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## **Declaration by the Committee of Ministers on the need to protect children's privacy in the digital environment**

*(Adopted by the Committee of Ministers on 28 April 2021  
at the 1402<sup>nd</sup> meeting of the Ministers' Deputies)*

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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 and the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, hereafter the Convention) and their protocols, and that these rights should be fully respected, protected and fulfilled, both offline and online, in an environment of unprecedented political, economic and cultural globalisation and connectedness;

Underlining the importance of promoting and implementing, for their States Parties, relevant Council of Europe 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 (CETS No. 223, commonly referred to as "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 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 the Parliamentary Assembly of the Council of Europe aimed at promoting and protecting the rights 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 (2016-2019), according to which the internet should be a safe, secure, open, free and enabling environment for everyone, children included, without discrimination;

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

Reaffirming that in all actions concerning children in the context of the digital environment, the best interests of the child shall be a primary consideration alongside ensuring the full enjoyment of the rights of the child, including the rights to privacy and freedom of expression, opinion and information;

Stressing the need, in accordance with Article 8 of the Convention, to respect the right of the child to private and family life in the digital environment, which includes the right to informational self-determination and the protection of personal data and communications, as risks to children's privacy may arise from the design and function of digital technologies and services, as well as children's own activities and those of their parents, peers, educators or others in the digital environment;

Conscious that the traceability of children's activities in the digital environment may expose them to criminal activities, such as the solicitation of children for sexual purposes, sexual extortion, child sexual exploitation (including exploitation of sexually explicit content generated by children), or otherwise illegal or harmful activities, such as discrimination, bullying, stalking and other forms of harassment by others;

Aware that personal data can be used to the benefit but also to the detriment of children, and that at present the understanding of the impact of processing biometric data, digital tracking and surveillance, automated decision making and profiling activities on children's well-being and rights in the long term is still limited and needs to be assessed at regular intervals;

Noting that the increasing reliance on systems based on artificial intelligence (AI) can bring both challenges and opportunities also for children's full enjoyment of human rights, including their rights to equality and non-discrimination, education and freedom of expression and to access to information through high-quality and diverse content, and emphasising that the development and use of AI, robotics and related technologies should not in any way limit the exercise of children's human rights, their engagement in democratic processes and democratic societies that respect differences and value diversity, or hamper their free development;

Recalling the right of children to freely express their views in all matters affecting them and for their views to be given due weight in accordance with their age and maturity;

Underlining the fundamental importance of achieving a high level of digital literacy of children, including media and information literacies and digital citizenship education, to ensure that they are able to participate actively, continuously and responsibly in social and civic activities and that they develop the competences necessary to engage wisely with digital technologies, as well as necessary skills such as critical thinking, creativity and resilience to cope with associated risks;

Stressing the need for parents, carers and educators to have access to digital literacy programmes, notably with respect to data protection, and be supported in their responsibility to provide appropriate direction and guidance to children in the exercise of their rights in the digital environment through positive parenting and full understanding of the digital environment and importance of the child's autonomy, evolving capacities, dignity and safety;

Concerned about the consequences and impact of the Covid-19 pandemic on children as a result of increased online activities and use of online products and services, or of digital exclusion, while also acknowledging the opportunities and benefits, such as those presented by remote learning, and enabling contact with family and friends;

Reiterating the need for strong legal frameworks that apply to the processing of personal data of children, the need to ensure compliance and to regularly evaluate their overall effectiveness, in order to ensure that the principles of lawfulness, proportionality, fairness, purpose limitation, data minimisation, accuracy, storage limitation, security, transparency, accountability, risk management, privacy by design and by default and their rights as data subjects are respected;

Considers that frameworks and measures should guarantee the effective protection of the rights of the child and, to that end, expresses the need to intensify efforts in this area by calling on member States to:

- i. ratify and implement Convention 108+ in order to deliver a modern data-protection framework and address the significant effects of the processing of personal data on children and, more broadly, on the exercise of their rights;
- ii. actively promote 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, among individuals, public authorities and business enterprises and take specific measures regarding its implementation in order to enable all children to fully exercise their human rights and fundamental freedoms online;
- iii. actively promote the Guidelines on children's data protection in an education setting, prepared by the Consultative Committee of Convention 108 in order to address the challenges identified in such settings;
- iv. develop and promote measures to support critical digital literacy, youth empowerment initiatives and parenting skills; robustly enhance public awareness and improve access to digital citizenship education and knowledge, as proposed in Recommendation CM/Rec(2019)10 of the Committee of Ministers to member States on developing and promoting digital citizenship education;

- v. in the context of the Covid-19 pandemic, exercise increased vigilance through the implementation of enhanced safety and safeguarding measures as regards the use of technology and processing of children's data, notably a child's health-related data and data collected in education settings, to minimise potential adverse effects, including the public identification of a child as a Covid-19 carrier, while ensuring adequate accountability and remedies and take steps to bridge the digital divide among children to ensure full enjoyment of their human rights;
- vi. ensure that children are not subjected to arbitrary or unlawful interference with their rights in the digital environment, promote the implementation of regular child rights risk assessments in relation to digital technologies, products, services and policies and apply safety by design, privacy by design and privacy by default as guiding principles when these are addressed to or used by children;
- vii. enhance co-ordination and co-operation among data-protection authorities, relevant institutions, entities, communities and other actors, in order to promote children's rights, including data protection and privacy;
- viii. co-operate with other States and relevant stakeholders to address the risks for and impact on children and their rights posed by the development and use of AI systems and take any further measures to ensure that children's rights are respected and, in particular, that the sharing of, access to and use of children's data are undertaken in accordance with the child's best interests and evolving capacities and the requirements of lawfulness, proportionality, fairness, purpose limitation, data minimisation, accuracy, storage limitation, security, transparency, accountability, risk management, privacy by design and privacy by default;
- ix. invest in research and knowledge development on the rights of the child in the digital environment, and in child and youth participation, taking into account the needs and rights of children, and especially those in particularly vulnerable situations;
- x. make use of the opportunities that digital technologies, including AI, present for the enjoyment of the rights of the child;
- xi. promote and contribute to exchanges of expertise and good practices for capacity building; establish and promote standards, regulations and other practical measures that enable the realisation of children's rights in the digital environment, through reinforced co-operation at international and regional levels.