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COUNCIL OF EUROPE

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Steering Committee for the Rights of the Child (CDENF)

Draft Declaration by the Committee of Ministers on the need to intensify efforts to respect and protect children's privacy in the digital environment

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(Adopted by the Committee of Ministers on ……..
at the …… meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Reaffirming that all children in Council of Europe member states are entitled to enjoy the full range of human rights enshrined in the United Nations Convention on the Rights of the Child (UNCRC) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 05) and their protocols; and that these rights should be fully respected, protected and fulfilled, equally offline and online, in an environment of unprecedented political, economic and cultural globalisation and connectedness;

Underlining the importance of implementing and promoting relevant international and European conventions, such as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its amending Protocol ("Convention 108+"), the Convention on Cybercrime (ETS No. 185) and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189), the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), and taking into account the recommendations, resolutions and declarations of the Committee of Ministers and of the Parliamentary Assembly of the Council of Europe aimed at promoting and protection the right of the child in the digital environment;

Bearing in mind the Council of Europe Strategy for the Rights of the Child (2016-2021) which identified the rights of the Child in the digital environment as one of its priority areas, and the Council of Europe Internet Governance Strategy according to which the internet should be a safe, secure, open and enabling environment for everyone, children included, without discrimination;

Mindful that Information and Communication Technologies (ICTs) are an important tool in children's lives which offers numerous opportunities for their well-being and enjoyment of human rights, while at the same time their use can generate risks;

Aware that personal data can be used to the benefit but also to the detriment of children and that at present, the impact of processing of biometric data, digital tracking and surveillance, automated decision-making and profiling activities in the long term is hard to predict;

Noting that the increasing reliance on AI based systems brings along challenges for the protection of children's rights, notably their right to privacy, their freedom of thought, their right to freedom of expression, to hold opinions and to receive information, their right to education, their right to freedom of assembly, and their right to non-discrimination;

Stressing the need for strengthening legal frameworks that apply to the processing of personal data of children and regular evaluation of their overall effectiveness, in order to ensure that the principles of proportionality, fairness, lawfulness, transparency, purpose limitation, data minimisation, accuracy, storage limitation and security are respected;

Convinced of the need for digital citizenship education to empower children through the acquisition of competences for democratic culture in order to be able to competently and positively engage with evolving digital technologies; to participate actively, continuously and responsibly in social and civic activities; to be involved in a process of lifelong learning (in formal, informal and non-formal settings) and be committed to defending continuously human rights and dignity;

Conscious of the need for parents, carers and educators to have access to digital literacy programmes and be supported in their responsibility to provide appropriate direction and guidance to children in the exercise of their rights in the digital environment;

Concerned of the consequences and impact of the COVID-19 pandemic with respect to children as a result of their increased online activities and use of online services, while acknowledging also the opportunities and benefits, such as those presented by remote learning, enabling contact with family and friends, and underlining the need to pay increased attention to the protection of privacy and data, including sensitive health data, of children;

Draws attention to the need for assessing possible stronger regulatory or other measures to ensure adequate and effective protection of the rights of the child and their privacy in the digital environment and to that end, expresses the need to intensify efforts in this area by calling on member States to:

a) Ratify and implement Convention 108+ to deliver a modern data protection framework and address the significant impacts of the processing of personal data on children and on the exercise of their rights more broadly;

b) Actively promote the Recommendation CM/Rec(2018)7 of the Committee of Ministers on Guidelines to respect, protect and fulfil the rights of the child in the digital environment, among individuals, public authorities and private enterprises and taking specific actions regarding its application, in order to enable all children to fully exercise their human rights and fundamental freedoms online;

c) Actively promote the Guidelines on children's data protection in education setting [prepared] by the Consultative Committee of Convention 108 in order to address the challenges identified in such settings;

d) Develop and promote measures to empower educators, children and families by promoting critical digital literacy and parenting skills and robustly enhancing public awareness, improving access to digital citizenship education and knowledge, as recommended in the Recommendation CM/Rec(2019)10 of the Committee of Ministers to member States on developing and promoting digital citizenship education;

e) In the context of the COVID-19 pandemic, exercise increased vigilance and ensure that enhanced safety and safeguarding measures are in place with respect to the processing of children's data and that effective systems of age verification are in place to ensure that 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.

f) Enhance co-ordination and co-operation among Data Protection Authorities, relevant institutions, entities, communities and other actors in the digital environment, in order to promote children's data protection and privacy rights in the digital environment;

g) Ensure that children are not subjected to arbitrary or unlawful interference with their privacy in the digital environment and promote the implementation of safety by design, privacy by design and privacy by default as guiding principles for products and services addressed to or used by children;

h) Co-operate with other states and relevant stakeholders to address the risks and impact on children and their rights posed by AI systems; including by taking any necessary measures in this respect and addressing any infringements of children's data protection and privacy by AI systems;

i) Co-operate with other member states, with the purpose of identifying, protecting and providing policy and other practical solutions on how to ensure that children's data protection and privacy are upheld, ensuring that any violation of their rights is sanctioned and that children, and /or their parents, carers or legal representative have access to an effective remedy;

j) Invest in research, knowledge development, including child participation in the field of the rights of the child in the digital environment, including a strengthened focus on the protection of the child's data and privacy.