

CHARTER OF DIGITAL FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

Version: 01.12.2016

Unofficial English translation of the German original text,
published by ZEIT-Stiftung Ebelin und Gerd Bucerius

PREAMBLE

WHEREAS

acknowledgement of the innate dignity and of the equal and inalienable rights of all persons is the basis for freedom, justice and peace in the world,

increasing digitalisation is changing the very way we live,

the digital age is causing enormous shifts in the balance of power between individuals, the state and corporations,

the digital age has prompted ongoing debate in civil society,

the digital age has brought with it new challenges and threats to fundamental democratic principles,

technical progress must always be in the service of humanity,

the shaping of the digital world must also be a European task, so that Europeans acting together can safeguard freedom, justice and solidarity in the 21st century;

ACKNOWLEDGING

the Universal Declaration of Human Rights,

the European Convention on Human Rights,

the Charter of Fundamental Rights of the European Union,

the fundamental rights and data protection standards of the European Union and its Member States;

DETERMINED

to continue to safeguard fundamental rights and democratic principles in the digital age, on the basis of the rule of law,

to secure an undertaking from state agencies and private actors to observe fundamental rights in the digital world,

in this way to lay the foundations for a constitutional order in the digital age,

to treat digital technologies not as something to fear, but as a way of improving life in a global future;

THE UNION RECOGNISES THE FOLLOWING RIGHTS, FREEDOMS AND PRINCIPLES:

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Article 1 (Dignity)

- (1) The dignity of the individual is inviolable in the digital age as well. Safeguarding that dignity must be the aim and purpose of all technical developments and this principle shall circumscribe the use of such developments.
- (2) The digital age is bringing with it new threats to human dignity in the form, in particular, of big data, artificial intelligence, the prediction and steering of human behaviour, mass surveillance, the use of algorithms, robotics and man-machine merging and the concentration of power in the hands of private corporations.
- (3) The rights under this Charter shall be enforceable vis-à-vis State agencies and private individuals.

Article 2 (Freedom)

Everyone has the right to freedom of information and communication. This right is a cornerstone of a free society. It incorporates the right not to know.

Article 3 (Equality)

- (1) Everyone has the right to participate in the digital sphere on equal terms. The ban on discrimination laid down in the Charter of Fundamental Rights of the European Union shall apply.
- (2) The use of computerised procedures shall not serve to deny individuals access to goods and services or prevent them from taking part in the life of society. This shall apply, in particular, in the areas of health, protection against the basic threats to life, the right to work, the right to housing, the right to freedom of movement and dealings with the judicial authorities and the police.

Article 4 (Internal and external security)

- (1) In the digital age new threats are emerging to internal and external security. The exercise by the State of its responsibility to protect its citizens must be subject to strict constitutional constraints.

- (2) The law-enforcement authorities may not be granted access to private data. Exceptions shall be granted only on the basis of the law, in order to safeguard particularly important legal principles.
- (3) Arbitrary mass surveillance shall not be allowed.
- (4) Weapons systems may not be employed in a fully computerised manner.

Article 5 (Freedom of opinion and openness)

- (1) Everyone has the right to express his or her views freely in the digital world. Censorship shall not be allowed.
- (2) Digital harassment, mobbing and activities likely to pose a serious threat to the reputation or physical integrity of a person shall be prevented.
- (3) Steps shall be taken to ensure that a pluralist, public forum for discussion is available.
- (4) State agencies and operators of information and communication services shall be required to enforce paragraphs 1, 2 and 3.

Article 6 (Profiling)

Profiling by State agencies or private individuals shall be permissible only where provided for under the law.

Article 7 (Algorithms)

- (1) Everyone has the right not to be the subject of computerised decisions which have significant consequences for their lives. If a person is disadvantaged by a computerised procedure, he or she shall have the right to seek disclosure of the nature of the procedure and a review and a decision by a person. The criteria governing computerised decision-making shall be made public.
- (2) Anonymisation and transparency shall be guaranteed in particular in the context of the processing of mass data.

Article 8 (Artificial intelligence)

- (1) Decisions which have ethical implications or which set a precedent may only be taken by a person.
- (2) The use and development of artificial intelligence in areas in which fundamental rights apply must be open to scrutiny by society and regulated by the legislator.
- (3) A natural or legal person must always be responsible for the actions of self-learning machines and their consequences.
- (4) State supervision and crisis preparedness must be guaranteed in the case of infrastructure which is vital to the functioning of society.

Article 9 (Transparency)

- (1) The information held by State agencies must be accessible to the public.
- (2) The transparency requirement shall also apply to private individuals who have information which would decisively affect the ability of others to exercise their fundamental freedoms.

Article 10 (Right to respect for the home)

Everyone has the right to live freely and unobserved in his or her home.

Article 11 (Data protection and data sovereignty)

- (1) Everyone has the right to protection of his or her data and to privacy.
- (2) Everyone has the right to determine how his or her data are used. Personal data may be collected and processed only in good faith and for pre-determined purposes, where this is necessary to achieve the objectives of the contractual relationship in question and consent has been given in advance, or on the basis of the law. Consent must be given explicitly and in full knowledge of the facts. Contractual relationships must be fair and transparent.
- (3) The upholding of these rights shall be monitored by an independent body.
- (4) Providers of services or products may only collect and process data required to achieve the purpose for which the data in question is needed. The principles of privacy by design and privacy by default shall be upheld.

Article 12 (Informational self-determination)

- (1) The integrity and confidentiality of information systems shall be guaranteed.
- (2) Everyone has the right to encryption of his or her data.

Article 13 (Data security)

- (1) Everyone has the right to security of information systems and the data they process. The highest possible degree of protection shall be guaranteed.
- (2) Identity theft and identity forgery shall be combated.

Article 14 (Elections)

The right to take part in elections and votes shall not be contingent on access to digital media.

Article 15 (Free access)

- (1) Everyone has the right to free, equal and anonymous access to communication services without being required to waive fundamental rights. The internet shall be regarded as a basic service.
- (2) Everyone has the right to take advantage of digital services on a non-personalised basis.

Article 16 (Net neutrality)

Net neutrality shall be guaranteed. This shall also apply to the services which provide access to the digital sphere.

Article 17 (Pluralism and competition)

Pluralism and cultural diversity shall be guaranteed in the digital world. Open standards shall be fostered. Effective measures shall be taken to prevent market-abusive behaviour.

Article 18 (Right to be forgotten)

Everyone has the right to a digital new start. This right shall be circumscribed by the public interest in the availability of information.

Article 19 (Particularly vulnerable persons)

Children, adolescents and disadvantaged and particularly vulnerable persons shall enjoy special protection in the digital world. Their participation in the digital world shall be fostered.

Article 20 (Education)

- (1) Everyone has the right to an education which enables them to choose how to live in the digital world.
- (2) Digitalisation is a fundamental challenge to our thinking about education. It shall have a central place in the curricula of public educational establishments.

Article 21 (Work)

- (1) Work shall remain fundamental to a person's livelihood and self-realisation.
- (2) Effective worker protection shall be guaranteed in the digital age.
- (3) Digital structural change shall be shaped in accordance with social principles.

Article 22 (Intangible goods)

Rights holders shall be entitled to a fair share of the proceeds of the digital use of their intangible goods. These rights must be reconciled with non-commercial user interests.

Article 23 (Final provisions)

- (1) The Court of Justice of the European Union shall be the court of final instance as regards the interpretation of the rights laid down in this Charter.
- (2) The rights and principles laid down in this Charter shall be exercised and restrictions on such exercise shall be imposed in accordance with Article 52 of the Charter of Fundamental Rights of the European Union.

(3) The rights and obligations laid down by this Charter shall apply to all undertakings operating on the territory of the European Union. No court outside the European Union shall have jurisdiction.