

# CHARTER OF DIGITAL FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

(Revised version 2018)

## PREFACE

THIS PROPOSAL for a Digital Charter owes its inception to the conviction that action must now follow from the debates about fundamental rights in the digital age. It is our aim to strengthen and consolidate the existing fundamental rights.

WE THE AUTHORS OF THE PROPOSAL believe this to be necessary in times when technological advancement brings new challenges and the need for greater state regulation.

THESE CHALLENGES arise from new types of automation, growing digital networks, artificial intelligence and its application in predicting and influencing human behaviour, mass surveillance, robotics and man-machine interaction, and power shifts towards some state and non-state actors.

THIS DIGITAL CHARTER is a political manifesto in the form of draft legislation. As well as proposals for future fundamental rights, it also contains formulations of state objectives and requests to the European legislators, with the aim of delineating the extent of the challenges and emphasizing the importance of civil rights in the digital age.

FOLLOWING A PERIOD OF BOTH INTERNAL AND PUBLIC DISCUSSIONS, we hereby present our revised proposal for a Charter so that the project may benefit from further public debate. We aim to set in motion a social and political process that should result in binding legislation for fundamental rights in the digital world.

## PREAMBLE

IN THE KNOWLEDGE THAT

the recognition of the inviolable dignity and the equal and inalienable rights of all human beings is the foundation for freedom, justice and peace in the world,

the increasing digitization is changing the foundations of our existence,

the digital age is producing enormous shifts in the power relations between individuals, states and organizations,

the digital age has sparked a debate about the nature of civil society that is set to continue,

fundamental rights and democratic principles in the digital age face new challenges and threats,

technological advancement must always serve humankind,

shaping the digital world must be understood to be a European task, in order that through joint European action we may be able to preserve freedom, justice and solidarity in the twenty-first century;

IN RECOGNITION OF

the Universal Declaration of Human Rights,

the European Convention on Human Rights,

the Charter of Fundamental Rights of the European Union,

the rights and data protection rules of the European Union and its member states;

FIRMLY RESOLVED,

to protect fundamental rights and democratic principles in the digital world through the rule of law,

to commit state and non-state actors to enforcing fundamental rights in the digital world,

to establish in this way the foundation for binding legislation in the digital age,

to regard digitization not as a source of fear, but as a source of opportunities for sustainable living in a global future;

THE UNION ACKNOWLEDGES THE FOLLOWING RIGHTS, LIBERTIES AND PRINCIPLES:

## ARTICLE 1 (DIGNITY)

Human dignity shall remain inviolable in the digital age. Human dignity must be respected and safeguarded. No technological development may be allowed to encroach upon it.

## ARTICLE 2 (LIBERTY)

Every person has the right to freedom of information and communication. This includes the personal right not to know.

### **ARTICLE 3 (EQUALITY)**

- (1) Every person has the right to equal participation in the digital sphere. The non-discrimination law formulated in the European Charter of Fundamental Rights shall apply.
- (2) No person may be denied access to goods and services or be excluded from participation in public life by the use of automated processes. This shall apply particularly to healthcare, protection against life risks, the right to work, the right to housing, the right to freedom of movement, and to the justice system and police forces.

### **ARTICLE 4 (FREEDOM OF EXPRESSION AND THE PUBLIC SPHERE)**

- (1) Every person has the right to freedom of speech and expression in the digital world. There shall be no censorship.
- (2) This right may be limited by the provisions of general laws.
- (3) Operators of public chatrooms hold the responsibility for protecting the right to freedom of expression. They must ensure that the fundamental rights and duties stipulated in this Charter are observed according to the law.

### **ARTICLE 5 (AUTOMATED SYSTEMS AND DECISIONS)**

- (1) Ethical principles shall only be formulated by human beings, and decisions that impact fundamental rights shall only be made by human beings.
- (2) The responsibility for automated decisions must lie with a natural or legal person.
- (3) The criteria leading to automated decisions, in cases such as digital profiling, must be made transparent.
- (4) Every person subject to an automated decision that has a significant impact on his or her life shall have the right to have an independent review and ruling conducted by a human being.
- (5) Decisions about life and death, physical integrity, and the deprivation of liberty shall only be made by human beings.
- (6) The use of artificial intelligence and robotics in areas sensitive to possible fundamental rights violations must be subject to social debate and regulated by legislation.

### **ARTICLE 6 (TRANSPARENCY)**

- (1) Every person has the right to access information held by government agencies. The protection of personal data in particular must be guaranteed. The principle of transparency shall apply also to private contractors in the public sector.

- (2) Whistleblowers who provide information about corporate misconduct must receive adequate protection.

### **ARTICLE 7 (PRIVACY, CONFIDENTIALITY AND DATA PROTECTION)**

- (1) Every person has the right to the protection of his or her data and the right to privacy.
- (2) Personal data may only be collected and processed from the individual in good faith and for specific purposes, if there is a legal basis for so doing. The processing of the data must be made safe, fair, and transparent with the use of state-of-the-art technology.
- (3) The right of the individual to erasure of data, correction of data, the right of objection, and the right to access data and personal information must be guaranteed.
- (4) Every person has the right to make a digital fresh start. This right is limited by the public's legitimate right to know.
- (5) Every person has the right to a home life free from surveillance.
- (6) Every person has the right to take suitable measures to protect his or her data and communications from third-party access.
- (7) There may be no acts of unjustified and unauthorized surveillance.
- (8) Compliance with these statutes shall be monitored by independent institutions.

### **ARTICLE 8 (SECURITY OF INFORMATION SYSTEMS)**

The integrity and confidentiality of information systems and related infrastructure must be guaranteed and protected through adequate technical and organisational measures.

### **ARTICLE 9 (ELECTIONS)**

The right to participate in public elections and referenda may not be made dependent on the use of digital media.

### **ARTICLE 10 (FREE ACCESS)**

- (1) Every person has the right to free and equal access to communications- and information services, without infringement of his or her fundamental rights.
- (2) Access provision must be comprehensive, appropriate and adequate.
- (3) Every person has the right to the non-personalized use of digital offerings. Any restrictions must be grounded in law.

#### **ARTICLE 11 (NET NEUTRALITY)**

Net neutrality must be guaranteed free from discrimination.

#### **ARTICLE 12 (PLURALITY AND FREE COMPETITION)**

- (1) The digital world shall be governed by the principles of plurality and cultural diversity.
- (2) Interoperability and open standards are to be promoted and prioritized.
- (3) Anticompetitive practices must be banned, and effective measures applied accordingly.

#### **ARTICLE 13 (VULNERABLE PERSONS)**

Children, adolescents, disadvantaged and vulnerable persons are deserving of special protection in the digital world. Their participation in the digital world must be promoted and open access to basic goods and services must be guaranteed.

#### **ARTICLE 14 (EDUCATION)**

Every person has the right to an education that enables a self-determined existence in the digital world. This aim must be prioritized in the curricula of educational institutions.

#### **ARTICLE 15 (THE WORLD OF WORK)**

- (1) The digital transformation must be undertaken according to social principles.
- (2) In the digital age, effective employment protection and the right to freedom of association must be guaranteed.

#### **ARTICLE 16 (INTANGIBLE ASSETS)**

- (1) Every person has the right to participate in cultural life and scientific progress and its benefits.
- (2) Every person has the right to the protection of his or her intellectual and material interests that may accrue from the creation and dissemination of intangible assets. This right must be brought into balance with the interests of the public, with technological advancement and with the creative processes taking place in society, the economy, science and academia, and in the arts.

#### **ARTICLE 17 (JURISDICTION)**

- (1) This Charter shall apply to the organs, institutions and other bodies of the EU and of its member states.
- (2) The rights and principles of this Charter shall apply also to non-state actors. The fundamental rights of these actors must be brought into balance with the rights and principles of the Charter.

#### **ARTICLE 18 (FINAL PROVISIONS)**

- (1) The final responsibility for the interpretation of the rights stipulated in this Charter lies with the European Court of Justice.
- (2) Any restrictions to exercising the rights recognized in this Charter must respect the letter and spirit of the law, and must adhere to the principle of proportionality. The legal provisions of Articles 52 – 54 of the EU Charter of Fundamental Rights (EGC) shall apply.

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