

# CHARTER OF FUNDAMENTAL DIGITAL RIGHTS OF THE EUROPEAN UNION

(Revised version of 2018)

## PREFACE

THIS DRAFT PROPOSAL for a Digital Charter owes its inception to the conviction that the debates on fundamental rights in the digital age must lead to action. It is our aim to strengthen and consolidate 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 the concentration of power in certain state and non-state actors.

THIS DIGITAL CHARTER is a political manifesto in the form of a legislative instrument. In addition to proposals for future fundamental rights, it also contains formulations of state objectives and potential tasks for 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 a binding accord on fundamental rights in the digital world.

## **PREAMBLE**

### **WITH 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 spread of digital technology is changing the foundations of our existence,

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

the digital age has sparked an ongoing debate about the nature of civil society,

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

technological advancement must always serve humankind,

shaping the digital world must be understood as a European task in order that we may, through joint European action, 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 basic rights and data protection rules of the European Union and its Member States;

### **BEING 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 the applicability of fundamental rights in the digital world,

to establish in this way the foundation for a binding legal regime in the digital age,

to understand digital technology not as a source of fear but as an opportunity for high-quality life in a global future;

### **THE UNION ACKNOWLEDGES THE FOLLOWING RIGHTS, LIBERTIES, AND PRINCIPLES:**

## **Article 1 (Dignity)**

Human dignity remains 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 of free access to information and the right of free communication. This includes the personal right not to be informed.

## **Article 3 (Equality)**

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

## **Article 4 (Freedom of Expression and Public Sphere)**

- (1) Every person has the right to freedom of speech and expression in the digital world. Censorship is impermissible.
- (2) This right may be limited by provisions of general legislation.
- (3) Operators of public discussion platforms have the responsibility to protect 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 may be formulated only by human beings, and decisions that impact fundamental rights may be made only by human beings.
- (2) The responsibility for automated decisions must lie with a natural or legal person.
- (3) The criteria leading to automated decisions, such as in the case of digital profiling, must be transparent.
- (4) Every person subject to an automated decision that has a significant impact on his or her life has the right to an independent review and ruling by a human being.
- (5) Decisions about life and death, physical integrity, and the deprivation of liberty may be made only by human beings.
- (6) The use of artificial intelligence and robotics in areas related to 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 must in particular be guaranteed. The principle of transparency applies also to private parties fulfilling public tasks.
- (2) Whistle-blowers who provide information about entities or organizations 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 be collected and processed from an individual only in good faith and for specific purposes, in those cases where there is a legal basis for doing so. The processing of data must be done in a safe, fair, and transparent manner and with the use of state-of-the-art technology.
- (3) The right of the individual to erasure, rectification, objection, and access as well as the right to be informed 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 live in his or her home freely and not under surveillance.
- (6) Every person has the right to take suitable measures to protect his or her data and communications from third-party access.
- (7) Groundless acts of surveillance are impermissible.
- (8) Observance of these rights is to be monitored by independent institutions.

## **Article 8 (Security of Information Systems)**

The integrity and confidentiality of information systems and related infrastructure must be ensured and must be protected through adequate technical and organizational 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 having to waive any fundamental rights in exchange.
- (2) Access provision must be comprehensive, appropriate, and adequate.
- (3) Every person has the right to a non-personalized use of digital offerings. Any restrictions must be grounded in law.

### **Article 11 (Net Neutrality)**

Net neutrality must be guaranteed in a non-discriminatory fashion.

### **Article 12 (Plurality and Free Competition)**

- (1) Plurality and cultural diversity are to be promoted in the digital world.
- (2) Interoperability and open standards are to be promoted and prioritized.
- (3) Anticompetitive practices must be effectively prevented.

### **Article 13 (Vulnerable Persons)**

Children, adolescents, disadvantaged persons, and vulnerable persons are deserving of special protection in the digital world. Their participation in the digital world must be promoted, and 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 is of central importance in the curricula of educational institutions.

### **Article 15 (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 to share in scientific advancement and its benefits.
- (2) Every person has the right to the protection of the intellectual and material interests that 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 the arts.

### **Article 17 (Scope of Application)**

- (1) This Charter applies to the organs, institutions, and other bodies of the EU and of its Member States.

- (2) The rights and principles of this Charter apply also to non-state actors. The fundamental rights of these actors are to be balanced against 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 on the exercise of the rights recognized in this Charter must be based on legislation, must adhere to the principle of proportionality, and must respect the essence of these rights. The provisions of Articles 52 - 54 of the Charter of Fundamental Rights of the European Union apply.

English translation of the German original text.

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**List of Authors and Supporters:** [www.digitalcharter.eu](http://www.digitalcharter.eu)

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