

The Position of the United Kingdom of Great Britain and Northern Ireland on the draft of a Charter of Digital Fundamental Rights of the EU

Of course, every Member State of the European Union is facing tremendous challenges due to dynamic processes in the digital age. Regulating the digital sphere is surely necessary to secure the rights of the individual and those of society as a whole. The United Kingdom is aware of its responsibility, with its capital London being the major centre of digital innovation in Europe. However, Her Majesty's Government believes that pursuant to the principle of subsidiarity laid down in Article 5(3) of the Treaty on European Union, such a regulation must be made on a national level.

The situation of our country cannot be compared to that of other Member States of the Union at the moment. The United Kingdom has been facing a horrible attack on its people in Manchester on 22 May 2017. It is the absolute priority of this Government to ensure the security of its people and to defend its national integrity. To fight the threats of international terrorism, it is fundamental for state authorities to take all necessary actions. Therefore, conferring rights to the individual cannot take place at the expense of national security.

It is vital that upon suspicion, state agencies which are entitled to do so by law have access to private data. We have been successful in combating a vast number of crimes within the last years because of data retention and the powers of our intelligence services. The unlimited anonymization of data and conferring everyone the right to encryption of data would lead to severe difficulties in prosecuting potential enemies of our country. Furthermore, it is our greatest conviction that the accessibility of all information held by state agencies to the public as well as the far-reaching transparency requirement applying to private individuals who are thought to have knowledge of facts which would possibly affect the ability of others to exercise their fundamental freedoms would highly endanger the effectiveness and functioning of the state. Such a requirement could be easily abused and could also appear to be an incentive for people to commit high treason. Giving the Court of Justice of the European Union the sole power to interpret the Charter would lead to a substantial loss of sovereignty which the British people would not be willing to accept.

Please note that it is clearly not the aim of Her Majesty's Government to give up any form of individual fundamental rights in the digital sphere. However, in the light of recent events, we cannot simply accept a Charter limiting the capabilities of our national institutions to such an extent as to put the security of our people at risk. Pursuant to the will of the British people and the differences in the situations of the Member States of the European Union, such a regulation must be made on a national level.