The EDRi papers
EDITION 10

THE CHARTER OF DIGITAL RIGHTS

A guide for policy-makers

EDRi

European Digital Rights (EDRi) is a network of 36 civil and human rights organisations from 21 European countries. Our goal is to promote, protect and uphold fundamental human rights and freedoms in the digital environment.

During the European elections 2014, EDRi led an innovative campaign to raise the profile of digital rights issues. To this end, EDRi's members drafted a 10-point Charter of Digital Rights that candidates running for the European Parliament could promise to defend. Eighty-three of the candidates from 21 Member States were elected Members of the European Parliament. This booklet aims at giving further guidance and explanation of the ten principles of the Charter of Digital Rights to MEPs.

Booklet written by:
Kirsten Fiedler, Managing Director, EDRi
Joe McNamee, Executive Director, EDRi

With contributions by:
Maryant Fernández Pérez, Intern, EDRi
Alexandre Bénétreau, Intern, EDRi
Fukami, Chaos Computer Club (CCC)
Ben Wagner, Digitale Gesellschaft
Karsten Gerloff & Matthias Kirschner, Free Software Foundation Europe

Edited by: Joe McNamee, Executive Director, EDRi

Layout by: Heini Järvinen, Communications and Community Manager, EDRi

Supported in part by a grant from the Open Society Foundations,
and with financial support from Adessium, CENTR and .SE.

CONTENTS

point 01

I WILL PROMOTE TRANSPARENCY, ACCESS TO DOCUMENTS AND CITIZEN PARTICIPATION

I will support proposals that will serve to maximise transparency and enable citizens to participate in legislative processes of the EU, through better access to documents (including consultations) in all European languages. I will support measures that promote the availability of government data to citizens as well as the usage of open formats and open standards in government.

WHAT DOES THIS PRINCIPLE MEAN?

Access to documents is a fundamental right embedded in Article 42 of the EU Charter of Fundamental Rights, which covers documents issued by the European Council, the European Parliament and the Commission. The other institutions, agencies and bodies are bound by secondary and soft law to disclose documents under specific conditions.

WHY IS THIS IMPORTANT?

Transparency is a tool which allows citizens to hold both public and private entities accountable. At the same time, it enables each one of us to participate in the EU decision-making process. The greater the transparency, the greater the accountability. This in turn will increase citizen awareness, participation and support.

WHAT CAN YOU DO?

- Promote the reform of Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents in order to **strengthen transparency** within the EU, ensuring that **transparency and openness are the default** and not the exception.
- Support wider **accessibility to EU documents** (consultations included) in all official European languages, as well as increased **citizen participation** in the decision-making process.
- Encourage greater **availability of government data and documents**.
- Promote the use of open **formats** and **open standards**, to increase accessibility and innovative re-use.
- Campaign to ensure that official document registers are **easier to use** and include as many documents as possible by default. Exceptions should be restricted to the minimum extent possible.

point 02

I WILL SUPPORT DATA PROTECTION AND PRIVACY LEGISLATION

I will support legislation that promotes and protects the fundamental right of citizens to privacy. This includes empowering us to proactively decide if and how our personal data are processed. I will support measures aiming at ensuring adequate levels of transparency and security of data processing.

WHAT DOES THIS PRINCIPLE MEAN?

The right to a private life and data protection are recognised as fundamental rights by Articles 7 and 8 of the EU Charter. Personal data is any information which could directly or indirectly identify individuals, including sensitive data, such as health records.

WHY IS THIS IMPORTANT?

Privacy is a fundamental right and an enabler of other rights, such as freedom of communication and freedom of assembly. However, personal data is also of important economic value. As a consequence, policy makers and legislators are lobbied to lower the guarantees of the fundamental rights to privacy and data protection. Weakening rules will also weaken trust, which will undermine economic exploitation of personal data in the medium- to long-term.

The principles of the current legal framework need to be clarified in order to be properly enforceable in the digital environment. That is one of the reasons why Directive 95/46/EC on data protection and the free flow of personal data and the Framework decision 2008/977 on data protection in the field of police and judicial cooperation in criminal matters are being reformed. In order to achieve EU-wide harmonisation, the aforementioned Directive is being transformed into a Regulation and the aforementioned Decision into a Directive.

WHAT CAN YOU DO?

- Support efforts to ensure that the **ongoing data protection reforms are swiftly adopted**.
- Support **funding for** the development of privacy-enhancing technologies
- Promote legal instruments which provide **citizens** with the **right to decide** if and how data processing should be conducted.
- Support **transparency measures and security tools in data processing**.
- Support efforts to ensure that the competent **supervisory authorities will be fully independent** pursuant to the new reforms.

For more information on data protection, please see the EDRi paper on data protection at:
http://www.edri.org/files/paper06_datap.pdf

point 03

I WILL DEFEND UNRESTRICTED ACCESS TO THE INTERNET AND ONLINE SERVICES

I will support legislation that aims at removing any registration or any other restrictive requirements on the provision of Internet content or services. I will support legislative measures that ensure the protection of net neutrality, effective competition and liberalisation of radio spectrum.

WHAT DOES THIS PRINCIPLE MEAN?

The provision of content without restrictions or registration obligations means that users, creators and businesses do not need to ask for a licence, permission or authorisation before being able to offer content on the Internet. This is how the Internet has worked successfully until today, leading to the creation of platforms such as Wikipedia and YouTube.

Net neutrality means that all services and types of content, all senders and recipients of information are treated equally on the Internet. It is one of the most fundamental principles of the Internet and allows for the transmission and reception of information without discrimination, interference or restriction.

Radio spectrum is the part of the electromagnetic spectrum corresponding to radio frequencies. It is divided into bands which are small portions of the radio spectrum. Each band is dedicated to a specific use in order to avoid interference between different devices and technologies. The more spectrum that is available – and the more efficiently it is used – the greater the possibilities of new, innovative communications technologies. Despite this huge potential value, there are large bands of frequencies left unused (white spaces) and a great deal of wasteful use or non-use by both public and private entities. This means that there is still considerable room for enhanced efficiency and flexibility.

WHY IS IT IMPORTANT?

In the same way as we have freedom of assembly offline, we should also have this freedom in the virtual public space. Enforcing restrictive requirements on content online means restraining people's access not only to the public space but also to a potentially unlimited market and to a substantial part of their culture. Accessing and making available of content online is intrinsically linked to the freedom of expression (Article 11 of the Charter).

This has been highlighted in the General Comment No. 34 by the UN Human Rights Committee: "Journalism is a function shared by a wide range of actors, including [...] bloggers and others who engage in forms of self-publication in print, on the Internet or elsewhere, and general State systems of registration or licensing of journalists are incompatible with [Article 19] paragraph 3."

Net neutrality is the central reason for the success of the Internet. Net neutrality is crucial for innovation, competition and for the free flow of information. Most importantly, Net neutrality gives the Internet its ability to generate new means of exercising civil rights, such as the freedom of expression and the right to receive and impart information.

WHAT CAN YOU DO?

- **Net neutrality:** In **April 2014**, the European Parliament adopted a legislative resolution on the proposal for a **Regulation** concerning the European single market for electronic communications. It included amendments to preserve the open Internet, to safeguard network neutrality and to ban discrimination. In a **second reading**, it is **crucial** that the European Parliament **stands with its decision**.
- **Radio spectrum:** The resolution adopted in April 2014 by the European Parliament included text to encourage the liberalisation of unused 'white spaces' between licensed frequencies[1]. The **Commission should be further encouraged** to ensure that the Member States and their National Regulatory Authorities **guarantee the most efficient use and effective management of radio spectrum** and allow for **shared, non-commercial and unlicensed use of and access to frequencies**.

1 http://www.zdnet.com/ofcom-moots-white-space-tech-for-broadband-smart-grid-4010020996/

point 04

I WILL PROMOTE AN UPDATE OF COPYRIGHT LEGISLATION

I will advocate for freedom of communication and the right to participate in cultural life in the context of reform of copyright laws and access to knowledge. I will support initiatives to harmonise and mandate existing optional exceptions to copyright, in order to facilitate the (re)use of works for individuals. I will support reforms aimed at mandating copyright exceptions for public institutions and not-for-profit entities such as cultural, historical and educational institutions. I will support initiatives to ensure that publicly-funded works are made available in the public domain. I will not support legislation that expands the scope or duration of copyright or similar rights.

WHAT DOES THIS PRINCIPLE MEAN?

Copyright is a bundle of exclusive monopoly rights granted to the author(s) of a literary, musical, artistic or other creative work, protecting and enabling their control over their creation, with the intention of ensuring remuneration.

There are numerous exceptions to copyright. Such exceptions permit, for example, access to works in public libraries, access for people with disabilities, use of the works in schools, etc. These exceptions are necessary to uphold the right to participation in cultural life, the right to development, as well as the right to public participation.

WHY IS IT IMPORTANT?

Issues of copyright are important because they can cause inequality with respect to access to knowledge and cultural life. Everyone has a right to knowledge and access to culture. Furthermore, making copyright restrictions more flexible is crucial in the field of education and science. Implementations of copyright exceptions for public institutions and not-for-profit entities can take the form of open access mandates. For instance, open access journals which are online, such as freely accessible scholarly

journals, have no technical, financial or legal barriers. This is valuable for students and scholars alike. Shared knowledge accelerates the scientific process, as people build upon each other's input. Creativity is not only about inventing a new concept, it is also about combining already existing ideas.

Faced with the ease with which digital content can be copied in and between computers, it is important that the legal framework is sufficiently flexible that it can be easily understood and achieves legitimacy in the eyes of citizens. However, citizens cannot be convinced that the law is good and well meaning in theory if they see absurd, outdated and excessive copyright law in their day-to-day lives.

WHAT CAN YOU DO?

- Support measures that **look past restrictive (and failed) enforcement mechanisms**.
- Support a credible, comprehensive **reform of copyright exceptions and limitations.**
- Support a **reform of the IPR Enforcement Directive**, including a clear definition of "commercial scale" (as promised in the European Commission's "road map" to a reform) and a limitation to the access to personal data by private actors.

point 05

I WILL NOT SUPPORT BLANKET, UNCHECKED SURVEILLANCE MEASURES

I will not support any proposal for storage or surveillance of communications data that has not been subjected to credible, independent assessment for necessity and proportionality or that is not subject to regular review to ensure compliance with these criteria.

WHAT DOES THIS PRINCIPLE MEAN?

Today, states and companies have increasing technical capabilities to monitor global communications. They are collecting and storing ever increasing amounts of personal data. E-mails, SMS, tweets, searches, bookmarks, cookies, browsing history, video and audio streams can be recorded and linked to a specific person, allowing for detailed profiling including assumptions about sexual orientation, age, wealth, health, political views, social contacts, etc. The processing and re-use of citizens' data have become increasingly important from an economic perspective. Technical capacity, lack of sufficient protection of personal data and failed oversight mechanisms (particularly with regard to the use of the "national security" exception) have lead to global mass surveillance programmes by governments as revealed by Edward Snowden's documents.

WHY IS IT IMPORTANT?

Privacy is a human right: The Universal Declaration of Human Rights tells us that "no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence." Yet, it is obvious since the Snowden leaks that this "universal" right has been severely restricted. In order to justify surveillance and security measures, one recurring theme is brandished: terrorism as the greatest threat of our time. However, ten times more people were killed every day in road accidents in Europe in 2013[1] than were killed in the whole year as a result of terrorist attacks.[2] Moreover, the post 9/11 US efforts in matters of security by means of surveillance have been shown to be of limited value.[3]

WHAT CAN YOU DO?

- Vote against **disproportionate, unnecessary surveillance measures**, such as the proposed EU PNR system. The LIBE Committee voted against the Commission proposal on April 2013, the new Parliament should stand with the decision of the LIBE Committee.
- **Reject proposals for a new Data Retention Directive** for the suspicionless, untargeted collection and storing of telecommunications data.
- **Reject proposals for data transfer agreements to third countries** such as the proposed EU-Canada passenger name record agreement which aims at storing and transferring personal data of all EU citizens flying to Canada.
- Before adopting new security and surveillance measures, make sure that legislative proposals are **in line with the "Necessary and Proportionate Principles"**.

1 http://europa.eu/rapid/press-release_IP-13-236_en.htm

2 https://www.europol.europa.eu/content/eu-terrorism-situation-and-trend-report-te-sat-2014

3 Washington Times : NSA chief's admission of misleading numbers adds to Obama administration blunders http://www.washingtontimes.com/news/2013/oct/2/nsa-chief-figures-foiled-terror-plots-misleading/

4 International Principles on the Application of Human Rights to Communications Surveillance: https://en.necessaryandproportionate.org/text

point 06

I WILL PROMOTE ONLINE ANONYMITY AND ENCRYPTION

I will support legislative proposals to safeguard online anonymity and the right to use encryption. I will support measures to develop and promote, with legal obligations, where appropriate, the use of privacy-enhancing technologies.

WHAT DOES THIS PRINCIPLE MEAN?

Online anonymity means that a user is not identifiable online. Privacy enhancing techniques include using a pseudonym or an alias, surfing the web from communal places like libraries or public cafés, using a virtual private network (VPN), enabling the private mode of the web browser, etc. Encryption is the process of encoding information in such a way that only intended recipients can read it. It allows users to encode messages to achieve enhanced confidentiality and a greater level of online privacy. If you want to learn more about how encryption works, you can read our booklet "How the Internet works" and Tactical Tech's "Security in a box" guide.[1]

WHY IS IT IMPORTANT?

Encryption and online anonymity are key to online privacy. If you are sending sensitive information to your family or a friend via post, you might want to put your letter in an envelope instead of using a post card. Why then would you send personal or confidential information in an unprotected email or over unprotected networks?

In November 2013, a hacker was able to intercept emails and documents via the European Parliament's non-encrypted wireless network.[2] The ease with which an intruder was able to intercept the communications of a European institution highlighted that privacy and anonymity are vital for democratic discourse. Policy-makers and citizens need to be able to talk to each other without fear of being spied upon. In a functioning democracy, governments need to protect their institutions and their citizens against surveillance, foster the development of tools that protect citizens' privacy and promote the use of such tools.

WHAT CAN YOU DO?

- Support **funding** for the development and use of privacy-enhancing technologies.
- Help ensure that **free and open source software-based encryption technologies** come into standard usage in the EU institutions.
- Ask the Commission to propose legislation requiring all public bodies to offer citizens the opportunity to **communicate with them through channels secured by encryption technologies**.

1 EDRi's guide can be downloaded from http://edri.org/wp-content/uploads/2013/10/paper03_web_20120123.pdf

Tactical Technology guide: Security in a box https://securityinabox.org/en/chapter_7_4

2 MediaPart: 'It was child's play': how a hacker broke into MEPs' secret email accounts http://www.mediapart.fr/journal/international/211113/it-was-childs-play-how-hacker-broke-meps-secret-email-accounts

point 07

I WILL NOT SUPPORT PRIVATISED ENFORCEMENT OUTSIDE THE LAW

I will not support any measure or initiative that pre-empts judicial review of alleged online infringements by seeking to encourage, coerce or permit Internet service providers and other organisations to police or punish alleged online infringements except when the measures taken are imposed for a very short time, where the alleged infringement involves imminent danger to human beings and when the state in which the intermediary is based is required to take action to address the problem urgently.

WHAT DOES THIS PRINCIPLE MEAN?

The Internet has become a tool to promote freedom of expression, communication, association and collective action. However, the Internet can be also used to the detriment of our civil, political and fundamental rights.

Governments are increasingly using intermediaries to monitor online content. Likewise, policy makers and the Internet industry are entering into "voluntary" arrangements to enforce the law. As a result, due process of law is replaced with arbitrary decisions by private, often foreign, companies. The enjoyment of privacy rights or freedom of expression, communication and assembly can thereby be impaired and even nullified. Moreover, the sanctions imposed may fall outside the rule of law, undermining the presumption of innocence. However, Article 21 of the Treaty on the European Union (TEU) requires that the EU shall respect democracy and the rule of law in its international relations, while Article 52 of the Charter requires restrictions on fundamental rights to be based on law.

WHY IS IT IMPORTANT?

Whereas States have the obligation to respect international law, companies however are not parties to the treaties and are not bound by them. A big number of "voluntary"

measures are being implemented by US companies, which operate globally, imposing US law on Europe and its citizens. For instance, under 17 U.S.C. Section 512(c)(3) and 512(d)(3) of the US Digital Millennium Copyright Act (DMCA), service providers like Google delete content and de-index websites on a global scale when they receive take-down notices for copyright infringement - regardless of whether the publication in question is legal in Europe or not.

Energetic campaigns conducted by civil society in which EDRi was actively involved, led to the rejection of the Anti-Counterfeiting Trade Agreement (ACTA). ACTA aimed at introducing voluntary measures adopted by industry to enforce copyright without providing for any safeguards.

When implementing privatised enforcement mechanisms, governments often ignore free speech rights, legal certainty and competition concerns and do not take possible counterproductive effects into account when encouraging the adoption of such measures.

WHAT CAN YOU DO?

- **Reject all proposals** in favour of enforcement measures outside the rule of law to be implemented by private companies.

Please check our booklet on Human Rights and privatised law enforcement at **http://edri.org/wp-content/uploads/2014/02/EDRi_HumanRights_and_PrivLaw_web.pdf**

point 08

I WILL SUPPORT EXPORT CONTROLS OF SURVEILLANCE AND CENSORSHIP TECHNOLOGY

I will not support the proliferation, by means of export credit or other state guarantees, of European-made surveillance and censorship technology to authoritarian countries that do not respect the rule of law. I will fight to uphold the privacy of journalists, activists and citizens around the world, by supporting legislation that prevents oppressive regimes from acquiring such technology and services from any entity in the European Union.

WHAT DOES THIS PRINCIPLE MEAN?

The main idea behind export controls of so-called dual use goods sounds rather simple: Defining a list of goods which can easily be used in abusive and oppressive ways and regulate their export to third countries. While it is comparatively easy to regulate the trade in tangible objects, it becomes more difficult to regulate the trade in software and programmed objects. These challenges exist for a wide variety of dual-use goods and represent a major problem for regulators wishing to implement export controls.

There are several lists of dual-use goods at national, European and international level. These lists interact in many different ways, but the most important two in Europe are the EU Dual-Use Regulation 428/2009 and the "Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies". Both of these lists are essentially long agreed lists of technologies that are classified as dual-use by the EU or the Wassenaar agreement, which includes the EU and other countries such as the United States, Russia and Mexico.

The principle means that signatories will support updates and changes to European law and policy that limit the proliferation in surveillance and censorship technologies. Such changes may involve supporting the integration of changes made to the Wassenaar Arrangement lists into the EU Dual-Use Regulation, preventing trade guarantees and other European taxpayer funds from supporting the development

and trade in surveillance and censorship technologies and ensuring that Human Rights are meaningfully considered in all decisions related to the export of dual-use technologies.

WHY IS IT IMPORTANT?

Filtering tools and services made in Europe have become very popular among authoritarian regimes. As Internet controls grow worldwide, so too has the market for filtering tools and services. Their use is pervasive and increasingly opaque. This had led to numerous human rights violations across the world as a direct result of the use of these technologies. In France, two companies are currently being charged with complicity in torture in Libya and Syria because of exporting surveillance systems to these countries

At the same time it is important that such regulations are not overly restrictive. Legitimate security research should not be inhibited nor should the export of systems including cryptography be restricted. It is also important that improving the security of IT systems is not criminalised. This will require a consistent updating of the language of the Wassenaar Arrangement and the EU-Dual Use list to ensure that surveillance and censorship technology is 'caught' without such regulations harming legitimate security research.

WHAT CAN YOU DO?

- Push the European Commission to rapidly **implement existing Wassenaar Arrangement export control lists** passed in late 2013.
- Ask the European Commission and your national government what measures they have taken to ensure that **legitimate security research is not restricted through the updates in export controls**.
- In the development of the EU Dual-Use Regulation, push for a **strong human rights focus that** explicitly considers human rights as one of the key constraints on EU trade in dual-use goods.
- When you see news reports about harmful surveillance or censorship technologies, **ask the European Commission and your national government** if the export of these technologies is currently restricted in the EU dual use list and the Wassenaar Arrangement and if not, why not.
- Speak out **against the trade and development of surveillance and censorship technologies in Europe**.

point 09

I WILL DEFEND THE PRINCIPLE OF MULTISTAKEHOLDERISM

I will support free, open, bottom-up, and multi-stakeholder models of coordinating the Internet resources and standards - names, numbers, addresses etc. I will support measures which seek to ensure the capacity of representative civil society to participate in multi-stakeholder forums. I will oppose any attempts by corporate, governmental or intergovernmental agencies to take control of internet governance.

WHAT DOES THIS PRINCIPLE MEAN?

The principle of multistakeholderism refers to a free, open, bottom-up model of internet governance, which shall include the input of governments, international and regional organisations, civil society, corporations, the technology industry, scholars and individual Internet users.

This model was first discussed in the 90s when the Internet Corporation for Assigned Names and Numbers (ICANN) was set up. It was presented as an alternative decision-making process to the one proposed by the Internet Society (ISOC) and the International Telecommunication Union (ITU).

WHY IS IT IMPORTANT?

The principle of multistakeholderism is important because it theoretically allows all stakeholders to participate in different forums to coordinate Internet policies, resources and standards, such as names, numbers or addresses. In practice, however, not all parties are equally represented. Civil society is often severely under represented, or even misrepresented. However, the involvement of civil society is essential to ensure that decisions are truly representative and reflect the views of the full range of stakeholders in the global Internet.

WHAT CAN YOU DO?

Support measures to ensure that civil society has the opportunity and the capacity to be fully and meaningfully involved in governance processes and to oppose to any attempt made by corporations, governments or intergovernmental agencies to take control of internet governance. It will be of vital importance to ensure that internet governance institutions comply with the following criteria:

- **Openness:** The right of any person to participate in governance processes dealing with issues of interest or concern to them.
- **Transparency:** Documentation and process documents should be freely accessible, and active facilitation should be used to make sure that remote participants have a voice in meetings.
- **Accessibility:** Efforts are needed to make internet governance decision-shaping and -making spaces accessible, as well as open, participative, inclusive and transparent.
- **Effective participation:** The right to participate and the open nature of multistakeholder processes do not by themselves guarantee the effective participation of relevant stakeholders. Linguistic barriers and cultural differences need to be addressed as well.
- **Diversity:** A diversity of viewpoints and interests should be taken into consideration, ensuring full deliberation and representativeness.
- **Agenda setting:** Open agenda-setting procedures are crucial, including open calls for workshops.
- **Clear definition of the "respective roles" and procedures:** The roles of all stakeholders (see for ex. the role of governments in internet governance fora but also the role of the European Commission in diverse dialogues, expert groups and industry coalitions) and procedures need to be clearly defined.
- **"Bottom up"** policy development processes are an essential prerequisite to multistakeholder arrangements.
- **Equal footing:** The principle of equal footing of participants is important for the agenda-setting and issue-shaping phases of discussions and needs to be enforced at every stage. Industry lobbyists have vastly more resources to employ a large number of people to write extensive policy recommendations destined for political participants.
- **Open consultations:** Processes for consultation should be open and facilitated through physical meetings and calls for online comments.

point 10

I WILL PROMOTE FREE SOFTWARE (OPEN SOURCE SOFTWARE)

I will support measures allowing or promoting widespread use of Free Software (Open Source Software). This includes government and public entities, in particular entities that receive funding from the EU budget.

WHAT DOES THIS PRINCIPLE MEAN?

Free Software (or "open source software") means computer programs which anyone can use, study, share and improve. "Free software" is therefore a matter of freedom, not price. Free software is the core of the Internet and provides the foundation for most successful businesses in the information technology industry. Only with free software can users fully understand what a computer program actually does, which data it sends where, and how it generates its results.

WHY IS IT IMPORTANT?

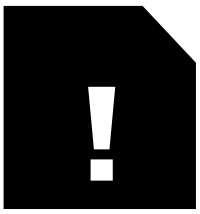
There are three main reasons why the use of free software is crucial: It ensures the respect of consumer rights, gives citizens full control of their electronic devices and makes the infrastructures of our democracies more resilient.

We increasingly rely on computers for most functions of our daily lives, whether they are smartphones, cars or thermostats. Citizens need to be in full control of how these devices operate. In particular, citizens need to have the freedom to modify and exchange the software running on these devices. They must also be able to control what data these devices gather, and with whom this data is shared.

Public bodies are a crucial part of the infrastructure of democratic states. Since are financed through taxes, they must make sure to spend these funds wisely. If organisations are locked into any particular vendor's offerings, they will end up paying monopoly prices for software and related services.

WHAT CAN YOU DO?

- Ask the Commission to propose legislation requiring that all publicly financed software, including applications for mobile devices, to be **made publicly available under free software licenses**.
- Ask the Commission to propose legislation **requiring public bodies to include exit costs** (costs for ceasing to use a particular technology solution) into the total cost of any software or hosting solution they acquire.
- Ask the Commission to propose legislation strengthening consumers rights, by requiring that consumers are enabled to **modify and exchange the software on any computing device they buy** or otherwise have permanent possession of.
- Ask the Commission to propose legislation to ensure that consumers can make use of digital goods which they have acquired within the full scope of copyright exceptions and limitations.
- Ensure that **free software-based encryption technologies come into standard usage within the Parliament, as well as the Commission and the Council**.
- Ask the Commission to propose legislation requiring all public bodies to offer citizens the **opportunity to communicate with them through channels secured by encryption technologies**.
- Ask European funding agencies, and in particular the European Commission, to focus **funding** on the development of distributed communication platforms based on Free Software and Open Standards.



DEFENDING DEMOCRACY AND THE RULE OF LAW

When we drafted the Charter of Digital Rights, we decided to include one overarching point as it affects all ten principles:

I will oppose any measure that removes the power to make decisions on matters that affect European citizen's fundamental rights from the judiciary or democratically-elected policymakers, including, but not limited to, any of the points below.

WHAT DOES THIS PRINCIPLE MEAN?

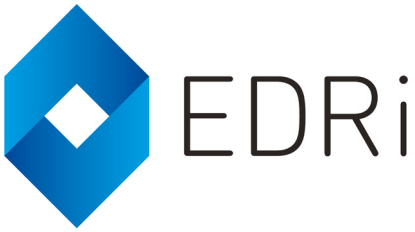
There are increasing numbers of proposals which seek to move important policy decisions out of democratic decision-making processes. This ranges from the efforts to put the regulation of free speech on the Internet into the hands of private and often foreign companies to the promotion of "investor-state dispute resolution" (ISDS). The inclusion of ISDS in trade agreements would allow corporations to threaten legislators with legal action, if they are opposed to draft legislation and use international tribunals, that would have a higher status than constitutional or other courts.

WHY IS IT IMPORTANT?

The European Union is a union whose foundations are democracy and the rule of law. Moving regulation of free speech into the hands of private companies or international tribunals that would have the potential to undermine the fundamental rights of European citizens is profoundly antithetical to European values.

WHAT CAN YOU DO?

- Support the **rule of law and democratic decision-making**.
- Oppose measures to put regulation of our freedoms **into the hands of private companies**.
- Oppose the use of **investor-state dispute resolution** in European trade agreements.



EDRI.ORG/PAPERS

European Digital Rights | Rue Belliard 20, 1040 Brussels | www.edri.org | @EDRi_org | tel. +32 (0) 2 274 25 70