



DERECHOS
DIGITALES

 Plan de Recuperación,
Transformación y Resiliencia

CHARTER OF DIGITAL RIGHTS



GOBIERNO
DE ESPAÑA



Plan de Recuperación,
Transformación y Resiliencia

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PRELIMINARY CONSIDERATIONS

Human dignity, the inviolable rights inherent thereto, the free development of personality, and respect for the law and the rights of others, are the foundations of political order and social peace. This concise formulation in the Spanish Constitution expresses a conception of the individual and the State valid for the present moment and for the future. The intense progress of scientific research, inventions and digital or digital-based technologies raise the need to ensure that the regulatory framework guarantees the protection of the individual and collective rights of persons and of the constitutional values that are the only possible foundation for coexistence.

This Charter of Digital Rights, drawn up on the basis of the work done by the Expert Advisory Group¹ set up by the State Secretariat for Digitalization and Artificial Intelligence of the Ministry of Economic Affairs and Digital Transformation, is built on the aforesaid foundation. We live in a digital society and we increasingly depend on the digital environment, devices and services. In this context, it is not necessarily a question of discovering digital rights under the pretence that they are something other than the fundamental rights already recognized, or that the new technologies and the digital ecosystem are by definition a source of new rights. The individual and their dignity is the permanent and sole source of these rights, and the ultimate objective is to project current legislation onto the technological reality, as well as for the public authorities to define public standards and policies to guarantee and promote said rights.

However, the development and progressive generalization of these technologies, and of the digital spaces of communication and interaction which they open up, give rise to new scenarios, contexts and conflicts that must be resolved by adapting rights and systematically interpreting the law in order to protect the constitutional values and provisions and the legal certainty of citizens, economic operators and public administrations in their respective scopes of authority. Situations and scenarios that are created with but that are not limited to the internet, which, however important it may be, does not in itself exhaust or condense the entire scope and dimensions of the digital environment, space or ecosystem.

Thus, the Charter of Digital Rights presented here does not seek to create new fundamental rights, but rather to outline the most significant ones in the digital environment and spaces, and to describe instrumental or ancillary rights pertaining to such fundamental rights. It is a naturally dynamic process given that the digital environment is in constant evolution with consequences and limits that are not easy to predict.

This text is based on the notable progress already made in Spain in recognizing digital rights, noteworthy among which is Title X of Organic Law 3/2018 of 5 December, on Personal Data Protection and Guarantee of Digital Rights, and the recently approved Royal Decree-Law 28/2020 of 22 September, on Remote Working.

Principles such as regulatory compliance from the design stage, which encompasses the analysis of the prevailing regulations applicable from the beginning of the technological development process, must be comprehensively applied. Similarly, the incorporation from the design stage of

¹ The outcome of the Group's work does not imply consensus among its members on each and every aspect dealt with. Such members do not necessarily agree with all the proposals contained therein, nor does the outcome compromise the individual opinions or positions held by the experts within the working groups.

the general principles of the data protection regulatory framework is fundamental to guaranteeing people's rights in digital environments.

In this respect, it is important to emphasize that this Charter is subject to and understood without prejudice to prevailing legislation, especially with regard to rights, the provisions of which shall be applicable, including, in particular, those established by the aforesaid legislation, as well as by the following:

- a) Organic Law 1/1982 of 5 May, on the Civil Protection of the Right to Honour, Personal and Family Privacy and Self-Image;
- b) Organic Law 2/1984 of 26 March, regulating the Right to Rectification;
- c) Act 34/2002 of 11 July, on Information Society Services and Electronic Commerce.
- d) General Telecommunications Act 9/2014 of 9 May.
- e) General Audiovisual Communication Act 7/2010 of 31 March.
- f) Act 10/2021 of 9 July, on Remote Working.

Nevertheless, the rapidly changing nature of the digital environment makes it necessary to ensure the existence of an open process of reflection to improve the adaptation of the legal framework to the new circumstances.

The objective of the Charter is to be descriptive, forward-looking and assertive. It is descriptive of the digital contexts and scenarios that give rise to conflicts, sometimes unexpected, between rights, values and goods which have always existed, but which require new deliberation. This mere description helps us to visualize and become aware of the impact and consequences of digital environments and spaces. It is forward-looking in the sense that it anticipates future scenarios that can already be predicted. And it is assertive by revalidating and legitimizing the principles, techniques and policies that, on the basis of the very culture of fundamental rights, must be applied in present and future digital environments and spaces.

The Charter is not regulatory in nature, but aims to recognize the very new challenges of application and interpretation that the adaptation of rights to the digital environment poses, and to suggest principles and policies relating thereto in this context. Alongside this, it also proposes a reference framework for the action of the public authorities in such a way that, being shared by all, it allows navigation in the digital environment in which we find ourselves, taking advantage of and developing all its potentialities and opportunities whilst averting its risks. Furthermore, it contributes to the reflection processes taking place at the European level and, with this, to leading an essential process at the global level to guarantee a humanist digitalization, putting people at its heart.



1. RIGHTS TO FREEDOM

I Rights and freedoms in the digital environment

1. The rights and freedoms recognized in the Universal Declaration of Human Rights, the Spanish Constitution, the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, and the international treaties and covenants on the same matters ratified by Spain are applicable in digital environments².

2. The necessary measures shall be promoted so that laws are able to stipulate, as far as necessary, the specific nature of rights in the digital environment.

3. Efforts shall be made to promote consideration in digital transformation processes, the development and use of digital technology, as well as any scientific and technical research related thereto or making instrumental use thereof, of the need to guarantee human dignity, fundamental rights, non-discrimination, and the free development of personality, aiming such endeavours at the attainment of the common good.

4. The principle of compliance by design shall be applied in full to the development of digital environments. Therefore, identification of the requirements of scientific and technological developments, and of their roll-out, shall include analysis of compliance with this principle.

II Right to identity in the digital environment

1. The right to one's own identity is enforceable in the digital environment. This identity shall be determined by the name and all other elements that make it up, pursuant to national, European and international law.

2. The right to manage one's own identity, its attributes and forms of accreditation, must be guaranteed in accordance with our laws.

Consequently, identity may not be controlled, manipulated or appropriated by third parties against a person's will.

3. The necessary guarantees shall be established to enable secure verification of identity in the digital environment for the purpose of preventing manipulation, control or appropriation of one's identity by third parties.

4. Pursuant to applicable legislation, the State must guarantee the possibility of accrediting legal identity in the digital environment for the appropriate purposes. In those cases in which a high level of identification of the subjects concerned is required, the State shall ensure the provision and use of the applicable digital means for accrediting identity.

² For the purposes of this Charter, the digital environment is understood to be the set of systems, apparatuses, devices, platforms and infrastructure that open up spaces for relationships, communication, interaction, trade, negotiation, entertainment and creation that enable natural or legal persons, bilaterally or multilaterally, to engage in relationships similar to those existing in the traditional physical world. Digital space refers to the digital places opened up in digital environments in which communication, interaction, trade, negotiation, entertainment and creation are possible in a way that mirrors the traditional physical world. Digital citizenship refers to the status of rights and obligations of the individual, regardless of their legal status as a citizen.

III Right to data protection

1. Pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, and to Organic Law 3/2018 of 5 December on Personal Data Protection and Guarantee of Digital Rights, everyone has the right to the protection of personal data concerning him or her.

2. These data shall be processed with respect for the principles of lawfulness, fairness, transparency, minimization, integrity, confidentiality and purpose and storage limitation, on the basis of data protection by design and by default.

3. Personal data shall be processed on the legal basis set forth in said Regulation.

4. All persons have the right to be informed, when data is being collected, about the destination and the uses that will be made thereof, to access personal data concerning them, and to exercise their right to rectification of personal data, the right to data portability, the right to object, and the right to erasure (right to be forgotten) in the terms set forth in national and EU data protection legislation.

5. Respect for this right shall be subject to control by the data protection authority and by the other bodies with powers in this area.

IV Right to pseudonymity

1. In accordance with the technical possibilities available and prevailing legislation, digital environments shall allow access under conditions of pseudonymity, provided that personal identification is not necessary for conducting the tasks pertaining to said environment.

2. The pseudonymity referred to in the previous number shall ensure the possibility of re-identifying persons, subject to a prior court decision and in the cases and with the guarantees provided for by law.

V Right not to be located and profiled

1. Tracing and personality or behavioural analysis systems involving automated decision-making or the profiling of individuals or groups of individuals may only be used in cases allowed by prevailing legislation and with the appropriate guarantees provided for therein.

2. The data controller shall explicitly inform the data subject about the purpose of the tracing, profiling or automated decision-making, and about the exercise of the right to object, and present these clearly and separate from any other information and with full respect for the right to data protection referred to in section III.



VI Right to cybersecurity

1. Pursuant to law, every person has the right for the digital information systems they use for their personal, professional or social activities, or which process their data or provide services to them, to have the appropriate security measures to guarantee the integrity, confidentiality, availability, resilience and authenticity of the information processed and the availability of the services provided.

2. The public authorities, pursuant to European and national regulations, shall ensure compliance with the guarantees expressed in the above number by all information systems, whether publicly- or privately-owned, in proportion to the risks to which they are exposed. To this end, they may seek the collaboration of civil society.

3. The public authorities shall promote awareness and training in cybersecurity for society as a whole, and shall foster certification mechanisms.

VII Right to digital heritage

1. The right to the digital inheritance of all assets and rights owned by a deceased person in the digital environment is recognized in succession law.

2. It is the legislator's responsibility to determine the digital assets and rights that may be owned and left as inheritance, and the personality-related assets that may be defended, preserved and commemorated, as well as those persons who may carry out that defence, preservation and memory, if the deceased person has not given instructions in that regard.

3. Efforts shall be made for legislation to provide for those cases in which—in compliance with the rights of the deceased person or of third parties, and in particular with the protection of their privacy and of the secrecy of their communications—it is appropriate for the digital heritage to become extinct or not to be accessible to other persons than those to whom it was distributed or to whom access was allowed, in those cases in which the deceased person has not expressly provided for its use.



EQUALITY
RIGHTS

2. EQUALITY RIGHTS

VIII

Right to equality and to non-discrimination in the digital environment

1. The right to and the principle of equality that is inherent to persons, including non-discrimination and non-exclusion, shall be applicable in digital environments. In particular, the effective equality of women and men in digital environments shall be promoted. Application of the gender perspective in digital transformation processes shall be encouraged, adopting, where applicable, specific measures to guarantee the absence of gender bias in the data and algorithms used.

2. Pursuant to applicable law, accessibility of all types shall be sought in digital transformation processes.

IX

Right to access the internet

1. In the conditions set forth in European and national law on universal electronic communications services, universal, affordable, quality and non-discriminatory access to internet shall be promoted for the entire population.

2. The public authorities may promote, subject to the Constitutional attribution of powers, policies aimed at guaranteeing effective access by all people to the services and opportunities offered by digital environments in any of their dimensions, shall guarantee the right to digital non-exclusion, and shall combat digital gaps in all their manifestations, paying particular attention to the territorial gap, as well as to the gender, economic, age and disability gaps.

X

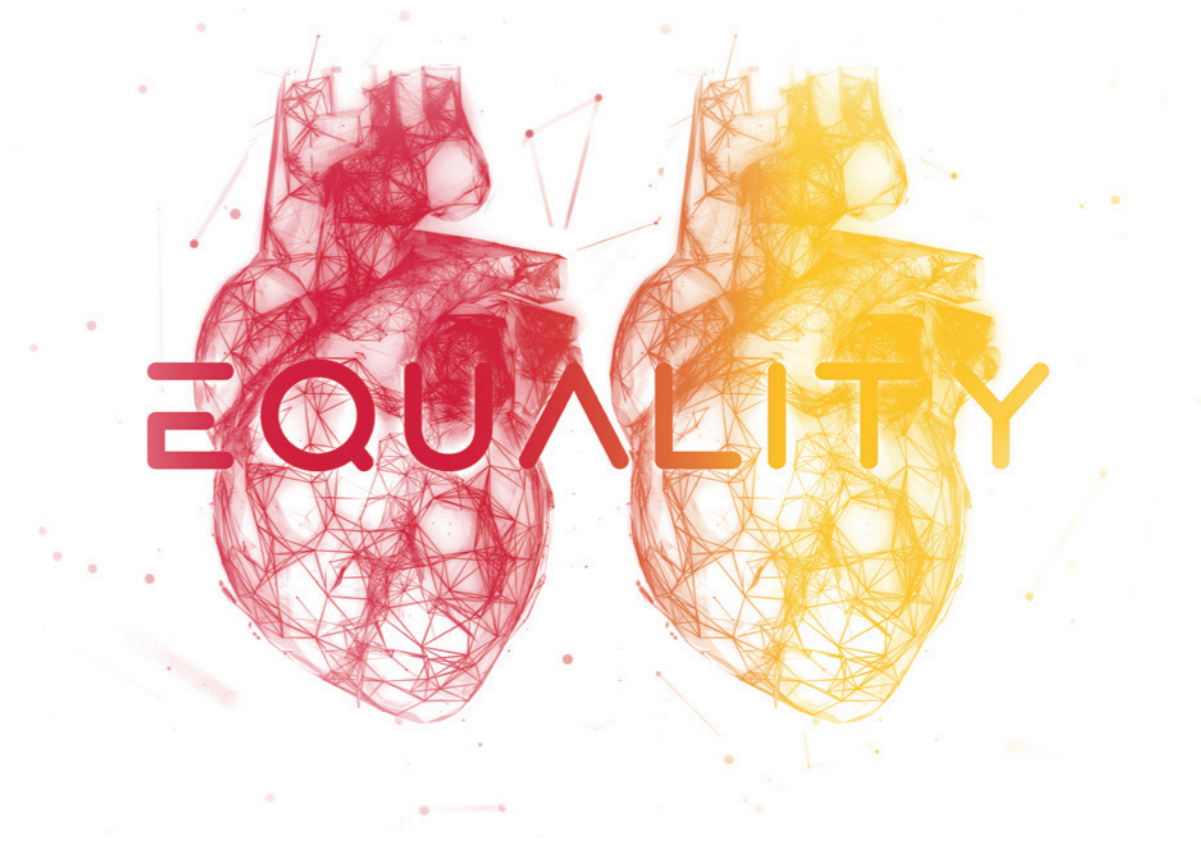
Protection of minors in the digital environment

1. In accordance with the powers pertaining to them and pursuant to prevailing legislation, parents, guardians, caregivers, legal representatives and persons providing support for the exercise of legal capacity, shall ensure that minors use digital environments in a balanced and responsible manner in order to guarantee the adequate development of their personality and preserve their dignity and fundamental rights.

2. Educational centres, public administrations and any natural or legal persons engaging in activities in digital environments in which minors participate are obliged by applicable legislation to protect minors' best interests and their fundamental rights, especially the right to privacy, honour and self-image, the secrecy of communications, and the right to personal data protection. Consent for the publication or dissemination of the personal data or image of minors through social network services must be obtained from their legal representatives, or from the minors themselves if they are aged 14 or over.

Also promoted shall be the implementation of procedures to verify age, the right to receive training and information that is appropriate and adapted to their needs regarding the digital environments they access, and access to the means to apply for, and, as the case may be, obtain, the protection of their rights against harmful or illicit behaviour or actions.

3. With the exceptions provided for in law, the processing of minors' personal information to set



up personality profiles in digital environments is prohibited. No profiling practice may be aimed at manipulating or influencing the will of minors, including profiling for advertising purposes.

4. Pursuant to applicable legislation, in digital environments minors shall have the right to receive sufficient and necessary information on the responsible and appropriate use of technologies.

5. Minors may express their opinions and ideas freely through technological means, as well as participate and express their opinion on public affairs that affect them, in accordance with their inherent rights, including freedom of thought, of conscience, of religion, of association, and of peaceful assembly in the digital environment. The use of technologies shall be promoted for the full development of this right.

6. Research shall be promoted to study the impact on minors' personality development of access to digital environments, as well as to harmful or dangerous content. Said research shall pay particular attention to the impact on their emotional and sexual education, dependent behaviour, sexual orientation, and gender equality and identity, as well as to anti-democratic, racist, xenophobic, ableist, male chauvinist, discriminatory and hate speech-related behaviour.

XI

Universal accessibility in the digital environment

1. The necessary conditions to guarantee universal accessibility of digital environments, in particular for persons with disabilities, shall be promoted, both as regards their technological design and their content, ensuring especially that the information regarding the legal terms and conditions of the service is accessible and understandable.

2. Digital environments, especially those used for participating in public affairs, shall incorporate measures that ensure effective participation, in particular of persons with disabilities.

3. A further goal is to guarantee the right to literacy and to digital education, in particular of persons with disabilities.

XII Access gaps in the digital environment

1. Efforts shall be made to promote and facilitate everyone's access to, use of, and training for digital environments.

2. Efforts shall also be made to promote specific public policies aimed at addressing access gaps, paying attention to possible discriminatory bias based on differences between age groups and in degrees of self-sufficiency and of digital skills, or any other personal or social circumstance, to guarantee the full digital citizenship and participation in public affairs of all groups at greatest risk of social exclusion, especially older people, as well as the use of the digital environment in active ageing processes.



3

RIGHTS TO
PARTICIPATION
IN AND
SHAPING OF
PUBLIC
SPACES

3. RIGHTS TO PARTICIPATION IN AND SHAPING OF PUBLIC SPACES

XIII Right to net neutrality

1. The right to users' net neutrality is recognized in full compliance with the law.
2. The priority objective of the public authorities must be to guarantee that internet service providers treat data traffic in an equitable manner, without any discrimination, restriction or interference, and regardless of the source and recipient of communication, the content accessed or distributed, the applications or services used or provided, or the terminal equipment used.

The above is understood without prejudice to the exceptions and limitations expressly set forth in European law on the right to open internet access.

3. In order to ensure that end users and professionals have equitable and transparent conditions of access to content, goods and services, or to the supply thereof, the public authorities may control the gatekeepers or platform service providers which, given their significant sway in the market, whatever the origin thereof, could limit said access, under the conditions set forth in European law.

XIV Freedom of expression and freedom of information

1. All people have the right to freedom of expression and of information in digital environments under the conditions set forth in the Spanish Constitution.

2. Those who exercise their freedom of expression and of information through information society's intermediary services are liable as authors for any illicit content or content that harms assets or rights of third parties that may give rise to compensation.

3. In the terms set forth in applicable legislation, intermediary service providers shall not be liable if they did not originate the transmission, or alter the data, or select the data or the recipients thereof. They shall only be liable if they acted in any of the manners codified in law, either because they exceeded the typical scope of the provision of their services, or because they did not act diligently to block or remove content when they were effectively aware of its illicit nature.

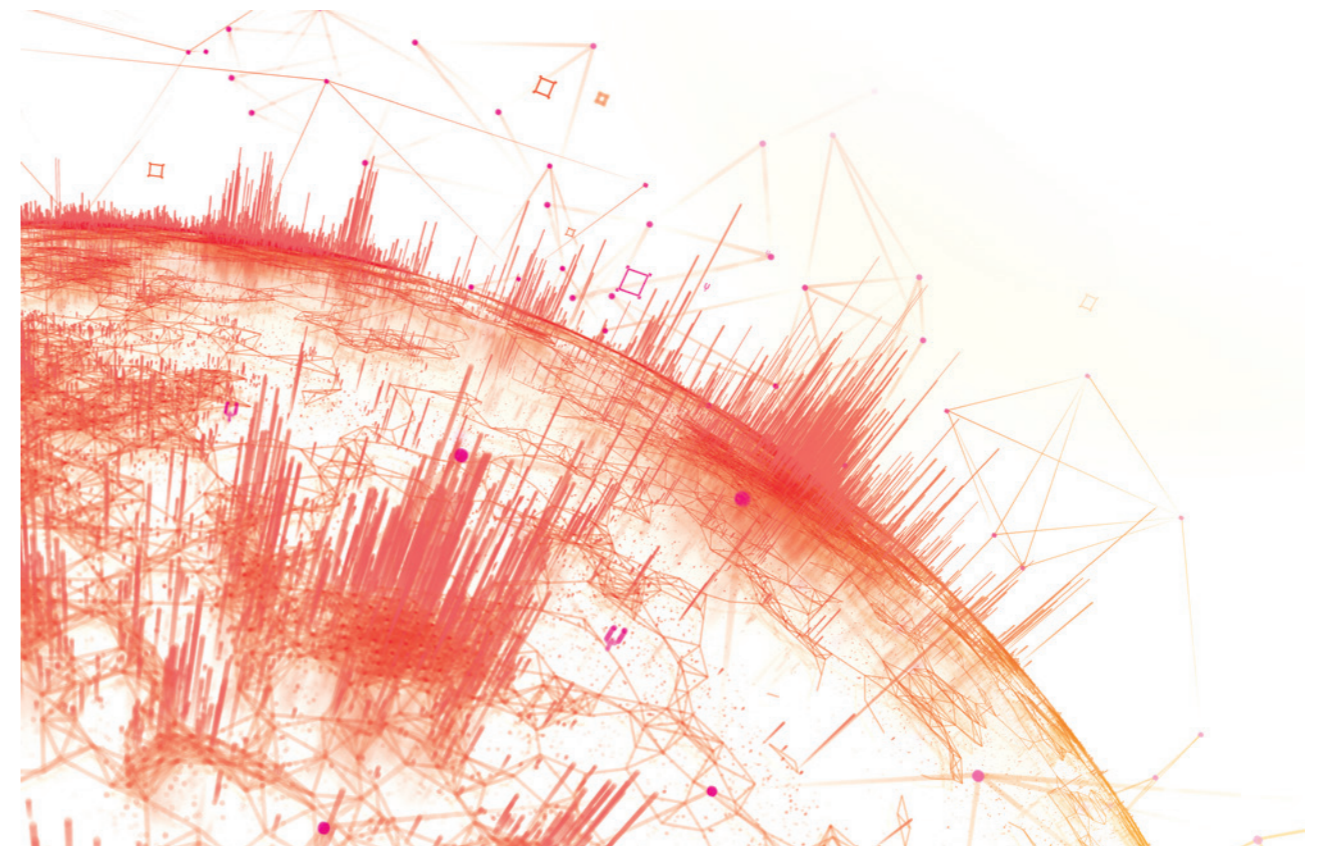
4. Intermediary service providers, after notifying the end users and recipients, may establish, pursuant to applicable legislation, restrictions on the use of the services, including the existence of policies and instruments to moderate content, or codes of conduct and self-regulation, or systems to report and denounce said content, or mechanisms and instruments for warning and detection, as well as voluntary mediation or arbitration systems to settle disputes.

5. As regards illicit content or content that harms assets or rights of third parties that may give rise to compensation, intermediary service providers, after having become effectively aware of the illicit nature of the published and distributed content or of the rights and assets harmed, may, under the

terms set forth in law, remove said content, after giving the author the opportunity to defend it, or adopt any other measures allowed by law, without prejudice to compliance with court injunctions and decisions.

6. Media with their own editorial line that carry out their activity in digital environments shall freely maintain said editorial line with the same powers and in the same terms as traditionally recognized by law.

7. In the case of content that violates intellectual property rights, the prevailing legislation on the protection of said rights shall apply.



XV Right to freely receive accurate information

1. Intermediary service providers through which the freedom of expression and of information are directly exercised shall be encouraged to adopt appropriate protocols that guarantee users' their right to receive accurate information.

2. Such protocols shall ensure the transparency of information and opinions by stating:
 - a) Whether this information and these opinions have been produced without human intervention through automated processes.
 - b) Whether they have been classified or prioritized by the provider through profiling techniques or similar methods.
 - c) Whether they constitute advertising or have been sponsored by a third party.

3. As regards opinions or information distributed or disseminated directly through intermediary services, providers shall be encouraged to set forth mechanisms and procedures that enable the exercise of the following user rights:

- a) To rectify content that impinges on the right to honour, personal and family privacy on the internet, and the right to freely communicate or receive accurate information, pursuant to the requirements and procedures set forth in the law regulating the right to rectification.
- b) To make a reasoned request that an update notice be included, sufficiently visible and next to the news that concern them, when the information contained in the original news item does not reflect their current situation as a result of circumstances which may have occurred after its publication, damaging them in some way.
- c) To object to the use of user analysis techniques in offering information and opinions, when this may affect freedom of ideology, religion, thought or belief.
- d) To the erasure of personal data protected by the right to be forgotten.

4. The above number shall be applicable to media with editorial responsibility disseminated, distributed or stored in digital environments.

XVI

Right to public participation by digital means

1. In accordance with the law, efforts shall be made to foster digital environments that contribute to the right to effective access to public information, transparency, and accountability, as well as to the right of the general public to propose initiatives and to participate in actions undertaken by the public administrations in their respective scopes of authority, in accordance with the Spanish Constitution. When access to information, the proposal of initiatives, and involvement in actions undertaken by the public administrations require the identification of persons, this shall be done with full respect for the right to identity in the digital environment referred to in section II.

2. Any public or private process of political participation carried out using technological means:

- a) Must allow full and effective access to the information regarding the process in question.
- b) Must allow and guarantee the full transparency and accountability of the parties involved, whether they are public administrations acting in their respective scopes of authority, or other types of public or private entities.
- c) Must guarantee conditions of participatory equality and non-discrimination, institutional loyalty and fair and balanced competitiveness.
- d) Must guarantee the accessibility of digital public participation systems.

3. Digital environments designed for public participation processes shall guarantee high standards of security. When they are used for voting processes regulated by electoral legislation, the security, reliability, accessibility, usability, effectiveness and efficiency shall be guaranteed.

XVII

Right to digital education

1. The educational system must aim for the full integration of the educational community into digital society and for a mastery of digital tools that enables a people-centred digital transformation. This mission shall be founded on the values of respect for human dignity, with the guarantee of fundamental rights and constitutional values. These principles shall inform any other educational activities promoted by the public authorities.

2. Efforts shall be stepped up to ensure that teachers receive training in digital skills and that they teach and transmit the values and rights referred to in the previous number.

3. The following, in particular, shall be promoted:

- a) Vocational training plans aimed at the integration of workers into digital transformation processes.

- b) Adult learning, with particular focus on older people, people with disabilities, and socially disadvantaged or vulnerable groups.
- c) Education that fosters a use of digital media that is secure and respectful of gender equality, and is aimed at narrowing gender gaps in the digital sphere.

4. The right to freedom of access to education applies to schools that provide their services in digital environments, without prejudice to the legal provisions regarding compliance with educational regulations and the obligation to provide in-person teaching in compulsory education.

5. While fully respecting the rights of parents regarding their children's education, efforts shall be made to ensure that the curriculum incorporates the following aims:

- a) To teach students about their digital rights and how to use digital tools ethically with regard to such matters as data use and respect for others' privacy and intellectual property, and to identify online information and behaviour that could be harmful to their own health or well-being, or to their digital footprint or that of others.
- b) To strengthen the development of critical thinking in order to assist them in distinguishing objective facts from mere opinions not backed by evidence, as well as to identify fake news and disinformation and to reject gender and discriminatory stereotypes, hate speech and cyberbullying, with particular focus on sexual cyberbullying.
- c) To foster the ability to participate in generating information in a manner that is active, creative, and above all, responsible.
- d) To address the diversity of talents and learning processes and speeds, particularly with regard to those who have specific educational support needs.

6. Pursuant to applicable legislation, the educational system shall guarantee universal accessibility and shall facilitate the access of students of all levels to digital devices, materials and resources for learning purposes.

XVIII

Citizens' digital rights in their relations with the public administration

1. The right to equality applies to access to public services and to digital relations with the public administration. To this end, active public policies shall be promoted to guarantee access to public services, to systems and procedures, and assistance in said procedures, to all people.

2. The principle of transparency and of reuse of public administration data shall be the guiding principle of actions with regard to digital administration, pursuant to sectoral regulations. In particular, the right to access public information shall be guaranteed; pro-active publishing of data and accountability shall be promoted; and data portability and the interoperability of formats, systems, and applications shall be safeguarded in the terms set forth in prevailing law.

3. The universality and neutrality of the technologies used by the public administration, as well as non-discrimination, in particular on the grounds of sex, shall be promoted, as too shall the sharing between administrations of the software whose intellectual property rights they own, except in cases where such software is subject to special legal protection.

The public administration shall endeavour to ensure that the principles of this Charter are respected in the provision of services through digital means.

4. Real world alternatives shall be offered to guarantee the rights of those people who do not want to or cannot use digital resources so that they are not obliged to use them, under the same conditions of equality.

5. Any public authority acting in the digital environment must identify the entities responsible for these actions.

6. Efforts shall be made to promote citizens' rights as regards artificial intelligence recognized in this Charter in the framework of administrative action, recognizing in all cases the rights to:

- a) Decisions and actions in the digital environment that respect the principles of good governance and the right to good digital administration, as well as the ethical principles that guide the design and uses of artificial intelligence.
- b) Transparency regarding the use of artificial intelligence instruments and about their functioning and scope in each specific procedure and, in particular, about the data used, its margin of error, sphere of application and decision-making or non-decision-making nature. The law may regulate conditions regarding transparency and access to source code, especially in order to verify that the results produced are not discriminatory.
- c) Be provided with understandable reasoning, expressed in natural language, for decisions adopted in the digital environment, backed by the legal provisions, the technology used and the application criteria relevant to the case at hand. The interested party shall have the right to be informed of the reasoning or explanation for an administrative decision when this differs from the criterion proposed by an automated or intelligent system.
- d) Discretionary decision-making being reserved to persons, in the absence of legislation providing for the adoption of automated decisions with the necessary guarantees.

7. The design of algorithms featuring automated or semi-automated decision-making must necessarily include a digital rights impact assessment.



LABOUR-AND BUSINESS- RELATED RIGHTS

4. LABOUR-AND BUSINESS-RELATED RIGHTS

XIX Labour rights

1. The dignity and fundamental rights of workers shall be guaranteed in digital environments.
2. Pursuant to prevailing legislation, in digital environments and telework, public and private sector workers have the right to:
 - a) Digital disconnection, rest, and work-life balance.
 - b) The protection of their rights to personal and family privacy, honour, self-image, protection of data and secrecy of communications in the use of digital devices, as well as protection against the use of video surveillance and sound recording devices, and against the use of tools for monitoring, analysis and decision-making processes in the realm of human resources and labour relations, and in particular, social network analysis.

Workers' legal representatives shall be informed of the use of such devices and/or tools. This information shall extend to the parameters, rules and instructions serving as the basis for algorithms and/or artificial intelligence systems affecting decision-making that may have an impact on working conditions and on access to and permanence in employment, including the drafting of profiles.
 - c) Protection of the rights set forth in the preceding letter in the use of biometric and geolocation systems.
 - d) The guarantee of their rights as regards the use by their employer of data analysis procedures, artificial intelligence and, in particular, those provided for in legislation regarding the use of automated decision-making in staff selection processes.
 - e) The lawful, fair, proportionate and transparent use of corporate digital controls.
 - f) Receive, from their employer, the technological resources necessary to be able to carry out their activity, without the workers being obliged to provide their own resources for work purposes, as well as to be informed of the policy regarding the use of such digital devices, including the criteria for possible use for private purposes.
 - g) Protection against harassment on the grounds of sex or any other grounds for discrimination, and against workplace harassment, using digital means.
 - h) The digital training of workers, whether currently in work or unemployed, for the purpose of acquiring the digital skills required in the labour sphere to have access to more and better job opportunities.

3. In the terms set forth in Act 10/2021 of 9 July, on Remote Working, conditions for enabling remote working and telework shall be promoted. In such a case, work shall be organized with full respect for workers' right to choose or decline the option of teleworking and for their dignity, guaranteeing, in particular, their right to privacy and to the privacy of their home, the rights of the persons residing in their home, their right to work-life balance, and the guarantee of rights recognized by law and in collective agreements.

4. In digital transformation processes:
 - a) Workers have the right to the necessary training to enable them to adapt to the new working conditions.
 - b) Workers' legal representatives have the right to be informed with due notice of any technological changes that are going to be made.
5. Collective bargaining may establish additional guarantees of the rights and freedoms related to the processing of the workers' personal data and the safeguarding of digital rights in the labour sphere, as well as to channel the participation of workers in digital transformation processes and in determining the labour-related consequences that this might entail.
6. In all cases, the development and use of algorithms and any other equivalent procedures in the labour sphere shall require a data protection impact assessment that includes in its analysis the risks concerning ethical principles and the rights regarding artificial intelligence contained in this Charter, and in particular the gender perspective and the prohibition of any kind of discrimination whether direct or indirect, paying particular attention to work-life balance rights.
7. Workers shall be duly informed and trained with respect to the conditions of use of digital environments for work purposes with particular focus on those obligations aimed at guaranteeing the security and resilience of systems.



XX Companies in the digital environment

1. The right to free enterprise recognized in the Spanish Constitution is applicable to digital environments in the framework of the market economy, ensuring the defence and promotion of effective competition, preventing the abuse of a dominant position, and also guaranteeing the compatibility, security, transparency and equity of systems, devices and applications.
2. Pursuant to the pertinent legislation, the technological development and digital transformation of companies must respect people's digital rights.

3. The public authorities, in relation to digital goods and services markets and in the exercise of their authority in the international sphere, shall take into consideration the effects of their internal regulations on said goods and services on competition in those spheres.

4. In particular, the public authorities shall guarantee appropriate options of transparency, equity and means of lodging complaints for professional users and digital content companies in relation to online intermediary services. The same options shall provide guarantees to users of corporate websites in relation to online search engines.

5. The public authorities shall promote research, technological development and innovation aimed at the digital transformation of companies, digital entrepreneurship, and societal capacity-building, in order to generate national science and technology.

6. Conditions enabling the creation of sandboxes to develop new technology-based business models, applications, processes or products shall be implemented.



5

DIGITAL RIGHTS IN SPECIFIC ENVIRONMENTS

5. DIGITAL RIGHTS IN SPECIFIC ENVIRONMENTS

XXI

Right of access to data for public record, scientific or historical research, statistical, and innovation and development purposes

1. The use for the common good of public- and private-sector personal data is considered to be in the general interest.
2. In the framework defined by law and with full respect for the right to data protection referred to in section III, conditions shall be promoted to guarantee the reuse of information and the use of open and reusable data to foster public records, scientific and historical research, statistics, and innovation and development. Moreover, data donor programmes shall be promoted for these purposes in the public and private sectors.
3. In the case of personal data, national and EU data protection regulations and the corresponding sectoral legislation shall apply.
4. The undertaking of scientific and technological research that could have an impact on human beings must respect their dignity, and guarantee to all persons, without any discrimination, respect for their integrity and all other fundamental rights and freedoms with regard to the applications of biology and medicine. Research shall be governed by ethical principles and scientific integrity within the framework of the Spanish Constitution and the law.
5. The processing of personal data in the sphere of clinical and biomedical research shall be governed by sectoral legislation.
6. Research in areas such as neuroscience, genomics or bionics, among others, shall be conducted in application of the stipulations set forth in the numbers above and, in particular, shall guarantee respect for human dignity, free individual self-determination, privacy and integrity.
7. Personal and non-personal data repositories shall have the necessary governance to ensure that access thereto is made in the terms set forth in law, and under conditions of equality, security, traceability of research, and guarantee of the principles defined in the numbers above.

XXII

Right to sustainable technological development and to a sustainable digital environment

1. The development of technology and of digital environments must seek environmental sustainability and commitment to future generations. For this reason, the public authorities shall promote policies aimed at achieving such goals, paying particular attention to the sustainability, durability, reparability and backward compatibility of devices and systems, avoiding policies that involve complete replacement and planned obsolescence.
2. The public authorities shall promote energy efficiency in the digital environment, fostering the minimization of energy consumption and the use of clean and renewable energy.

XXIII

Right to health protection in the digital environment

1. Pursuant to all applicable laws and regulations, all people shall have access to digital health services in conditions of equality, accessibility and universality, as well as the freedom to opt for in-person healthcare services. Measures shall be adopted to guarantee this access and prevent the exclusion of at-risk groups.
2. The public authorities shall promote the contribution of research and technology to the achievement of preventive, predictive, personalized, participatory and population medicine.
3. The health system shall promote the development of information systems that ensure the interoperability, access to and portability of patients' information.
4. The use of digital diagnostic assistance systems, and in particular of AI-based processes, shall not limit medical professionals' right to reach a diagnosis based on their own criteria.
5. Pursuant to sectoral legislation, digital health environments shall guarantee patient autonomy, information security, transparency regarding the use of algorithms, accessibility, full respect for patients' fundamental rights, and in particular their right to know and their right not to know, and their right to give consent to the processing of their personal data for research purposes and to the transfer to third parties of said data, when consent is required.
6. The public authorities shall promote universal access to telemedicine and telecare systems, as well as to technological devices developed for therapeutic or healthcare purposes in adequate conditions of connectivity. Efforts shall be made to ensure that access to these devices when provided free of charge by a manufacturer or supplier cannot be subject to the surrender to said manufacturer or supplier of the patient's personal data.

XXIV

Creative freedom and right of access to culture in the digital environment

1. The right to creative freedom is applicable in the digital environment. Training programmes shall be promoted in the educational system, and efforts shall be made to guarantee creative staff's right to remuneration.
2. Access to culture in the digital environment must be guaranteed, pursuant to article 44.1 of the Spanish Constitution, as well as to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. In all cases, national and international provisions governing intellectual property, copyright and related rights shall be respected.
3. The public authorities shall facilitate digital access to the different artistic and cultural expressions in spaces owned by them or by third parties with which they collaborate directly or indirectly. In particular, digital access to public domain works shall be promoted.

XXV

Rights as regards artificial intelligence

1. A person-centred approach respecting the inalienable dignity of each individual must be ensured in the sphere of artificial intelligence, which, in addition, shall pursue the common good and guarantee compliance with the do-no-harm principle.
2. In the development and life cycle of artificial intelligence systems:
 - a) The right to non-discrimination must be guaranteed with regard to decisions, the use of data, and processes based on artificial intelligence, regardless of the origin, cause or nature of discrimination.

- b) Conditions of transparency, auditability, explicability, traceability, human oversight and governance shall be established. In all cases, the information provided must be accessible and comprehensible.
- c) Accessibility, usability and reliability must be guaranteed.

3. People have the right to request human oversight and intervention and to challenge automated decisions made by artificial intelligence systems when said decisions produce effects in their personal sphere and/or as regards their assets.

XXVI **Digital rights in the use of neurotechnologies**

1. The conditions, limits and safeguards for the implantation and use in humans of neurotechnologies may be regulated by law, for the purpose of:

- a) Guaranteeing each individual's control over their own identity.
- b) Guaranteeing individual self-determination, sovereignty, and freedom in decision-making.
- c) Safeguarding the confidentiality and security of data obtained or regarding their brain processes, and full control over them.
- d) Regulating the use of human-machine interfaces which could affect physical or psychological integrity.
- e) Ensuring that decisions and processes based on neurotechnologies are not conditioned by the provision of data, programs, or information that are incomplete, undesired, unknown, or biased.

2. To guarantee the dignity of the person, equality, and non-discrimination, in accordance, when appropriate, with international treaties and conventions, the law may regulate those situations and conditions for the use of neurotechnologies which, beyond their therapeutic application, are aimed at mental augmentation or the stimulation or enhancement of human capabilities.



6

GUARANTEES AND EFFECTIVENESS

6. GUARANTEES AND EFFECTIVENESS

XXVII

Guarantee of rights in digital environments

1. All persons have the right to administrative and judicial redress with regard to their rights in digital environments, pursuant to prevailing legislation.
2. Moreover, efforts shall be made to promote the guarantee of the rights recognized in this Charter within the framework of relations with the Justice Administration and, especially, of rights related to artificial intelligence, when AI is employed for the use or development of decision support systems or predictive justice tools.
3. Self-regulation and self-monitoring mechanisms and alternative dispute settlement procedures shall be promoted, making provision for the incentives necessary to ensure their use pursuant to prevailing legislation.
4. Assessment of prevailing administrative and procedural law shall be promoted, with a view to examining its appropriateness for the digital environment. Where necessary, reforms to guarantee digital rights shall be proposed.

XXVIII

Effectiveness

The Government shall adopt the appropriate provisions within the scope of its powers to guarantee the effectiveness of this Charter.



DIGITAL
RIGHTS

DIGITAL RIGHTS



1. Rights and freedoms in the digital environment
2. Right to identity in the digital environment
3. Right to data protection
4. Right to pseudonymity
5. Right not to be located and profiled
6. Right to cybersecurity
7. Right to digital heritage



8. Right to equality and to non-discrimination in the digital environment
9. Right to access the internet
10. Protection of minors in the digital environment
11. Universal accessibility in the digital environment
12. Access gaps in the digital environment



13. Right to net neutrality
14. Freedom of expression and freedom of information
15. Right to freely receive accurate information
16. Right to public participation by digital means
17. Right to digital education
18. Citizens' digital rights in their relations with the public administration

DIGITAL RIGHTS



19. Labour rights
20. Companies in the digital environment



21. Right of access to data for public record, scientific or historical research, statistical, and innovation and development purposes
22. Right to sustainable technological development and to a sustainable digital environment
23. Right to health protection in the digital environment
24. Creative freedom and right of access to culture in the digital environment
25. Rights as regards artificial intelligence
26. Digital rights in the use of neurotechnologies



27. Guarantee of rights in digital environments
28. Effectiveness

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D

DERECHOS DIGITALES



Plan de Recuperación,
Transformación y Resiliencia