

Introduction to the Emerging Data Economy Law

Potsdamer Gespräch zur Datenwirtschaft
 1st Potsdam Talk about Data Economy
 Law of Raw Data –

Prof. Dr. Björn Steinrötter

Junior Professor for IT Law & Media Law (Tenure Track)

Data & Data Economy (1)

- Data as intangible assets / goods
 - "Data is the lifeblood of economic development" COM(2020) 66 final, p. 2
- Data
 - ISO/IEC 2382:2015, IT Vocabulary, 2121272
 - reinterpretable representation of information in a formalized manner suitable for communication, interpretation, or processing → coded & (machine) readable!
 - Syntactical level \Rightarrow in the IT context: sequences of $0/1 \Rightarrow$ Representation in files, bitstreams, etc.
 - Recently: point of reference for legal policy considerations on "data ownership"
- Information
 - Semantical level → "(wo)man readability"
 - i.a.: reference point of data protection law, i.e. differentiation personal / non-personal data



Data & Data Economy (2)



- What does the data economy want? (Digital) data or information?
 - Answer: Neither only one (isolated) nor only the other (isolated)!
 - In the end, it is all about (potentially meaningful) information, but information that is "carried" by digital data, in other words, that comes in a binary structure (coded and machine-readable)!
 - See also SWD(2017) 2 final, p. 13: "For centuries, **information** has been traded. However, with the **availability of information stored in a digital form**, data trading has drastically increased."

EU Data Act - Leak

Article 2 Definitions

For the purposes of this Regulation, the following definitions apply:

 'data' means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audio-visual recording;

Data & Data Economy (3)



"In spite of the economic potential, data sharing between companies has not taken off at sufficient scale. This is due to a lack of economic incentives (including the fear of losing a competitive edge), lack of trust between economic operators that the data will be used in line with contractual agreements, imbalances in negotiating power, the fear of misappropriation of the data by third parties, and a lack of legal clarity on who can do what with the data (for example for co-created data, in particular IoT data)."

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on ensuring fairness in the allocation of value across the data economy (Data Act)

(Text with EEA relevance)



Note Art. 1 (1), (3) GDPR / Art. 1 (2) ePrivacy Regulation-Proposal: free movement of data as an objective alongside the protection of individuals with regard to the processing of personal data

EU Provisions (Data Act,

Data Governance Act, Free Flow of Data Regulation etc.) make more sense

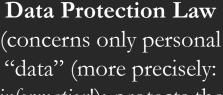
than "member state

solutions" (mitigation of

conflict of laws problems

Fields of Data Law

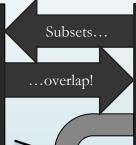
Law of Data/ Data Law (Part of IT Law)



information!); protects the data subject)



(basically concerns digitally structured information and has precisely this as its object; aims first and foremost at its usability and tradability)



Data Regulatory Law

- Access to data
- Data localisation bans
- Interoperability requirements
- Right to data collection-free products
- Data intermediaries

Data Private Law

- "Ownership" of data
- "Property" of Data
- "Data tort law"
- "Data contract law"
 - Digital Content Directive
 - Data Licensing





Thank you for your attention & enjoy the conference!