



Position of the Republic of Poland

regarding the

Charter Of Digital Fundamental Rights Of The European Union

The Republic of Poland considers it as indispensable supporting the values of tolerance, justice and equality which constitute the European Union.

I. General position on Digital Age and the creation of a Charter of Digital Fundamental Rights

For many years, the world has witnessed the development of interpersonal communication and the related technical innovations. Facing this digital transformation, we need to adjust and constitute certain measurements to retain our democratic fundamental principles. The challenges brought up in this renovating process must be taken serious, thus debates and legislative acts are not only a responsibility but a duty. Therefore, the Republic of Poland strongly supports creating a Charta of Digital Fundamental Rights binding each member state.

First, the Government would like to outline its support regarding following subjects.

One of the main interests of the Polish Government is to establish a government which estimates itself not only a public administration but a service provider accessible to each citizen in an efficient and adequate manner. This only can succeed by using advanced technical innovation and improved digitalization.

Additionally, it sees the urge to respond to reasonable fears present in modern society. European citizens must be granted specified Crisis Management Plans based on expertise and which can be executed with practical applicability. Furthermore, policy principles (e.g. “only-once”, “digital by default”) should be regarded as important. The protection of civil cyberspace is one of the priorities and prerogatives of the Polish government. Concrete measurement to enhance

the population's security must be taken seriously and be accomplished to retain constitutional order. In view of the digital transformation and in order to comply with legal obligations, the Republic of Poland therefore already situated the Minister of Digital Affairs.

Said Minister has been charged with the implementation of the EU eGovernment Action Plan 2016-2020 coming along with the distinguished coordination and acquisition of new competences. However, the state ranks 22nd among 28 EU member states in the field of digitization of economy (Digital Economy and Society Index 2016). Hence, we strongly support all articles concerning access as well as education to digital services. By doing so, we can settle high standards at young age, thus guarantee improvement of technical skills.

The Polish Government considers digital transformation not only as a concern of public administration but also as a matter of a functioning and highly developed economy which is why it would like to stress the urge of articles regarding pluralism and competition.

II. Specific position on the proposed Charter of Digital Fundamental Rights

Second, the Polish Government estimates several articles worth to be argued and conceived.

Starting with article 1, Poland would like to express its general critique regarding the proposed charter of digital fundamental rights. It solicitudes overlapping with the already existing fundamental rights of the European Convention as well as the established civil rights respected and realized in each nation as a condition of joining the EU. The intentions of naming a few of them are unclear and can be understood as excluding those unmentioned. Given the fact that this applies to several proposed articles, Poland prefers initiating a general debate concerning the overlapping.

The Polish government moreover questions the necessity of article 1 subsection (2) as it is of nothing else than informative character, which – if not excluded – should be mentioned in the Preambular. Only general information is also shared in article 21 which has no new rights nor claims for citizen and should therefore be excluded.

Furthermore, it remains unclear if the articles found a claim European citizens can refer to or if the Charter rather sets general values. We detected this problem especially in the articles 4 subsection (3) and 5 subsection (3).

As security is one of the main aims of the Charter of Digital Fundamental Rights the Polish government considers the implementation of a national as well as a supranational

Management Plan as indispensable so steps to guarantee constitutional order can be taken quick and efficient. Resuming to article 4 we suggest striking subsection (3) because of its only symbolic value. Given the fact that the balancing and weighing up of security and privacy is necessary already is mentioned in art. 11 (2), the Polish government therefore sees no purpose of repetition and the chance to enhance a wider range of possible actions against influences which try to disrupt with constitutional order.

While Article 5 forbids any kind of “censorship” subsection’s (2) aim is to prevent any kind of digital harassment, mobbing or similar threatening actions. Poland detects a possible conflict between these standards which can be compensated by a concretisation of the term “censorship”. It therefore strongly supports debating this choice of words.

A similar conflict arises in article 11 (2) sentence 2 according to which personal data may be collected and processed only in good faith and for pre-determined purposes. As this section gives already a concrete guideline, we suggest excluding the rest of subsection 2 as the conditions are too broad and should be determined by each member state corresponding to the individual national circumstances. Therefore, the Polish government prefers to insert reference to national law.

Additionally, Poland identifies a possible difficulty in different levels of digitalization within the EU member states. Whereas in some states it shall be no matter of impossibility to grant internet as basic care, Poland first of all needs to enable far reaching internet access in order to integrate large sections of population living in rural areas and citizens above 50 years to the digital transformation. The government strongly supports the general idea of article 15 subsection (1). However, in order to execute and implement European orders and guidelines, Poland still needs time and well-located know-how.

The Polish government proposes inserting art. 24 that defines the right to a digital state. In our belief, each EU-citizen, organisation and entrepreneur should be able to settle any official matter electronically while contacting any level of public service. By doing so, mentioned parties as well as public administration will benefit of quicker proceedings and reducing of expenses.

III. Conclusion

In conclusion, the Polish government welcomes the idea of constituting a Charter of Digital fundamental rights within the European Union. It agrees with the overall idea enunciating criteria to maintain constitutional order and obeying of the human fundamental rights manifested in the ECHR. It is important to enhance citizen's security by taking legal actions against dangers coming along with digitalization.

The Polish Government however expresses its general apprehension concerning the

- overlapping with already existing human fundamental rights
- character of the articles: concrete aim or rather value?
- uncertainty of terms
- different level and standards of digitalization within the EU.

Delegates:

Luisa Weigert

Aliki Kosmidis