

Discretion and the modern law of privacy

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The culture of discretion of the *Daig* has its counterpart in the modern law of privacy. The Swiss Federal Constitution guarantees the right to privacy, including the protection of personal data. The Federal Act on Data Protection, revised in 2020 and in force since 1 September 2023, regulates the processing of personal data by private persons and public authorities. The Banking Act protects the confidentiality of client information held by banks, a confidentiality whose violation remains a criminal offence.¹

The end of banking secrecy for foreign tax purposes, which Part E examines, did not abolish the confidentiality of banking relationships in Switzerland. Banks remain bound to keep their clients' information confidential towards third parties. Disclosure of such information is permitted only on a legal basis, such as the exchange of information with foreign tax authorities under international agreements, the cooperation with criminal authorities or the reporting of suspicious transactions. The transformation of banking secrecy has thus redrawn the line between confidentiality and transparency, without abolishing confidentiality as such.

The families of the *Daig* would recognise the logic of this line. Their culture of discretion protected privacy against curiosity, envy and publicity, within the law. They paid their taxes to the city, served it in public office and gave it their wealth in foundations. The modern Swiss financial centre, which has had to abandon the protection of foreign tax evasion, can find in the tradition of the *Daig* a model of discretion that is compatible with transparency towards legitimate authorities: privacy for the client, integrity towards the state.

1 Notes

1. Art. 13 Federal Constitution (SR 101) on the right to privacy; Federal Act on Data Protection of 25 September 2020 (FADP, SR 235.1), in force since 1 September 2023; Art. 47 Banking Act (SR 952.0). To be verified. ↩

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