European Network of Ombudspersons for Children (ENOC)

Position Statement on "Children's Rights in the Digital Environment"

We, members of the European Network of Ombudspersons for Children (ENOC), call upon our governments, the European Commission and the Council of Europe to undertake all appropriate actions to respect, protect and fulfil children's rights so that children and young people might be able to enjoy the benefits and opportunities which the digital environment offers.

As recognised by the Council of Europe, ENOC understands the digital environment as

> *"Encompassing information and communication technologies (ICTs), including the internet, mobile and associated technologies and devices, as well as digital networks, databases, content and services."*[1]

Our recommendations are intended to support the realisation of the United Nations Convention on the Rights of the Child (UNCRC) in the digital environment. They are also intended to support the implementation of the Council of Europe Guidelines (CM/Rec(2018/7) which outline a comprehensive, strategic approach for promoting and safeguarding the rights of the child in the digital environment.[2]

Having considered the relevant international binding and non-binding legal and other instruments[3];

Recognizing that children's lives are mediated by a digital environment that is complex, rapidly evolving and inevitably shapes the everyday lives of children so that online and offline activities are intrinsically linked and deeply interconnected;

Recognizing that the digital environment is a critical means through which children's rights can be realised and that every child has the right to access, learn, play and advance in the digital world;

Recognizing that it is the responsibility of States to improve existing principles and measures in order to promote and safeguard children's rights in the digital environment;

ENOC calls on States, national, regional and international authorities and organizations, decision-makers, business and industry to make further efforts to realize children's rights in the digital age.

- **The digital environment**

Technology has brought fundamental change to the lives of children and young people in myriad ways. The digital environment has allowed many children to communicate and network, to develop relationships, to play and learn, to explore and innovate. There has been an explosion of child-friendly tools, devices and platforms that can empower children to create, to be curious and to

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[1] [Guidelines to respect, protect and fulfil the rights of the child in the digital environment](#), Recommendation CM/Rec(2018)7 of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment.

[2] *ibid.*

[3] See End Note 1.

experiment in the digital environment. Children and young people around the world are using technology to exercise their rights to information, to expression, to association, to education and to have a voice on issues that resonate for them – issues such as climate change, bullying, equality, identity, social justice and more.

However, while many children and young people deftly use and manage technology, social media and digital spaces, they are also challenged by parents and carers who overuse and overshare digitally, peers who cyberbully and users who troll, they may live in communities without digital infrastructure or attend schools without digital citizenship curriculums. The digital world also replicates and amplifies barriers children face in exercising their rights, for instance, due to a lack of access to technology for children living in poverty, in the reinforcement of norms and stereotypes for girls and children with disabilities and through the proliferation of online hate speech.[4] The digital environment can also be a tool through which children's protection rights are threatened and technology is used by those who seek to groom, abuse and exploit children, often beyond local and national boundaries. The digital world also poses new challenges to children's rights as children's experiences, stories and data are captured, shared and stored on a scale not previously witnessed and where business and industry, often operating on a global basis, are key actors.

Children and young people will continue to grow up with technology and the internet in their lives. From infancy, the conditions of their childhood and their journey to adulthood in the digital environment will be rife with challenges and risks as well as opportunities and as such, respecting, promoting and fulfilling children's rights in the digital age must be a primary concern for all charged with protecting children's rights.[5]

- **Children's views on the digital environment**

Despite the challenges that exist, generally children and young people do not view the future developments and challenges in the digital age negatively.[6] The European Network of Youth Advisers (ENYA) 2019 Forum have stated:

> '*Grown-ups often mostly see and mention negative things about the internet. But mostly the internet is very positive. Children and young people should be supported in how to interact in a positive way with digital media.*'[7]

Children around the world have identified connection, communication and sharing as the key benefits of the digital world and their voices are a timely reminder of the potential of the digital environment as a vehicle through which children's rights can be meaningfully progressed.

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[4] United Nations (2019) Strategy and Plan of Action on Hate Speech understands hate speech as "as any kind of communication in speech, writing or behaviour that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identify factor. Geneva: UN; p.2.
[5]Livingstone S. (2014) *Children's digital rights: a priority.* Intermedia, 42(4/5) pp.20-24. http://eprints.lse.ac.uk/60727/
Livingstone S. and Bulger, M.E. (2014). *A Global research agenda for children's rights in the digital age.* Journal of Children and Media, 8(4) pp.317-335. http://eprints.lse.ac.uk/62130/1/Livingstone_Global_Research_Agenda_Childrens_Right_Digital_Age.pdf
[6]"Young and Online: Children's perspectives on life in the digital age. The State of the World's Children 2017 Companion   Report" https://www.unicef.org/publications/files/Young_and_Online_Children_perspectives_Dec_2017.pdf
Council of Europe, "It's Our World: children's views on how to protect their rights in the digital environment." https://rm.coe.int/it-s-our-world-children-s-views-on-how-to-protect-their-rights-in-the-/1680765dff
[7] ENYA 2019 'Let's Talk Young, Let's Talk about Children's Rights in the Digital Environment' Child Participation Project, p.13.

The 2019 ENYA Forum found that children and young people often have a balanced and considered view of the possibilities and challenges of engaging in the digital environment. However, without information and education they are more likely to have negative experiences. They emphasised the importance of being informed of their rights in relation to the digital environment, both to allow them to claim these rights and also to enable them to respect the rights of others. Schools need to engage proactively in the digital environment and support children and young people to use digital media in a constructive manner.[8] "Let's Talk Young, Let's Talk about Children's Rights in the Digital Environment"[9], contains a number of strategic recommendations, which have been incorporated into this statement.

Practical recommendations also identified by ENYA include:
- Children experiencing problems online should be able to get support from a trained person locally.
- Children should have access to dedicated apps on: Children's Rights; Privacy; and Fact Checking to help spot fake news.
- Children should have to give their consent before private content about them is published online by others and before their private information is used for commercial purposes.
- Children should be provided with Relationship and Sexuality Education which takes into account issues relating to the digital environment.

- **Children's rights in the digital environment**

The obligations which the UNCRC places on signatories apply not only to all aspects of children's lives from their survival and well-being, their development and protection and their voice being heard but also to all spaces which they inhabit, including the digital environment. The articles enshrined in the Convention can be understood as comprehensively addressing children's provision, protection and participation rights. These rights are intrinsically interrelated, interdependent and indivisible and all duty bearers are required to ensure that they are promoted and safeguarded in the digital world. As this generation of children and young people becomes the first to truly live in the digital age, we are faced with the significant challenge of ensuring that their rights flourish in the online world. The protection of these rights must be successfully accomplished by being deeply embedded into the legal, government, business, education and social frameworks that govern and mediate our digital lives.

ENOC's recommendations have drawn on international and European child rights standards, the views of ENOC members and the views of ENYA and children.

ENOC urges the Council of Europe, European Commission, States and duty bearers to:

1. **Fulfil children's rights in the digital age by recognizing and fully implementing the UN Convention on the Rights of the Child and the Council of Europe Guidelines to respect, protect and fulfil the rights of the child in the digital environment[10] through the development and implementation of rights-based strategies and measures, designed to evolve with technological developments. This must be undertaken in accordance with article 4 of the Convention on the Rights of the Child which requires that all appropriate legislative, administrative and other measures are undertaken.**

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[8] *ibid.*
[9] *ibid.*
[10] Council of Europe Recommendation CM/Rec(2018)7 of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment.

2. **Require governments, business and industry to respect and fully support children's rights in the digital environment. This includes:**

   a. Ensuring all platforms, providers, services, devices and products are subject to regulation and oversight which protects children's rights whilst taking into account children's evolving capacities. This must have particular regard to the principles of privacy, safety and data minimisation by design and be compliant with data protection obligations;

   b. Increase oversight of emerging technology such as geolocation, connected devices, profiling, artificial intelligence, facial recognition software, machine-learning and algorithms;

   c. Produce child-friendly and accessible guidelines, codes and terms and conditions for the use of all products and services, including social media, gaming and other platforms. This must have particular regard to ensuring children's or parent and carers' informed consent and age verification;

   d. Provide greater transparency and consumer protection for children including with respect to advertising, content marketing, in-app purchases and online gaming features;

   e. Support legislative and regulatory initiatives that hold industry and technology companies to account and provide for regulatory oversight to ensure that children can exercise their rights in the digital environment to the upmost;

   f. Support and strengthen research on children's rights in the digital world to ensure that duty bearers have a knowledge based approach. This must address the implication of children's interactions with technology on their cognitive, physical, social and emotional development and provide awareness raising for parents, carers and educators.

3. **Ensure that children's right to have a say in actions and decisions that affect them in the digital environment is realised.**

   a. Proactively engage children in the development, review and evaluation of digital strategies, technologies and content and give due weight to their views in accordance with their evolving capacity;

   b. Emphasise children's rights to freedom of association, freedom of expression and to seek, receive and impart information and ideas as well as their rights to privacy and participation with respect to protecting their data;

   c. Recognise and ensure that the digital environment offers an additional engagement platform for children to participate in social, community and civic roles;

   d. Monitor and assess the impact of strategies, policies and measures on children's participation rights.

4. **Ensure all children have access to the digital environment without discrimination.**

   a. Ensure that all children are able to enjoy the same opportunities that affordable access to the digital environment can provide, including access to infrastructure, connectivity, services and also appropriate content developed specifically for children;

   b. Produce policies, guidelines and information that address the needs of all children, particularly those from marginalized or vulnerable groups[11] with regard to accessing

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[11] While not an exhaustive list this must pay due regard to the needs of children with disabilities, children in care, those living in poverty and homeless children, children from minority ethnic communities, children on the move, internally displaced children and LGBTQIA children.

and realising their rights in the digital environment and make these available in appropriate formats;

c. Promote equality of access and overcome digital exclusion and discrimination, including through addressing stereotypes and increased gendering in the digital world.

5. Protect children's enjoyment of the internet, technology and social media free from false information, harmful content or harmful technologies.

a. Take measures to ensure that high-quality and unbiased information is readily discoverable by children and that action is taken with regard to the circulation of false information;
b. Strengthen protections, including through legislative and technological measures, regarding harmful content or technologies that are detrimental to children's mental and physical well-being (including pro-eating disorders, pro-self-harm and suicide content);
c. Require business and industry to share and report information regarding online harm and to remove harmful content immediately;
d. Take measures to ensure that children who seek or have been exposed to harmful content are directed to messages, content and support that promote their mental and physical well-being.

6. Take all necessary steps to protect children from bullying, violence, exploitation and abuse in all forms in the digital world.

a. Ensure the effectiveness of legislative, regulatory and other measures to combat the spread of online hate speech, racism, radicalisation and extremism and include robust sanctions for those who violate children's rights online;
b. Ensure effective national and international co-ordination and collaboration between government, industry and law enforcement to address all forms of online grooming, abuse and exploitation, including commercial exploitation;
c. Adopt innovative and future-proof policies to deal with emerging areas of sexual exploitation and abuse such as, virtual and augmented reality child sex abuse images;
d. Provide child friendly and accessible information for children regarding 'sexting' and user generated images, and ensure authorities respond in a child centred manner;
e. Provide support for children who have been affected by online bullying, harassment, violence, exploitation or abuse, including access to mental health services to aid recovery.

7. Recognize that children's right to education extends to the digital environment and support children's digital skills development.

a. Ensure children have the necessary digital skills and digital learning, including technical, creative and critical assessment skills in recognition of their multiple roles as digital users, creators, developers and leaders;
b. Implement educational policies that foster the development of all children's digital skills and confidence (regardless of age) and an awareness of children's rights, with particular reference to providing effective support for teachers and educators;
c. Ensure the integration of digital citizenship and technologies into educational curricula.

8. Provide support to parents and carers in their role as guardians of children's rights online to ensure that children can benefit from the opportunities afforded by the digital environment, while reducing potential risks.

a. Provide access to information, education and guidance to support parental responsibility, skills and confidence in the digital environment, taking into account children's right to privacy and parental sharing of children's data in this context;

b. Strengthen research and raise awareness regarding parental use of technology and the impact of this on their relationship with their children;

9. Ensure access to child friendly reporting, complaints and redress procedures for children and young people, their parents and carers.

a. Provide easily accessible and timely procedures, and child friendly information regarding these, to enable children to report concerns about harmful content, bullying, violence and abuse and to make complaints across all industry and government actors, including social media and technology companies, internet service providers and regulators;

b. Ensure in particular that statutory safeguarding procedures are in place and able to receive and act on reports from children, parents and carers regarding concerns about grooming, abuse and exploitation across all media and platforms;

c. Ensure government, business and industry and all adults in positions of trust meet their obligations to share and report content or behaviour that is harmful to children or which subjects a child to any form of violence, abuse or exploitation to the appropriate authorities;

d. Empower regulators to take effective action in regard to harmful, violent or abusive content and to ensure reporting, complaints and redress procedures are effective.

ENOC will work with the Council of Europe, European Commission and other duty bearers to promote and monitor implementation of these recommendations.

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End Note[12]

Having considered the relevant international binding and non-binding legal instruments and other instruments, and in particular:

- The UN Convention on the Rights of the Child (1989) (CRC);
- Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (2002);
- Optional Protocol to the CRC on a communications procedure (2011);
- Article 7 of the Convention on the Rights of Persons with Disabilities;
- The International Convention on the Elimination of Racial Discrimination;
- The Toronto Declaration (Human rights and artificial intelligence);
- European Convention on Human Rights (ECHR);
- Article 8 of the General Data Protection Regulation (GDPR);
- Convention on Cybercrime (Budapest Convention);
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention);
- Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108);
- All Recommendations to the Committee of Ministers related to children and the digital environment;
- Findings of the Council of Europe's Report on child consultations, "It's our world: children's views on how to protect their rights in the digital environment;"
- Findings of the ITC Coalition for Children Online, "Looking forward: technological and social change in the lives of European children and young people;"
- Findings of the UNICEF reports "Children's Rights in the Digital Age: a download from children around the world" and "Young and Online: children's perspectives on life in the digital age,"
- Findings of the OECD 21st Century Kids working paper "Impacts of technology use on children";
- Data provided by twenty-six Ombudspersons for Children – ENOC members[13] through a questionnaire of the ENOC Working Group "Children's right's in the Digital Environment."
- Findings from ENYA (2019), 'Let's talk young, let's talk about children's rights in the digital environment: Child Participation Project'

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[12] This statement was developed in full consultation with all ENOC members and with advice from Elizabeth Milovidov, independent expert, for which we are very grateful.

[13] Albania, Azerbaijan, Belgium (Flemish Region), Bosnia-Herzegovina, Cyprus, Denmark, Estonia, Finland, France, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Northern Ireland, Norway, Poland, Serbia, Slovakia, Spain (Basque Country), Spain (Catalonia), Ukraine, Wales.