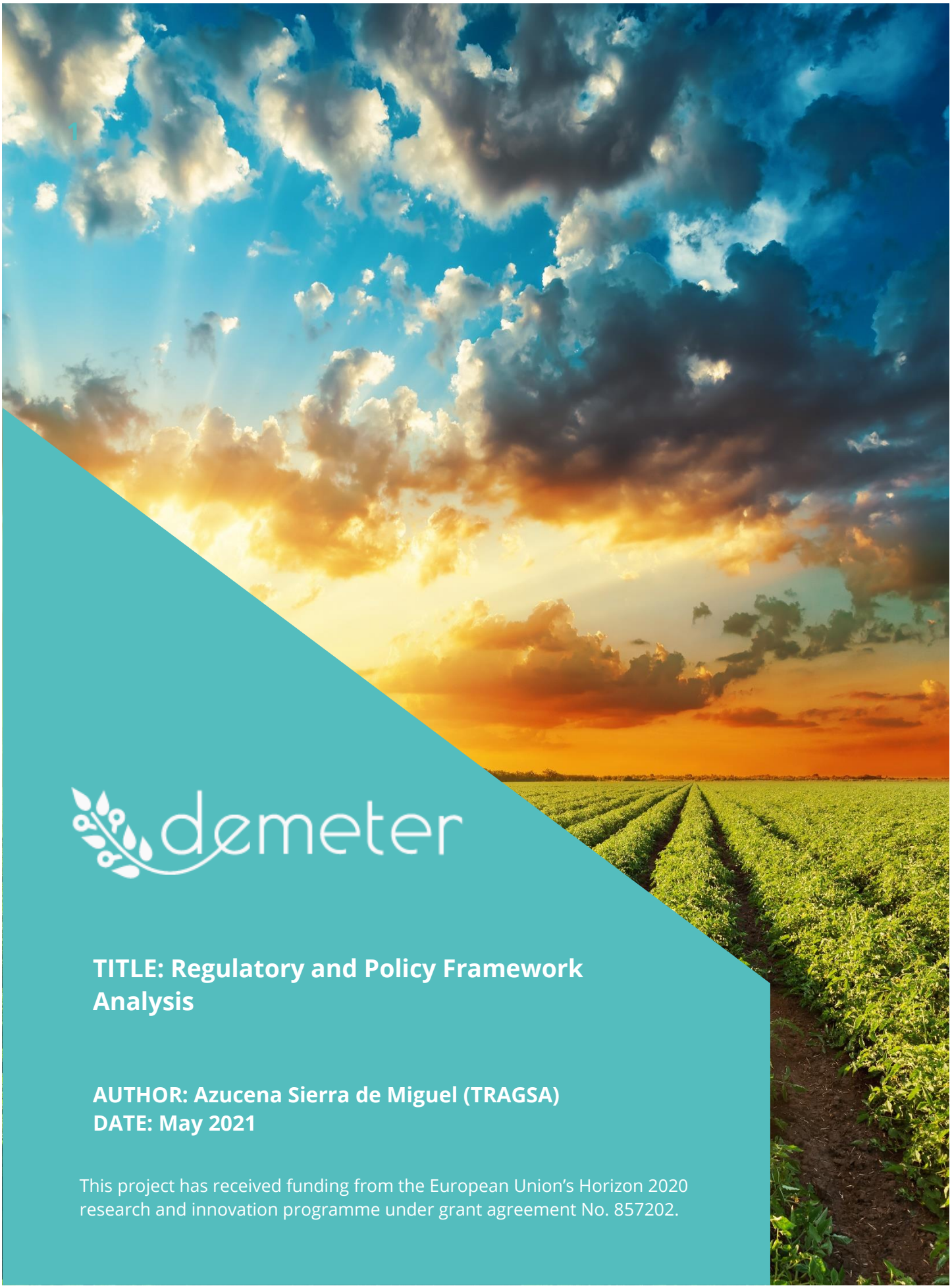

TITLE: Regulatory and Policy Framework Analysis

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Regulatory and Policy Framework Analysis

1 Introduction

This white paper aims to provide a broad overview of the European legal and policy framework within which the digital transformation of the agricultural sector should be analysed and framed. It focuses primarily on the current programming period and the link between the two of main priorities set by the European Commission: a European Green Deal, which aims to make Europe the first climate-neutral continent by 2050, becoming a modern, resource-efficient economy; and the Digital strategy for Europe to empower people and societies with a new generation of technologies and skills.

Different repositories have been consulted in order to perform the analysis, including European Commission legal initiatives[1], European Parliament initiatives[2], EESC opinions and positions reports[3], Committee of the Regions opinions and resolutions[4] and European Commission public consultations[5].

2 The EU's approach to digitalization

The EU's general approach to innovation and digital technology recognizes digital technologies as: (i) sustainable solutions, (ii) critical to achieve the objectives of the European Green Deal, and (iii) as enabling factors for this ambitious EU growth strategy. The Commission identifies in accessible and interoperable data the heart of this data-drive innovation, that combining data, digital infrastructure, artificial intelligence solutions, will facilitate evidence-based decisions and expand the capacity to understand and tackle environmental challenges[6]. The digital transition is therefore at the core of the political orientation of the EU executive.

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[1] https://eur-lex.europa.eu/homepage.html?locale=en
[2] https://www.europarl.europa.eu/committees/en/supporting-analyses/search-database
[3] https://www.eesc.europa.eu/en/our-work
[4] https://cor.europa.eu/en/our-work/Pages/Opinions.aspx
[5] https://ec.europa.eu/info/consultations
[6] **European Commission.** COM (2019) 640 final The European Green Deal. Brussels : s.n., 11 12 2019.

2.1 The EU Digital strategy

The European Commission's framework document "Shaping EU digital future[7]" is a 5-years policy road map to ensure digital sovereignty for the EU, through the development of European technologies and digital infrastructures, networks and capacities to reduce the dependence on the supply of technologies from non-European countries and catch up on that still separates it from competitors such as the United States and China. The Strategy for Data proposes the creation of a European cloud to compete internationally on big data, while the White Paper indicates tools designed to make Artificial Intelligence accessible to industries, included SMEs and public administration.

2.2 The agri-food sector in the EU Digital Strategy

In 2017, the EIP-Agri indicated the needs to: (i) improve the flow of information along the supply chain, (ii) developing new skills and knowledge for farmers and advisors, (iii) enhancing connectivity in rural areas, (iv) co-creating ties to make innovations adapted to real needs of farmers, (v) facilitating data sharing and reuse, (vi) having common standards and fostering interoperability, (vii) creating an environment of trust made of transparency, clarity and customised terms of use and licensing, together with fair division of the added value.

2.2.1 The self-regulatory Framework (COPA-COGECA Code of conduct)

The "EU Code of conduct on agricultural data sharing by contractual agreement"[8] embodies the expectations of different stakeholders involved. The document builds upon the fact that Digital farming represents an unprecedented opportunity to create value and business opportunities by applying data-driven solutions. However, it also points out that: (1) data sharing must be conducted under clear and safe rules, and (2) the challenges for the agri-food sector arises mainly in relation to privacy, data protection, Intellectual Property, data attribution (ownership), trust, data storage, conservation, usability, security and interoperability.

[7] **European Commission.** COM (2020) 67 Final. Shaping the digital future of Europe.
[8] **European Commission**. COM (2020) 381 final. From Farm to Fork.

3 The legislative framework - State of the art

3.1 The European Commission

The European Commission announced the revision of the internal market rules for digital services in its 2020 Communication "Shaping the digital future of Europe"[9], based on two pillars: 1) increase and harmonize the responsibilities of online platforms and information service providers, as well as strengthen the oversight of platform content policies in the EU; 2) establish ex ante rules aimed at guaranteeing fair conditions in markets characterized by large platforms acting as controllers.

The Commission, with its Data Strategy presented in February 2020, generally aimed at a greater but regulated sharing of public data. The Commission's approach on the subject has always been to work "sector by sector", considering the relative specificities, and selecting the data that should not be made shareable, "separating them" from those that should be shared.

3.2 The European Council

The EU Council recently adopted conclusions[10] via written procedure on the European strategy "Shaping the digital future of Europe", underlining full support for digital transformation as a key driver for economic recovery, green growth and strategic autonomy of the EU. The sectors covered by the conclusions adopted range from connectivity, digital value chains and e-health to the data economy, artificial intelligence and digital platforms. The text also highlights the impact of digital transformation on the fight against the pandemic and its critical role in the post-COVID-19 recovery. To this end, the goal of completing the creation of a digital single market remains primary. The European Council therefore calls on the Commission to present, by March 2021, an agenda defining the EU's concrete digital ambitions for 2030.

3.3 The European Parliament

[9] **European Commission.** COM (2020) 67 Final. Shaping the digital future of Europe.

[10] The Digital Services Act package. [Online] 2020. https://ec.europa.eu/digital-single-market/en/digital-services-act-package.

In September 2020, Members of the EU Parliament set their priorities for the Digital Service Act (DSA)[11], synthesized in three main themes:

1) New rules are now needed to define the responsibilities of digital service providers, address the risks to which users are exposed and promote innovative services across the EU.
2) A clearer and more binding mechanism to combat illegal content online, following the principle of "what is illegal offline is also illegal online".
3) Specific rules for large platforms to facilitate the market entry of SMEs and start-ups.

Parliament invites the European Commission to present a proposal for the Digital Service Act which considers the following aspects/areas: (i) transparency and protection of consumers, (ii) Artificial Intelligence, (iii) the need to tackle the spread of illegal content online, (iv) the ex-ante regulation of systemic platforms and (v) the creation of a European regulatory body.

In July 2020 a Special Commission on Artificial Intelligence (AIDA) was established within the European Parliament to carry out a holistic analysis on AI, through an approach that provides a long-term common position and highlights the key values and objectives of the EU related to AI in the digital age, in particular by analysing the future impact of AI on the EU economy in terms of skills, employment, education, health, transport, tourism, agriculture, environment, defence, industry, energy and e-government. The Special Committee will present to the relevant Standing Committees of the Parliament an assessment defining common EU medium and long term objectives and including the main steps needed to achieve them, starting from the following documents published on 19 February 2020: (i) "Shaping Europe's digital future", (ii) a European Data Strategy, (iii) the White Paper on Artificial Intelligence, (iv) and the Report on the security and accountability implications of Artificial Intelligence, including a roadmap on "A Europe fit for the digital age".

3.4 European Economic and Social Committee (EESC)

EESC adopted in July 2020, in plenary session, an opinion related to the Communication by the Commission "Shaping Europe's digital future". The EESC

[11] Data sharing in the EU – common European data spaces (new rules). [Online] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12491-Legislative-framework-for-the-governance-of-common-European-data-spaces.

voices civil society's concerns and aspirations regarding the impact on the EU labour market. With regards to the AI White Paper proposed by the Commission, the EESC considers the focus solely posed on data-driven AI too narrow to make the EU a true leader in cutting-edge, trustworthy and competitive AI. In developing and employing AI, a multidisciplinary research approach is needed, by involving disciplines like law, ethics, philosophy, psychology, labour sciences, humanities, economics, etc.; (ii) a broad debate with relevant stakeholders (trade unions, professional organisations, business organisations, consumer organisations, NGOs) and (iii) the wide public should be educated and informed on the opportunities and challenges of AI. The EESC opposes the introduction of any form of legal personality for AI, to avoid hampering the preventive remedial effect of liability law and the moral hazard risk in both the development and use of AI. Biometric recognition for tracking, surveillance and detecting emotions should not be allowed in Europe's human-centric approach to Artificial Intelligence (AI).

3.5 Committee of the Regions (CoR)

The CoR debated "A strategy for Europe's digital future and a strategy for data" and adopted an opinion in its plenary session of October 12-14, 2020. The opinion covers eight different areas of digitalization: (i) Digitalisation and the associated opportunities; (ii) Vision for a digital society; (iii) Reliable infrastructure and digital foundations; and (iv) People in the digital world; (v) A European community of digital values; (vi) Data as digital fuel for the economy and a basis for decision-making; (vii) Europe in the world; and (viii) Assessment of the Commission communications.

4 Digital Europe: the new Programme to finance digitalization

Digital Europe will support the adoption of digital technologies in areas of public interest, alongside the European Green deal.

The construction of essential digital skills will be divided into 4 specific areas: (i) **High-performance computing**, (ii) **Artificial intelligence**, (iii) **Cybersecurity and Trust** and (iv) **Advanced digital skills**.

5 Conclusions

General regulation is being developed at EU level whilst the Digital Transformation of the economy and in particular of Agricultural sector is occurring. It can be seen as an opportunity to balance the relations and roles of different actors in Digital transformation.

Data governance is being tackled both from an agricultural sector self-regulatory approach promoted by COPA-COGECA that set the basis for the relations among different actors involved in the management and use of data and also from the EU institutions that promotes data spaces and data protection aspects to allow an enhanced framework for data management and use looking to solve aspects like interoperability, consistent and robust data availability, re-use and the interoperability , which will be impact also in the organizational and institutional governance of the different actors operating in the system.

In the EU agriculture there is a strong variability of farm structure typologies, with a majority of Small and medium family farms, that as stated in the CAP regulation for 2021-2027 that will need a special protection and specific measures to allow the Digital Transformation and avoid the increase of the already existing structural divide.

Artificial intelligence will play a crucial role in the future interrelations and the balance of the bargaining power and the bias of the decisions all along the value chain, from farm to fork, thus the regulation on Artificial intelligence.

The technology adoption for a successful Digital Transformation in agriculture, induces a stronger need for digital capacities, digital training that has also an impact on attracting newcomers and young farmers to rural areas.

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