

**Mr Alejandro Amor
Ombudsman of the Autonomous City of Buenos Aires Argentina**

September 23, 2020

**Prof Joseph A. Cannataci
UN Special Rapporteur on the Right to Privacy**

**Attention: Dr Elizabeth Coombs**

I have the honour to address you, in my capacity as Ombudsman of the Autonomous City of Buenos Aires, Argentina, in regards to the recent call for contributions concerning Privacy and Children, whose Special Rapporteur’s report is scheduled to be presented to the Human Rights Council in March 2021.

In accordance with Art. No. 137 of the Constitution of the Autonomous City of Buenos Aires, the Ombudsman Office is a state body with constitutional hierarchy and legal competence in personal data protection since 2007. Therefore, pursuant to Law 1845, we submit our inputs on the protection of schooled children and adolescents ́ privacy within the virtual environment.

Firstly, it should be noted that there is a solid body of law regarding the protection of children and adolescents’ privacy1. Thus, the local Constitution puts its particular provisions into operation mainly through Law 114, which was passed about the same time as the aforementioned Constitution. It should be noted that we consider the need for a legal update as to the norms protecting the children’s privacy in the virtual environment; although they

1 Chapter 10 of the Constitution of the Autonomous City of Buenos Aires, Art. No. 39.

*A law establishes the creation of a specialized body that promotes and articulates policies for the sector, with decentralized bodies running actions through interdisciplinary approaches and the participation of all the parties involved. They shall necessarily intervene in assistance causes.*

*The City recognizes children and adolescents as active subjects of their rights, guarantees their full protection and ensures they shall be informed, consulted and heard. Their intimacy and their privacy shall be respected. When affected or threatened they shall require the intervention of the competent bodies.
Children and adolescents shall be the priority within their public policies, which shall promote family support and ensure:*

*1. The responsibility of the City with regard to children and adolescents deprived of parental care, providing alternative care to institutionalization.*

1. *Protection to children and adolescents victims of sexual exploitation and sexual abuse.*
2. *Measures to prevent and combat trafficking of children and adolescents.*



exist, but were enacted in a fragmented way2. Anyhow, about this item and regarding the Buenos Aires city fabric, we understand that the normative dimension is a good starting point.

Please be advised that our Organization holds the Program ‘Conectate Seguro’, offering the community a proposal made to reflect on the flow of personal data within the virtual environment.
This Program (http://cpdp.defensoria.org.ar/conectate-seguro/) is devoted to bring psychoeducational interventions at all levels of schooling (early, primary and secondary), as well as at various socio-communitary institutions and city organizations. It also focuses on the preservation of image, voice and data security. Concurrently, it promotes the reflection and critical eye to prompt and to seek for other possible means of exchange between the parties, contributing to build a responsible and informed citizenry. In that context, we have conducted two studies/surveys on ‘The uses of Internet and digital devices in school-age children’, here available: http://cpdp.defensoria.org.ar/wp-content/uploads/sites/5/2017/10/CuadernilloSegunda- encuesta.pdf

That being said, we shall refer to the current state of affairs, feeling compelled to mention the context of the ongoing COVID-19 pandemic. These days, the proposal has changed, and thereby we have produced audiovisual material on the subject: ‘How do you preserve your personal data during the lockdown period?’, ‘Digital education during the lockdown period: How do girls and boys feel like?’ Moreover, we have developed a webinar: ‘Lockdown in images: an interdisciplinary perspective’, with specialists on the matter*3*.

It is important to highlight that the context of COVID-19 pandemic raises awareness of the already existing digital gap, revealing the social and educational inequalities4. So much so that it led the Presidency of the Nation to issue the Necessity and Urgency Decree No. 690/2020, which introduces amendments to Law 27,078, **known as ‘Argentina Digital Law’**. This measure is of national scope. **The decree provides that the right of Internet access constitutes a digital right** of all individuals inherent to freedom of expression. It considers that Information and Communication Technologies (ICT) not only represent a portal to access knowledge, education, information, and entertainment, but also constitute a point of reference and a fundamental pillar for economic and social development. All of

2 E.g. Law 5775 of Prevention of grooming, Law 3266 of Prevention and eradication of digital abuse among and against children and adolescents, among other norms.

3 All of which is available on the institutional website, *ad hoc:* http://misderechoscuentan.defensoria.org.ar/

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| 4 School during lockdown: https://www.pagina12.com.ar/260580-coronavirus-la-escuela-en-cuarentena; Marketing before Education: https://www.pagina12.com.ar/285935-vuelta-a-clases-en-caba-el-marketing- page2image2197297488 |
| antes-que-la-educacion; Mariano Narodowski. ‘COVID-19 pandemic increases and raises awareness of the education gap’: https://www.lanacion.com.ar/opinion/biografiamariano-narodowski-la-pandemia-aumenta-y-visibiliza- la-brecha-educativa-nid2414288  |



this goes in line with Resolution A/HRC/20/L.13 dated June 29th 2012 from the Human Rights Council of the United Nations.

These difficulties stand identical when it comes to bring our proposals to the territory. The lack of Internet service for both students and teachers, the absence of computers or local digital platforms supporting education over time and protecting personal data in the region are major issues. Equally, the lack of information and training sessions on how to interconnect and protect their privacy need to be addressed. This comes from the NGO Ideas que Transforman ́s initiative, warning about the inconvenience of the faculty friending, following, or otherwise engaging with students on social media directly (https://ideasquetransforman.org/

Looking forward you will find our inputs useful, and please accept the assurances of my highest consideration.

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