

The Digital Human Rights

The Portuguese Charter for Human Rights in the Digital Age

What is the Portuguese Charter on Human Rights in the Digital Age?

The Portuguese Charter on Human Rights in the Digital Era is a diploma approved in the Portuguese Parliament through Law no. 27/2021 of May 17th, as part of Portugal's participation in the global process of transformation of the internet, entering into force 60 days after its publication.

Why was the Portuguese Charter on Human Rights in the Digital Age created?

The Portuguese Charter on Human Rights in the Digital Era was created with the purpose of protecting and educating citizens when they act in the digital environment.

What is the purpose of the Portuguese Charter on Human Rights in the Digital Era?

At a time when the digital era is assuming an exponential relevance, largely due to the Covid-19 Pandemic, the Portuguese Charter on Human Rights in the Digital Era was created with the purpose of safeguarding a myriad of rights, freedoms and guarantees, in order to protect the rights of citizens who use the Internet as a space for expression and promotion, as well as to include them in the digital ecosystem.

The Portuguese Charter on Human Rights in the Digital Age aims to transform the Internet into "an instrument for the achievement of freedom, equality and social justice and a space for the promotion, protection and free exercise of human rights, with a view to social inclusion in the digital environment," noting that "the standards that enshrine and protect rights, freedoms and guarantees in the Portuguese legal system are fully applicable in cyberspace".

This instrument seeks to promote digital education for citizens and to ensure the democratization of the digital environment as a public space, based on the respect for fundamental rights.

What are the digital rights of the Portuguese Charter for Human Rights in the Digital Age?

They are the fundamental human rights in the digital age and in digital environments.

Given that technological and digital evolution are essential for the social, economic and democratic development of our society, it is necessary to ensure that it takes place in accordance with the Constitution, with the democratic rule of law and with citizens' rights, freedoms and guarantees.

What are the digital human rights determined in the Portuguese Charter of Human Rights in the Digital Age?

The rights of citizens in cyberspace are the following:

- Right of access to the digital environment
- Freedom of expression and creation in the digital environment
- Right to protection against misinformation
- Rights of assembly, demonstration, association, and participation in the digital environment
- Right to privacy in the digital environment and data protection
- Use of artificial intelligence and robots
- Right to Internet neutrality
- Right to the development of digital skills, i.e., right to digital education
- Right to identity and other personal rights
- Right to be forgotten
- Rights on digital platforms
- Right to cybersecurity
- Right to creative freedom and content protection
- Right to protection against abusive geolocation
- Right to digital will
- Digital rights vis-à-vis the Public Administration
- Children's rights
- Right to a digital class action

How is the right to freedom of expression and creation in the digital environment established?

These are rights according to which "everyone has the right to express and disseminate their thoughts, as well as to create, search, obtain and share or disseminate information and opinions in a digital environment, freely, without any type or form of censorship, without prejudice to the provisions of the law regarding illegal conduct".

The application of this law to the creation of original literary, scientific or artistic works, as well as those equated with originals, and the services of performers, producers of phonograms and videograms, and broadcasting organizations enjoy special protection against violations of the provisions of the Copyright and Related Rights Code, approved by Decree-Law No. 63/85, of March 14, taking place in a digital environment.

And how is the right to protection against disinformation laid down?

The right to protection against disinformation determines that "any demonstrably false or misleading content created, presented and disseminated to obtain economic advantage or to deliberately deceive the public, which is likely to cause harm, constitutes disinformation.

What is the right to digital privacy and data protection?

The right to privacy in the digital environment states that "everyone has the right to communicate electronically using encryption and other forms of identity protection or that prevent the collection of personal data, especially to exercise civil and political freedoms without censorship or discrimination."

The right to the protection of personal data, "including control over its collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, comparison or interconnection, restriction, erasure or destruction," is guaranteed under the applicable laws.

How is the right to freedom of creation and protection of content defined?

The right to freedom of creation and protection of content means that everyone has the right to free intellectual, artistic, scientific, and technical creation, and to benefit, in the digital environment, from the protection legally granted to works, performances, productions, and other content protected by intellectual property rights.

What guarantees the right to protection against abusive geolocation?

The right to protection against abusive geolocation aims to ensure protection against the unlawful collection and processing of information about a person's location when making a call obtained from any equipment, except with their consent or legal authorization.

What is the right to a digital will?

The right to a digital will is the right whereby everyone can express their will in advance regarding the disposal of their content and personal data, namely those contained in their profiles and personal accounts on digital platforms, in accordance with the contractual conditions of service provision and applicable law, including regarding testamentary capacity.

What does the Portuguese Charter of Human Rights in the Digital Age foresee regarding artificial intelligence and robots?

It states that the use of artificial intelligence and robots "should be guided by the respect for fundamental rights, ensuring a fair balance between the principles of explainability, security, transparency and accountability and avoiding any prejudice and forms of discrimination".

How can the citizen ensure the defense of the rights determined in the Portuguese Charter of Human Rights in the Digital Age?

It is about the right to digital popular action. The Portuguese Charter on Human Rights in the Digital Era provides for recourse to digital popular action, so that the citizen can ensure the defense of his rights by reference to the legislation on popular action (Law no. 83/95, of August 31st), adjusted to the reality of the digital environment.