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NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. Cion doc.:	5783/22
Subject:	European Declaration on Digital Rights and Principles for the Digital Decade - Preparation for the Approval

I. INTRODUCTION

1. On 26 January 2022 the Commission proposed a “European Declaration on digital rights and principles for the digital decade” (‘Declaration’), building on the Communication “Digital compass 2030: a European way forward for the digital decade” of 9 March 2021.
2. The Working Party on Telecommunications and Information Society (‘WP Telecom’) began examining the proposal at its meeting of 14 February 2022.
3. Three compromise proposals were drafted under the French Presidency and, on 11 May 2022, Coreper agreed on a mandate to start interinstitutional negotiations with the European Parliament (EP) and the Commission.

4. The first trilateral meeting on the Declaration, aimed at opening negotiations and having the three institutions outline their respective positions, was held under the Czech Presidency on 6 September 2022 at EP premises. On the occasion, the technical level was mandated to work on the entire proposal, with a view to facilitating a swift agreement between the three signing institutions.
5. Twelve technical discussions have taken place in total. These meetings were held in a collaborative atmosphere among the negotiating teams, with equal determination on the EP and Commission side to positively conclude on this file.
6. The second trilateral meeting took place on 14 November at Council premises, with a view to finding a compromise on the main outstanding political issues. As per the debrief provided at the Coreper meeting of 16 November, the Czech Presidency is pleased to announce that, on the occasion of this second trilateral meeting, a political agreement on the Declaration was found with the EP and the Commission.

II. MAIN ELEMENTS OF THE COMPROMISE

7. Provided below is an overview of the agreement found on the outstanding issues:
 - All three institutions agreed on the appropriate wording of the commitments on promotion of open technologies, targeted advertising and protection of both personal and non-personal data.
 - EP and Commission could accept to include universal human rights in the chapeau of the Declaration. The placement agreed seems appropriate since, as requested by the delegations, it gives prominence to this element, especially in view of the Declaration's international outreach.
 - Regarding the commitment on workers' rights in Chapter II, the Council's proposal was eventually retained. In the final text of the commitment, the institutions commit to protect the workers against "unlawful and unjustified surveillance".
 - EP and Council versions were combined with regard to the protection against pervasive tracking in Chapter V, which resulted in keeping both "unlawful" and "pervasive" as qualifiers.

- Concerning the commitment on forced labour in Chapter VI, it can be argued that the social aspect of sustainability equally fits in the context of this Declaration. Since negotiations on the new legislative proposal on forced labour are yet to start, a more general commitment of “combating forced labour” was eventually agreed.
- The EP’s and the Council's positions on AI at the workplace were rather divergent before the meeting and finding a common understanding on this point was not straightforward. Nevertheless, the Presidency succeeded in ensuring an alignment with ongoing negotiations on the AI Act as well as with the Directive on safety and health at work. The compromise resulted in two separate paragraphs – it should be noted that the split of the commitment is solely intended to improve the readability of the text. The first paragraph is focusing on the use of AI in the working environment, following a risk-based approach. The second paragraph concerns human oversight in important decisions affecting workers. The transparency and information obligation about interacting with AI systems is included.
- Based on this common understanding, it was possible to finalise the negotiations on this file. The final compromise between EP, Commission and Council is a very balanced one and will promote a long-term engagement both with EU citizens and with the EU's international partners.

III. CONCLUSION

8. In light of the above, the Permanent Representatives Committee is invited to:

- examine and approve the text set out in the Annex to this note, with a view to allowing for its approval by the Council;
- recommend that the Council, at the meeting of the TTE (Telecommunications) Council on 6 December 2022, approves the proposal for a “European Declaration on digital rights and principles for the digital decade”.

European Declaration on Digital Rights and Principles for the Digital Decade

The European Parliament, the Council and the Commission solemnly proclaim the following joint Declaration on Digital Rights and Principles for the Digital Decade

Preamble

Whereas:

- (1) The European Union (EU) is a ‘union of values’, as enshrined in Article 2 of the Treaty on European Union, founded on respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. Moreover according to the Charter of fundamental rights of the European Union, the EU is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity. The Charter also reaffirms the rights as they result, in particular, from international obligations common to the Member States.
- (2) The digital transformation affects every aspect of people’s lives. It offers significant opportunities for a better quality of life, economic growth and sustainability.
- (3) The digital transformation also presents challenges for our democratic societies, our economies and for individuals. With the acceleration of the digital transformation, the time has come for the EU to spell out how its values and fundamental rights applicable offline should be applied in the digital environment. The digital transformation should not entail the regression of rights. What is illegal offline, is illegal online. This Declaration is without prejudice to offline policies, such as having access to key public services offline.
- (4) The Parliament has made several calls for the establishment of ethical principles guiding the EU’s approach to the digital transformation, as well as ensuring the full compliance with fundamental rights such as data protection, the right to privacy, non-discrimination and gender equality, and with principles such as consumer protection, technological and net neutrality, trustworthiness and inclusiveness. It has also called for a strengthened

protection of users' rights in the digital environment, as well as workers' rights and the right to disconnect¹.

- (5) Building on previous initiatives such as the “Tallinn Declaration on eGovernment” and the “Berlin Declaration on Digital Society and Value-based Digital Government”, the Member States have called, through the “Lisbon Declaration – Digital Democracy with a Purpose”, for a model of digital transformation that strengthens the human dimension of the digital ecosystem with the Digital Single Market at its core. Member States have called for a model of digital transformation that ensures that technology assists in addressing the need to take climate action and protect the environment.
- (6) The EU vision for digital transformation puts people at the centre, empowers individuals and fosters innovative businesses. The Decision on the “Digital Decade Policy Programme 2030” sets out the concrete digital targets based on four cardinal points (digital skills, digital infrastructures, digitalisation of businesses and of public services). The EU way for the digital transformation of our societies and economy encompasses in particular digital sovereignty in an open manner, respect of fundamental rights, rule of law and democracy, inclusion, accessibility, equality, sustainability, resilience, security, improving quality of life, the availability of services and respect of everyone's rights and aspirations. It should contribute to a dynamic, resource efficient, and fair economy and society in the EU.
- (7) This Declaration spells out shared political intentions and commitments, and recalls the most relevant rights in the context of the digital transformation. The Declaration should also guide policy makers when reflecting on their vision of the digital transformation: putting people at the centre of the digital transformation; supporting solidarity and inclusion, through connectivity, digital education, training and skills, fair and just working conditions as well as access to digital public services online; restating the importance of freedom of choice in interactions with algorithms and artificial intelligence systems and in a fair digital environment; fostering participation in the digital public space; increasing safety, security and empowerment in the digital environment, in particular for children and young people, while ensuring privacy and individual control over data; promoting sustainability. The various chapters of this Declaration should form a holistic reference framework and should not be read in isolation.
- (8) This Declaration should also serve as a reference point for businesses and other relevant actors when developing and deploying new technologies. Promoting research and innovation is important in this respect. Special attention should also be given to SMEs and start-ups.
- (9) The democratic functioning of the digital society and economy should be further strengthened, in full respect of the rule of law, effective remedies and law enforcement. This Declaration does not affect lawful limits on the exercise of rights, in order to reconcile them with the exercise of other rights, or necessary and proportionate restrictions in the public interest.
- (10) This Declaration notably builds on primary EU law, in particular in the Treaty on European Union, the Treaty on the Functioning of the European Union, the Charter of

¹ 2020/2216(INI); 2020/2018(INL); 2020/2019(INL); 2020/2022(INI); 2020/2012(INL); 2020/2014(INL); 2020/2015 (INI); 2020/2017 (INI); 2019/2186(INI); 2019/2181(INL); 2022/2266 (INI)

Fundamental Rights of the European Union, as well as on secondary law and the case-law of the Court of Justice of the European Union. It also builds on and complements the European Pillar of Social Rights. It has a declaratory nature and, as such, does not affect the content of legal rules or their application.

- (11) The EU should promote the Declaration in its relations with other international organisations and third countries, including by reflecting these rights and principles in its trade relations, with the ambition that the principles guide international partners towards a digital transformation that puts people and their universal human rights at the centre throughout the world. The Declaration should notably serve as a reference for activities in the context of international organisations, such as the realisation of the Agenda 2030 for Sustainable Development, as well as the multistakeholder approach to Internet governance.
- (12) The promotion and implementation of the Declaration is a shared political commitment and responsibility of the EU and its Member States within their respective competences and in full compliance with EU law. The Commission will regularly report to the Parliament and the Council on the progress made. The Member States and Commission should take into account the digital principles and rights as laid down in this Declaration when cooperating in view of achieving the general objectives as set out in the Decision on the “Digital Decade Policy Programme 2030”.

Declaration on Digital Rights and Principles for the Digital Decade

We aim to promote a European way for the digital transformation, putting people at the centre, built on European values and EU fundamental rights, reaffirming universal human rights, and benefiting all individuals, businesses, and society as a whole.

We therefore declare:

Chapter I: Putting people at the centre of the digital transformation

1. People are at the centre of the digital transformation in the European Union. Technology should serve and benefit all people living in the EU and empower them to pursue their aspirations, in full security and respect of their fundamental rights.

We commit to:

- a) strengthening the democratic framework for a digital transformation that benefits everyone and improves the lives of all people living in the EU;
- b) taking necessary measures to ensure that the values of the EU and the rights of individuals as recognised by EU law are respected online as well as offline;
- c) fostering and ensuring responsible and diligent action by all actors, public and private, in the digital environment;
- d) actively promoting this vision of the digital transformation, also in our international relations.

Chapter II: Solidarity and inclusion

2. Technology should be used to unite, and not divide, people. The digital transformation should contribute to a fair and inclusive society and economy in the EU.

We commit to:

- a) making sure that the design, development, deployment and use of technological solutions respect fundamental rights, enable their exercise and promote solidarity and inclusion;
- b) a digital transformation that leaves nobody behind. It should benefit everyone, achieve gender balance, and include notably elderly people, people living in rural areas, persons with disabilities, or marginalised, vulnerable or disenfranchised people and those who act on their behalf. It should also promote cultural and linguistic diversity;
- c) developing adequate frameworks so that all market actors benefiting from the digital transformation assume their social responsibilities and make a fair and proportionate contribution to the costs of public goods, services and infrastructures, for the benefit of all people living in the EU.

Connectivity

3. Everyone, everywhere in the EU, should have access to affordable and high-speed digital connectivity.

We commit to:

- a) ensuring access to high-quality connectivity, with available Internet access, for everyone wherever in the EU, including for those with low income;
- b) protecting and promoting a neutral and open Internet where content, services, and applications are not unjustifiably blocked or degraded.

Digital education, training and skills

4. Everyone has the right to education, training and lifelong learning and should be able to acquire all basic and advanced digital skills.

We commit to:

- a) promoting high-quality digital education and training, including with a view to bridging the digital gender divide;
- b) supporting efforts that allow all learners and teachers to acquire and share the necessary digital skills and competences, including media literacy, and critical thinking, to take an active part in the economy, society, and in democratic processes;
- c) promoting and supporting efforts to equip all education and training institutions with digital connectivity, infrastructure and tools;
- d) giving everyone the possibility to adjust to changes brought by the digitalisation of work through up-skilling and re-skilling.

Fair and just working conditions

5. Everyone has the right to fair, just, healthy and safe working conditions and appropriate protection in the digital environment as in the physical work place, regardless of their employment status, modality or duration.
6. Trade unions and employers' organisations play an important role in the digital transformation, particularly in relation to the definition of fair and just working conditions, including with regard to the use of digital tools at work.

We commit to:

- a) ensuring that everyone is able to disconnect and benefit from safeguards for work-life balance in a digital environment;
- b) ensuring that, in the working environment, digital tools do not put workers' physical and mental health at risk in any way;
- c) ensuring respect for workers' fundamental rights in the digital environment, including their right to privacy and the right to associate, right of collective bargaining and action, as well as protection against unlawful and unjustified surveillance;
- d) ensuring that the use of artificial intelligence in the workplace is transparent and follows a risk-based approach and that corresponding prevention measures are taken to maintain a safe and healthy working environment;
- e) ensuring in particular that human oversight is guaranteed in important decisions affecting workers, and that workers are generally informed that they are interacting with artificial intelligence systems.

Digital public services online

7. Everyone should have online access to key public services in the EU. Nobody is to be asked to provide data more often than necessary when accessing and using digital public services.

We commit to:

- a) ensuring that people living in the EU are offered the possibility to use an accessible, voluntary, secure and trusted digital identity that gives access to a broad range of online services;
- b) ensuring wide accessibility and re-use of public sector information;
- c) facilitating and supporting seamless, secure and interoperable access across the EU to digital public services designed to meet people's needs in an effective manner, including and in particular digital health and care services, notably access to electronic health records.

Chapter III: Freedom of choice

Interactions with algorithms and artificial intelligence systems

8. Artificial intelligence should serve as a tool for people, with the ultimate aim of increasing human well-being.
9. Everyone should be empowered to benefit from the advantages of algorithmic and artificial intelligence systems including by making their own, informed choices in the digital environment, while being protected against risks and harm to one's health, safety and fundamental rights.

We commit to:

- a) promoting human-centric, trustworthy and ethical artificial intelligence systems throughout their development, deployment and use, in line with EU values;
- b) ensuring an adequate level of transparency about the use of algorithms and artificial intelligence, and that people are empowered to use them and are informed when interacting with them;
- c) ensuring that algorithmic systems are based on adequate datasets to avoid discrimination and enable human supervision of all outcomes affecting people's safety and fundamental rights;
- d) ensuring that technologies such as artificial intelligence are not used to pre-empt people's choices, for example regarding health, education, employment, and their private life;
- e) providing for safeguards and taking appropriate action, including by promoting trustworthy standards, to ensure that artificial intelligence and digital systems are, at all times, safe and used in full respect of fundamental rights;
- f) taking measures to ensure that research in artificial intelligence respects the highest ethical standards and relevant EU law.

A fair digital environment

10. Everyone should be able to effectively and freely choose which online services to use, based on objective, transparent, easily accessible and reliable information.
11. Everyone should have the possibility to compete fairly and innovate in the digital environment. This should also benefit businesses, including SMEs.

We commit to:

- a) ensuring a safe and secure digital environment based on fair competition, where fundamental rights are protected, users rights and consumer protection in the Digital Single Market are ensured, and responsibilities of platforms, especially large players and gatekeepers, are well defined;
- b) promoting interoperability, transparency, open technologies and standards as a way to further strengthen trust in technology as well as consumers' ability to make autonomous and informed choices.

Chapter IV: Participation in the digital public space

12. Everyone should have access to a trustworthy, diverse and multilingual digital environment. Access to diverse content contributes to a pluralistic public debate and effective participation in democracy in a non-discriminatory manner.
13. Everyone has the right to freedom of expression and information, as well as freedom of assembly and of association in the digital environment.
14. Everyone should be able to access information on who owns or controls the media services they are using.
15. Online platforms, particularly very large online platforms, should support free democratic debate online. Given the role of their services in shaping public opinion and discourse, very large online platforms should mitigate the risks stemming from the functioning and use of their services, including in relation to misinformation and disinformation campaigns, and protect freedom of expression.

We commit to:

- a) continuing safeguarding all fundamental rights online, notably the freedom of expression and information, including media freedom and pluralism;
- b) supporting the development and best use of digital technologies to stimulate people's engagement and democratic participation;
- c) taking proportionate measures to tackle all forms of illegal content, in full respect of fundamental rights, including the right to freedom of expression and information, and without establishing any general monitoring obligations or censorship;
- d) creating a digital environment where people are protected against disinformation and information manipulation and other forms of harmful content, including harassment and gender-based violence;
- e) supporting effective access to digital content reflecting the cultural and linguistic diversity in the EU;
- f) empowering individuals to make freely given, specific choices and limiting the exploitation of vulnerabilities and biases, namely through targeted advertising.

Chapter V: Safety, security and empowerment

A protected, safe and secure digital environment

16. Everyone should have access to digital technologies, products and services that are by design safe, secure, and privacy-protective, resulting in a high level of confidentiality, integrity, availability and authenticity of the information processed.

We commit to:

- a) taking further measures to promote the traceability of products and make sure only products which are safe and compliant with EU legislation are offered on the Digital Single Market;
- b) protecting the interests of people, businesses and public institutions against cybersecurity risks and cybercrime including data breaches and identity theft or manipulation. This includes cybersecurity requirements for connected products placed on the single market;
- c) countering and holding accountable those that seek to undermine, within the EU, security online and the integrity of the digital environment or that promote violence and hatred through digital means.

Privacy and individual control over data

17. Everyone has the right to privacy and to the protection of their personal data. The latter right includes the control by individuals on how their personal data is used and with whom it is shared.
18. Everyone has the right to the confidentiality of their communications and the information on their electronic devices, and not to be subjected to unlawful online surveillance, unlawful pervasive tracking or interception measures.
19. Everyone should be able to determine their digital legacy, and decide what happens with their personal accounts and information that concerns them after their death.

We commit to:

- a) ensuring that everyone has effective control of their personal and non-personal data in line with EU data protection rules and relevant EU law;
- b) ensuring effectively the possibility for individuals to easily move their personal and non-personal data between different digital services in line with portability rights;
- c) effectively protecting communications from unauthorised third party access;
- d) prohibiting unlawful identification as well as unlawful retention of activity records.

Protection and empowerment of children and young people in the digital environment

20. Children and young people should be empowered to make safe and informed choices and express their creativity in the digital environment.
21. Age-appropriate materials and services should improve experiences, well-being and participation of children and young people in the digital environment.
22. Specific attention should be paid to the right of children and young people to be protected from all crimes, committed via or facilitated through digital technologies.

We commit to:

- a) providing opportunities to all children and young people to acquire the necessary skills and competences, including media literacy and critical thinking, in order to navigate and engage in the digital environment actively, safely and to make informed choices;
- b) promoting positive experiences for children and young people in an age-appropriate and safe digital environment;
- c) protecting all children and young people against harmful and illegal content, exploitation, manipulation and abuse online, and preventing the digital space from being used to commit or facilitate crimes;
- d) protecting all children and young people against illegal tracking, profiling and targeting, in particular for commercial purposes;
- e) involving children and young people in the development of digital policies that concern them.

Chapter VI: Sustainability

23. To avoid significant harm to the environment, and to promote a circular economy, digital products and services should be designed, produced, used, repaired, recycled and disposed of in a way that mitigates their negative impact on the environment and on society and avoids premature obsolescence.
24. Everyone should have access to accurate, easy-to-understand information on the environmental impact and energy consumption of digital products and services, their reparability and lifetime, allowing them to make responsible choices.

We commit to:

- a) supporting the development and use of sustainable digital technologies that have minimal negative environmental and social impact;
- b) incentivising sustainable consumer choices and business models, and fostering sustainable and responsible corporate behaviour throughout global value chains of digital products and services, including with a view to combating forced labour;
- c) promoting the development, deployment and active use of innovative digital technologies with a positive impact on the environment and climate, in order to accelerate the green transition;
- d) promoting sustainability standards and labels for digital products and services.