THE DANISH INSTITUTE FOR HUMAN RIGHTS

COUNCIL OF EUROPE STANDARDS ON HUMAN RIGHTS AND TECHNOLOGY

Since 1981, the Council of Europe has drafted conventions and numerous declarations and recommendations on how states can ensure the protection of human rights in a digital age. Among other things, the Council of Europe has dealt with social media, search engines, artificial intelligence, algorithms, big data, monitoring and the rights of internet users.

DATA PROTECTION

In 1981, the Council of Europe adopted the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. The Convention was the first legally binding international instrument to protect the individual from misuse of personal data. In 2018, the convention was modernised to reflect the new EU Data Protection Regulation (GDPR).

FREEDOM OF EXPRESSION AND INFORMATION

The Council of Europe has time and again emphasised that freedom of expression must be protected online. Everyone should have the freedom to express ideas and opinions on the internet, and to seek and receive information, regardless of frontiers. Any interference in this right must follow human rights standards of legality, legitimacy and proportionality. Blocking and filtering may only be used in narrowly defined situations that target illegal content and there must be effective supervision of such measures. It is the duty of the state to protect the individual's right to freedom of expression as well as provide them with an effective means of remedy.

TRACKING AND MONITORING

In 2013, the Council of Europe adopted a recommendation on the risks arising from digital tracking and monitoring. Here, the Council of Europe stresses that legislation authorising a broad surveillance of citizens can constitute a violation of the right to privacy. At the same time, it may lead to fewer citizens wanting to participate in the democratic life of society – a so-called "chilling effect" – and thus have a negative impact on, for example, freedom of expression, information and assembly.

NET NEUTRALITY

In 2016, the Council of Europe issued a recommendation on net neutrality. It emphasizes that all traffic on the internet should be treated equally without discrimination, restrictions or interference regardless of sender, recipient, content, service or apparatus. Interventions should only be done in exceptional cases and should always be transparent, short-lived and non-discriminatory.

RIGHTS OF INTERNET USERS

In 2014, the Council of Europe released a *Guide to Human Rights for Internet Users*, which is based on case law from the European Court of Human Rights. The guide provides information on users' rights and freedoms on the internet as well as the means of remedy when rights are violated online.

See the guide here: https://www.coe.int/en/web/freedom-expression/guide-to-human-rights-for-internet-users

PROVIDERS AND PLATFORMS

In 2018, a recommendation on internet intermediaries was issued. That is, the service providers that facilitate the use of the internet. The recommendation emphasises that the state shall refrain from pressuring providers to intervene in users' rights. If the state requests the providers to remove, disclose or block content, this must comply with human rights standards of legality, legitimacy and proportionality. It is also emphasised that the state has an obligation to ensure that companies respect the rights of users.

ALGORITHMS AND MANIPULATION

In 2019, the Council of Europe focused on algorithms and their risks in terms of manipulating users. States are encouraged to assess whether new legislation or other mechanisms are needed to ensure adequate oversight of the design, development and application of algorithms. States must, among other things, ensure effective protection against unfair practices and abuse of market dominance. This applies not least in relation to democratic processes such as elections.

ARTIFICIAL INTELLIGENCE

Also, in 2019, the Council of Europe for the first time released a guide on how states can protect human rights when developing and deploying artificial intelligence. States are encouraged, among other things, to always carry out systematic human rights impact assessments, to ensure increased transparency and to provide mechanisms for effective supervision and redress.

OVERVIEW OF RECOMMENDATIONS

For an overview of the Council of Europe's recommendations in this area see: https://www.coe.int/en/web/freedom-expression/committee-of-ministers-adopted-texts