



THE KINGDOM OF SWEDEN

**POSITION PAPER
CONCERNING THE CHARTER OF DIGITAL FUNDAMENTAL RIGHTS OF THE
EUROPEAN UNION**

I. Introduction

To the Swedish government, the respect and retention of fundamental human rights is not just a matter of foreign affairs, but also an opportunity for global development and security. Since 1995, the Convention for the Protection of Human Rights and Fundamental Freedoms has been incorporated into Swedish law. Advocating the underlying principles of this Convention the country highly supports the continuous and consistent development of these rights to secure their wide-ranging applicability also with regard to changes in technology, society and global politics.

II. Sweden's position to the Charter of Digital Fundamental Human Rights of the European Union

1. Freedom of Press, Freedom of Expression and Transparency

First and foremost, aiming to guarantee an open society with transparent access to information about the work and operating principles of the Swedish parliament, government and government agencies, the principle of public access to official documents has been incorporated into one of the fundamental laws — the Freedom of Press Act.

Chapter 2, Article 1 of the Act states that this principle functions as a way to “encourage the free exchange of opinion and availability of comprehensive information” for every Swedish citizen. Hence, the freedom of press and the right to freedom of expression set forth in the Constitution are of utmost interest and should also find expression on a European level. With this being said, we would propose to specify the right to freedom and to change Article 2 in the following way:

“Everyone has the right to freedom of information and communication. This is to secure the availability of comprehensive information and to prevent prior hindrance by a public authority, other public body or third person.”

2. Privacy Rights and Data protection

On the other hand, in order to ensure personal integrity and the right to privacy, it is crucial to understand the scope of application of privacy laws. With regards to the protection of individuals against the violation of their personal integrity by the processing of personal data, the implementation of the Data Protection Directive 95/46/EC by the Personal Data Act (PDA) is pivotal. Therefore, it has to be mentioned that the PDA also applies to the processing of personal data when using

newest technologies and shall be interpreted in a context suiting changing social circumstances.

In this context, the international cooperation as regards the protection of personal data and privacy is developing progressively with changes in digitalisation and globalisation and contributes to an increasing common European approach. Sweden and especially the Swedish Data Protection Authority participate in the European and international work in various contexts in order to establish and carry out the aforementioned principles in a global context. However, it shouldn't be neglected that a right to privacy has to exist without a. circumscribing the principles of transparency and public security and b. unnecessarily preventing or complicating the use of new technology. Therefore we propose to change the second sentence of Article 13 (1) to:
Personal Data must be processed fairly guaranteeing the highest possible degree of protection without disproportionately interfering with other fundamental rights.
and to add the following to Article 1 (2):

"(...) potentially and particularly in the form of (...)"

3. Third Parties

Concerning third parties in Sweden, safeguarding cybersecurity within companies in general is based to a significant degree on non-binding recommendation provided by the authorities, and on voluntary security undertakings. We strongly believe in the idea that basic or constitutional rights are at least indirectly valid between private parties and companies and function as a general system of values. Nevertheless, we also are of the opinion that the direct applicability of fundamental rights must be limited to the relationship between public authorities and individuals. Only by this limitation, privacy autonomy can be secured and permanent collisions of rights avoided. Thus, we suggest to change Article 1 (3) to:

"The rights under this Charter shall be enforceable vis-à-vis State agencies and shall be strongly considered between private individuals and corporations."

4. Work and Education

On an aggregate level the Swedish welfare state, and the government sector, is relatively large. For core social services, such as health care and schools, subsidies are substantial and they constitute as an essential part of the Swedish welfare state. We aim to create equality in the whole country in terms of access and quality of social services, and to promote the principle of distribution of social services on the basis of

need, rather than mere commercialisation. As we promote these principles to be implemented on an European level as well we would like to add to Article 21 (2) the following:

“Effective worker protection and sufficient social services shall be guaranteed also in the digital age.”

III. Conclusion

Finally, we support an adaption and preservation of fundamental rights especially in the digital age by taking a liberal, equal and a compromise-orientated approach towards new political, legal and social challenges.