Strasbourg, 13 November 2020

**Comments submitted by the Secretariat of the Council of Europe**

**on the UN Committee on the Rights of the Child’s draft General Comment on children’s rights in relation to the digital environment**

The Secretariat of the Council of Europe extends its gratitude to the UN Committee on the Rights of the Child for the opportunity to submit comments on the draft General Comment on children’s rights in relation to the digital environment. These comments reflect the views of the Secretariat of the Council of Europe and do not necessarily reflect the official position of its member states. The present contribution combines comments coming from the Children’s Rights Divisions (Department of Anti-Discrimination, DG of Democracy) and from the Data Protection Unit (Information Society Department, DG of Human Rights) in order to provide a coherent response by the Council of Europe.

The Council of Europe work on the rights of the child in the digital environment is strongly grounded in the UN Convention on the Rights of the Child and its Optional Protocols. The standards developed by the Council of Europe provide further guidance to its member states, thus complementing the efforts at global level. The [Council of Europe Guidelines to respect, protect and fulfil the rights of the child in the digital environment](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016808b79f7)[[1]](#footnote-1) (hereinafter “child rights digital Guidelines”), when read together with European conventions such as the [Convention for the Protection of individuals with regard to automatic processing of personal data](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016807c65bf) (“Convention 108+”), the [Convention on Cybercrime](https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680081561) (“Budapest Convention”), the [Convention on Protection of children against sexual exploitation and sexual abuse](https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680084822) (“Lanzarote Convention”), the [Convention on Preventing and combating violence against women and domestic violence](https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e) (“Istanbul Convention”) and (other) recommendations, resolutions and declarations of the Committee of Ministers in this field, form a solid set of rules, standards, principles and information which can assist states in providing the necessary basis for looking after children’s best interests in the digital environment across the 47 member states of the Council of Europe. Further useful guidance has been provided by the Parliamentary Assembly of the Council of Europe through a number of non-binding Resolutions addressed to member states. It should also be underlined that the Council of Europe forms the world-wide most mature human rights protection system and has long-standing engagement in internet governance and data protection issues. It has accordingly developed particular best practices and standards that could benefit other parts of the world and may be referred to as a “model”.

The following response is based predominantly on the comprehensive Guidelines on the rights of the child in the digital environment ([CM/Rec(2018)7](http://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a); “child rights digital Guidelines” hereafter), and Convention 108+ (Data Protection Convention) although various other Council of Europe standards, tools and research are drawn upon.

1. **GENERAL REMARKS**

We warmly welcome the inclusion in the draft General Comment of the majority of the children’s rights standards enshrined in the child rights digital Guidelines. As the Council of Europe tools and standards are readily applicable beyond the pan-European region, it would therefore be relevant and useful to reference its standards as part of the General Comment for the effective protection and promotion of children’s rights in the digital environment building on the existing acquis.

Even though the draft General Comment already includes most of the principles to protect and fulfil the rights of the child in the digital environment, the Council of Europe invites the Committee to consider the following comments, in particular regarding business enterprises’ responsibilities, children’s privacy and data protection and children’s participatory rights in the digital environment.

1. **GENERAL PRINCIPLES**

**The best interests of the child (art. 3, para. 1).** We welcome the inclusion of a provision on ensuring transparency in assessment of the best interests of the child and demonstrating the criteria applied (§14), but we would also suggest including that, when assessing the best interests of the child, states should also make every effort to balance, and whenever possible, reconcile a child’s right to protection with other rights, in particular the right to freedom of expression and information as well as participation rights.

**The right to be heard (art. 12).** The Council of Europe also joins the Committee when affirming that children should be consulted by states when developing laws, policies and programmes on children’s rights in the digital environment and by designers and providers of digital technologies and services when developing their services. Even though it is provided for in the section related to access to information, it would be advisable to include at this stage (§18-19) a reference to the need of informing children of mechanisms and services providing adequate support, and of procedures for complaints, remedies or redress should their rights be violated. Such information should also be made available to their parents or carers to enable them to support children in exercising their rights.

**Evolving capacities (art. 5).** Other parameters to be mentioned as needed considerations when designing policies and frameworks within which children engage with the digital environments as regards their evolving capacities, are the fact that individual children reach different levels of maturity at different ages and that children with disabilities or in other vulnerable situations may present different evolving capacities (§21).

1. **GENERAL MEASURES OF IMPLEMENTATION BY STATES**

The Council of Europe joins the Committee in advocating that, in the development of policies and practices that affect children’s rights regarding the digital environment, states should consult with children (§23).[[2]](#footnote-2)

**A. Legislation.** We welcome the provision by which states should mandate the use of child rights impact assessments to inform the development of legislation and that they should review and update national legislation to ensure that the digital environment is compatible with the rights in the Convention and its Optional Protocol, but it could be specifically mentioned that such review should be done at regular intervals, given that the digital environment is in continuous evolution (§24).

A provision could be included inviting states to ensure that their legal frameworks encompass the full range of unlawful acts which can be committed in the digital environment, where possible formulated in a technology-neutral manner, leaving room for the emergence of new technologies. Such frameworks should include definitions of offences, criminal, civil or administrative liability and sanctions for natural and legal persons, and provisions of services for children. Due account should be taken of relevant instruments, such as the Lanzarote Convention, the Budapest Convention and the Optional Protocols to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000) and on a communications procedure (2011), which can serve as benchmarks for criminal law reform and wider reform of legal frameworks and services and can inform the development of an effective legislative framework.

**B. Comprehensive policy and strategy.** The General Comment could additionally invite states to establish a comprehensive strategic national approach to children’s rights in the digital environment, and to ensure that policies and measures are consistent and mutually reinforcing (§25). The child rights digital Guidelines further provide elements which should be present in such comprehensive strategic national approach, as well as specific guidelines on sectoral policies, institutional aspects, mechanisms and services and investment, resources and training.

**C. Coordination.** Cooperation and coordination at national levelshould be pursued. All relevant stakeholders, including national, regional and local law-enforcement and other authorities, educational and social-service agencies, independent human rights authorities, data-protection authorities, professionals working for and with children, civil society, including youth-led organisations, business enterprises, industry associations, researchers, families and children, should all be informed and engaged in ways which are tailored to their roles and functions. We suggest adding a provision inviting states to set up cooperation frameworks, procedures and processes between competent state authorities, independent authorities, civil society and business enterprises, taking into account their respective roles and responsibilities, capacities and resources.

Besides, the government body mandated to coordinate policies and programmes related to children’s rights in the digital environment (§28) could additionally be mandated to assess developments in the digital environment that might impact the rights of the child and ensure that their national policies adequately address such developments.

**E. Data collection and research.** Even though there is a section on privacy and data protection in the draft General Comment, a general provision could be included at this stage on the need for states to set up legal frameworks that apply to the processing of personal data of children and regularly evaluate the overall effectiveness of such frameworks and to take due account of the relevant international instruments which refer to data-protection principles and rights, such as the Convention 108+.

**G. Dissemination of information, awareness-raising and training.** §33 could be further specified to include that awareness-raising and training programmes should include knowledge on preventive measures, on rights and responsibilities in the digital environment, identification and reporting of violations, remedies and available redress. Specifically, such programmes should teach children to understand, as appropriate according to their age and evolving capacities, what it means to give consent, to respect other fundamental rights, their own and those of others, to seek redress when needed and to use available tools to protect and fulfil their rights in the digital environment. Furthermore, they should enable children to understand and deal with potentially harmful content (such as violence and self-harm, adult pornography, child sexual abuse material, discrimination and racism, hate speech) and behaviour (such as the solicitation of children for sexual purposes or “grooming”, bullying or harassment, unlawful processing of personal data, violation of intellectual property rights), and potential consequences of the way in which information about children or shared by children might be further disseminated in different settings and by others.

Moreover, a specific mention to teachers/educators should be included in §34 when mentioning the various professionals working for and with children.

**I. The business sector[[3]](#footnote-3)**. We welcome the provision in §39 by which states should require businesses to meet their responsibilities for children’s rights online (by implementing regulatory frameworks, industry codes and terms of services that adhere to the highest standards for the rights of the child). However, we would suggest mentioning two specific provisions for business enterprises:

1. States should engage business enterprises (including internet service providers and social network providers) to play an active role in preventing and deleting illegal content – as determined by law or by a judicial or other competent authority;
2. States should promote and provide incentives to business enterprises to implement not only safety by design, but also privacy by design and privacy by default as guiding principles for products and services’ features and functionalities addressed to or used by children.

**J. Commercial advertising and marketing**. When it comes to the conflict between the commercial interests of data controllers and the right to data protection of children, the best interest of children shall be taken into account. Providing unmonitored space for the children while developing their autonomy in the online environment must outweigh the commercial interest of companies. Even though we highly welcome that the draft General Comment expressly states that the targeting of children for commercial purposes on the basis of a digital record of their characteristics should be prohibited, §42 could be strengthened by affirming that states should protect children from commercial exploitation in the digital environment, including exposure to age-inappropriate forms of advertising and marketing. This includes ensuring that business enterprises do not engage in unfair commercial practices towards children, requiring that digital advertising and marketing towards children is clearly distinguishable to them as such, and requiring all relevant stakeholders to limit the processing of children’s personal data for commercial purposes.

Besides, states should require the use of effective systems of age-verification to ensure children are protected from products, services and content in the digital environment which are legally restricted with reference to specific ages, using methods that are consistent with the principles of data minimisation.

**K. Remedies**. The section on remedies could be further improved by adding the following considerations:

1. Remedial judicial and non-judicial mechanisms referred to in §45 should comply with the principles on child-friendly justice as set out in the [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (2010)](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804b2cf3).
2. Where forms of peer-to-peer online violence or abuse breaches occur, states should, as far as possible, pursue suitable and adequate preventive and restorative approaches, while preventing the criminalisation of children.
3. In order to ensure appropriate reparation through restitution, compensation and satisfaction (§47) consideration should be given to the establishment of funds for the compensation of child victims or measures or programmes aimed at providing therapeutic or other support.
4. Not only should businesses provide effective complaints mechanisms (§49), but also information which is accessible, age-appropriate and available in the language of the child about how to introduce such complaints and seek redress. The complaint mechanisms should be made available in a way that is accessible for any person, and in particular children. States should also ensure that reports received through these mechanisms are dealt with efficiently and within reasonable timescales.
5. **CIVIL RIGHTS AND FREEDOMS**

**A. Access to information (arts. 13 and 17).** Even though there is a section regarding access to information on sexual and reproductive health, including sexuality and conception, a general mention to access to information about sexuality, sex and relationship education could also be included in §52. Besides, states should not only ensure that digital providers provide sufficient content moderation to meet their published terms, but also should ensure that said terms and conditions are accessible, fair, transparent, intelligible, available in the child’s language and formulated in clear, child-friendly and age-appropriate language where relevant (§57), in order to uphold the right of the child to access information.

**B. Freedom of expression (art. 13).** We share the view that restrictions on children’s right to freedom of expression shall be provided by law, necessary and proportionate but in order to fulfil the right of the child to freedom of expression in the digital environment (§60), the obligation of states to have an active role to take measures to guarantee children’s right to hold and express any views, opinions or expressions on matters of importance to them, through the media of their choice, and irrespective of whether or not their views and opinions are received favourably by the State or other stakeholders, should be mentioned. This section could also be further improved by strengthening the provisions on child participation. States [should](https://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a) take measures to ensure that children are able to participate effectively in public-policy and political debates at all levels and to support the development of online civic and social platforms to facilitate their participation and enjoyment of the right to assembly and association; and ensure that good practice for child participation and available tools for assessment are built upon. In particular, the following additions could be included in this section:

1. States should provide children with information appropriate to their age and maturity, including in non-written forms and through social networking and other media, on their participation rights. States should also inform them of the opportunities available to them, and where they can get support to take advantage of these opportunities.
2. States should ensure that children’s participation in the digital environment is acted upon meaningfully, building on existing good practice for child participation and available tools for assessment.
3. Where states make provision for media, these should involve children in active forms of communication, encouraging the provision of user-generated content and establishing other participatory schemes.
4. Where children participate in the creation or production of content or tools, states should ensure that measures are in place to protect their intellectual property rights.
5. Besides, in addition to providing children with information on how to effectively exercise their right to freedom of expression, states should also inform children of restrictions in place, such as content filtering, in a manner appropriate to their evolving capacities (§60).

**C. Freedom of thought, conscience and religion (art. 14).** The Council of Europe joins the Committee in encouraging states to prohibit such practices by law, as according to Article 9(1)(a) of Convention 108+, every individual has “a right not to be subject to a decision significantly affecting him or her based solely on automated processing of data without having his or her views taken into consideration”. §64 could be further specified by defining the practice of profiling of children as any form of automated processing of personal data which consists of applying a “profile” to a child, particularly in order to take decisions concerning the child or to analyse or predict his or her personal preferences, behaviour and attitudes. The [Recommendation CM/Rec(2017)8 on Big Data for culture, literacy and democracy](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680750d68) stresses that everyone should be able to choose to remain inscrutable in the digital age, and so avoid predictions made by algorithmic decision-making about their cultural attributes, preferences and behaviours.

**D. Freedom of association and peaceful assembly (art. 15).** When affirming that no restrictions may be placed on the exercise of children’s right to freedom of association and peaceful assembly in the digital environment other than those that are provided by law and are necessary and proportionate (§67), a particular mention could be included to the protection of children exercising this right from monitoring and surveillance, whether carried out by State authorities directly or in collaboration with private sector entities. Where such measures interfere with the exercise by children of their rights, they should be subject to conditions and safeguards against abuse, in line with international human rights conventions and standards. Notably, they should be prescribed by a law which is accessible, precise, clear and foreseeable, pursue a legitimate aim, be necessary in a democratic society and proportionate to the legitimate aim pursued, and allow for effective remedies.

**E. Right to privacy (art. 16).** Article 8 of the European Convention on Human Rights (ECHR) provides individuals, including children, with the necessary means to protect a private sphere in which they can develop their personality.[[4]](#footnote-4) The right to privacy (Article 12 of the Universal Declaration of Human Rights, Article 17 of the International Covenant on Civil and Political Rights and Article 8 of the ECHR) ensures “the development and fulfilment of individuals’ personality”[[5]](#footnote-5) by providing a private sphere for individuals. Children enjoy this right offline as well as online. It must also be noted that the “right to privacy is also an important participatory right, particularly in the case of older children, insofar as it is part and parcel of individual autonomy, a necessary precondition of participation. The participatory function of the right to privacy is not something that is often alluded to in legal and policy documents. In the digital environment, especially, privacy is often reduced to data protection. But while data protection is certainly closely related to one’s privacy, privacy itself is a much broader and more complex concept”.[[6]](#footnote-6)

Hence, in order to fully uphold the right of the child to privacy in the digital environment:

1. A mention to the obligation to respect the confidentiality of children’s correspondence and private communications could be added.
2. When referring to the digital surveillance of children (§76), it could be stated that surveillance or interception measures should be subject to effective, independent and impartial oversight.
3. §78 could also be amended to include a provision stating that states should *not* prohibit in law or practice anonymity, pseudonymity or the usage of encryption technologies for children.

Convention 108+[[7]](#footnote-7), which refers to the right to control one’s personal data, not only protects the autonomy of children by entitling them to the necessary safeguards, but also enables the enhancement of their autonomy. The right to data protection and related safeguards also enable to protect, notably, the autonomy of children as the right to data protection empowers individuals of means to exercise control on their personal data.

We invite the Committee to take into account the following considerations and include the relevant provisions in the draft General Comment regarding the **protection of children’s data and privacy**:

1. First, legislation on children’s privacy and data protection should include safeguards to ensure that children’s personal data is processed fairly, lawfully, accurately and securely, for specific purposes. Besides, principles applying to the processing are key in ensuring respect for the rights to data protection and privacy. The principles of the best interests of the child and of data minimisation should be respected, meaning that the personal data processing should be adequate, relevant and not excessive in relation to the purposes for which they are processed (see also Article 15 Convention 108+). The digital footprint left by children while enjoying the online environment can easily be used to their detriment and the principle of data minimisation can have a meaningful effect to protect children’s personhood since it decreases the footprint of the child in the digital environment. In parallel to this principle, the limitation of the duration of personal data storage serves the same purpose in the online environment, which ensure the untracked environment for the children to develop their personality.
2. In §70, a specific provision could be added affirming that states should ensure that the processing of special categories of data which are considered sensitive, such as genetic data, biometric data uniquely identifying a child, personal data relating to criminal convictions, and personal data that reveal racial or ethnic origins, political opinions, religious or other beliefs, mental and physical health, or sexual life, should in all instances only be allowed where appropriate safeguards are enshrined in law.
3. Not only states should encourage the adoption of privacy-by-design measures (§72), but also privacy-by-default settings. In addition to require the adoption of these standards by other stakeholders, states should also implement them themselves.
4. Besides, the data processing shall rely on an appropriate legal basis. Convention 108+ stipulates the “free, specific, informed and unambiguous consent” as a possible legal basis, together with other legitimate basis laid down by law. Hence, in relation to children consenting to the processing of personal data (§72), the draft General Comment should also add that said consent should be explicit and unambiguous. Where states take measures to decide upon an age at which children are considered to be capable of consenting to the processing of data, their rights, views, best interests and evolving capacities must be taken into consideration. This should be monitored and evaluated while taking into account children’s actual understanding of data collection practices and technological developments. Furthermore, when parental control is exercised over the processing of children’s data, the evolution of the capacity shall be duly assessed. Parental control over the processing shall not infringe children privacy rights nor hinder their development of autonomy.
5. In some cases, other legal bases shall be used to process children’s data lawfully. For instance, in the educational context, due to the compulsory nature of the education and imbalance power between education providers and children, children or their legal representatives would not give consent freely for the use of e-learning tools in the digital environment. In the online context, the informed consent would not be given since data processing behind e-learning can hinder the provision of the information to the children or the legal representatives. For this reason, it is considered that children cannot give valid consent to third-party data processors as long as this processing cannot be refused freely without any detrimental effect. Furthermore, children should not be forced to enter into a contract with online learning platforms to access their services. Emphasising the invalidity of consent in these uses enhances the right to data protection of children in the online environment as it shows the limitation of consent in the education settings for the benefits of children.
6. The draft General Comment should also refer to the need of providing information to children on how to exercise their right to privacy and data protection, taking into account their age and maturity and, where appropriate, with the direction and guidance of their parents or carers in a manner consistent with the evolving capacities of the child. States should ensure that easily accessible, meaningful, child-friendly and age-appropriate information about privacy tools, settings and remedies, as well as data processing, is made available to children (see the [Explanatory Report](https://rm.coe.int/cets-223-explanatory-report-to-the-protocol-amending-the-convention-fo/16808ac91a) to Convention 108+). This should include information for instance on how data is collected, stored, used and disclosed, on their rights to access their data, to rectify or erase this data or object to its processing, and how to exercise their rights. Moreover, relevant stakeholders, in particular those processing personal data, but also the child’s peers, parents or carers, and educators, should also be made aware of and respect the child’s right to privacy and data protection (see further the [Council of Europe Guide to Human Rights for Internet Users](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804d5b31)).
7. The draft General Comment affirms that states should ensure that children, their parents or caregivers have access to the data stored, and to delete or rectify data unlawfully or unnecessarily stored by public authorities or private individuals or bodies. This paragraph could be complemented by adding that when requesting to delete some data, relevant public and private stakeholders should be obliged to expediently remove or delete such content free or charge (§73).
8. Moreover, when connected or smart devices (including those incorporated in toys and clothes) are directed principally at children or are likely to be regularly used by them, data-protection principles, rules and rights should also be respected.
9. Finally, in §75 the obligation should be that data processing be designed to prevent or minimise the risk of interference with children’s other rights, not only not to arbitrarily limit the latter.

**F. Birth registration and right to identity (arts. 7 and 8).** While recognising the opportunities offered by digital technologies in the management of birth registration, the particular sensitive nature of personal data processed in the context of digital identity systems, i.e. biometric data uniquely identifying a person, must be highlighted. The draft General Comment should state that such systems, in light of the privacy and data protection risks they carry, should necessarily be accompanied by the adoption of modern data protection legislations.

1. **VIOLENCE AGAINST CHILDREN**

Council of Europe standards offer valuable benchmarks, guidance and tools to states in tackling violence in the digital environment. The Lanzarote, Istanbul and Budapest conventions[[8]](#footnote-8) provide benchmarks on substantive criminal laws that protect children from abuse and violence, including in the online environment. These conventions are open to accession by non-member states of the Council of Europe and some have already been acceded to by non-COE member states. A great number of guidance and recommendations have been developed within the monitoring bodies of all three Conventions and should be made available worldwide.

As per the content of the draft General Comment, we welcome the mention to business enterprises’ responsibility to protect children from all forms of violence in the digital environment. However, this provision (§87) could be further specified to include that states should engage with business enterprises to provide assistance, including as appropriate technical support and equipment, to law-enforcement authorities to support the identification of perpetrators of crimes against children and collect evidence required for criminal proceedings. Mindful of available technologies and without prejudice to the principles of liability of internet intermediaries and their exemption from general monitoring obligations, states should require business enterprises to:

1. take reasonable, proportionate and effective measures to ensure that their networks or online services are not misused for criminal or other unlawful purposes in ways which may harm children, for example in relation to the production, distribution, provision of access to, advertising of or storage of child sexual abuse material or other forms of online child abuse;
2. apply hash lists with a view to ensuring that their networks are not being misused to store or distribute child sexual abuse images;
3. take promptly all necessary steps to secure the availability of metadata concerning any child sexual exploitation and abuse material found on local servers, make them available to law-enforcement authorities, remove these materials and, pending their removal, restrict access to such materials found on servers outside of their jurisdiction.

Besides, where states encourage the development, production and regular update by business enterprises of parental controls to mitigate risks for children in the digital environment, they should ensure that such controls are developed and deployed taking into account children’s evolving capacities, and that they do not reinforce discriminatory attitudes, infringe children’s right to privacy or deny children the right to information, in accordance with their age and maturity.

Lastly, in §82, when referring to safety and protective measures to be implemented by states, a provision should be included by which said measures should not unduly restrict the exercise of other children’s rights and should take into consideration the best interests of the child.

1. **FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

In §94, when referring to the various groups of children separated from their families, and in addition to children in alternative care, migrant or refugee children or children in street situations, we would welcome a mention to children deprived of liberty or whose parents are deprived of liberty.

1. **EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

**A. The right to educations (arts. 28, 29).** We welcome the inclusion on provisions on teaching digital literacy for children in educational settings. However, it should be further noted that digital literacy should be promoted in all settings where children use the internet and that States should support children who lack the requisite skills or underuse digital technology due to vulnerability. States should ensure the availability of sufficiently high-quality educational resources; physical devices; infrastructure; awareness-raising initiatives and programmes; user-friendly tools for children, parents or carers, etc. These may be developed in cooperation/consultation with other relevant stakeholders and children. For an example of one such tool, see the Council of Europe’s updated [Internet Literacy Handbook](https://rm.coe.int/internet-literacy-handbook/1680766c85). In November 2020, the Council of Europe has also edited a new [Digital Parenting Guide](https://www.coe.int/en/web/children/-/new-digital-parenting-guide-by-the-council-of-europe).

**B. The right to culture, leisure and play (art. 31).** States should provide a range of incentives, investment opportunities, standards and technical guidance for the production and distribution of digital content and services of, *inter alia*, social, civic, artistic, cultural, educational and recreational benefit to all children. §116 could be amended to affirm that digital content should be appropriate for children’s evolving capacities and with particular attention paid to the needs of children in vulnerable situations.

1. **SPECIAL PROTECTION MEASURES**

**A. Protection from economic, sexual and other forms of exploitation (arts. 32, 34, 35 and 36).** In order to fully protect children from all forms of exploitation in relation to the digital environment, policing with respect to child sexual abuse material should be victim-focused with the highest priority being given to identifying, locating, protecting and providing rehabilitative services to the child depicted in such materials.

States should continually monitor whether and how child sexual abuse materials are hosted within their jurisdiction and require law-enforcement authorities to establish databases of “hashes”, with a view to expediting actions to identify and locate children subjected to sexual exploitation or abuse and apprehending perpetrators.

Finally, as per the set-up of controls for age-inappropriate contents (§122), said age verification systems should be consistent with the principles of data minimisation and states should co-operate with a view to promoting standardisation of content classification and advisory labels among countries and across stakeholder groups to define what is appropriate and what is inappropriate for children.

1. **INTERNATIONAL AND REGIONAL COOPERATION**

In addition to what is already included in the draft General Comment, §127-128 could be complemented by adding that states should be encouraged to ratify and implement relevant international instruments; co-operate with each other by applying relevant international and regional instruments and arrangements; and expedite action to ensure that their law-enforcement agencies can connect to the INTERPOL database that deals with child sexual abuse material.

1. **OTHER COUNCIL OF EUROPE DOCUMENTS**

The Council of Europe, in its effort to develop specific guidance for different target groups, has developed additional resources which are relevant in this context, such as those on digital parenting strategies, including video tutorials, and on positive parenting as such.[[9]](#footnote-9)

The Digital Environment Guidelines have been complemented with a child-friendly version “[Learn about your rights in the digital environment](https://rm.coe.int/coe-child-friendly-in-digital-environment-en-leaflet/16809e8041)” published in May 2020 and with “The rights of the child in the digital environment: Handbook for policy-makers” (currently under preparation). This Handbook is intended to help decision-makers from a variety of backgrounds (public bodies, civil society and private stakeholders) to support children becoming “digitally wise”. The Handbook will remind policy makers to regularly address newly emerging conditions and challenges, such as Artificial Intelligence, and propose numerous resources and hands-on tools to check whether national legislation and policies are comprehensive and up to date.

1. Available in Armenian, Azerbaijani, Bulgarian, Croatian, Dutch, English, French, Georgian, German, Greek, Italian, Lithuanian, Portuguese, Russian, Serbian, Slovak, Slovenian, Spanish, Turkish, Ukrainian. [↑](#footnote-ref-1)
2. [*The Child Participation Assessment Tool*](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806482d9) provides 10 specific and measurable indicators for measuring the national progress in implementing the [Recommendation CM/Rec(2012)2 on participation of children and young people under the age of 18](https://rm.coe.int/168046c478), and which recognises Article 12 UNCRC. These indicators are split into three cross-cutting groups of protecting the right to participate, promoting awareness and creating spaces for participation, and can be applied to policy and decision-making on matters which affect children’s access to and use of digital technologies (see also the [*Implementation Guide*](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806482da)). [↑](#footnote-ref-2)
3. Specific standards and recommendations are provided for with regard to, e.g., the roles and responsibilities of [internet intermediaries](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680645b44), [internet service providers](https://www.coe.int/en/web/portal/guidelines-for-providers), [games providers and publishers](https://www.coe.int/en/web/portal/guidelines-for-providers) and [the media](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680790e13). [↑](#footnote-ref-3)
4. Guide on Article 8 of the ECHR: <https://rm.coe.int/guide-on-article-8-of-the-european-convention-on-human-rights/16808e67cb> [↑](#footnote-ref-4)
5. European Court of Human Rights (Chamber), judgment of 23 March 2017 September 1994, *A.-M.V. v. Finland,* No. 53251/13, paragraph 76, available at <https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-172134%22]}> [↑](#footnote-ref-5)
6. Council of Europe, S. Livingstone and others, “Policy guidance on empowering, protecting and supporting children in the digital environment” Report (November 2018), available at <https://rm.coe.int/it-guidelines-background-document-policy-guidance-on-empowering-protec/168093b644> [↑](#footnote-ref-6)
7. Convention 108 currently counts 55 Parties, including African, Latin-American and European ones. Its modernised version (Convention 108+) represents a set of internationally agreed data protection principles. [↑](#footnote-ref-7)
8. Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual abuse <https://www.coe.int/en/web/children/lanzarote-convention>   
   Council of Europe Convention on preventing and combating violence against women and domestic violence <https://www.coe.int/en/web/istanbul-convention/text-of-the-convention>

   The Convention on Cybercrime of the Council of Europe <https://www.coe.int/en/web/cybercrime/home> [↑](#footnote-ref-8)
9. See under “audio-visual material” and under “publications” on the website [www.coe.int/children](http://www.coe.int/children) [↑](#footnote-ref-9)