

Model European Union Conference 2017

Position Paper by the Republic of Croatia

on the

“Charta of digital fundamental rights of the European Union”



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Committee: Council of the European Union

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I. Introduction

The Republic of Croatia welcomes that the topic of digital fundamental rights has found its way into EU discourse.

Since the increasing digitalization and automation of our age, the Internet can no longer be seen as a space free of the rule of law. The basic thought of a Charter of digital rights is to emphasize the idea laid down in the European Convention on Human Rights, which especially nowadays cannot be discussed enough.

We as a nation want to attract more attention to the topic of digital fundamental rights, as well as support a compilation of them, as it was first attempted by the draft published in Germany last year.

For this reason, we want to comment on the existing proposal, and voice some of our concerns regarding it.

1. Art. 1 II

One issue would be that the only purpose of Article 1 II seems to be stating imminent, as well as already existing threats. Apart from pointing a finger at those issues, we consider the passage neither helpful nor particularly useful, as those problems we are confronted with right now might be solved in a couple of years. Which could, as a consequence, make the charter appear obsolete in the eye of the general public.

2. Artificial Intelligence in Art. 8

Another point to reconsider should be the first paragraph of article 8 concerning artificial intelligence. The article predicates that decisions with ethical implications may only be taken by a person. This is neither accurate nor perspicacious because artificial intelligence *may* take ethical normative decisions, it simply depends on which routine it follows and who decides about the programming of these routines. To put it another way: In the concrete situation, the machine decides for one way or another because it was adjusted to it before by a human, but it decides. The decision was an abstract one taken before concerning several situations. Now it is possible to say that Art. 8 I refers to exactly this abstract decision. But then, to be consequent, there is no need for this article because the subject of ethics is

- by definition - only human action, not the one of artificial intelligence.

For this reason we propose to replace “may only be taken by human” with “should only be taken by human” to maintain the supposed intuition of the article or to say, that “only human can be responsible for decisions with ethical implications”.

3. Elections in Art. 14

As a positive aspect we noticed the right of election in article 14. Electronic elections are a realistic consequence of the ongoing digitalization and may be efficient, but therefore it is necessary to retain and protect the basic election principles. Hence we propose to establish a second paragraph. For example:

“(II) The election principle of a direct, equal, free, general and secret choice must be respected in electronic suffrages.”

4. General function

Another aspect to consider should be the general function intended for this charter. Undoubtedly it includes quite a few points that were borrowed from the European Charta of fundamental rights. For one, if the Charta of digital fundamental rights is intended to have a signal effect, one should only include rights that directly correlate with the digital world. But if it is intended to be more than that, it should fulfill the requirement of being complete. We for one missed a right to freedom of assembly and especially freedom of association.

II. Conclusion

All in all Croatia supports the ongoing debate about digital fundamental rights and welcomes the Charter as a possibility for everyone to debate and to collaborate on. Especially regarding the fast technical development in our age and the fact that we are not able to predict future situation and circumstances, the impact of such a law shouldn't be underestimated. That's why we demand a well- thoughtout and far- sighted regulation.