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Take back control? Digital sovereignty and a vision for Europe

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#digitalsovereignty
#digitalfuture
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Digital sovereignty has been the buzzword of recent policy debates on digitalization, regulatory policies, and geostrategic positioning in the EU. This policy brief suggests that while the lofty concept of digital sovereignty is flawed, the debate points to a key weakness in digital policy: The EU's current approach lacks consistency and vision. The EU needs lasting guiding principles for its regulatory, economic, and normative digital future that form the baseline for any kind of digital decision-making. The EU's commitment to regulation needs to be backed up by heavy public investment. This should establish conditions that foster the development of digital infrastructure, innovation systems, and tools that reflect European values and human rights. Rather than trying to catch up by excluding the outside, the EU should play to its strengths and entrench its position as a normative champion on the global level.

Executive Summary

In recent years, the EU agenda on digital policies has increasingly revolved around the idea of digital sovereignty. This approach has noticeable drawbacks. The concept is ill-defined. At worst, it represents a welcome narrative for authoritarian states that have previously drawn on sovereignty to promote the control of online content. It also entrenches the internet as a field of geopolitical struggle rather than a space of transnational connection. This entails the risk of shifting the focus away from individual and collective rights and persisting inequalities to geopolitical moves. Yet, there are positive aspects of this debate. The geopolitical ambitions have made apparent the EU's need to make headway on its own in digital governance. This has fostered the development of regulation and new initiatives. However, at the moment, the EU's strategy lacks consistency and vision. Even on the regulatory front, where the EU is making significant progress, a lack of enforcement and the weak design of some legal measures undermine its ambitions.

In key areas, such as taxation, national interests still hamper any kind of common progress. Rather than trying to catch up with China or the US, the EU needs to think seriously about a digital future that truly represents European values. This requires tackling the monopolist position of tech companies through interoperability requirements rather than developing European tech giants. Existing regulatory efforts need to be backed up by heavy public investment. Any digital future depends on meeting basic requirements for broad participation and democratic oversight. For the development of accessible infrastructures, data spaces, tools and innovation systems, the member states need to step up their game and provide more funds. Rather than getting caught in the crossfire of the tech wars between China and the US, the EU needs to develop a truly global strategy. This means targeting digital divides globally and approaching countries that becoming increasingly dependent on Chinese or corporate infrastructure.

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Introduction[1]

The pandemic has once again underlined how dependent we have become on digital means to work, learn, and teach. As European citizens and policymakers have to deal with the spread of disinformation, privacy challenges in the context of contact tracing, or choosing the right provider for the education of their children, the need to finally get it right in digital governance is more pressing than ever. In recent years, digital topics have moved to the top of EU priorities. With its strategy "Making Europe fit for the digital age", the Commission has initiated wide-ranging proposals and reform packages, including the European Strategy for Data,[2] a white paper on AI,[3] the digital services act package,[4] and the European Cybersecurity Strategy. [5]

But the EU still struggles to define its position and identity as a digital actor. Trapped between Chinese and US tech giants, the prevalent dependence on private and non-European infrastructure and products has contributed to a widespread feeling of unease among policymakers and the general public. As a response, various actors from Commission President Ursula von der Leyen,[6] to French President Emmanuel Macron[7] to the German Presidency of the European Council,[8] now increasingly emphasize the concept of *digital sovereignty*. But despite these high-level advocates, the concept still lacks clarity and, to some extent, purpose. Digital sovereignty refers to diverse aspects, including individual control over data and identity, increased public and private investments, and strengthened EU competences in key digital areas, making its core meaning hard to grasp.

Most importantly, the frequent invocation of this buzzword risks glossing over the fact that the EU still lacks a concrete idea of what it wants rather than just what it fears. This paper suggests that the EU should abandon striving for greatness by focusing too much on catching up to the massive players that dominate the current market. Instead, it should go back to the basics to foster principle-driven innovation and democratic oversight to build strength through decentralized and sustainable means. Specifically, action is required in three central areas:

"The frequent invocation of this buzzword risks glossing over the fact that the EU still lacks a concrete idea of what it wants rather than just what it fears."

1. The EU needs to invest in the creation of "values by design" technologies and critical infrastructure;
2. The EU needs to develop a concrete list of lasting guiding principles for digital policies based on democratic values and human rights that provide direction and purpose to the legal character of existing regulations and proposals;
3. The EU needs strategies that rely on global cooperation rather than attempting to shield Europe from the outside.

[1] This policy paper follows an expert workshop held on 28 January 2021 as part of a workshop series on the economics of European sovereignty, which is co-organised by the Policy Planning Unit of the German Federal Foreign Office and the Jacques Delors Centre at the Hertie School in Berlin. The paper reflects the opinion of the author and not the position of the Federal Foreign Office nor of any individual participant

[2] European Commission. "A European Strategy for Data COM/2020/66 Final," February 19, 2020.

[3] European Commission. "On Artificial Intelligence - A European Approach to Excellence and Trust. COM(2020) 65 Final," February 19, 2020.

[4] European Commission. "The Digital Services Act Package." June 2, 2020.

[5] European Commission. "The EU's Cybersecurity Strategy for the Digital Decade." December 14, 2020.

[6] von der Leyen, Ursula. "State of the Union 2020" European Commission, 2020, p.13.

[7] Browne, Ryan. "France's Macron Lays out a Vision for European 'Digital Sovereignty.'" CNBC, December 8, 2020.

[8] Germany's Presidency of the Council of the European Union. "Expanding the EU's Digital Sovereignty."

In the following sections, this paper will briefly take stock of the current conceptual and strategic challenges highlighting shortcomings in political decision-making and pointing to the lack of a consistent vision before outlining the main building blocks for reinforcing the EU's capacity with guiding principles.

1. Sovereignty – a difficult concept

Centering the agenda of EU digital governance around the lofty concept of digital sovereignty involves a significant number of pitfalls. In the EU, the discussion on digital sovereignty has been guided by the intention to find a "third way" between the sovereigntist Chinese and the laissez-faire United States approach to digital policy. It primarily refers to a pan-European idea of autonomy to shape technological solutions and regulations independently from foreign tech powers. But the notion of digital sovereignty has three shortcomings:

- **First, sovereignty is a loaded term with a complicated history.** Some have celebrated the rise of digital sovereignty as a necessary counterbalance to the almost libertarian tendencies towards internet regulation that dominated the early 2000s. However, sovereignty rhetoric has also been employed to challenge cornerstones of the liberal international order. For example, China has pointed to sovereignty in its promotion of the increased control of online content; in an attempt to shield China from destabilizing influences, the country has established a comprehensive system of state censorship that has become known as the "Great Firewall".[9]
- **Second, the frequent references to European digital sovereignty risk glossing over the extent of prevailing national differences.** For example, the current constellation of national interests has been a significant hindrance to establish common standards in digital taxation and todate, it remains unclear whether member states even want a common European approach in this area. In this context, the increased emphasis on digital policies' major implications for public autonomy might not stop at the regional level but may also reinforce sovereigntist tendencies on the national level. By anchoring sovereignty arguments in the political mainstream, member states might well resort to similar justifications to not give up their national sovereignty. The concept of digital sovereignty may thereby serve as a tool to undermine as much as strengthen the push for a common European approach.
- **Third, defining digital sovereignty as the guiding principle of digital policy-making establishes the EU's actions vis-à-vis an "outside".** It reduces the positive aspects of transnational connection, for example, in the context of civil society. It also precludes much-needed global cooperation in establishing digital rules in international fora. In the end, the attempt to shield the EU from outside influence risks turning into European navel gazing and could very well reinforce the decline in the EU's global clout that it seeks to avoid.

The invocation of sovereignty, thus, carries significant normative baggage and reinforces a perspective on digital topics that may do more harm than good. Instead, the debate should refocus on developing the EU's capacity to have a positive impact on shaping digital governance, technologies, and platforms according to democratic values and human rights.

[9] Epifanova, Alena. "Deciphering Russia's 'Sovereign Internet Law." DGAP Analysis 02/2020.; Lippert, Barbara, and Volker Perthes. "Strategische Rivalität zwischen USA und China." SWP-Studie 2020/S 01.

2. The challenges of the digital

While the concept of digital sovereignty remains problematic, the current debate does address real challenges. Europe is rightly sensing a loss of agency in digital governance. Recent debates on 5G networks and critical infrastructure have demonstrated a widespread fear of the dependence on the major tech powers, China and the US, and the tech giants primarily based in these jurisdictions. Policymakers and regulators highlighted potentially adverse consequences for the economy, cybersecurity, and the enactment of democracy and human rights.[10]

While some of these challenges are structural and rooted in the challenges of new technologies, many are also self-inflicted. Three factors in particular have contributed to a loss of agency:

- the insufficient regulatory answer;
- the lack of economic digital capacity;
- the absence of a consistent agenda.

2.1 The regulatory answer and its limits

In the EU, significant efforts have focused on regulation to remedy the negative consequences of its weak position in digital governance. This poses challenges in itself: Digital markets are difficult to regulate and regulatory instruments are always under threat of being outrun by technological progress. In addition, many regulatory approaches rely on the cooperation of private companies, for example in countering problems like hate speech or disinformation.

In recent years, the EU has undoubtedly stepped up its game. Especially since the enactment of the General Data Protection Regulation (GDPR), the most influential data protection legislation worldwide, the EU has established its position as a "regulatory champion". Countries such as Japan and key jurisdictions including California have adopted standards that are highly similar to the EU's data protection standards creating a regulatory race to the top that Anu Bradford has termed "the Brussels effect."[11] With the digital services act package, the Commission has recently put forward two proposals that together target the prevalence of centralized power in the platform economy through a reform of digital services and e-commerce legislation. On the one hand, the Digital Markets Act (DMA) introduces regulatory measures for major platforms that occupy a gatekeeper position, for example due to their economic dominance or their significant user base. The DMA specifies acceptable and inacceptable behaviour by gatekeepers towards users and businesses in advance (*ex ante*), i.e., before harmful practices have taken place, rather than being limited to scrutinizing such behaviours after they have occurred (*ex post*). This means the Commission's role in shaping the market would increase substantially. On the other hand, the Digital Services Act (DSA) introduces strengthened rules regarding the responsibility and security of platforms targeting the trade of illegal goods and the spread of hate speech or disinformation. The DSA also imposes stricter rules for platforms with more than 45 million users per months. With these proposals, the Commission has shown that it means business, proposing fines for failure to comply with the obligations set out by the regulations that reach up to 6% (DSA) or 10% (DMA) of annual global turnover.[12]

[10] European Commission. "Shaping Europe's Digital Future. COM(2020) 67 Final," February 19, 2020.
[11] Bradford, Anu. The Brussels Effect: How the European Union Rules the World. Oxford University Press, USA, 2020.
[12] European Commission. "The Digital Services Act Package." June 2, 2020.

Yet, these efforts on their own are unlikely to remedy the existing asymmetries of the digital space. To pinpoint how exactly the EU needs to change its approach, it is essential to understand where regulatory efforts fail because of shortcomings in design and enforcement and where regulation is simply not enough to change the game more substantially.

Much of the limits of the EU's current approach are rooted in how rules are made and applied. For one, the EU often stops short of asserting its regulatory power through enforcement. For example, while European regulators issued fines of €158.5m in 2020 under the GDPR, a 39% increase, a big challenge for enforcement is posed by the key position of some weaker data protection agencies. Most significantly, this concerns Ireland, which is home to the European headquarters of many major US tech giants. The Irish Data Protection Commission (DPC) has for long been subject to criticism regarding the slow and lax enforcement of data protection measures on major companies.[13] The DPC issued its first cross-border decision in December 2020, more than 1.5 years after the GDPR came into effect and has a backlog of around 20 major cases, basically representing a regulatory standstill.

"Much of the limits of the EU's current approach are rooted in how rules are made and applied."

Moreover, the EU still often designs digital regulation in the form of voluntary or soft standards. For example, the EU Cybersecurity Act establishes voluntary rather than mandatory minimum standards, while, in the area of disinformation, the decision to adopt a Code of Practice, developed in cooperation with Facebook, Google, and Twitter, rather than a harder regulatory approach, has so far failed to produce the desired outcomes. The DSA in its current form has remained vague on what content is to be defined as harmful or illegal. While this pays tribute to national differences in weighing the right to freedom of expression with the rights of those affected by harmful content, this may contribute to legal uncertainty as well as harms for individual users.

Some of the current shortcomings of the EU's regulatory regime could thus be addressed through better policies. Additionally, regulation – including stronger competition and antitrust rules - should remain a key tool to tackle the negative consequences of the dominant business models of tech giants. Indeed, the division of competences within the EU facilitate a regulatory approach compared to tangible investments by the supranational level. However, without further establishing the EU's economic capacity, regulatory efforts will unlikely suffice to enable the EU to assert its global position.

2.2 The EU's lack of digital economic capacity

The EU's lack of economic capacity in the digital sector is well established and has been covered extensively.[14] Major economic indicators highlight that the EU is lagging behind tech development in China and the US: Of the top 20 global tech companies by market capitalization, none are European.[15] The combined market capitalization of the five major US tech companies is bigger than the GDP of all countries apart from China and the US.[16] In the crucial market of semiconductors, the EU's market share is at

13 Grüll, Philipp. "Irish Data Protection Authority under Fire over Facebook Case." Euractiv, May 26, 2020. ; Neuerer, Dietmar. "Datenschutz-Verstöße: Datenschützer Kelber bringt neue EU-Behörde gegen Facebook & Co. ins Spiel." Handelsblatt, January 28, 2020.
14 See, e.g., Best, Kris. "The Economics of European Sovereignty: What Role for EU Competition Policy in Industrial Policy?" Jacques Delors Centre, December 19, 2019.
15 Statista. "Biggest Companies in the World by Market Cap 2020," 2020.
16 Slaughter, Anne-Marie and Laforge, Gordon (2021), "Opening Up the Order - A More Inclusive International System", Foreign Affairs, (March/April 2021).

only 10%.[17] Struggling to make progress on 5G, the EU's objectives of reaching 100% fast broadband coverage have similarly been unsuccessful: In 2019, only 86% of households had access to at least 30 Mbps download speed, with significant deficiencies particularly in rural areas.[18] This also has a negative impact on businesses trying to set up web-based solutions.

This lack of economic and infrastructural capacity has contributed to a significant degree of dependence on foreign tech companies. From online searches and advertising to social networks, to phones, to cloud and wireless infrastructure: Europeans are dependent on services and hardware from non-European firms like Alphabet, Amazon, and Microsoft. The COVID-19 crisis has demonstrated the problematic reliance on private foreign companies for the provision of essential public goods, such as health or education. A lack of public capacities has, for example, contributed to the failure to develop a public contact tracing app. States such as Germany, Italy, and the UK abandoned the development of an independent app, failed to cooperate on a European level, and relied extensively on the services provided by companies.[19] The US tech giants Apple and Google successfully and collaboratively created an application programming interface (API) for digital contact tracing, which forms the global infrastructure for most contact tracing apps. These are just some examples of a broader phenomenon that exposes limits in public capacity and expertise with regard to tech.

"This lack of economic and infrastructural capacity has contributed to a significant degree of dependence on foreign tech companies"

There are different cultural and economic issues at the heart of this lack of capacity, but a significant portion is due to a lack of public and private investment. According to the European Commission, insufficient investments in recent technologies and innovation have contributed to a "growing mismatch between supply and demand."[20] Differences in private investment have been largely ascribed to a higher risk-aversion in European investment decisions but also to the fact that European capital markets remain highly fragmented.[21] Public investments in the EU have so far also failed to foster innovation through Research and Development. In terms of R&D expenditures as percentage of GDP, Europe is continuously outperformed by other major economic powers. In the EU, R&D intensity reached 2.19% in 2019, compared to 2.82 % in the US, 3.28% in Japan, or 4.53% in South Korea (all in 2018).[22] Here, national differences and policy fragmentation in Europe contribute to a lack of common impetus. With China set to recover fast from the pandemic,[23] and US tech companies thriving,[24] the existing tech gap is likely to increase further, making it even more difficult for Europe to catch up. For European innovative products to emerge, public investment should at least match that of its competition.

Nonetheless, simply throwing money at the problem is unlikely to resolve it. Building economic capacity should not be understood as simply replacing the major tech companies that hold a dominant position in the market. This would just shift

[17] "Declaration. A European Initiative on Processors and semiconductor technologies", December 7, 2020.
[18] European Commission. "Broadband Connectivity," 2020.
[19] Burgess, M. (2020). Why the NHS Covid-19 contact tracing app failed. Wired.
[20] European Commission. "Europe Investing in Digital: The Digital Europe Programme" 2019.
[21] McKinsey. "Europe's Start-up Ecosystem: Heating up, but Still Facing Challenges," October 11, 2020.
[22] Eurostat (online data code: rd_e_gerdtot), 2020.
[23] Beer, Sonja. "Corona-Krise in China: Historischer Einbruch und die ersten sechs Monate danach," 2020.
[24] Paul, Kari. "Big Tech Firms Add $163bn to Market Values despite Covid and Legal Scrutiny." The Guardian, October 29, 2020.

the problem from the global to the European arena. European champions do no need to be modeled according to Facebook. The ongoing struggles in the US to control its digital giants in areas like hate speech, disinformation, or competition demonstrate this quite clearly. Instead, we should problematize political decision-making that enables almost exclusive private ownership of infrastructure. Whether material, such as cloud infrastructure, or social, such as social networks, private companies ultimately steer access to information and business opportunities.

2.3 The inconsistency problem

The continued spread of private ownership amidst efforts to curtail the power of tech giants speaks to an underlying problem of contemporary digital politics: inconsistency. A central aspect that tends to be ignored in the current debate is the extent to which the perceived challenges to public authority are endogenous to regulatory standard setting and broader political decision-making. In other words, the EU and its member states continue to consolidate the dependence on foreign private firms they bemoan.

"The EU and its member states continue to consolidate the dependence on foreign private firms they bemoan"

For one, the EU member states have long relied on outsourcing and privatizing public services and critical infrastructures, fostering a shift from public to corporate capacities. Despite moving away from the deregulatory privatization of the 1980s, there continues to be a significant reliance on private expertise and capacities. Communication networks in finance, health, or energy are almost exclusively owned by private companies. In areas such as cybersecurity, the stripping away of public capacities has contributed to the strengthening of corporate power in critical sectors. Here, countering monopolies is often discarded in favor of stability: Big players offer comprehensive solutions across Europe that seem more stable and trustworthy.

What follows from this assessment? Establishing public infrastructure is highly costly and has payoffs in the long rather than the short term. But if the EU is serious about making progress, capacity building requires increased public investment efforts to establish basic and critical infrastructure. The IMF suggests that public investment in infrastructure is a key mechanism for economic recovery from the pandemic.[25] It is also likely to increase the EU's resilience against cyberattacks in the long run. This requires tackling private dominance through a twofold strategy: developing public infrastructure as well as establishing stronger public expertise to oversee privately provided infrastructure. In addition to stricter public procurement conditions, for example with regard to security standards, the EU should opt for better screening mechanisms, for both public and private networks. This could include transparency mechanisms and democratic oversight, for example through the European Parliament, to safeguard data protection and security standards. While this requires investment on the member state level, the Commission could do more in pushing the essential importance of such developments.

Moreover, the inconsistency problem is not only an issue of public funding but also speaks to the undermining of normative standards more broadly. For example, in various surveillance activities, intelligence agencies and law enforcement authorities rely on extensive data access that is conditional on public-private cooperation. Through public-private partnerships, member states in the EU have explicitly contributed to the growth of an industry that provides commercial surveillance tools for use by govern-

[25] Gaspar, Vitor, Paolo Mauro, Catherine Pattillo, and Raphael Espinoza. "Public Investment for the Recovery," IMF Blog (blog). Accessed March 29, 2021.

ments,[26] for example through the introduction of mandatory passenger data sharing in air travel. This extensive reliance on data from private companies for surveillance activities that at best have a questionable track record ultimately entrenches private power. It has also reinforced inequality between citizens, the state, and those companies. While regulatory initiatives at the EU level have aimed to curtail the power of dominant tech companies, this is not true for many public surveillance activities: They fall under the exclusive authority of the member states. Efforts to restrict surveillance through regulatory or technical means, such as increased parliamentary oversight or encryption, are often obstructed or opposed. This may contribute to disproportionate interference with fundamental rights.[27]

The same risk of interference with fundamental rights through surveillance by US intelligence agencies has contributed to the invalidation of the transatlantic data transfer framework Privacy Shield in July 2020. For the second time in 5 years, this sparked significant uncertainty for transatlantic relations.[28] Ultimately, this means that the EU demands standards from other jurisdictions that it does not uphold internally.[29] And this rightly provokes international criticism of the inconsistencies of EU digital policies and warnings of an "incipient techno-nationalism." [30]

In sum, both the EU's regulatory answer to the challenges in digital governance and efforts to increase its economic capacity have failed to resolve the persisting asymmetries of the digital sphere. Internal disputes about member state versus EU competences and normative conflicts about privacy, economic, and security goals have contributed to a lack of consistency in EU regulatory policies. It may seem obvious to point to the normative standards the EU has set for itself, such as in the treaties, for guiding policymaking efforts. But the EU's failure in this regard speaks to a broader flaw in digital policy. The development of true capacity and a rights-based normative agenda requires thinking beyond geostrategic positioning, economic development, and regulatory action. As much as efforts in capacity-building and regulation have progressed, the absence of accessible guiding principles that provide a strict and lasting framework for the identity of a digital Europe is at the heart of the problem.

3. A vision for Europe

At the moment, the EU's strategy lacks consistency and vision. The EU needs a clear principled approach that focuses on a simple key idea: The EU should abandon striving for greatness by focusing too much on catching up to the massive players that dominate the current market. Instead, it should go back to the basics to foster principle-driven innovation and democratic oversight to build strength through decentralized and sustainable means – not as an end in itself but to move towards the digital and sustainable future we want. This should focus on the following principles:

[26] Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. "Report on the adverse effect of the surveillance industry on freedom of expression." A/HRC/41/35. 28 May 2019.
[27] EU Fundamental Rights Agency. "Surveillance by Intelligence Services: Fundamental Rights Safeguards and Remedies in the European Union," November 18, 2015.
[28] CJEU. "Press Release No 91/20: The Court of Justice Invalidates Decision 2016/1250 on the Adequacy of the Protection Provided by the EU-US Data Protection Shield," July 16, 2020.
[29] Meltzer, Joshua P. "Why Schrems II Requires US-EU Agreement on Surveillance and Privacy." Brookings, December 8, 2020.
[30] Barshefsky, Charlene. "EU Digital Protectionism Risks Damaging Ties with the US," August 2, 2020.

3.1 Support the creation of "values by design"-technologies and infrastructures

- **Insert European principles and values in public funding and procurement decisions rather than excluding third country companies:** The € 7,5 billion Digital Europe funding programme,[31] the Innovation Fund[32] or the recently proposed European partnerships[33] have demonstrated the principled willingness to invest public money in digital development. But the implementation is lagging behind, sometimes due to inflexible rules or a heavy bureaucratic burden. Frameworks should explicitly facilitate quick and easy funding of technological solutions that represent European principles. Public procurement policies and funding opportunities for digital tools should be conditional on the specific inclusion of values and commitments rather than the exclusion of foreign companies. The fostering of "values by design"-technologies is likely to be a more sustainable strategy than participating in the "tech war" that has been unfolding between China and the US over 5G networks and critical infrastructure.[34] Principles could comprise a commitment to open-source software, privacy by design and default, and the compatibility with existing services and products. This should be combined with the explicit support for SMEs, which make up more than half of EU GDP and employ more than 100 million people but often fail to take advantage of digitalization benefits.[35] This is particularly problematic as Europe, in contrast to China and the US, still often appears as a patchwork of domestic markets for goods and services. Member states need to quickly implement digital contract rules and strengthen enforcement of existing rules, such as unjustified geoblocking, to strengthen the digital single market from within. Action requires a concrete and binding support agenda with monitoring obligations. Ideally, this fosters a culture where more services can be used together tackling monopolies from the ground up.
- **Increase public investment in critical digital tools and infrastructure:** Any digital future depends on meeting basic requirements for broad participation and democratic control. In areas such as education, health, or energy, private control over networks may have problematic implications, particularly in the case of a real crisis, such as a European blackout. It is therefore important to establish strict rules and standards for existing companies while at the same time significantly increasing public investment. To prioritize investment decisions, policy making should be based on evidence, which requires systematic research into one-sided European dependencies. Beyond basic critical infrastructure investment, for example in submarine cable networks, this could also foster the rise of alternative projects. For example, the European cloud infrastructure initiative GAIA-X[36] may have the potential to disrupt monopolist tendencies at the core of the internet. But the progress of GAIA-X has so far been hampered by slow decision-making and disagreements on the participation of Silicon Valley players, such as the controversial data firm Palantir and the US tech giants Amazon and Microsoft.[37] Stronger public support, for

[31] European Commission. "Digital Europe Programme: A Proposed €7.5 Billion of Funding for 2021-2027 | Shaping Europe's Digital Future." 2020.
[32] European Commission. "Innovation Fund." February 12, 2019.
[33] European Commission. "EU to Set up New European Partnerships." February 23, 2021.
[34] Bauerle Danzman, Sarah. "What's the Latest on TikTok?" The Washington Post, September 23, 2020.
[35] European Commission. "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. An SME Strategy for a Sustainable and Digital Europe. COM(2020) 103 Final." Brussels, March 10, 2020.
[36] GaiaX, 2021.
[37] Leemputten, Pieterjan Van. "Gaia-X Nuance 'l'adhésion' de La Firme Data Controversée Palantir." DataNews, January 6, 2021.l.

example through government contracts that stipulate adherence to specific principles, may contribute to a decrease in such cooperation problems.

- **Strengthen interoperability requirements for gatekeepers:** Interoperability requirements establish compatibility between products, systems, and services originating from different technical systems or providers. While, for example, many social media platforms lock users into their specific ecosystems, interoperable services work more like traditional emails where any email user can send messages to any other email user, regardless of the service provider. This sounds technical but bears a revolutionizing potential to radically challenge monopolies, as the fact that email is still a ubiquitous phenomenon demonstrates. So far, the EU has demanded some interoperability requirements but stopped short of fully exploiting its potential. The DMA proposal by the European Commission targets tech giants in a gatekeeper position. However, interoperability requirements are only issued for so-called ancillary services. This includes, for example, payment services or digital identity providers, but excludes so-called core services, the main focus of the platform. Thus, while aiming to target the centralization of gatekeepers, the proposal insufficiently targets the core services of gatekeepers – the very services that establish their gatekeeper position in the first place. This decision represents a missed opportunity to target information and power asymmetries.[38]

3.2 Fully develop and commit to the EU normative agenda

- **Stick to endorsed core values and rights:** To assume digital leadership, Europe needs to get its credibility problem fixed. On the one hand, this means truly supporting a European agenda. This requires that member states commit to Europe in areas where cooperation has been lacking, particularly the development of a common digital taxation system. Similarly, consolidating efforts and standards in the area of cybersecurity and for content regulation should be a top priority. On the other hand, this requires establishing consistency in European policies to commit to the very rights Europe has expected from third countries. While member states seem unwilling to grant oversight over public surveillance activities to the supranational level, which would help establish common minimal human rights standards, they should at least strengthen parliamentary oversight on the domestic level and facilitate cooperation among oversight bodies.[39]
- **Strengthen data for the public good:** Big tech has, in many ways, demonstrated how data could be useful in tackling global problems, for example through anonymized movement data, or the facilitation of digital contact tracing in the current pandemic. However, too much of the data currently collected and processed is not available for research. The current regime is mainly based on privatized data access and processing. The European data strategy has highlighted important principles, including the use of industrial and anonymized data for the public good through open research, and independent fiduciaries for shared European data spaces.[40] This could help tackle challenges in areas such as health

[38] Enabling access and content production through various decentralized entry points potentially impedes the control of illegal and harmful content. However, it highlights the collective responsibility for such problems and the need for comprehensive solutions with public rather than just private oversight.

[39] "European Intelligence Oversight Network (EION)," February 16, 2018.

[40] European Commission. "A European Strategy for Data COM/2020/66 Final," February 19, 2020.

or sustainability. Strong oversight over such data sharing spaces – ideally with civil society involvement – could be combined with open source or interoperability requirements for any products or tools that emerge from the use of such data. Data donation possibilities, such as utilized by the German Robert-Koch-Institute in the COVID-19 tracking app,[41] also offer an opportunity for getting citizens more involved in such processes.

4. A global strategy

In today's interconnected world, any sustainable vision for a digital Europe cannot rely on shielding the European digital space from outward influence but requires developing concrete strategies for the relationship with other jurisdictions. Interdependence is a key mechanism to foster stability, cooperation, and avoid the outbreak of conflict. With respect to increased offensive cyber capabilities, this threat should not be underestimated.[42] It is therefore necessary to explore and tackle one-sided dependencies, for example in the area of chip production,[43] but work with rather than against third countries in balancing interdependence. In short, it is not only necessary to foster capacity-building in Europe but also to have a clear strategy towards its future global position.

- **Be above the war tactics**: At present, the EU increasingly turns into the site of a major rivalry between China and the US. The Trump administration's unilateral decisions in the area of trade, including export bans, have exposed significant vulnerabilities in the EU. While cooperation under the Biden administration will certainly improve, the EU should be prepared to become an actor in its own right. Lasting cooperation is unlikely to be based on a hardened stance. Instead, the EU should target unfair trade and competition practices as well as human rights violations through multilateral fora to avoid paying only lip-service to a shift to rule-based governance in digital policies. This includes the creation of consistent fora for the transatlantic partnership but also pushing for reforms in the WTO[44] and more broadly engaging in united efforts in multilateral institutions.
- **Be aware of the global interconnectedness**: A truly global strategy also requires an awareness that the world is not just China and the US. For the EU, this entails paying attention to rising powers such as India but also currently neglected regions, such as sub-Saharan Africa. Therefore, developing a global vision also means fostering an independent global strategy, for example, to strengthen collaboration with countries that have been targeted by China through the Digital Silk Road initiative. This requires tackling digital divides globally. In this regard, the EU's Global Digital Cooperation Strategy to come out this year is a key document to watch.

41 Robert Koch-Institut. "Corona Data Donation." 2021.
42 Garamone, Jim. "Esper Describes DOD's Increased Cyber Offensive Strategy," September 20, 2019.
43 Thomas, Christopher A. "Lagging but Motivated: The State of China's Semiconductor Industry." Brookings, January 7, 2021. .
44 Freudlsperger, Christian, Edward Knudsen, and Nils Redeker. "Transatlantic Trade Post-Trump," December 16, 2020.

Conclusion

In conclusion, Europe should have the courage to make headway on its own. The vague references to the lofty concept of digital sovereignty increase the tendency to focus on the latest hype rather than address persisting challenges. The current digital space suffers from huge inequalities. This has implications for the enactment of democracy and human rights, which may contribute to a divided society in the long term. To become a rights-based digital power, Europe should not try to catch up with China or the US but have the strength to develop its own vision: Emphasize its commitments to strong and consistent regulation in the safeguarding of human rights, make innovative and responsible funding decisions to foster a digital space that is compatible with these principles, and remain engaged in global debates rather than focus its gaze inwards. As has been demonstrated in other areas, bolstering European borders towards the outside is a strategy that can reinforce contradictions with the identity of the EU as an actor committed to global cooperation, human rights, and democratic values. And yet, linking important capacity building efforts of the EU to the label of digital sovereignty might reinforce this perception in a global context. While it is important to strengthen the capacity to act for regulators and politicians, companies, civil society, and individuals in Europe, we should not forget that in an interconnected world, trying to become independent from a constructed "outside world" is futile.

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  Jacques Delors Centre, December 16, 2020

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