"Navigating today's geopolitical landscape through the lens of digital sovereignty and digital self-determination"

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Keynote

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You have all travelled different distances to come to Davos today and this despite the exorbitant hotel costs in this beautiful mountain village. When travelling to Davos, you have generated a lot of data. For example, you paid for flight and train tickets, provided credit card details, and perhaps announced dietary restrictions. So where did this data end up and who processed this data while you were accepting all the cookies that popped up when you were on the various websites to organize your trip? Over the next 20 minutes, I would like to focus on the overarching theme of this session: namely the governance of data.

The topic of this side event is of great importance: On the one hand, we live in an increasingly interconnected and data-driven world in which life is getting more and more quantified through the rapid development of digital technologies. Data is currently one of the most valuable assets in both social and market terms and if used responsibly, holds enormous potential in various fields of our daily cultural, political, and economic lives. It informs individual decision-making, feeds artificial intelligence

and algorithms and shapes communications, markets and politics. The growing concerns for responsible development of AI should be as much directed to data use as to technology.

On the other hand, crises and wars keep the world in suspense challenging the current geopolitical landscape. The creation of common international rules has become difficult and national interests are once again being more vehemently asserted.

Such block building also affects the digital sphere and data governance across borders. Due to diverse national and regional views on how to use data and for what purposes, different data governance approaches have developed in various parts of the world. Some regions focus on protecting individual data, others on maximizing profit from data or using data to control societies in the name of national security. Additionally, many States consider digitalization to be strategic and are elevating it to a question of national sovereignty.

As a result of these developments, we can observe regulatory fragmentation and legal uncertainty. Additionally, the goal of a globalized governance approach may be at risk.

Since the distinguished panel will be covering the international and EU perspectives, I would like to give a Swiss perspective. I will focus on why data governance is a priority of Switzerland and how we want to contribute in bridging this divide and reducing polarization around data governance.

When thinking about data governance, the most pertinent question relates to the how. How do we want to manage and govern data as a new asset so that it unlocks its full potential for the public good?

It is safe to say that currently the potential of data is not fully harnessed. Not in Switzerland, not in the EU and not in other regions of this world. The reasons are manifold mainly relating to three asymmetries: data asymmetries, information asymmetries and agency asymmetries.

What is meant by these asymmetries?[1] Data asymmetries refer to the restricted access to data for those who could benefit the most from such data access. Information asymmetries exist if there is a lack of transparency or understanding of what data exists, by whom it is used and for what purposes. Lastly, agency asymmetries occur when there is an imbalance in the relationship between parties.

All of these asymmetries have three things in common: firstly, they lead to distrust in data use and create feelings of disempowerment. Citizens are primarily users with a very limited say with regard to their data and their digital footprints. A situation that is at odds with principles of democracy, advocating for citizens as active decision-makers shaping their own future. Secondly, these asymmetries cannot be overcome by

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[1] Verhulst, S. G. (2023). Operationalizing digital self-determination. Data & Policy, 5. https://doi.org/10.1017/dap.2023.11, p. 3 et seq.

existing approaches such as consent or data ownership. And thirdly, if they persist, the full potential of data cannot be harnessed. A central reason is that failing to fully engage data subjects in the use of data reduces checks on data accuracy and the development of trust around data access. In other words, the more trust of data subjects in data management, the better the potential of data can be unlocked.

The time is thus ripe to think about new ways on how we want to approach the topic of data as a valuable asset. As we move deeper into the digital age, the more we must focus on processes that empower data constituencies and help to mitigate the previously mentioned asymmetries. Approaches that enable data to be made available, accessed, exchanged, used and also re-used in a responsible and sustainable manner by various actors and for multiple purposes.

Taking into consideration the latest developments relating to how to make AI responsible, I dare to state that it is not only timely to re-think data governance but that action is called for. In short: AI is only as useful, safe and responsible as the data feeding it.

There is not one single way to start the discussion on data governance with a fresh breeze. Having said this, I would like to seize this opportunity to introduce you to two priorities of Switzerland that are distinct yet important from a data governance perspective, namely: "digital self-determination" (DSD) and "digital sovereignty".

Put simply, the concept of digital sovereignty relates to the prevention of foreign dependencies in the digital sphere while the concept of digital self-determination is mainly concerned with empowerment and agency over data within and across countries. The first concept addresses concerns about over-reliance, the latter offers an answer through greater openness and engagement.

Let me elaborate a bit more. The reason why we are discussing digital self-determination in Switzerland lies in my aforementioned arguments: there is a need for human-centric data governance approaches that prevent – as very accurately put by Stefaan Verhulst – the misuse of data but also missed uses of data.

The reason why we are discussing digital sovereignty in Switzerland goes back to my introductory remarks. Following disaffection with globalization, we have entered a tense geopolitical phase. Many States classify digitalization as strategic and elevate it to a question of national sovereignty. Sovereignty as such is not new, but comes with tricky questions in the realm of the digital sphere that warrant to be looked at more closely. In Switzerland, the debate on digital sovereignty centres on the question on how to bring the three conflicting targets together: the free flow of data, the value creation out of data and the control over data.

While there is an overlap of the two concepts in terms of data being a valuable asset, they are distinct in their approach to data use. While digital sovereignty is rather a top-down approach focusing on a State's control and autonomy imposing authority over

data, digital self-determination represents more a bottom-up and negotiated approach focusing on empowerment, agency and responsible data management. These three features of digital self-determination promote data integrity and trusted access relations.

I would like to use the remaining minutes to dive a bit more into the concept digital self-determination.

Over the last few years, Switzerland has been active in developing and promoting digital self-determination as a fresh approach to data governance based on its fundamental principles and values. We believe that agency and trustworthy data relationships in the digital space is the way to go in overcoming the above mentioned asymmetries and establishing a flourishing digital society and economy. Data constituencies should not have to choose between maintaining control over their data throughout the digital data life cycle and enjoying the advantages of data sharing. Instead, both should be possible by applying DSD.

To create a common understanding and to establish actionable tools to implement DSD, a national network and an international network on DSD was created. Both networks focus on the four-pronged framework[2], which was developed and coined by Stefaan Verhulst, one of the foundational partners of the international network. Based on the four-pronged framework, the concept of digital self-determination can be operationalized through: processes - such as assemblies; people and organizations - such as data stewards; policies - expressed through for instance codes of conduct; and products and technologies - such as access controls. Let me give you two examples on the latter two categories.

At the national level, the Directorate of International Law has collaborated with various stakeholders to advance the development of trustworthy data spaces as a technological product to operationalize DSD.[3] Data spaces are thereby defined as technical structures that connect data users and data providers enabling the exchange and multiple use of data.

Trustworthy data spaces are a special category of data arrangements and relationships, since they are operated in a manner that enhances control, transparency, fairness and effectiveness of the actions within the data space and ultimately enables to build and maintain trust among its users. Through participatory impact assessments or the help of data stewards, trustworthy data spaces enable the negotiation of trustworthy data relationships where its parties retain control over their data and can decide for themselves which data they share with whom, for what purpose and for how long.

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[2] Verhulst, S. G. (2023). Operationalizing digital self-determination. Data & Policy, 5. https://doi.org/10.1017/dap.2023.11, p. 9 et seq.
[3] https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-87780.html; https://digitale-selbstbestimmung.swiss/wp-content/uploads/2022/05/Beilage-01-Bericht_EN-zu-BRA-UVEK-EDA.pdf.

Let me give you a short example: in Switzerland, many farmers have to deliver data on their production to the Federal Office of Agriculture and the cantonal information systems in order to receive State subsidies. If they additionally also want to be certified for organic production by private institutions, they need to provide the same data to those institutions. This is neither efficient nor satisfactory from the farmer's point of view, as the data has to be entered manually several times in different systems. A possible solution lies in a trustworthy agricultural data space, in which farmer X as the data provider would have to provide the relevant data only once in one system and then could decide on the basis of approvals whether data should be transmitted to other institutions or not. Should farmer X also wish to be certified for organic production, he or she could instruct the Federal Office of Agriculture to share the production data with the certification institution or – depending on the technical set-up – could also share it himself or herself. Farmer X is in that sense digitally self-determined, since he himself decides which data should be shared, for how long and with which certification institution. Farmer X also has the possibility to withdraw his approval to the data sharing. Aside from the certification institution, the cantonal information systems and the Federal Office of Agriculture, the production data of farmer X could also be shared with another data space actor using the data, for example, for research purposes.

DSD thus advocates for the knowledge to understand and use digital applications and their consequences; the freedom to make decisions over its own data; and the ability to implement one's own decisions in a self-determined manner. As a result, by increasing the level of agency that data constituencies have over their own data, their trust in our data-driven society increases thereby creating data use that benefits themselves and society.

Just recently, the Federal Council adopted several measures to promote a Swiss data ecosystem of trustworthy and interoperable data spaces.[4] It is an ecosystem that enables efficient and trustworthy data collaboration across several subject areas and sectors.

To make the Swiss data ecosystem a reality, the Federal Council adopted several measures, including a National Code of Conduct for the Operationalization of Trustworthy Data Spaces. As a DSD policy product, the code of conduct is open for signature to the public and private sector. Moreover, considering the cross-border nature of data flows, discussions also have started to establish such Code of Conduct on an international level.

At the international level, the Directorate of International Law has teamed up with several academic institutions, organisations and experts to test the DSD approach in various settings, such as the use of data within the context of open finance, mobile money, migration, education, tourism and disability.

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[4] https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-99268.html.

From these various use cases, I would like to point out three key messages: firstly, data, information and agency asymmetries are a fact in all of these subject areas, warranting a closer look at DSD and its potential to empower. The use case on migration, for example, illustrated that DSD can create avenues for negotiation whereby trusted intermediaries can advocate for migrants.

Secondly, if trustworthy data spaces come into play, data subjects – especially vulnerable data subjects such as school children – need facilitation for example from teachers; and thirdly, methods to enable meaningful choice for all involved in terms of data decisions is an essential constituent of DSD. The DSD tourism use case – that focused on the prevention of overtourism through sensors and the evaluation of mobile phone signals – showed that both the tourists as well as the residents need to be meaningfully included in the design and implementation of digital solutions for visitor guidance.

Slowly coming to an end, I am particularly happy to seize the opportunity to officially launch the new website of the International Network on DSD. The website is a new resource and a platform that seeks to answer questions that may arise on how to implement DSD and seeks to connect those that want to advance DSD as a new data governance principle and practice. If you are interested in the network's work and agenda, please check out the new website and feel free to reach out to us and the network's partners.

With the WEF being an important forum to discuss digital and technology policy, I am happy that we all gathered here to discuss the very topical issue of data governance.

It is a real pleasure to be here and – on behalf of the Directorate of International Law – I wish you an interesting, engaging and fruitful panel discussion.