**Committee on the Rights of the Child**

**Draft General Comment No. 25**

***Children’s right in relation to the digital environment***

**Comments by Poland**

**A general observation:**

The importance of this General Comment in the contemporary, digitized world should be emphasized. The problem of combating child pornography and children's access to websites on which pornographic content or violence is presented deserves special recognition.

The earlier and more children are exposed to sexual content, the sooner teens begin sexual intercourse and the more likely they are to have random sexual intercourse. Hence, actions undertaken by states should, in the first place, be directed at effectively blocking access to websites on which pornographic content or violence is presented, and on the other hand, at undertaking educational activities that make people aware of the dangers of pornography and promote a healthy model of family life.

Bearing in mind that the digital world provides children with endless opportunities to get knowledge and communication, it creates great opportunities for development, and also brings a lot the risks young people are particularly exposed to. Guaranteeing safety of young people and children online is nowadays a real challenge for governments. Especially now, with the COVID-19 pandemic, the Internet has taken a special place in our daily life. Without the joint efforts of governments, organizations, decision makers, business and industry to create a safe online environment that respects privacy is not easy to achieve. Therefore, countries should be encouraged to make efforts to provide security and guaranteeing privacy on the Internet with a view to the special needs of its youngest users while respecting their rights and privacy.

**Comments on indicated paragraphs:**

*Please find below detailed comments concerning precisely indicated paragraphs. Proposed amendments are in bold: the additions are highlighted in red and the deleted words are struck out.*

**Ad. VI. Civil rights and freedoms**

**A. Access to information (arts. 13 and 17)**

54. States should ensure that children are informed about and can easily find diverse **but reliable** and **of** good quality information online, including content independent of commercial or political interests.

**Notes:**

“Good quality information” not always means that the information is based on scientific knowledge and delivered by trustful authority.

**D. Freedom of association and peaceful assembly (art. 15)**

66. The right to freedom of association and peaceful assembly enables children to form their social, religious**~~,~~ ~~sexual~~** and political identities, and to participate in associated communities as well as in public spaces for deliberation, cultural exchange, social cohesion and diversity. Children report that online spaces provide them with valued opportunities to meet and deliberate with peers, decision-makers and others who share their interests.

**Notes:**

“Sexual” (identity)” is covered both by “social identity” and “social diversity”.

However, it is necessary to specify clearly and unambiguously that for their comprehensive and full development, boys and girls need to may have the opportunity to peer cooperation.

**X. Basic health and welfare (art. 24)**

101. Digital technology can significantly facilitate access to health services and information, and improve the diagnostic and treatment services for maternal, **prenatal,** new-born, child and adolescent physical and mental health and nutrition. It also offers significant opportunities to reduce inequalities to access health services and reach children in disadvantaged or vulnerable situations or in remote communities. At times of, for instance, public emergency or humanitarian situations, access to health services and information through digital technology may become the only option.

Notes:

It should be emphasized that the Convention on the Rights of the Child protects a child's life from the moment of its conception.

**XI. Education, leisure and cultural activities**

**A. The right to education (arts. 28, 29)**

107. The digital environment can enable and enhance children’s access to quality education, including **reliable** resources for formal, informal, peer-to-peer and self-directed learning. Children highlight the importance of digital technologies in improving their access to education, as well as in supporting their formal and informal learning and participation in extracurricular activities.

110. For children attending school, digital educational technologies can **be used to rationalise teaching process and strengthen ~~support~~** engagement between teacher and student and among peer learners. For children not physically present in school or living in remote areas or in disadvantage or vulnerable situations, digital educational technologies can enable distance or mobile learning programmes.52 States should ensure that schools have sufficient resources to provide parents with guidance on online home schooling and learning environments.

111. States should invest equitably in technological infrastructure in schools, ensuring the availability of sufficient number of computers, quality connectivity and electricity, teacher-training on the use of digital educational technologies, and timely maintenance of school technologies. States should support the creation and dissemination of diverse digital educational resources **reliable and** of good quality and ensure that existing inequality is not exacerbated by problems regarding access to such resources.

113. States should ensure that schools teach digital literacy as part of the basic education curricula from the earliest years, and such teaching should be evaluated for its outcomes. This curricula should include the skills to handle a wide range of digital tools and resources and those related to content, creation, collaboration, participation and civic engagement. It should include the critical understanding needed to find trusted sources of information and to identify misinformation and other forms of biased or false content; **~~sexual and reproductive health issues relevant to the digital environment~~**; knowledge about human rights, including the rights of the child and of others in the digital environment, and available forms of support and remedy. Also, it should promote awareness of the risks of children’s exposure to potentially harmful content, contact and conduct, including cyberbullying and other forms of violence, and coping strategies to reduce harm and build children’s resilience.

114. It is of increasing importance that children gain an understanding of the digital environment including its infrastructure, business practices, persuasive strategies, uses of automated processing and personal data and surveillance. **Digital literacy can be provided while teaching various school subjects**. Teachers who undertake digital literacy education, **~~including sexual and reproductive health education~~**, should be trained on providing **knowledge and skills necessary for conscious use of diverse sources of information available in the digital environment ~~digital literacy education~~ and on safeguarding as it relates ~~to the digital~~ that** environment.

Notes:

There is no justification to put the phrase “including sexual and reproductive health education” in such context. The reference to sexual and reproductive health education is unclear in the context of access to digital literacy. States obligation to ensure that children have safe and secure access to such education is covered by para. 109 (as well as para. 59 of CRC/C/GC/20).

However, there should be noticed that teachers of diverse school subjects can educate on digital literacy.

**Additional comments on indicated paragraphs:**

After careful analysis of the Draft General Comment the following observations are also suggested to be taken into consideration:

1. par. 4 - The entire meaning of this statement deserves further clarification, especially since it has been mentioned *“****even where children do not actively access the internet****”*. What opportunities and risks of harm are meant there, that are likely to increase in the given circumstances?
2. par. 6 - This paragraph describes the background of GC and lists a number of sources on which it draws, however, there is no explicit link to European children’s rights law. The CRC has become the touchstone for the development of European children’s rights law, with the result that the CoE and the EU increasingly draw on its influence. It is therefore worth exploring if making exclusively a reference to the jurisprudence of human rights treaty bodies is sufficient in this sense.
3. par. 10 - A term “***public spaces***” is very broad, it is therefore suggested to delete it.
4. par. 11 - It is stated that „*Children may be unaware of other forms of discrimination, including those that may result from the* ***deployment of******automated decision-making*** *based on protected, biased, partial or unfairly obtained information*”. The term „*deployment of automated decision-making*” should be explained, so the parties of the CRC could better identify such instances in their practices and introduce appropriate counter measures.
5. par. 21 – In this paragraph there is a list of themes that shall be considered by States in designing policies, and the frameworks in which children engage with the digital environment. It is described as *„States shall consider: (…)”*, what makes it a closed list of themes whereas there can be other themes as well. The suggested term is therefore: *„States shall* ***especially*** *consider or States shall* ***i.e.*** *consider…”.*
6. par. 22 - A sentence: *„States should promote the awareness of parents and caregivers to respect children’s evolving autonomy and capacities and need for privacy”* should be made coherent with the following one: *„They should inform and support parents and caregivers in acquiring digital technology skills to help them to assist children in relation to the digital environment”* by changing its last part into: *„**to help them to assist children in relation to* ***execution of their rights*** *in the digital environment”.*
7. par. 28 - This paragraph indicates stakeholders such as business, civil society and other organizations helping a government body to realize children’s rights in relation to the digital environment. This catalogue should be broaden by adding academia, especially because - as the paragraph reads further – *such body should be able* *to draw on other relevant expertise*.
8. par. 47 - A sentence *„Remedial mechanisms should take into account the particular vulnerability of children to the possible irreversible effects and lifelong damage of violations of their rights”* should be written in firmer language, giving proper recognition to children who are i.e. victims of online sexual abuse and exploitation. It should therefore reads as: *„Remedial mechanisms should* ***especially*** *take into account…”*
9. par. 50 - It seems that a word *„also”* would add some clarity to the sentence *„This information should (also) be provided to parents, caregivers, educators and people working with and for children”*.
10. par. 55 – It is proposed to write this sentence as following: *„The digital environment can include biased, gender-stereotyped, discriminatory, racist, hateful, violent, pornographic and exploitative information, as well as false narratives, misinformation and disinformation, for example false health cures or false narratives about a faith community, and information encouraging children to engage in unlawful or harmful activities, including by* ***sexual offenders*** *or terrorist armed groups”.* This change is required to give due value to the phenomenon of online child sexual abuse and exploitation.
11. par. 69 - It is important to underline that the threats to children’s privacy may also arise from criminals, such as those involved in online child sexual abuse and exploitation. The following change is suggested in this paragraph to reflect this point of view: *„Threats to children’s privacy may arise from their own activities in the digital environment, as well as from the activities of others, for example by parents’ sharing online the photos or other information of their children, or by caregivers, other family members, peers, educators or strangers,* ***including criminals****”*. *Threats to children’s privacy may also arise from data collection and processing by public institutions, businesses and other organizations; as well as from criminal activities such as hacking, identity theft* ***or online child sexual abuse and exploitation****.* This change is in line with art. 16 par. 1 of the Convention which reads as follows: *„No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation”.*
12. par. 72 - A sentence *„States should encourage the adoption of privacy-by-design, such as end to end encryption, in services that impact on children”* is problematic in light of international law enforcement efforts to gather relevant evidence in online investigations. This comment is also in line with provisions of par. 84: *„States should address the ways in which uses of digital technologies may facilitate, or impede the investigation and prosecution of diverse forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, child trafficking and gender-based violence”*.
13. par. 78 - To stay in line with previous comments, a reference to online child sexual abuse and exploitation phenomenon should also be made in the following sentence: *„States should take a safety-by-design approach to anonymity, to ensuring that anonymous practices are not routinely used to hide harmful or illegal behaviour, for example bullying, hate speech* ***or online child sexual abuse and exploitation****”*.
14. par. 85 - A term *sexting* is used in this paragraph as a definer of *„*sharing of sexualized images of children*”*, however, sexting is also a form of self-generated sexually explicit content[[1]](#footnote-1), a widely observed trend in online behaviour. This aspect should be reflected in this paragraph comment, so it is proposed to change a relevant sentence into the following: *„These may include cyberbullying, harassment, violence, and sharing of sexualized images of children (“sexting”),* ***including self-generated sexually content*** *and the promotion of self-harming behaviours such as cutting, suicidal behaviour or eating disorders”.*
15. par. 100 - There are other serious forms of online risks than bullying, such as sexual abuse and exploitation, and they should be mentioned here, so it is suggested to change the first sentence of this paragraph as following: *„*Children with disabilities can be more exposed to online risks, including bullying **and online sexual abuse and exploitation** in the digital environment”.
16. par.113 - A sentence: *„Also, it should promote awareness of the risks of children’s exposure to potentially harmful content, contact and conduct, including cyberbullying and other forms of violence, and coping strategies to reduce harm and build children’s resilience*” should also explicitly mention online sexual abuse and exploitation.
17. par. 121 - A term *„grooming*” has been inadequately used in this paragraph in relation to hacking and/or financial crimes: *„*Children should be protected from all forms of exploitation prejudicial to any aspects of their welfare in relation to the digital environment. This may occur in many forms, such as economic exploitation including child labour, sexual exploitation and abuse, sale, trafficking and abduction of children, *grooming* children to participate in criminal activities including hacking, and/or financial crimes”.

The term *„grooming*” is widely known in relation to child sexual abuse and exploitation as a referring to solicitation of children for sexual purposes[[2]](#footnote-2). The EU Directive 2011/93 uses this term in its Recital (19). It is therefore suggested to replace this term by i.e. *inciting*.

1. par. 125 – To be sure that also latest trends in online criminal behaviour are taken into consideration it is suggested rewrite a sentence *„States should ensure the safe and beneficial access of children to the digital environment, and ensure their protection from violence, exploitation and abuse*” into the following: *„States should ensure the safe and beneficial access of children to the digital environment, and ensure their protection from* ***all forms of*** *violence, exploitation and abuse*”.

1. UNODC, “Study on the Effects of New Information Technologies on the Abuse and Exploitation of Children”, p.22. [↑](#footnote-ref-1)
2. Terminology guidelines for the protection of children from sexual exploitation and sexual abuse, p. 49. [↑](#footnote-ref-2)