



Building a Europe  
for and with children  
Construire une Europe  
pour et avec les enfants



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## **Steering Committee for the Rights of the Child (CDENF)**

### **Mapping Study on the rights of the child and artificial intelligence: Legal Frameworks that Address AI in the Context of Children's Rights**

*Prepared by The Alan Turing Institute and approved by the CDENF during its 9<sup>th</sup> plenary meeting (Strasbourg, 28-30 May 2024)*

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[List of Acronyms](#)

**AI** – Artificial Intelligence

**CAI** – Committee on AI (Council of Europe)

**CDENF** – Steering Committee for the Rights of the Child

**ECHR** – European Convention on Human Rights

**EEA** – European Economic Area

**GDPR** – General Data Protection Regulation

**HUDERIA** – Human Rights, Democracy, and the Rule of Law Impact Assessment

**IEEE** – Institute of Electrical and Electronics Engineers

**ISS** – Information society services

**UN** – United Nations

**UNCRC** – United Nations Convention on the Rights of the Child

**UNICEF** – United Nations Children’s Fund

**WEF** - World Economic Forum

### Executive Summary

1. Artificial Intelligence (AI) presents both potential benefits and risks to children's lives and the enjoyment of their fundamental rights and freedoms. Potential benefits of using AI have been suggested across education, health, entertainment, safety, and social contexts, among others. However, while digital technologies may provide opportunities to enhance children's well-being and development and their enjoyment of human rights, they simultaneously present many risks to children's rights and safety and create new challenges for the protection and empowerment of children, particularly when considering AI.
2. This report shares the results of a mapping exercise carried out by the Steering Committee for the Rights of the Child ([CDENF](#)) and The Alan Turing Institute, which was motivated by the three key challenges identified during the [high-level launching Conference of the Council of Europe Strategy for the Rights of the Child](#) (2022-2027) which was held in Rome on 7-8 April 2022. These challenges are as follows:
  - The lack of legal frameworks that address AI in the context of children's rights,
  - AI systems are often designed in a way that does not consider children's rights,
  - The scientific evidence about the impact of AI on children's development is still scattered, so is our understanding.
3. From these key challenges, it was concluded that an assessment of the need for legally binding frameworks for AI specifically used by children or for systems that affect children up to the age of 18 was necessary. This mapping study, consisting of an online survey – disseminated by the CDENF Secretariat in July 2023 – asked member states about any existing legal frameworks that address AI in the context of children's rights, as well as inquiring about incentives and obstacles to developing a legal framework and the presence of existing frameworks that directly mention children's rights.
4. 16 Council of Europe member states (Albania, Armenia, Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Latvia, Norway, Portugal, Slovenia, Switzerland and Türkiye)<sup>1</sup> provided replies to the questions of the survey. This report reflects the responses of these member states to the questionnaire attached in Annex 1.
5. The key findings of the mapping study were:
  - Most member state respondents do not have a legal framework that addresses AI in the context of children's rights in place nor are they in the process of setting one up.
  - Various countries did not believe or were undecided on whether existing frameworks such as the UNCRC were sufficient in protecting and upholding children's rights in relation to AI systems.
  - While incentives and barriers to development were listed by respondents, the recurring comment was that a national legal framework would not be established until the EU AI Act (for those countries who are also EU member states) and the Council of Europe [Framework] AI Convention were made final.
  - The survey also indicated that several non-EU member states are also interested in following the lead of the EU AI Act, demonstrating the weight placed on this particular instrument.
6. The results of the survey indicated that the majority of respondents do not have plans to develop their own legal frameworks on AI in the context of children's rights; and instead, many of the

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<sup>1</sup> Albeit the online survey was not completed, the United Kingdom shared some general information on available frameworks with the Secretariat of CDENF.

respondents plan to wait for the release of forthcoming AI legal instruments before making a decision on the need for a national legal framework. This signals not only the level of importance being placed on these forthcoming instruments, but also emphasises the need for these instruments to incorporate considerations of children's rights within the context of AI systems. While the survey results did not provide clear consensus on the perceived need to develop national legal frameworks on AI in the context of children's rights, future harmonisation efforts – between national and intergovernmental frameworks – may leave gaps in considerations for AI-based harms in the context of children's rights.

7. Considering the overall landscape of AI and the responses to this survey, we recommend the use of **child rights impact and risk assessments**, a **child rights-based approach to future legal frameworks for AI systems**, **meaningful engagement with children and young people** on these topics, and **awareness-raising campaigns** and **educational pathways**. It is critical to emphasise that the **onus of ensuring that online systems are designed in ways that safeguard children's rights should not fall on children and young people but with public authorities and companies**.

## Definitions

8. For the purposes of this study, the following definitions shall apply:

**Artificial intelligence (AI) system:** Any software or machine-based models that carry out functions such as making recommendations, predictions, or classifications. Some examples of AI systems include chatbots, automated translation tools, generative AI (e.g., ChatGPT), and self-driving cars. A detailed definition from the Council of Europe's [Committee on Artificial Intelligence \(CAI\)](#) is provided below:

*An “Artificial intelligence system” is a machine-based system that for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that may influence physical or virtual environments. Different artificial intelligence systems vary in their levels of autonomy and adaptiveness after deployment.*

9. **Best interests of the child:** The best interests of the child principle is set out in Article 3 of the UN Convention on the Rights of the Child (UNCRC) which states that, ‘In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration’.
10. **Child:** A person under the age of 18 is considered a ‘child’ as defined in Article 1 of the United Nations Convention on the Rights of the Child (UNCRC). Additionally, ‘children’s rights’ referenced throughout this report are understood in terms of the UNCRC and are based on all the relevant instruments of the United Nations (UN) and the Council of Europe.<sup>2</sup>
11. **Guidance document or guidelines:** Any non-binding, voluntary frameworks which provide general guidance in which to operate. This includes **non-binding recommendations** elaborated upon by the Committee of Ministers for the member states of the Council of Europe, which ‘provide a policy framework and proposals that governments can implement on the national level’. For example, the [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 of the Council of Europe.
12. **Information society services (ISS):** refers to ‘any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services’.<sup>3</sup> The definition covers most online services even if the remuneration of the service does not come directly from the user. For example, online services that are provided ‘free to the end user but funded via advertising still comes within the definition of an ISS’. Most services that children use are considered to be ISSs including apps, social media platforms, websites including search engines, content streaming services, online games, smart toys, or any online platform providing goods or services to users over the internet.
13. **Legal framework:** Any legally binding frameworks, regulation, children’s rights specific law and policies.

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<sup>2</sup> CDENF(2023)22rev, Section 1.3

<sup>3</sup> ICO Guidance on the UK GDPR – GDPR Art 4, 8

## 1. Introduction

### 1.1 Background of the study

14. On 23 February 2022, the Council of Europe Committee of Ministers adopted the [Strategy for the Rights of the Child \(2022-2027\)](#). As part of the Strategy's implementation by the Steering Committee for the Rights of the Child (CDENF), a report on the rights of the child and artificial intelligence (AI) was listed as a main deliverable under the CDENF's [Terms of Reference for 2024-2027](#), **Priority 3, 'Access to and safe use of technologies for all children'**. The Ethics and Responsible Innovation team – specifically researchers working on [children's rights and AI](#) – at [The Alan Turing Institute](#), the United Kingdom's national institute for data science and AI, were brought onto the project to support the development of that report through conducting the research and analysing the data.
15. AI presents both potential benefits and risks to children's lives and the enjoyment of their fundamental rights and freedoms. Potential benefits of using AI have been suggested across education, health, entertainment, safety, and social contexts, among others. For example, AI systems show promise in improving educational opportunities and supporting children's learning and development.<sup>4</sup> In healthcare, AI can be used for personalised treatment plans or disease detection, supporting children's physical and mental health and well-being.<sup>5</sup> AI can also be used to support online child safety through tools that identify and mitigate online risks like cyberbullying and harmful content to help children have better and safer online experiences.<sup>6</sup>
16. However, while digital technologies may provide opportunities to enhance children's well-being and development and their enjoyment of human rights, they simultaneously present many risks to children's rights and safety and create new challenges for the protection of children, particularly when considering AI. For example, in educational settings, AI-driven education technologies (edtech) used in schools often process vast amounts of personal data. This can lead to commercial exploitation of children's data and create risks to their privacy and data protection rights. Moreover, AI can perpetuate and exacerbate biases present in training data, potentially leading to discriminatory outcomes in educational settings, among others.<sup>7</sup>
17. It is clear that AI is impacting many areas of children's lives, and children interact with AI systems daily in myriad ways. Some of these interactions are intentional (e.g., playing with interactive toys or speaking with voice assistants), whereas others may be less so (e.g., in accessing tailored or personalised services, such as in education).
18. Consequently, children, or their carers, are not always aware of the ways in which they are engaging with AI or able to make informed choices about their use of the technology. Regardless, AI is likely to have significant impacts on children's lives now and in the future. These impacts include shaping the information they receive about the world (e.g. through search engines, social media or chatbots), influencing their friendships and social connections (e.g. through algorithms

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<sup>4</sup> Tuomi, I., The Impact of Artificial Intelligence on Learning, Teaching, and Education, Cabrera Giraldez, M., Vuorikari, R. and Punie, Y. editor(s), EUR 29442 EN, Publications Office of the European Union, Luxembourg, 2018, ISBN 978-92-79-97257-7, doi:10.2760/12297, JRC113226.

<sup>5</sup> UNICEF & WEF (2018) Children and AI Where are the opportunities and risks?

<sup>6</sup> Ibid.

<sup>7</sup> Council of Europe (2021) Education and AI, Council of Europe (2020) Personal data use in education report.

filtering content on social media), and directly affecting their access to services and important decisions that are made about their lives (e.g. through the provision or prioritisation of services in the public sector, such as identifying which children, or families, are considered to require interventions by social services). As such, it is crucial to consider how AI impacts children's rights and how children's rights can be protected through the design, development, and use of AI.

## 1.2 Scope of the study

19. This report, which shares the results of the mapping study, is motivated by three key challenges identified during the [high-level launching Conference of the Council of Europe's Strategy for the Rights of the Child](#) which was held in Rome on 7-8 April 2022. These challenges are as follows:
  - The lack of legal frameworks that address AI in the context of children's rights,
  - AI systems are often designed in a way that does not consider children's rights,
  - The scientific evidence about the impact of AI on children's development is still scattered, so is our understanding.
20. From these key challenges, it was concluded that an assessment of the need for legal frameworks for AI specifically used by children or for systems that affect children up to the age of 18 was necessary.
21. The mapping study therefore aims to identify Council of Europe member states' current approaches to protecting the rights of the child in the context of AI legal frameworks and to provide an analysis of existing national challenges and responses to this end. This analysis is informed by several sources, namely: responses from Council of Europe member states to a questionnaire (the draft of which is Annexed to this draft outline); a review of primary available materials and international legal frameworks, such as the [United Nations Convention on the Rights of the Child](#) (UNCRC), and UN Committee on the Rights of the Child's [General Comment No. 25 \(2021\) on children's rights in relation to the digital environment](#), as well as related Council of Europe documents and standards, including the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the [Lanzarote Convention](#)) and subsequent findings of its monitoring body (the Lanzarote Committee), the [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](#), the [Council of Europe's Strategy for the Rights of the Child \(2022-2027\)](#), and the [Council of Europe's Handbook for policy makers on the rights of the child in the digital environment](#) (2020).
22. This report aims to identify key gaps and recommend avenues of action for the CDENF and ways forward for Council of Europe member states. This work is to be seen in the context and with the aim of complementing other relevant Council of Europe work, notably, the ongoing and future work of the [Committee on Artificial Intelligence \(CAI\)](#), which includes the drafting of a Framework Convention on artificial intelligence, human rights, democracy and the rule of law<sup>8</sup> as well as the methodology for the Risk and Impact Assessment of AI Systems from the point of view of Human Rights, Democracy and Rule of Law (HUDERIA).

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<sup>8</sup> The [Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law](#) was adopted on 17 May 2024 by the Committee of Ministers of the Council of Europe at its 133th Session held in Strasbourg, and has been opened for signature on the occasion of the Conference of Ministers of Justice in Vilnius (Lithuania) on 5 September 2024.



### 1.3 Methodology

23. The mapping study was conducted using a combination of methods in order to obtain both qualitative and quantitative data. Both desk research and an online survey addressed to the member states of the Council of Europe were employed.
24. The questions contained in the online survey were developed by the CDENF in collaboration with The Alan Turing Institute. Informed by existing work by the Council of Europe – as introduced in the Scope section – research and related projects carried out by The Alan Turing Institute, and the three key challenges detailed in the high-level launching Conference of the Council of Europe’s Strategy for the Rights of the Child (Rome, 7-8 April 2022), the mapping study aimed to gather insights from member states on legal frameworks relating to AI in the context of children’s rights.
25. Divided into five sections, the survey consisted of 53 questions. Most of the questions were multiple response or single response questions with the opportunity to provide further comment. Part 1 consisted of a screening question that diverted respondents to different parts of the survey depending on their answer. Part 2 centred on existing legal frameworks that address AI in the context of children’s rights for member states that already have a legal framework in place. Part 3 focused on other guidelines or guidance documents relating to AI in the context of children’s rights, where member states do not have a legal framework in place but recommend other guidelines on the topic. Part 4 consisted of questions for member states where a legal framework that addresses AI in the context of children’s rights or other guidance documents on the topic are not in place. Finally, Part 5 provided the opportunity for member states to add any additional information or clarification.
26. Each of the sections of the survey were motivated by several overarching research questions relating to:
  - The landscape of existing national frameworks relating to AI in the context of children’s rights,
  - The implementation of international and Council of Europe standards through legal frameworks that address AI in the context of children’s rights across Europe, and
  - Challenges and opportunities in the development of a legal framework or guidance document that addresses AI in the context of children’s rights.
27. The CDENF Secretariat disseminated the online survey for Council of Europe member states in July 2023 with a deadline of 13 October 2023. 16 Council of Europe member states (Albania, Armenia, Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Latvia, Norway, Portugal, Slovenia, Switzerland, and Türkiye)<sup>9</sup> provided replies to the questions of the survey. The member states participating in the research provided crucial information and significantly contributed to this first study on legal frameworks relating to AI in the context of children’s rights.
28. The quantitative data was collected by the CDENF and forwarded to The Alan Turing Institute for further analysis. The results of this analysis are detailed below.

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<sup>9</sup> Albeit the online survey was not completed, the United Kingdom shared some general information on available frameworks with the Secretariat of CDENF.

29. The Alan Turing Institute also conducted desk research in order to refer to existing materials related to AI in the context of children's rights within the Council of Europe and beyond. These materials included documents from the United Nations Committee on the Rights of the Child (CRC Committee) and other international human rights mechanisms and reports from civil society organisations, as well as academia.<sup>10</sup>

## 2 Overview of relevant guidelines relating to AI and children's rights

30. AI and children's rights have been increasingly addressed in different international frameworks such as the United Nations Children's Fund (UNICEF)'s [Policy Guidance on AI for Children](#), World Economic Forum (WEF)'s [Artificial Intelligence for Children Toolkit](#), and others listed in the below section, which refer to the relevance of AI's impact on children's rights. Importantly, some of the below frameworks do not specifically focus on AI and children's rights but are still relevant to consider as they relate to the protection and empowerment of children in today's digital world. For example, although not specific to AI, the CRC Committee General Comment No. 25 and Council of Europe CM/Rec(2018)7 are frameworks that focus on children's rights in the digital space and underscore the importance of the AI systems' impact on these rights.

### 2.1 International frameworks

31. Given the absence of binding AI-specific legal frameworks at the moment in Europe –while awaiting the EU AI Act which was [recently approved](#) by the European Parliament on March 13, 2024 – several respondents, who are also members of the European Union (EU) referred to the [General Data Protection Regulation](#) of the EU (Regulation (EU) 2016/679) (“GDPR”) in the context of protecting children in relation to their data processing, also noting that some provisions in the GDPR are relevant for AI and children's rights.
32. The CRC Committee [General Comment No. 25](#) (2021) on children's rights in relation to the digital environment explains how states should implement the UNCRC in relation to the digital environment and gives guidance on relevant legislative, policy, and other measures to ensure compliance with their obligations under the UNCRC in light of the benefits, opportunities, risks and challenges in promoting, respecting, protecting and fulfilling children's rights in the digital environment.
33. The [UN Human Rights Council's Special Rapporteur on Privacy's Report](#) (2021) addresses potential infringements on children's privacy due to the increasing and non-responsive ways in which AI is being used. The report makes recommendations and explains how legal and rights-based frameworks intersect with AI, highlighting the need to protect children's privacy in an AI-driven world.
34. UNICEF's ['Policy Guidance on AI for Children'](#) (2021, Version 2.0) is a comprehensive framework developed through global stakeholder consultations, an overview of national strategies, and research case studies. It emphasises principles such as inclusion, fairness, privacy, explainability, and increasing awareness of children's rights and AI among governments, children, and caregivers. The guidance was developed partly through a piloting exercise, in which The Alan Turing Institute participated. Through this piloting exercise and resultant case study, The Alan

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<sup>10</sup> For example, a [report mapping transnational frameworks on AI in the context of children's rights](#) published by the Ethics team of the Public Policy Programme at The Alan Turing Institute.

Turing Institute examined UK public sector perspectives and demonstrated the importance of children's voice, participation, and rights.

35. The European Commission's Joint Research Centre's ['Artificial Intelligence and the Rights of the Child'](#) (2022) underscores the critical requirements of AI, such as explainability, transparency, and non-discrimination and emphasises the importance of integrating children's safety into AI technologies, while placing a specific focus on their relevance to children's rights. While part of the European Commission, its global scope emphasises the importance of these principles worldwide.
36. Another key framework is WEF's ['Artificial Intelligence for Children Toolkit'](#) (2022) which highlights the importance of the 'FIRST' principles—Fair, Inclusive, Responsible, Safe, and Transparent—when developing AI products for children. It also calls for the implementation of an AI labelling system, similar to barcodes or QR codes, to provide information on potential harms, data collection, and age-appropriate use. This guidance is non-binding, specifically relevant for the private sector, and can assist businesses and executives in responsibly developing AI products for children.
37. Moreover, on the international standards side, a key framework, [IEEE Standards Association's 'Age-Appropriate Digital Services Framework' \(2021\)](#) is grounded in the [5Rights Foundation's](#) – a leading civil society organisation working on children and the digital environment – principles and aims to provide standards for digital products and services, including AI, to ensure they are age-appropriate. It introduces an 'impact rating system' with open-access criteria to support product designers, governments, and educational providers. The framework complements the 4i's—Intentions, Inputs, Instructions, and Impact—outlined in 5Rights' Guidance for Policymakers on AI, ensuring a comprehensive approach to protecting children's rights in the digital age.
38. Overall, these frameworks collectively address the challenges and opportunities presented by AI and place their relevance in the context of children's rights and the design of the digital world. Additionally, these frameworks provide valuable guidance to governments, organisations, and businesses worldwide.

## 2.2 Council of Europe frameworks

39. Through its case-law, the [European Court of Human Rights](#) has provided guidance as to the meaning and scope of private life for the purposes of Article 8 of the European Convention on Human Rights.<sup>11</sup> Article 8 ECHR enshrines the right to respect for private life as a broad concept incapable of exhaustive definition. It covers the physical and psychological integrity of a person and may “embrace multiple aspects of the person’s physical and social identity”. Article 14 of the ECHR (non-discrimination) is equally highly relevant in the context of AI. It is especially important to highlight that states are not only under an obligation to ensure effective remedies when this right is violated but that they are also under positive obligations to take pro-active steps to uphold the enjoyment of this right. In the context of AI systems this means that states must take proactive action to ensure that frameworks are adequate to ensure children can enjoy their rights in the digital environment and also are protected from any misuse of these technologies.

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<sup>11</sup> European Court of Human Rights, Guide on Article 8 of the European Convention on Human Rights, [Article 8 - Right to respect for private and family life - ECHR-KS - Knowledge Sharing \(coe.int\)](#)

40. Other relevant Council of Europe Conventions include the [Convention on Cybercrime](#) (Budapest Convention), the [Convention on Data Protection](#) (Convention 108+) and the Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse ([Lanzarote Convention](#)). Although they are not specific to AI and children's rights, the Council of Europe has developed relevant frameworks that aim to support children's rights and enhance protection and empowerment both in online/offline environments. Some of these frameworks include the Lanzarote Convention and adopted documents of the Committee of the Parties (Lanzarote Committee), which protect children from sexual exploitation and sexual abuse and provides a blueprint for states to effectively prevent and combat these crimes, including when they are committed or facilitated by information and communication technologies. The Convention and relevant opinions<sup>12</sup> and monitoring reports of the Lanzarote Committee underscore the importance of implementing its provisions effectively, monitoring child protection efforts, and raising awareness about child sexual exploitation and sexual abuse.
41. [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](#) provides recommendations for the member states of the Council of Europe and explains fundamental principles and rights, including operational principles and measures to respect, protect, and fulfil the rights of the child in the digital environment in addition to national frameworks and international co-operation and co-ordination efforts to help with this aim.
42. The [Council of Europe's Strategy for the Rights of the Child: Children's Rights in Action: from continuous implementation to joint innovation](#) (2022-2027) has a specific priority area on "Access to and safe use of technologies for all children", which focuses on promoting and protecting the rights of the child to non-discrimination, access to information, freedom of expression, protection of personal data, and their rights to participation, leisure, and play in their use of digital tools and services. With the proliferation of digital technologies comes the need to ensure widespread digital inclusion while also creating safe online environments for children to engage. The Strategy includes a specific innovating objective aimed at "analysing the risks posed by and possibilities to benefit from the use of artificial intelligence technologies" (objective 3.2.5).
43. The [Council of Europe's Handbook for policy makers on the rights of the child in the digital environment](#) (2020) provides insights and recommendations to guide policy makers in the implementation of CM/Rec(2018)7, in order to adopt policies and strategies that safeguard children's rights in the digital sphere, and aims to address key risks and challenges in today's digital world such as online safety, privacy, and access to information while promoting the positive potential of digital technologies for children's development and participation.
44. [The Declaration by the Committee of Ministers on the need to protect children's privacy in the digital environment](#) (2021) underscores the importance of protecting children's privacy in today's digital world and addresses the growing concerns related to children's data protection and online privacy. The declaration specifically refers to the need for legal and policy measures to ensure

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<sup>12</sup> Opinion on Article 23 of the Lanzarote Convention - Solicitation of children for sexual purposes through information and communication technologies (Grooming); Declaration adopted on 16 June 2016 on web addresses advertising child sexual abuse material or images or any other offences established in accordance with the Lanzarote Convention; Interpretative Opinion on the applicability of the Lanzarote Convention to sexual offences against children facilitated through the use of information and communication technologies (ICTs); Opinion on child sexually suggestive or explicit images and/or videos generated, shared and received by children; Implementation report: The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs): addressing the challenges raised by child self-generated sexual images and/or videos (CSGIV).

their safety and privacy while using digital services and platforms and calls on member states to take steps to protect children's privacy online.

45. [Recommendation CM/Rec\(2019\)10 of the Committee of Ministers to member States on developing and promoting digital citizenship education](#) provides guidance to member states on the development and promotion of digital citizenship education. It underscores the importance of the knowledge, literacy, and skills that individuals, especially young people need to navigate the digital world. The recommendation calls on member states to integrate digital citizenship education into educational programs, addressing issues such as online safety and media literacy.
46. [The Guidelines on Children's Data Protection in an Educational Setting \(2021\)](#) provide guidance to support organisations and individuals in the context of education to respect, protect and fulfil the data protection rights of the child in the digital environment, within the scope of Article 3 of the Council of Europe Convention 108+ and in accordance with other relevant Council of Europe frameworks.

### [3. Analysis of legal standards and national strategies across member states](#)

47. Regulation of digital technologies has become increasingly important worldwide. This mapping study aimed to determine the extent to which prevailing legal standards and national strategies, specifically those pertaining to digital technology – including AI – are implemented and referenced across member states in the context of safeguarding children's rights. This section highlights key findings relating to the extent to which legal standards –including Council of Europe standards – and national strategies are referenced across member states in existing regulation and best-practice guidelines.

## International and Council of Europe standards cited by member states

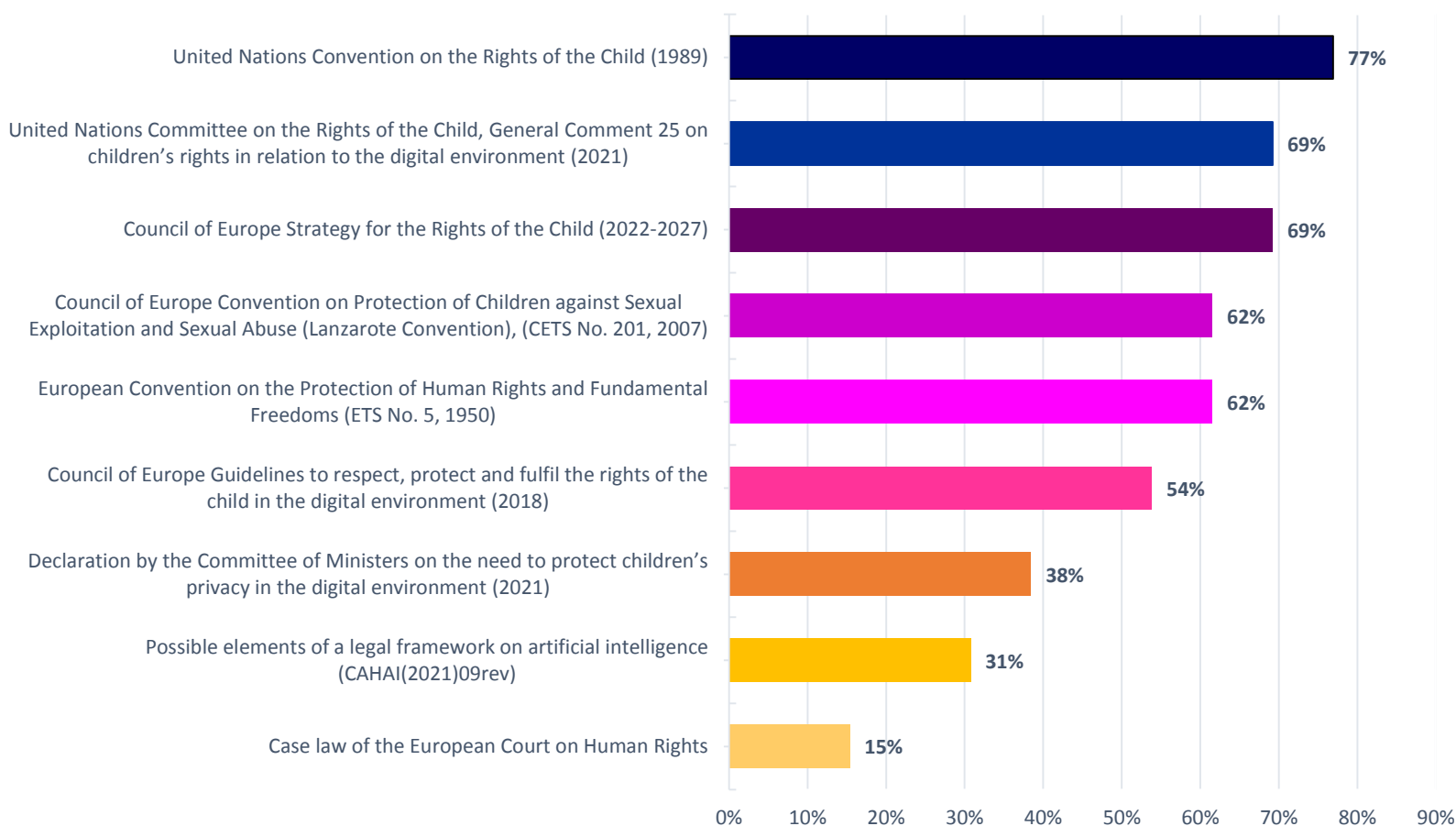


Figure 1. International and Council of Europe standards cited by member states in response to survey questions 13, 44, and 48.


48. As shown in Figure 1, the UNCRC was the most cited international standard with more than 77% of the member states who responded to this question listing it in some capacity, followed by the CRC Committee General Comment No. 25 at 69%.
49. All 46 member states of the Council of Europe have ratified the UNCRC, with some countries such as Iceland formally adopting the UNCRC into law. Additionally, at the time of conducting this survey,<sup>13</sup> at least three non-EU member states<sup>14</sup> indicated an intention to adopt the proposed EU AI Act once it is officially passed into law listing it as a regulatory framework which may align with the UNCRC.
50. Several other countries including Albania, France, Germany, Greece, Slovenia, and Switzerland, stated awareness of the UNCRC but reported no existing legal frameworks or non-binding guidelines in place which referenced the UNCRC in the context of children's rights and AI.

<sup>13</sup> Survey conducted August 2023 – October 2023

<sup>14</sup> According to survey responses received, said responses include Iceland, Norway and Switzerland.



51. Looking at the Council of Europe standards, the Strategy for the Rights of the Child (2022-2027) was cited by 69% of member state respondents who elected to answer this question, followed by the Lanzarote Convention at 62%.

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|  <b>The Lanzarote Convention</b>  |
| <p><i>The Lanzarote Convention is open to accession by any state in the world. It provides a blueprint for states to prevent and protect children from sexual exploitation and sexual abuse, including in the digital sphere. AI Systems are already being misused to sexually exploit and sexually abuse children including through solicitation, exposure to harmful content and the production of fully or partially AI simulated child sexual abuse material.</i></p> <p><i>It is urgent for states to take action to protect children to ensure that AI systems and ISS are not misused to harm children.</i></p> |

52. The 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](#) was referred to in detail by certain countries such as Armenia and referenced by more than half of all member state respondents to this question.<sup>15</sup>
53. France highlighted the ECHR and the ECtHR case-law relating to specific Articles of the Convention including Articles 8, 9, 10, 13, and 14. Furthermore, in addition to the standards listed above in Figure 1, Switzerland also referred to work carried out by the Council of Europe's CAI.

### 3.1 Legal frameworks

54. This survey examined whether member states have their own legal frameworks addressing AI in the context of children's rights, and to what extent respondents perceive existing international or inter-governmental legal frameworks to be adequate. This section provides an overview of survey responses in this regard. Overall, only one member state (Portugal) was found to have its own existing legal framework in this regard, and a range of responses were given in relation to the adequacy of existing international or inter-governmental frameworks.
55. Portugal was the only respondent to provide an example of a member state's own existing legal framework which addresses AI in the context of children's rights. [The Portuguese Charter on Human Rights in the Digital Era](#)<sup>16</sup> discusses the use of AI in Article 9, 'Use of artificial intelligence and robots', with specific mention of children's rights and well-being in the cyberspace in Article 20 'the right of children'.
56. Their survey response noted that the Portuguese Charter on Human Rights in the Digital Era refers to two international standards on children's rights, namely the UNCRC and the UN General Comment No. 25. Additionally, Article 9 of the Charter states the use of AI must be guided by the 'principles and values enshrined in Article 2 of the Treaty on European Union, in particular non-discrimination [...]'. In each article, the Charter specifies the area of the digital environment

<sup>15</sup> For further information on member state survey responses regarding the Council of Europe's Recommendation CM/Rec(2018)7 see section 3.2, 'Non-binding guidelines'

<sup>16</sup> The Charter was approved by the Portuguese Parliament through Law 27/2021, of 17 May amended by Law 15/2022

covered and the rights guaranteed to prevent and protect against its abuse or possible dangers. One of these articles focuses specifically on the rights of children - Article 20 - as follows "1 - Children have the right to special protection and the care necessary for their well-being and safety in cyberspace. 2 - Children are free to express their opinions and are free to receive and impart information or ideas in accordance with their age and maturity".

### 2.2.1 United Nations Convention on the Rights of the Child

#### Percentage agreement on indicating the UNCRC as a sufficient legal framework for children's rights in relation to AI

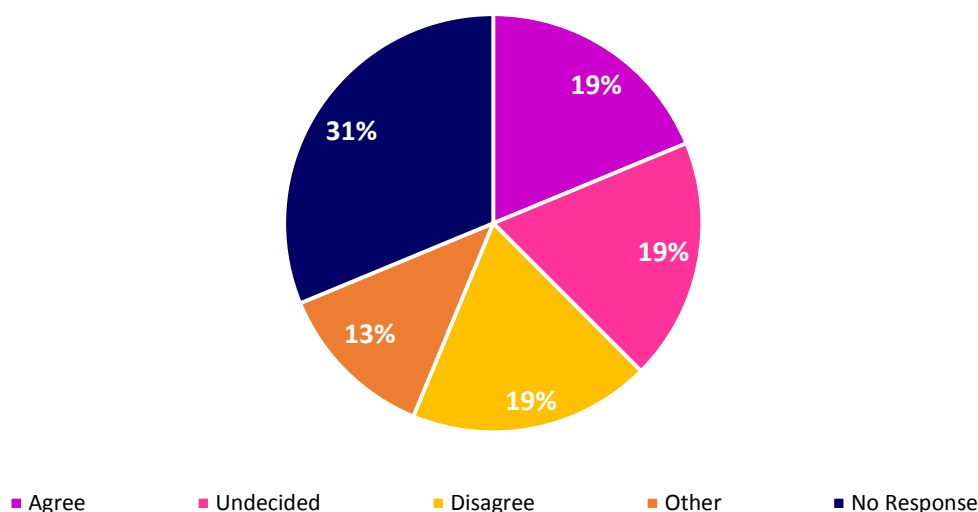


Figure 2. Survey responses to the question, "Is the UNCRC alone considered to be a sufficient legal framework for the protection of children's rights as they relate to AI?"

57. Norway has legally implemented the UNCRC in the Norwegian Human Rights Act, cf. Item 2.<sup>17</sup> The UN General Comment No. 25 and the Council of Europe Strategy for the Rights of the Child (2022 – 2027) were not stated as being directly referred to in specific policy or regulation but were reported as being available on the Norwegian government website.
58. Despite the UNCRC being the most cited standard as seen in Figure 1, countries that responded to the subsequent question relating to UNCRC had mixed opinions on whether the legal framework alone was sufficient for the protection of children's rights and AI. Most respondents viewed the UNCRC as the foundation for additional AI specific legislation and policy guidelines.

<sup>17</sup> Norway's Ministry of Children and Families (2019), <https://www.regjeringen.no/en/topics/families-and-children/child-welfare/child-welfare-cases-across-national-borders/norway-and-the-un-convention-on-the-rights-of-the-child/id2480148/>



59. For example, one country who indicated agreement with the statement that the UNCRC was a sufficient legal framework stated, 'The UNCRC outlines the rights of children, such as the right to privacy, [the] best interests of a child, [and] protection from harm, [which] are [all] relevant in the context of AI'. Other responses pointed to ongoing work as an indication that more is needed, for example one respondent stated: "[The] Council of Europe AI Convention and the EU AI Act demonstrate that the UNCRC alone is not enough. Since 2018, there have also been various non-binding regulatory instruments for the use of artificial intelligence'.
60. Countries that have formally adopted the UNCRC into law also had different opinions. For instance, it was stated: "[We] consider the UNCRC to provide a good base for future legislation on children's rights in relation to AI, especially following General Comment No. 25 (2021) on children's rights in relation to the digital environment. However, additional legislation would have to be made that specifically addresses children and AI, and ideally this would be based on the UNCRC to cover all aspects of children rights."

### 3.1.2 GDPR

**[General Data Protection Regulation \(GDPR\)](#)**

*The GDPR (Regulation (EU) 2016/679) is a part of EU law on data protection and privacy in the EU and the European Economic Area (EEA). The GDPR is an important component of EU privacy law and of human rights law and aims to enhance individuals' control and rights over their personal data and to simplify the regulatory environment for international business.*

### Do you consider GDPR to be a sufficient legal framework for the protection of children's privacy rights as they relate to AI?

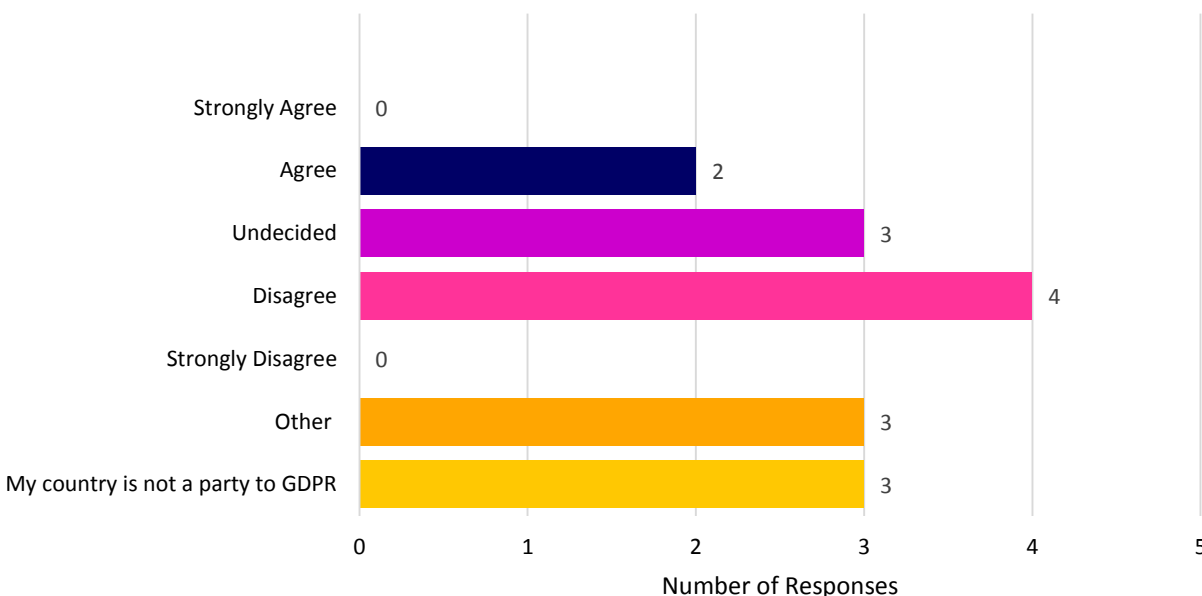


Figure 3. Survey responses to questions 9, 31, and 49 relating to GDPR being a sufficient legal framework for the protection of children's privacy rights as they relate to AI (for countries who are party to GDPR).

61. Article 3 (1) of the GDPR sets out the requirements for the lawful processing of personal data while recital (14) provides individuals (regardless of their nationality or place of residence) with rights and control over how their personal data is collected and processed, including by AI systems and automated decision-making.
62. As illustrated in Figure 3, survey respondents expressed a range of responses regarding the extent to which GDPR is a sufficient legal framework for the protection of children's privacy rights as they relate to AI.
63. Some respondents indicated that GDPR provides a helpful starting point for safeguarding children's rights in relation to AI. For example, the response from Latvia noted that GDPR addresses a wide range of considerations regarding the processing of children's data. Similarly, the response from Iceland commented that GDPR addresses the collection of children's data, fair and transparent processing of children's data, and automated decision-making by AI. They noted that GDPR has been incorporated into legislation in Iceland in laws that include Articles addressing children's privacy rights in relation to AI. The response from Türkiye noted that the harmonisation process of GDPR is ongoing in Türkiye.
64. However, responses also indicated some limitations of GDPR with regards to the protection of children's rights. Notably, the response from Germany commented that while GDPR provides protections for children regarding the involuntary processing of their personal data, it does not include an obligation to verify children's age. Moreover, the response from Germany also indicated challenges when interacting with AI associated with the lack of transparency around the purposes for which data might be used in the future. They noted that while a child or their guardian may provide consent for data to be processed, they may not be able to adequately foresee all potential future purposes for which that data may be used. This raises concerns around limitations of informed consent.

#### *3.1.1.1 Age of Digital Consent*

65. Article 8 of GDPR sets out that where information society services are provided directly to a child, the legal age at which the child can consent to the processing of their personal data is 16 years old. Where the child is below the age of 16, consent must be given by their parent or legal guardian. However, member states may elect to introduce a lower age for digital consent, with the minimum possible age being 13.

66. Across survey responses a range of responses were given regarding the digital age of consent in member states (see Figure 4). However, in the majority of countries it was indicated that the digital age of consent is 13 and 15. In some countries this is an area of ongoing consideration; for example, the Norwegian Privacy Commission has recommended undertaking an assessment of the appropriate age for digital consent. In Denmark, the age of digital consent has been raised from 13 to 15 with effect from 1 January 2024. Portugal indicated 'Other' and cited the EU GDPR in their response, reiterating the GDPR minimum requirement is 13 but the legal age for processing is 16.

**Age of Digital Consent across member states responses**

| Age                 | 12 | 13      | 14 | 15       | 16      | 17 | 18      | Other    |
|---------------------|----|---------|----|----------|---------|----|---------|----------|
| Country             |    | Belgium |    | France   | Germany |    | Albania | Portugal |
|                     |    | Iceland |    | Greece   | Hungary |    |         |          |
|                     |    | Latvia  |    | Slovenia |         |    |         |          |
|                     |    | Norway  |    | Denmark  |         |    |         |          |
| Number of Responses | 0  | 4       | 0  | 4        | 2       | 0  | 1       | 1        |

Figure 4. Survey responses to questions 10, 32, and 50 relating to the age of digital consent across Member States.

### 3.2 Non-binding guidelines

67. In addition to legal frameworks, member states were also surveyed on non-binding guidelines or recommendations in place which address AI and children's rights.
68. Amongst the total respondents, 43,75% (7 out of 16) (Albania, Denmark, France,<sup>18</sup> Germany, Greece, Iceland, Slovenia) stated that neither legal frameworks nor non-binding guidelines addressing AI in the context of children's rights have been developed in the national context.
69. However, 31,25% (5 out of 16) (Armenia, Belgium, Finland, Switzerland, Türkiye) stated that whilst no legal framework that addresses AI in the context of children's rights currently exists in their country, recommended guidance documents were available. For example, Finland highlighted it had participated in the development and trialling of [UNICEF's Policy Guidance on AI for children](#).
70. With regards to the Council of Europe standards, the Strategy for the Rights of the Child (2022-2027) was cited by 69% of member states respondents, followed by the Lanzarote Convention and ETS No.5 at 62% respectively and the Council of Europe's Guidelines to respect, protect and fulfil the rights of the child in the digital environment – Recommendation CM/Rec(2018)7 at 54%.

<sup>18</sup> In April 2024, a new report exploring the impact of AI on children was published in France, commissioned by the President of the Republic, titled "[Children and Screen: In Search of Lost Time \(Enfants et écrans. A la recherche du temps perdu\)](#)". In addition to experts and professionals, 150 young people were consulted in preparation of this report.

71. In Armenia, the Human Rights Defenders Office (HRDO) is reported to have conducted 'awareness meetings' on the context of the Council of Europe's Guidelines to respect, protect and fulfil the rights of the child in the digital environment – Recommendation CM/Rec(2018)7 and the UNCRC, and coordinated 'meetings and discussions on the topic of protecting children's rights in the online environment with children and specialists'.
72. As seen above, there are a limited number of *legal* frameworks in place across member states which address AI in the context of children's rights, with the majority of respondents pointing to the EU AI Act as the foreseeable future regulation. However, as shown in Figure 1, there appears to be considerable awareness by member states respondents of both the Council of Europe standards and international conventions surveyed.

### 3.2.1 National AI Strategies

73. In addition to legal standards, this section discusses survey responses exploring national AI strategies across member states which explicitly focused on children. All 16 member states (Albania, Armenia, Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Latvia, Norway, Portugal, Slovenia, Switzerland, and Türkiye)<sup>19</sup> responded to this section of the survey as shown below in Figure 5.

#### If your country has a National AI Strategy, does it explicitly mention children?

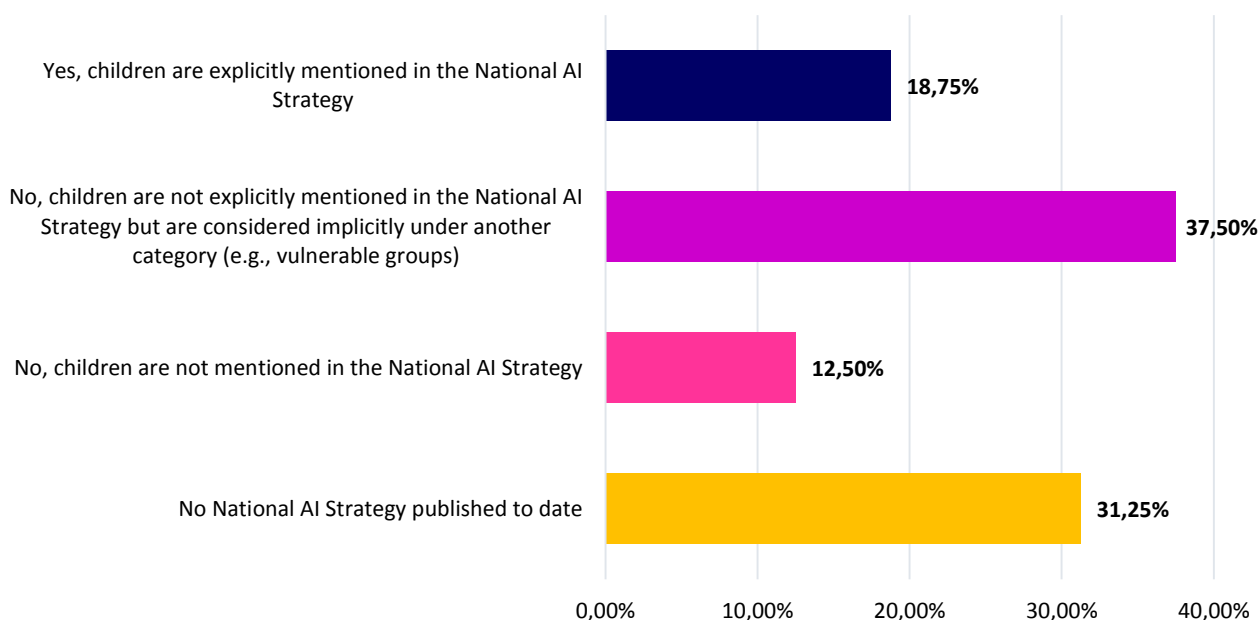


Figure 5. Percentage responses indicating National AI Strategies with an explicit focus on children across Council of Europe Member States.

<sup>19</sup> Albeit the online survey was not completed, the United Kingdom nonetheless shared some general information on available frameworks with the Secretariat of CDENF.

74. A further country specific breakdown to the above responses is shown below in Table 1. Six respondents (37.50%) stated their country's National AI strategy did not explicitly mention children but did consider them implicitly, for instance under another category (e.g., vulnerable groups) or a broader reference (e.g., non-discriminations of individuals).

| Yes, children are explicitly mentioned in the National AI Strategy | No, children are not explicitly mentioned in the National AI Strategy but are considered implicitly under another category (e.g., vulnerable groups) | No, children are not mentioned in the National AI Strategy | No National AI Strategy published to date |
|--|--|--|---|
| Portugal   | Denmark  | Finland  | Armenia                                   |
| Norway   | Slovenia   | France   | Greece                                    |
| Hungary  | Belgium  |  | Albania                                   |
| Germany  | Türkiye  |  | Latvia                                    |
|  | Switzerland  |  |   |
|  | Iceland  |  |   |

Table 1. Reported survey responses from member states to the question, 'If your country has a National AI Strategy, does it explicitly mention children?'

75. Türkiye reported the establishment of the National Artificial Intelligence Strategy Steering Committee which has various focus areas including "Data Governance", "Human Resources", "Technical Infrastructure and Platforms", "AI Law and Ethics", "Trustworthy and Responsible AI", "Public AI Ecosystem" and "AI Competence Development Center". Additionally, expert working groups have been commissioned with the aim of ensuring AI 'respects ethical principles and values, complies with legal regulations, is technically trouble-free, and considers [the] social environment'.
76. While Iceland does have an existing National AI strategy, it does not refer to children explicitly or implicitly. However, Iceland's National AI strategy does refer to vulnerable groups in the context of individuals with disabilities but not to children specifically. However, the Icelandic Media Commission is working with the Icelandic Data Protection Authority to develop guidance on AI, with a dedicated focus on children.
77. Latvia reported no existing national AI strategy and stated, 'existing legal frameworks relating to children's rights, more generally, are sufficient when considering children's rights as they relate to AI'.

#### 4 Exploring existing and potential legal frameworks addressing AI and Children's Rights

78. As noted above, while there was recognition of international, or inter-governmental frameworks on children's rights, only one respondent to the survey provided an example of an existing legal framework in their country addressing AI and children's rights. This section therefore further explores current perspectives and perceived challenges regarding the development and implementation of frameworks in this area. The analysis aims to understand current needs and potential barriers to developing further effective frameworks to address AI and children's rights across member states.

#### 4.1 Countries with existing legal frameworks addressing AI and Children's Rights

79. While some respondents pointed to the EU AI Act as a developing framework of relevance, and responses from three countries (Portugal, Norway and Hungary) noted that their country has a National AI Strategy which explicitly mentions children, only one country (Portugal) represented in the survey responses had their own existing legal framework addressing AI and children's rights.
80. The Portuguese legal framework (Portuguese Charter on Human Rights in the Digital Era) was said to be a stand-alone framework, enforced by national law. It applies to all domains where AI may be used, nevertheless, each of its articles cover the most relevant domains, referring to the rights assured in each case, rather than focussing on a particular domain. The development of the framework was said to involve consultation with "relevant stakeholders", including policy-makers. The framework does not recommend an impact assessment be carried out as a requirement for examining AI in the context of children's rights.

#### 4.2 Challenges to and opportunities in the development of a legal framework or guidance document that addresses AI in the context of children's rights

81. Overall, the survey responses were centred on the challenges and opportunities related to the development of a legal framework that addresses AI in the context of children's rights. As only one respondent (Portugal) could comment on questions relating to their experience developing and implementing a national legal framework, it is important to draw attention to both the incentives for establishing such a legal framework as well as the barriers to development. This section will cover both topics and will illustrate that harmonisation with existing and forthcoming international standards is cited as the primary reason for delaying the production of national frameworks. This section demonstrates the importance of international co-operation on the effective promotion of children's rights when designing, developing, and deploying AI systems and also signals a need to reassess member states' views regarding the establishment of a legal framework, once standards such as the EU AI Act and the [Framework] AI Convention have been released.

##### 4.2.1 Incentives and considerations related to establishing a legal framework

82. Among responses from countries without an existing framework addressing AI and children's rights, in exploring the main incentives to set up such a legal framework, Armenia, Latvia, Switzerland, and Türkiye stated that 'more effective implementation of international and Council of Europe standards' would be a leading incentive. The other most cited incentives were the 'prevention of discrimination of children or specific groups of children', and 'more effective protection of children online or within the context of digital services'. Another incentive mentioned was an overall 'social investment in the best interests of children and society'. Several countries indicated that mainly state and civil society actors are advocating for the creation of a legal framework or set of guidelines. For example, in Finland, there have been several NGOs who have raised the question of the need for a legal framework.<sup>20</sup>

<sup>20</sup> See report by The Central Union for Child Welfare, <https://www.lskl.fi/blog/tekoaly-lapsen-oikeuksien-nakokulmasta-mahdollisuudet-ja-riskit/>

83. Of respondents who stated that their countries are interested in developing a framework, most indicated that a possible future framework would be targeted at children and young people (four out of five respondents answering this question: Armenia, Finland, Switzerland, and Türkiye). Three respondents indicated that in addition to children and young people, a future framework would also be aimed at ‘Businesses that provide digital services that may be accessed by children’, ‘members of the public sector’ and ‘policy-makers’ (selected by Switzerland, Armenia and Finland, respectively). One respondent (Latvia) indicated that a target group for a potential future framework had not been specifically defined.

#### 4.2.2 Barriers to developing a legal framework

84. There were several barriers cited for developing a legal framework that addresses AI in the context of children’s rights. These included not yet considering the topic in enough depth, which was expressed by most of the respondents, as well as not knowing where to begin and not having the time nor resources. Iceland, for example, indicated the challenges that smaller countries face with keeping up to date with the fast-paced world of AI, stating that they would need to look towards experiences and developments taking place in other countries. Two respondents (Germany and Switzerland) stated that a major reason was ‘beliefs that existing legal frameworks relating to data protection are sufficient when considering children’s rights’, and also that ‘beliefs that existing legal frameworks relating to children’s rights, more generally, are sufficient when considering children’s rights as they relate to AI’.
85. When asked to consider potential obstacles to or difficulties in developing a legal framework, the top two cited responses as seen in Figure 6 were organising multidisciplinary and interagency co-operation (MDIA) and understanding the concept of AI as it relates to children’s rights. In addition to these, other possible logistical barriers included the necessity of law reform to set up the framework’s implementation, securing budget, guaranteeing sustainability of the framework, and mobilising political support.
86. When asked about developing any non-binding guidelines or guidance documents that address AI in the context of children’s rights, the majority of respondents answered very similarly to the reasons for not developing a legal framework.



**Cited obstacles for developing a legal framework or non-binding guidelines that address children's rights in the context of AI**

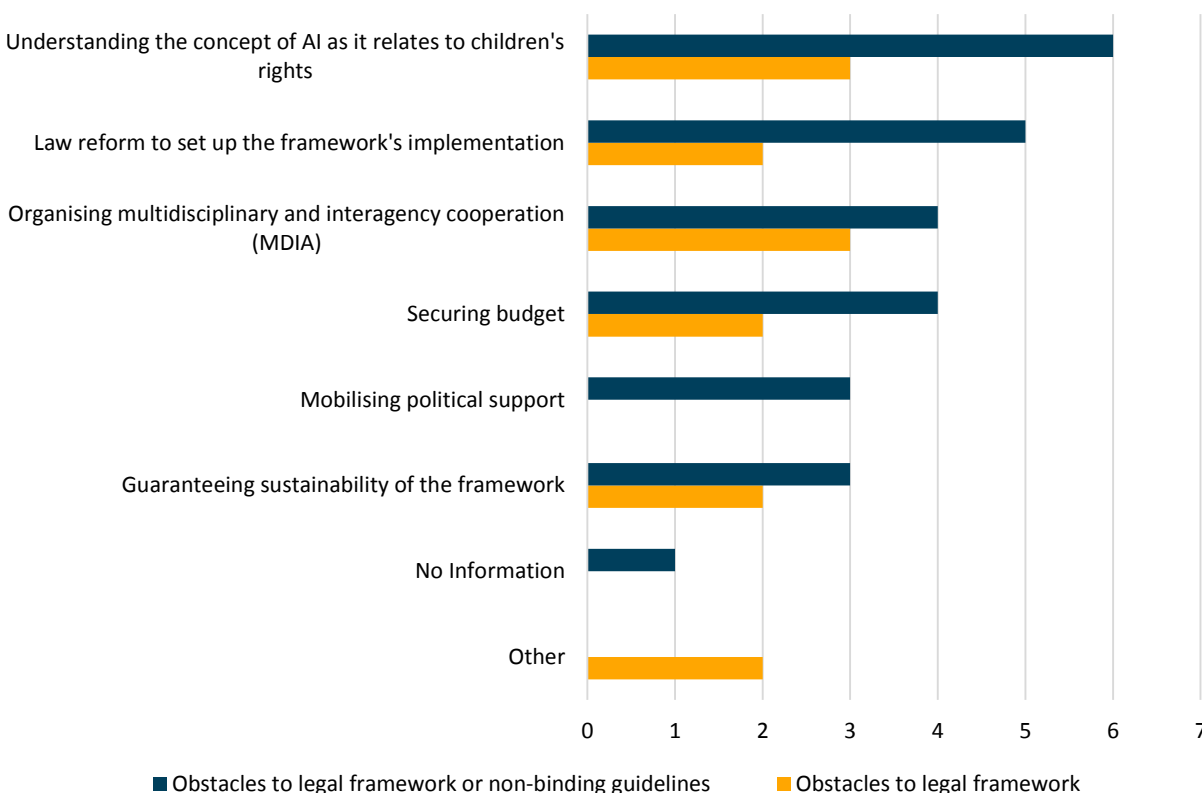


Figure 6. Survey responses to questions 30 & 47 citing obstacles for developing a legal framework or non-binding guidelines that address AI in the context of children's rights

#### 4.2.3 Related work in countries and a focus on harmonising national frameworks with forthcoming legal frameworks

87. Regardless of the discussion surrounding barriers and incentives to develop a legal framework, the survey responses contained little mention of any imminent developments of a legal framework. Across various countries, there are adjacent research areas and interests surrounding children's rights and AI; however, many respondents are focused on harmonising their national AI frameworks with forthcoming legal frameworks such as the EU AI Act and the [Framework] AI Convention or building on the foundation laid by GDPR. For example, in Switzerland, there have been various measures taken including the Report of the Interdepartmental Working Group on AI<sup>21</sup> of 2019, Guidelines on the use of AI within the Confederation of 2020,<sup>22</sup> as well as the creation of the Artificial Intelligence Competence Network (CNAI)<sup>23</sup> in 2022. In addition, Switzerland's Federal Office of Communications (OFCOM) is responsible for 'drafting a bill on the regulation of digital platforms to improve their transparency and strengthen the protection and rights of users'.

<sup>21</sup> See <https://oecd.ai/en/dashboards/policy-initiatives/http:%2F%2Faipo.oecd.org%2F2021-data-policyInitiatives-25001>

<sup>22</sup> See <https://cnaai.swiss/wp-content/uploads/2022/12/Monitoring-der-Leitlinien-KI-EN.pdf>

<sup>23</sup> See <https://cnaai.swiss/en/competence-network/>



The Swiss government is also conducting work relating to regulation, carrying out an inventory on regulatory options – sectoral and cross-sectoral – by the end of 2024 once other international legal frameworks have been finalised (EU AI Act and [Framework] AI Convention). The Swiss government has also indicated this piece of work will address the issue of child protection.

88. Belgium has cited protections in GDPR for children and young people including, ‘When you are active in the information society services sector and your audience may also consist of minors, you must comply with the rules of Article 8 of the GDPR, which introduce additional obligations to ensure a better level of data protection for children’. Belgium expressed concerns related to cross-border processing, as the age of consent for information society services varies across EU countries. In July 2023, the Council of Ministers approved a draft Royal Decree establishing a Federal Government Data Ethics and Artificial Intelligence Advisory Committee in Belgium, which authorises the establishment of an advisory committee on data and AI ethics within the Federal Public Service Strategy and Support<sup>24</sup> (FPS BOSA). This advisory committee is responsible for making civil servants aware of both their responsibilities regarding the use of data and AI as well as the corresponding ethical aspects through non-binding opinions.
89. Greece has indicated that they adopted a general AI legal framework. However, their draft Children’s Rights National Action Plan 2024-2027<sup>25</sup> includes a chapter on safeguarding children in the digital space, which simultaneously provides routes to an elaboration of the legal framework to address AI in the context of children’s rights.
90. Norway stated that they did not consider a new or specific piece of regulation that addresses AI in the context of children’s rights to be necessary, as it has already been covered by existing technology neutral legislation. The survey response from Norway indicated that this technology neutral approach allows them to adapt to novel challenges that come with new technologies. Latvia expressed their opinion that existing legal acts fulfil their tasks and that the forthcoming AI act will complement these already-existing legal frameworks.
91. Türkiye concurred by mentioning that the harmonisation process of GDPR and the developments of the EU AI Act with their national frameworks is ongoing. Türkiye has highlighted the importance of compliance of legal and administrative regulations as they relate to AI in their National AI Strategy 2021-2025<sup>26</sup>.
92. Slovenia expressed the importance of building a foundation of clear AI frameworks (EU AI Act and the [Framework] AI Convention) before developing any specific legal framework for children’s rights.
93. Denmark indicated that existing legal frameworks such as those relating to data protection offer some protections.
94. Finally, Finland indicated that it remained unclear if a specific legal framework on children’s rights is needed in this context or if general legislation is enough.

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<sup>24</sup> Read more here

[https://www.belgium.be/en/about\\_belgium/government/federal\\_authorities/federal\\_and\\_planning\\_public\\_services](https://www.belgium.be/en/about_belgium/government/federal_authorities/federal_and_planning_public_services)

<sup>25</sup> See <https://ekka.org.gr/images/SYNTONISMOY->

[ORGANOSIS/%CE%94%CE%97%CE%9C%CE%9F%CE%A3%CE%99%CE%A9%CE%9D\\_%CE%A3%CE%A7%CE%95%CE%A3%CE%95%CE%A9%CE%9D/National\\_Action\\_Plan-Child\\_Guarantee\\_in\\_English.pdf](ORGANOSIS/%CE%94%CE%97%CE%9C%CE%9F%CE%A3%CE%99%CE%A9%CE%9D_%CE%A3%CE%A7%CE%95%CE%A3%CE%95%CE%A9%CE%9D/National_Action_Plan-Child_Guarantee_in_English.pdf)

<sup>26</sup> See <https://cbddo.gov.tr/SharedFolderServer/Genel/File/TRNationalAIStrategy2021-2025.pdf>

## 5 Conclusion: A look towards the future and strategic guidance

95. The findings from the mapping study clearly illustrate that most member state respondents do not have a legal framework that addresses AI in the context of children's rights in place nor are they in the process of setting one up. However, as noted in the study results, various countries did not believe or were undecided on whether existing frameworks such as the UNCRC were sufficient in protecting and upholding children's rights in relation to AI systems. We would like to call on member states to take proactive action to review their legal frameworks to ensure they are adequate to address AI systems in line with their positive obligations under Article 8 of ECHR. In cases where the existing legal frameworks are inadequate, we advise member states to urgently reform them so that children are not left without protection. While incentives and barriers were listed by respondents, a recurring comment was that a national legal framework would not be established until the EU AI Act (for those countries who are also EU member states) and the Framework AI Convention were made final. The survey also indicated that several non-EU member states are also interested in following the lead of the EU AI Act, demonstrating the weight placed on this particular instrument. Relatedly, the Framework AI Convention contains an explicit recognition of children's rights. Article 18 reads, '*Each Party shall, in accordance with its domestic law and relevant international obligations, take due account of any specific needs and vulnerabilities in relation to respect of the rights of persons with disabilities and of children*'.<sup>27</sup>
96. While the survey results did not provide clear consensus as to the perceived need to develop national legal frameworks on AI in the context of children's rights, future harmonisation efforts – between national and intergovernmental frameworks – may leave gaps in considerations for AI-based harms in the context of children's rights.
97. As evidenced in the Introduction section, children and young people interact with AI systems both intentionally and unknowingly, and they are not always aware of the ways in which they are engaging with AI, or able to make informed choices about their use of the technology, or how AI may be used in ways which impact them. Children's rights such as non-discrimination, the right to play, and the right to privacy are among the rights and freedoms that are at stake when AI systems are developed without meaningful engagement with children and young people and without a prioritisation of children's rights through the design, development, and use of AI systems. Interestingly, 'understanding the concept of AI as it relates to children's rights' was one of the most frequently cited responses to the question regarding perceived obstacles to developing non-binding guidelines or a legal framework that addresses AI in the context of children's rights. This signals a critical need to engage with children's rights frameworks and meaningfully engage children and young people on this topic.
98. Due to the majority of responses that indicated there would be no establishment of a legal framework until future standards are released, we would like to place an even greater emphasis on the importance of considering children's rights and the mechanisms to do so in the absence of such legal framework or guidance documents.
99. Our recommendations are as follows:
  - The findings of this mapping study support the conclusion that there is a critical need for **child rights impact and risk assessments**,<sup>28</sup> which not only consider the range of children's rights and principles but also ensure that AI systems adhere to children's rights and evidence this throughout the assessment. Such an assessment not only ensures the

<sup>27</sup> <https://www.coe.int/en/web/artificial-intelligence/the-framework-convention-on-artificial-intelligence>

<sup>28</sup> See the terms of reference for the CDENF for [2024-2027](#)

minimisation of risks, but simultaneously generates evidence that finds solutions and enables children to maximise their opportunities in the digital world as digital citizens. More specifically, the child rights impact and risk assessment should include an in-depth assessment of the benefits and limitations of the AI system with an eye to specific principles such as fairness, non-discrimination, data stewardship, transparency, explainability, accountability, safety, and sustainability. After this is completed, teams designing, developing, and deploying AI systems should identify ways to mitigate any potential negative impacts. The assessment should also include a clear delineation of roles and responsibilities so that a system's impacts on children's rights are reevaluated and monitored. Additionally, a child-friendly report detailing a non-technical summary of the system's methodology should be made readily available.

- Child rights impact and risk assessments could complement the Risk and Impact Assessment of AI informed by the Human Rights, Democracy and Rule of Law (HUDERIA) being developed by the Committee on Artificial Intelligence to support the implementation of the Framework AI Convention.<sup>29</sup> Tools such as the child rights impact and risk assessments should also be made readily available and targeted to industry and service providers.
- While it was positive to see that the UNCRC and the UN Committee on the Rights of the Child General Comment No. 25 were the two most cited frameworks by member state respondents, it is important to emphasise again the **need for child rights-based approach to future national legal frameworks for AI**. This child rights-based approach also requires a clear delineation of roles and responsibilities across relevant stakeholder groups (adults, caregivers, developers, data controllers, and companies).
- In order to fully carry out a child-centred approach, it is crucial that member states **meaningfully engage with children and young people** throughout the creation of the legal framework that addresses AI in the context of children's rights and continue to find ways to engage them in these conversations once the framework has been developed. These meaningful engagements will support the construction of children's agency within this context.
- It is critical to emphasise that the **onus of ensuring that online systems are designed in ways that safeguard children's rights should not fall on children and young people but with public authorities and companies**. While it is important for children and young people to be made aware of their rights and to express their perspectives to developers and policymakers, the responsibility for protecting and empowering children to enjoy their rights and be made aware of the risks posed by AI systems falls on public authorities and companies. These stakeholders must also be aware of the mechanisms available in the state to address the risks posed by AI systems.
- Finally, **awareness-raising campaigns and educational paths** for children, young people, and other relevant stakeholders are critical in this space. These educational resources should raise awareness about the ethical challenges the use of AI can pose (for instance, the most obvious challenges being profiling of children and algorithm-driven discrimination, and potential infringements to rights such as privacy). These shortcomings and challenges of AI should be taught to relevant stakeholders, including incorporating responsible and ethical AI education and technologies at schools<sup>30</sup> and higher education institutions, keeping in mind that the primary responsibility to design child-centred online systems is not with children but with public authorities and companies.

<sup>29</sup> <https://www.coe.int/en/web/artificial-intelligence/cai>.

<sup>30</sup> For further information, see the Council of Europe report *Artificial Intelligence and Education* (2022). Available at: <https://rm.coe.int/prems-092922-gbr-2517-ai-and-education-txt-16x24-web/1680a956e3>