

DRAFT DECLARATION OF INTERNET RIGHTS

*(Text drafted by the Study Committee on Internet Rights and Duties
of Italy's Chamber of Deputies)*

PREAMBLE

The Internet has played a decisive role in redefining public and private space, structuring relationships between people and between people and institutions. It has erased borders and has created new ways of generating and utilising knowledge. It has expanded the scope for people to participate directly in public life. It has changed how people work. It has fostered the development of a more open and free society. The Internet must be treated as a global resource and must satisfy the criterion of universality.

The European Union is currently the world region with the greatest constitutional protection of personal data, which is explicitly enshrined in Article 8 of the EU Charter of Fundamental Rights. This serves as a necessary point of reference for specifying the principles governing the operation of the Internet, including from a global perspective.

This Declaration of Internet Rights is founded on the full recognition of the liberty, equality, dignity and diversity of every individual. Preserving these rights is crucial to ensuring the democratic functioning of institutions and avoiding the domination of public and private powers that may lead to a society of surveillance, control and social selection.

The Internet is an increasingly important space for the self-organisation of individuals and groups, and it is a vital tool for promoting individual and collective participation in democratic processes as well as substantive equality.

The principles governing the Internet shall also take account of its function as an economic space that enables innovation, fair competition and growth in a democratic context.

A Declaration of Internet Rights is crucial to laying the constitutional foundation for supranational principles and rights.

1. RECOGNITION AND SAFEGUARDING OF RIGHTS

The fundamental rights of every individual enshrined in international documents, the Charter of Fundamental Rights of the European Union, Constitutions and Laws shall be protected on the Internet.

These rights shall be interpreted so as to ensure their enforceability on the Internet.

The recognition of rights on the Internet shall be based on comprehensive respect for the dignity, freedom, equality and diversity of each individual, which constitute the underlying principles for balancing these with other rights.

2. RIGHT TO INTERNET ACCESS

Any person shall have the same right to access the Internet on equal terms, using appropriate and up-to-date technologies that remove all economic and social barriers.

The fundamental right to Internet access must be ensured with respect to its substantive pre-conditions, not only as the mere possibility of connecting to the Internet.

Access shall include freedom of choice with regard to operating systems, software, and applications.

The effective protection of the right to Internet access requires appropriate public intervention to overcome all forms of digital divide – based on cultural, infrastructural or economic factors – particularly as regards accessibility by persons with disabilities.

3. NET NEUTRALITY

Any person has the right that the data he/she transmits and receives over the Internet be not subject to discrimination, restrictions or interference based upon the sender, recipient, type or content of the data, the device used, applications or, in general, the legitimate choices of individuals.

The neutrality of the network, whether it be mobile or fixed, and the right to Internet access are necessary conditions for ensuring the effectiveness of the fundamental rights of the person. They preserve the “generative” function of the Internet and the production of innovation. They ensure that messages and their applications can travel online without suffering discrimination on the basis of their content and their functions.

4. PROTECTION OF PERSONAL DATA

Any person has the right to the protection of the data that concern them in order to ensure respect for their dignity, identity and privacy.

Personal data are data that allow someone to trace the identity of a person and include device identification data and any additional processing, such as that involved in the development of profiles.

Data must be processed in accordance with the principles of necessity, finality (purpose limitation), relevance, proportionality and, in any case, the right of every individual to informational self-determination shall prevail.

Data may be collected and processed only with the effectively informed consent of the data subject or on the basis of another legitimate motivation enshrined in law. Consent shall be revocable. With regard to the processing of sensitive data, the law may establish that the consent of the data subject must be accompanied by a specific authorisation.

Consent does not constitute a legal basis for the processing of data when there is a significant imbalance of power between the data subject and the data processor.

Access to and processing of personal data for discriminatory purposes, whether directly or indirectly, is prohibited.

5. THE RIGHT TO INFORMATIONAL SELF-DETERMINATION

Any person has the right to access his or her data, irrespective of the data controller and the place where the data are stored, in order to request the supplementation, rectification or cancellation of the data in the manner provided for by law. Any person has the right to know the technical procedures used in processing data that concern them.

The mass collection of personal data shall be carried out only in full observance of fundamental principles and rights.

Data may be stored only for the length of time strictly necessary, taking into consideration the intended purpose and the right to self-determination of the data subject.

6. INVIOABILITY OF COMPUTER SYSTEMS AND COMPUTER DOMICILES

In the absence of court authorisation, only in the cases and in the manner provided for by law, it is prohibited to access personal data on personal devices, on remote computers accessible using credentials from any device connected to the Internet or simultaneously on personal devices and copies thereof on remote devices, as well as to intercept any form of electronic communication.

7. AUTOMATED PROCESSING

No act, judicial or administrative order or decision that could significantly impact the private sphere of individuals may be based solely on the automated processing of personal data undertaken in order to establish the profile or personality of the data subject.

8. RIGHT TO ONE'S IDENTITY

Any person has a right to the complete and up-to-date representation of their identity on the Internet.

The definition of identity regards the free construction of the personality and cannot take place without the intervention and the knowledge of the data subject.

The use of algorithms and probabilistic techniques shall be disclosed to the data subject who, in any case, has the right to oppose the construction and dissemination of profiles regarding him or her.

Any person has the right to provide only the information which is strictly necessary for complying with legal obligations, for the supply of goods and services or for accessing Internet platforms.

The definition of an identity on the Internet by a state entity must be governed by appropriate guarantees.

9 ANONYMITY

Any person can anonymously communicate electronically in order to exercise civil and political freedoms without being subject to discrimination or censorship.

Restrictions may be imposed only when are based on the need to safeguard a public interest and are necessary, proportional and grounded in law and in accordance with the basic principles of a democratic society.

In cases provided for by law and pursuant to a reasoned judicial order, the author of a communication may be identified when necessary to ensure the dignity and rights of other persons.

10. RIGHT TO BE FORGOTTEN

Any person has the right to obtain the removal from search engines of data that, due to their content or the passage of time from when such data were collected, are no longer relevant.

The right to be forgotten cannot restrict the freedom of research and the right of the public to be informed, which are necessary conditions for the functioning of a democratic society. This right may be exercised by public figures or those who hold public functions only if the data concerning them are irrelevant with regard to their activities or the public functions they perform.

Where a request to be removed from search engines is granted, any person is entitled to know about such cases and appeal the decision before the courts to ensure that the public interest in the information is preserved.

11. RIGHTS AND SAFEGUARDS OF PEOPLE ON PLATFORMS

Digital platform operators are required to behave honestly and fairly in dealing with users, suppliers and competitors.

Any person has the right to receive clear and simple information on how the platform operates, not to have contractual terms arbitrarily altered and not to be subjected to conduct that could make accessing the platform difficult or discriminatory. Any person shall be in any case notified of changes in contractual terms. In this case, they have the right to terminate the relationship, to receive a copy of the data concerning them in interoperable form and to have the data concerning them removed from the platform.

Platforms that operate on the Internet, if they represent services essential to the lives and activities of people, shall facilitate conditions – in accordance with the principle of competition and under equal contractual terms – for the appropriate interoperability of their main technologies, functions and data with other platforms.

12. NETWORK SECURITY

Network security must be guaranteed in the public interest, ensuring infrastructure integrity and protection from external attacks, and in the interest of individuals.

Restrictions on the freedom of expression are not permitted. The protection of the dignity of persons from abuses connected with negative behaviour, such as incitement to hate, discrimination and violence, shall be guaranteed.

13. RIGHT TO EDUCATION

Any person has the right to acquire the skills necessary to use the Internet in an informed and active manner. The cultural and educational dimension of the Internet is indeed an essential element to ensure the effectiveness of the right to access and the protection of the individual.

Public institutions shall promote educational activities targeted at individuals, the school system and businesses, with an emphasis on the intergenerational dimension.

The right to an informed use of the Internet is crucial in order to effectively guarantee the development of equal opportunities for individual and collective unfolding; the democratic rebalancing of disparities in power on the Internet between economic players, institutions and citizens; the prevention of discrimination and risky behaviour as well as conduct detrimental to the freedoms of others.

14. CRITERIA FOR INTERNET GOVERNANCE

Any person has the right to have their rights recognised on the Internet both at national and at international level.

The Internet requires rules consistent with its universal, supranational scope, aimed at fully implementing the principles and rights set out above, to safeguard its open and democratic nature, to prevent all forms of discrimination and to prevent the rules governing its use from being determined by those who hold the greatest economic power.

The construction of a system of rules shall take account of the various territorial levels (supranational, national, regional), the opportunities created by a variety of forms of self-regulation consistent with the above principles, the need to preserve the capacity for innovation, the multiplicity of actors operating on the Internet, and shall encourage involvement in ways that ensure

the widespread participation of all concerned. Public institutions shall adopt the appropriate instruments to ensure such participation.

In any case, the regulatory innovations regarding the Internet shall be subject to an assessment of their impact on the digital ecosystem.

The Internet shall be managed so as to ensure compliance with the principle of transparency, accountability for decisions, accessibility to public information, and the representation of those concerned.

Access to and the reuse of data generated and held by the public sector shall be ensured and strengthened.

The establishment of national and international authorities is essential to effectively ensure observance of the above criteria, including through an evaluation of the compliance of the new rules with the principles of this Declaration.