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Position paper of the Republic of Austria

**on the Charter of Digital Fundamental Rights of the European Union
for the meeting of the EU Fundamental Rights Convention**

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**The Delegation of the Federal Government of Austria
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I. Introduction

The fast development of the digital world affects all branches of human life. Digital infrastructures are becoming the backbone of a successful economy, a vibrant research community, a transparent state as well as a free society. The internet and digitalization provide great possibilities in a globalized world, but there are serious problems and threats that can no longer be ignored.

All of these issues cannot be tackled by one state alone, but should be dealt with on a supranational level. In a digital era there are no borders and one-sided efforts run dry. This is why a catalogue of digital fundamental rights ensures the maintenance of respect for human rights and provides a basis for productivity and cooperation in the 21st century. Establishing such a Charta is our common responsibility and to our advantage. It will be a universal milestone in accordance with the European Union's main principles: respect for human dignity and human rights, freedom, democracy, equality and the rule of law.

II. Austria's position concerning the proposal

The delegation of the Republic of Austria is aware of the possibilities as well as of the problems that digitalization poses. Our position aims at creating a balance of these factors with regard to the proposal at hand. At the same time we want to emphasize that Austria has well-working laws concerning data and the digital space and our national framework should be respected and can be a model for other countries as well as for the Charta.

As representatives of the *Bundesministerium für Innovation und Technologie* as well as the *Bundesministerium für Europa, Integration und Äußeres*, our delegation underlines the Austrian governments' focus on cyber security. It is a top priority of Austria to help make cyber space sufficiently safe and secure at national and international level. For us, the term "cyber security" stands for the security of infrastructures in cyber space, of the data exchanged in cyber space and above all of the people using cyber space.

A second important point is the digital agenda: our broadband expansion strategy 2020 wants citizens to have confidence that their data will be received by the addressees fast and reliably. The public administration does no longer rely exclusively on traditional channels of service delivery but considers the Internet indispensable for reaching out to the general public. An open and free Internet, the protection of personal data as well as the integrity of interconnected networks are the basis for global prosperity, security and the promotion of human rights.

Austria ranks 10th in Digital Economy and Society Index (DESI) 2017 unchanged from the year before. It has made progress in line with the EU average in most dimensions. In digital public services, where Austria scores particularly well, it is now among Europe's top 5.

III. Challenges and main points of criticism

The following points have been discussed in a governmental conference of the Republic of Austria and have been assessed very critically:

The overall wording of the charter is concerning in the sense that it breathes the 'Zeitgeist' of 2017. Terms like "new", "Big Data", "Digital era" etc. are not fundamentally describing the problems to be faced by the European Union. Our delegation proposes to formulate more basic and universal laws that ensure the Charta's application to new and non-foreseeable developments.

Furthermore we consider the direct effect on third parties as well as missing legal reservations in many of the articles worth discussing. The latter especially applies to Art. 4 of the Charta.

The following passages should be deleted, since they are already addressed in existing law: Art. 1, 5 III, 11 II, 21 I, II. We believe that a shorter version of the charter would lead to a strengthening of the Charta's important elements.

With regard to that point, the Articles 2, 7 and 14 should be rewritten into one Article stating citizens the right to communicate with state agencies in an analogous manor, while providing the possibility for digital communication, which is preferably transparent in the way it functions and guaranteeing high standards of safety when handling the citizens' personal information.

Article 4 addresses computerized weapon systems. In our opinion this demand is of fundamental importance and does not go far enough. Such weapons pose unthinkable threats to peace on the entire planet and among all nations and should be phrased very carefully. Our proposal is to treat fully automatized computerized weapon systems just like biological or chemical weapons.

In addition to that, Art. 10 should be expanded to one's right to enjoy privacy in the digital sphere similar to the one of one's home. In order to enforce this, we propose to merge the Articles 10 and 11. We think the concept of a 'digital home' with regards to privacy can be worthwhile considering.

A more precise definition for net neutrality is needed. This topic is especially delicate and derives from our basic understanding of freedom and equality.

With regard to Art. 11 II: Enabling everybody to determine the use of one's data seems radical, unreasonable and impossible. It should rather be a right to transparent access to information about the usage of one's data when handled by third parties and ways should be provided enabling citizens to react towards possible abuse.

The government of the Republic of Australia believes that whistleblowing needs to be comprehensive definition. Whistleblowing and a solution for security of whistleblowers should be addressed by the charter. Legal reservations should be discussed since national security interests is interfered with.

The delegation of the Republic of Austria hopes that these points will not go unheeded, but will be discussed productively at the meeting of the EU Fundamental Rights Convention in order to finally establish the Charter of Digital Fundamental Rights of the European Union.