap for Recovery: Towards a more resilient, sustainable and fair Europe"⁸. This included the fundamental statement, "The EU is based on a **set of values and rights** [bold in the original] which are fundamental to the integrity of our model and way of life," values which "must be upheld at all times." A further aim of the recovery programme would be to ensure "the **strategic autonomy** [bold in the original] of the EU through a dynamic industrial policy . . . and an effective screening of direct foreign investment."

⁵ Jacques Bughin et al., *Artificial Intelligence: The Next Digital Frontier?* McKinsey Global Institute, 2017.

⁶ Kai-Fu Lee, "The real threat of artificial intelligence", *New York Times*, June 24, 2017, <https://www.nytimes.com/2017/06/24/opinion/sunday/artificial-intelligence-economic-inequality.html>, downloaded 13 July, 2020.

⁷ Eds. Elina Griniece and Juris Sorokins (2018), *Analysis Report: Responses to the call for feedback on "Mission-Oriented Research and Innovation in the European Union by Mariana Mazzucato"*, European Commission, Brussels

⁸ European Council and European Commission. "A Roadmap for Recovery: Towards a more resilient, sustainable and fair Europe", <https://www.consilium.europa.eu/media/43384/roadmap-for-recovery-final-21-04-2020.pdf>, 21 April 2020.

This statement of fundamental principles was followed by three documents published in June 2020: *Together for Europe's Recovery, the Programme for Germany's Presidency of the European Council* (Auswärtiges Amt 2020)⁹, the Council document “Taking forward the strategic agenda: 18-month Programme of the Council 1 July 2020 - 31 December 2021” dated 9 June 2020,¹⁰ and an additional Council document “Shaping Europe's digital Future – Council Conclusions (9 June 2020)”¹¹.

The documents in question are consistent in their insistence on the development of long-term strategic goals, particularly the notion of “(digital) sovereignty”. This means the ability to maintain and promote the EU's vision of an ethical and human-centred society with a fundamental set of values and rights representing the EU's core values. This must exist within a Europe-centred digital (including AI) research, manufacturing and implementation community. It must include also a European cloud as vital for Europe's sovereignty and security, and offer fair and balanced contractual conditions. Importantly, these should include protections of the rights of individuals and collectivities according to EU law and principles. These goals can only be achieved through cooperation between member states, rather than competition between them. Finally, and referring to the related and ongoing problem of the taxation of foreign-based international technological service-providers, reforms must include “fair and effective taxation”.

In summary, the various documents are proposing a forward-looking view of European development and identity as manifest in the ethical and legal values of the Union, at one and the same time shaping, and shaped by, rapid technological developments beyond the financial and human resources of any one European country to undertake and maintain.

The Global Environment of the Reactions and Proposals

The document “Roadmap to Recovery” had spoken in terms of the European Union needing “a Marshall-Plan type investment effort to fuel the recovery and modernise the economy” (page 4). This makes clear that two huge tasks are to be undertaken simultaneously: recovery from the economic damage of the pandemic and re-shaping the European economy – goals which are the basis of the subsequent documents outlining plans for the future. The re-shaping of the economy and enhancement of the digital economy will, the German statement for its Presidency reports, require “a high level of public and private investment” (p. 8).

However, on 7 July 2020 the DG Economic and Financial Affairs had published its *European Economic Forecast: Summer 2020 (Interim)*, foreseeing “an even deeper recession with

⁹ Auswärtiges Amt, Berlin, 2020.

¹⁰ Council Document 8086/1/20 REV.

¹¹ Council Document 8711/20.

Smaller companies are less likely to survive, clearing the way for big ones to become bigger and thus more powerful both politically and economically (Owen 2020).¹⁷

Despite the presence of important digital enterprises in Europe (whether in Silicon Fen, East London Tech City or Walldorf, for example), the “big tech” referred to by Owen is not based in Europe or the European Union. It is in China or the United States.

The Recovery Package

The announcement on 21 July 2020 by the Commission that the Council had finally achieved agreement on the €750 billion recovery package *NextGenerationEU* marks the EU’s response to the multiple challenges of the present and future. In her remarks, the President of the Commission stated that it “leads the way out of the crisis” and “can lay the foundation for a modern, more sustainable Europe” including the “European Green Deal” [to make Europe’s economy carbon neutral by 2050] and the “digitisation of Europe’s economy”. This package provides a massive amount of money in the form of grants and loans which have to be spread equitably over the member states and will cover, according to the statement quoted above, the Green New Deal, the acceleration of the “digitalisation of the European economy” as well as a wide range of other programmes. However, to reach the agreement finally achieved after four days of often difficult negotiations it had been necessary to make “far-reaching adjustments” (i.e. cuts) in “the new MFF [multiannual financial framework] and in NextGenerationEU” and InvestEU. It is admitted that these measures will decrease “the innovative part of the budget” (von der Leyen 2020).¹⁸ Similarly, it suggests that “the high level of public and private investment” posited in *Together for Europe’s Recovery*, the document outlining the aims of Germany’s presidency, as necessary for the continent’s recovery is not going to be reached. The €750 billion has to cover a very wide range of areas far beyond the digitisation of the European economy.¹⁹ And the ability of member states to make their own contribution to the digitisation of the economy has been reduced by their drop in revenues due to the significant economic slowdown resulting from the lock-down. To this must be added increased indebtedness arising from massively increased social payments.

Much of the current era of rapid developments, it must be recalled, is being driven largely by non-European technology enterprises holding very significant acquisition-ready cash reserves and anxious to extend even further their presence, influence and thus their value-systems. Two GCEU cases brought against Apple and Facebook decided respectively on 15 and 16 July 2020 on matters

¹⁷ Taylor Owen, “During a Pandemic, Big Tech Will Only Get Bigger“, Centre for International Governance Innovation, <https://www.cigionline.org/articles/during-pandemic-big-tech-will-only-get-bigger>, downloaded 12 July 2020.

¹⁸ Ursula von der Leyen, European Commission Statement STATEMENT 20/1388, 21 July 2020, https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_20_1388, downloaded 21 July 2020.

¹⁹ Council of the EU. *Infographic – EU Budget for 2021-2027 and recovery plan*, <https://www.consilium.europa.eu/en/infographics/recovery-plan-mff-2021-2027/>, viewed 27 July 2020.

of fair taxation and individual privacy illustrate how such enterprises are very willing to challenge EU jurisdiction and values if they believe these stand in the way of doing business as they define it and to the ends they consider valid for them.²⁰ In addition, in July 2020 the German Office for the Protection of the Constitution warned of the data insecurity of Chinese payment and other apps currently being used in Germany (and, of course, elsewhere). The servers where all the transactions etc. are processed and stored are in China and thus available to any and all agencies of the Chinese government for their own purposes. The implication is that these purposes contradict EU values.²¹

The Fundamental Question

To repeat the fundamentals: in this influential area of digital research and development Europe is in open competition with outside forces to maintain its autonomy, sovereignty and identity. The Commission has taken on the role of coordinating individual national efforts and is providing the largest recovery and, above all, reconstruction financing it can within the framework of the EU treaties, practices and politics. But the over-riding question remains: in the modern digital world of severe competition from the digital giants in China and the US which function according to different values from those fundamental to the European Union, are the EU's efforts enough to guarantee an EU-developed and EU-based technological framework and economy capable of functioning according to EU values and for the benefit of EU citizens? Or is it already too late? Like the after-effects of COVID-19 which weaken many victims in the long term after the initial infection has ebbed, are the values incorporated in EU autonomy, sovereignty and identity going to be debilitated by the impact of the COVID-19 pandemic?

²⁰ General Court of the European Union Judgment in Cases T-778/16 Ireland v Commission and T892/16 Apple Sales International and Apple Operations Europe v Commission, 15 July 2020. Judgment in Case C-311/18 Data Protection Commissioner v Facebook Ireland and Maximillian Schrems, 16 July 2020.

²¹ *Verfassungsschutzbericht 2019*, p. 294.