The Ombudsman for Children in Sweden

Submission in Response to the Committee on the Rights of the Child’s

Call for Comments

On the Draft General Comment No. 25 (202x)

“Children’s rights in relation to the digital environment”

November 2020

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**About the Ombudsman for Children in Sweden**

The Ombudsman for Children in Sweden is a government agency established in 1993 with the mandate to represent the rights and interests of children and young people in Sweden based on the UN Convention on the Rights of the Child (UNCRC). The agency is an independent national institution for children’s rights that monitors compliance with the UNCRC in society and advocates its implementation in municipalities, county councils/regions and government agencies. We are tasked with drawing attention to shortcomings in the implementation of the UNCRC and proposing legislative and regulatory changes.

The Ombudsman for Children has ongoing dialogue with children and young people, especially those in vulnerable situations, in order to understand their circumstances and their opinions on relevant issues.

The following comments on the Draft General Comment are geared toward strengthening this already significant and robust draft.

1. **The private sector**

Concerning section “V. General measures of implementation by States (art. 4)”, A, para. 24.

1. Regarding the particularly prominent role that private enterprises play in developing, designing and maintaining digital environments where children are present, the Ombudsman for Children in Sweden suggests that para. 24 on legislation be developed to not only include that States should ensure that they ”review and update national legislation to ensure the digital environment is compatible with the rights in the Convention and its Optional Protocols”, but also to implement national legislation which ensures that business enterprises, such as internet service providers and platform providers, are legally bound to protect the rights of children under the Convention and its Optional Protocols, and that national legislation ensures that business enterprises are held accountable and legally liable when they fail to protect children’s rights.[[1]](#footnote-1) This is in line with section “I. The business sector” of the Draft General Comment which recognizes the imperative to ensure that the business sector meets its responsibilities for children’s rights in relation to the digital environment (see para. 36).
2. This can be further clarified in paras. 38 and 39 to include that States not only take appropriate steps to “prevent, monitor, and investigate” violations of children’s rights by businesses in the digital environment, but also that States take appropriate steps and draft appropriate legislation to ensure that businesses are held accountable and liable when children’s rights are violated by businesses in the digital environment or when business enterprises fail to adequately protect children from being violated within their digital environments.
3. Considering the international and global character of businesses operations providing digital environments where children are active, States should also cooperate internationally to implement international standards and legislation to ensure that accountability measures are effective across borders.[[2]](#footnote-2)

With regard to para. 50.

1. States should not only “provide children with child-sensitive and age-appropriate information on their rights, on reporting and complaint mechanisms in place” etc. they should also require business enterprises to provide this information to children active in their digital environments as this information should be readily and easily available to children in the very environments where a violation has taken place.

With the aim of providing stakeholders who create and operate various digital environments with a guide to create safe and secure digital environments adapted to the needs and rights of children and young people, the Ombudsman for Children in Sweden, the Swedish Data Protection Authority and the Swedish Media Council have together developed a stakeholder guide entitled “*The Rights of Children and Young People on Digital Platforms”.* The English version of the guide will be available within short and will be shared with the Committee on the Rights of the Child in the hopes that it may be useful in their work with the Draft General Comment.[[3]](#footnote-3)

1. **Remedies**

With regard to section “K. Remedies”:

1. The lack of specialization among law enforcement officers and lack of funding are often significant obstacles in ensuring that violations against children in digital environments can be effectively investigated, prosecuted and adjudicated. Therefore States should not only provide for “legal or other appropriate assistance to children” (para. 45) and “provide specialized training for law enforcement officials, lawyers, prosecutors and judges” (para. 48) but also ensure that specialized services are designated to meet the particular needs of children, and that such services are adequately funded and equally accessible to children without discrimination.
2. **Special protection measures**

With regard to section “XII. Special protection measures.”

1. Considering the significant number of children around the world who fall victim to sexual exploitation and abuse online, and considering the circulation of vast and increasing amounts of child sexual abuse material online, section A. entitled “Protection from economic, sexual and other forms of exploitation” could further include a paragraph which addresses States’ responsibility to protect child victims of online sexual exploitation and abuse by ensuring that harmful material such as child sexual abuse material is effectively identified and removed from the internet. This is to ensure that child victims of online child sexual abuse are identified, that they can access justice, remedy and necessary social and psychological support. Further, that child victims are taken out of situations of abuse. The circulation of child sexual abuse material is considered a form of continued and repeated abuse and identifying and removing such harmful material is a crucial part of protecting the rights of victims. Therefore, States should ensure that child sexual abuse material is actively investigated, identified and removed, for which national coordination and specialized training within law enforcement is necessary, adequate funding allocated. Ensuring effective international cooperation is crucial in this work. Lastly, States should ensure that legislation allows this work to move ahead, an area within which constant innovation will be necessary to ensure that States keep up with technological developments.

1. See CRC/C/GC/16 paras. 15 and 70. [↑](#footnote-ref-1)
2. CRC/C/GC/16, paras. 66—67. [↑](#footnote-ref-2)
3. The Swedish version of the guide is available here: <https://www.barnombudsmannen.se/globalassets/dokument-for-nedladdning/barn-och-ungas-rattigheter-pa-digitala-plattformar.pdf> [↑](#footnote-ref-3)