



Building a Europe
for and with children

Construire une Europe
pour et avec les enfants

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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Steering Committee for the Rights of the Child (CDENF)

**Preparation of the new Council of Europe Strategy for the Rights of the Child
(2022-2027)**

**Questionnaire for CDENF participants and external partners of the Council of
Europe**

children@coe.int
www.coe.int/cdenf

Preparation of the new Council of Europe Strategy for the Rights of the Child (2022-2027)

Questionnaire for CDENF participants and external partners

Thank you for agreeing to take part in this survey, which will help to shape the Council of Europe's new Strategy for the Rights of the Child (2022-2027). Please send back the completed questionnaire to children@coe.int by **6 November 2020**.

In terms of background information for this exercise, we invite you to refer to:

- The current [Council of Europe Strategy for the Rights of the Child \(2016-2021\)](#);
- The Summary providing key results of the mid-term evaluation of the current Strategy and any gaps identified, as well as the lessons learned from COVID-19 pandemic.

The Children's Rights Division

CONTACTS

Please indicate the contact person for this questionnaire:

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If any other external organisation helped prepare this document, please list them below:

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DECLARATION OF CONSENT

I, in my capacity as the contact person for replies provided by my organisation, understand that any data, information or assessment, including personal data or confidential information, that I supply to the above survey will be exclusively used by the Council of Europe in the framework of the preparation of the Council of Europe Strategy for the Rights of the Child (2022-2027). I agree to this use being made of any information provided. I understand that, after the analysis of responses by the Council of Europe Secretariat (Children's Rights Division/DGII) and any mandated expert consultant, the original replies provided, containing the above personal data, would be deleted by the same Secretariat by 1 March 2022 at the latest. Only processed information and data will be included into a final report/Strategy or published via the website of the Council of Europe, but not the original replies.

By ticking the box below, I formally consent to the use of my personal data and any other information I supply as described above. If I submit personal data or confidential information of another person, I confirm that I have obtained the authorisation from that person to do so.

I agree

1. STRUCTURE/MAIN PILLARS

The current structure of the Council of Europe Strategy for the Rights of the Child (2016-2021) is composed of 5 main pillars, namely:

- Equal opportunities for all children
- Participation of all children
- A life free from violence for all children
- Child-friendly justice for all children
- Children's rights in the digital environment

How would you rank the current structure (considering the logic, comprehensiveness and cross-cutting nature of these pillars)?

Very good - please provide reasons (and suggestions for improvement)

Satisfactory – please provide reasons (and suggestions for improvement)

The binary distinction of online/offline experiences does not exist for children. To better reflect the lived experiences of children, it would be prudent to consider children's rights in the digital environment as part of the fabric of the first four pillars. That is, children's rights should not be considered separately in a digital environment but should be upheld in all environments, including the digital.

For example;

- realising equal opportunities for all children includes the digital environment, where a shift to remote learning education as a result of the covid-19 pandemic has exacerbated a global digital divide.
- upholding and supporting participation of all children includes their right to participation in the digital environment, where children are able to also realise their right to speech, expression, and play.
- a life free from violence for all children includes protection in the digital environment against child sexual exploitation and abuse (CSEA) content online, online grooming, online hate crime, pro-suicide and self-harm content online, and online bullying.
- advocating for child-friendly justice for all children includes consideration of the role of facial recognition technologies, and the role of automated-decision making systems to affect the outcomes of justice for children, for example through racial profiling or profiling based on location.

Poor – please provide reasons (and suggestions for improvement)

2. MAIN CHALLENGES

Please describe the main challenges (maximum 5) which you believe children's rights are facing today (in 2020) and/or which they are likely to face in the coming years. (Please be as specific as possible and provide resources, where possible)

1. Children enter into a digital world designed by adults, for adults. Children make up roughly one third of all users globally, yet the digital world treats all users equally – meaning, that it treats children as adults. [Article 1 of the UN Convention on the Rights of the Child](#) (UNCRC) states “a child means every human being below the age of eighteen years.” The digital world is not optional for children. It is their gateway to education, information, entertainment, health services, and it mediates their relationships and experiences. It is essential, therefore, that digital services treat children according to their age and account for their needs and developmental vulnerabilities.

Children are exposed to risks when the design of a product or service fails to take into account the needs and developmental capacity of children. While each design choice may seem benign, in combination they [accumulate to present unacceptable levels of risk](#), that can result in harm.

Services should anticipate and mitigate risks to children in the design stage to uphold a child’s right to protection as necessary for their well-being. The use of a Child Impact Assessment, as detailed in our list of actions to be taken, would allow service providers to show that the “best interests” of children have been given primary consideration in the design of their services.

As companies seek to create rights respecting services, the application of child risk assessments, risk-based age estimation or verification methods should become routine.

5Rights is developing Child Impact Assessments for the digital world and would welcome a discussion with colleagues from the Council of Europe on our work in this area. These impact assessments will create a digital environment in which the full gamut of rights afforded to children can be better upheld.

2. Children’s rights are not embodied or routinely recognised in the digital world. Under [Article 24.2 of the EU Charter of Fundamental Rights](#), and in accordance with the United Nations Convention on the Rights of the Child, children have a well-established set of rights set out by treaty, including the right to have their ‘best interests’ be of primary consideration in all actions concerning them. These rights are routinely disregarded in the digital environment, with age-inappropriate products and services presenting continual risk of harm to children. When child users are not treated in accordance with their age and maturity, digital services providers cannot be said to have children’s best interests in mind or to uphold their right to protection as necessary for their well-being.

5Rights recommends that the strategy ensures children’s rights are a prerequisite of all future EU legislation, including those laws that impact on the digital world – formally mandating consideration of Article 24 and the UNCRC.

3. The digital environment fails to uphold children’s right to privacy. Children have the right to privacy under Article 16 in the UNCRC. and are protected by the [European General Data Protection Regulation \(GDPR\) Recital 38](#), which determines that children’s data must be given “special consideration”. In the UK, the creation of the [Information Commissioner’s Children’s Code](#) has set out a full interpretation of the GDPR and how it relates to children’s rights.

The collection of children’s data is rampant in the digital environment and has major implications for children’s rights when used for profiling, advertising, and automated-decision making. For example, it has been found that children’s mental health data has been [collected and sold to third-parties](#), their data on social-media platforms has been used to recommend them as ‘[friends](#)’ or ‘[followers](#)’ to [stranger adults](#), their education and socio-economic data has been used to [predict examination results](#), and their biometric data has been used to racially profile them in [facial recognition software](#). Each of these are a violation of their right to privacy.

5Rights recommends the introduction of a holistic and enforceable data protection regime across the EU that is rights-respecting and child-centred. 5Rights notes that the GDPR is increasingly used as a global standard, so a specific requirement to protect children’s data in the EU is likely to spread.

4. Digital services make up their own standards and present them in ways that are incomprehensible to children and their parents. This includes standards of presentation of published terms, age assurance, default settings, and moderation among others.

Published terms set out the agreement between a user and a service and should inform a young person (or their guardian) of the nature of the service and how their data is used. Currently, published terms are long, complex, written in legal language and often presented in multiple documents, making them hard to navigate. [As well as being rarely read and poorly upheld](#), they are presented at times and in ways that encourage agreement without consent or engagement. If children, and their guardians, do not understand the rules and data collection practices of a service, it is not possible for a digital service to uphold children's rights to participation, knowledge, and privacy.

Additionally, published terms are not consistent across services and do not meet user expectations in the way they are presented. Children in particular have expressed a need for published terms to be fairer, more consistent and less intrusive.

The lack of minimum standards consistently applied affects all aspects of the service, but of specific and urgent interest to children are standards of privacy, moderation, age limits, non-discrimination, upholding community rules, adult content, and security and default settings.

5Rights recommends the introduction of minimum standards of both service behaviour and the way that these services communicate with users. These minimum standards will help digital services to uphold children's rights to participate and be safeguarded from violence or exploitation.

5. The lack of regulation for emerging technologies falls short of future-proofing protections of children's rights.

Growing up in a digital world, children are increasingly impacted by innovations in smart and connected technology. In 2015, it was found that over [25% of broadband households](#) with children at home owned at least one smart home device. 5 years later, the average UK home now has 10.3 internet-enabled devices, rising to an average of 15.4 devices when children are in the household. The use of smart speakers among children aged 5 to 15 [has doubled](#) over the last year, making it a more widely used service than radio.

Many emerging technologies are not designed with the particular needs and vulnerabilities of children in mind. As a result, children are routinely exposed to demands that are beyond their maturity and encounter risks which could and should have been mitigated at the design stage. For example, cases have been documented to show connected toys allowing children to [speak to stranger adults](#), or voice assistant products collecting and [processing children's speech data](#). These are breaches of a young person's right to privacy in the digital environment and safeguarding from violence.

Smart products do not distinguish users based on age but are '[likely to be accessed](#)' by a young person within the home. The market for connected toys and wearable technology geared towards children is [growing at a considerable pace](#). Children must be considered and acknowledged as stakeholders in the design of all connected and smart devices or products, where they are likely to be accessed in the household. If these smart-home products continue to be unregulated in the context of children's access, then children's best interests as a primary consideration may not be upheld in line with Article 24.2 of the EU Charter of Fundamental Rights.

The covid-19 pandemic, and the [urgency to provide socially distanced educational services](#), has meant that remote learning technologies are being recommended globally, without due consideration of the risks these platforms present to children. Remote learning platforms have been found to contain [racist and sexist content](#), offer [no explicit protections against children's data and their right to privacy](#), share [data with third-parties for commercial](#) purposes, and host child sexual abuse imagery through the phenomenon known as 'Zoombombing'. In the United Kingdom, as many as [120 cases of 'Zoombombing'](#) are currently being investigated. These risks to children significantly undermine their right to education, privacy, and safeguarding from violence.

5Rights recommends that Child Impact Assessments be mandated and normalised in the design and production of digital services – including those used in educational settings. Innovators must be required to consider children's rights (including their right to privacy, education, and safety etc.) by design.

3. MAIN ACTIONS TO BE TAKEN

The Council of Europe Strategy for the Rights of the Child will specify actions to be taken by it and by governments, with the involvement of all other relevant stakeholders. Among other things, the Council of Europe can set new standards (both legally binding and non-binding); monitor standards and/or collect information; facilitate exchange of experiences and good practices; develop tools for guidance and expertise; and raise awareness. It will also specify opportunities for mainstreaming of children's rights and cooperation among stakeholders.

Please describe the main actions (maximum 5) that you believe the Council of Europe should take, in particular to address some of the above-mentioned challenges. (Please specify the target group of this action (e.g. other international organisations, government, civil society, parents/caregivers, educators, children etc.) and, if possible, the desired outcome/impact of this action).

Action: Recognise all users under the age of 18 as children and treat them according to their age.

Target group: Any digital service or product provider.

Desired outcome/impact: Services acknowledge the presence of children in the digital environment, treat them according to their age and account for their needs and developmental vulnerabilities. This will create a digital environment where children can learn, play, participate, and exercise their right to such protection and care as is necessary for their well-being.

Action: Embody children's rights in all EU legislation, including legislation that impacts children in the digital world. This means the Council of Europe should mandate the consideration of Article 24 of the EU Charter of Fundamental Rights and the United Nations Convention on the Rights of the Child as a prerequisite of all future EU legislation.

Target group: The Council of Europe.

Desired outcome/impact: Services can anticipate and mitigate risks to children in the design stage to uphold a child's right to protection and care as is necessary for their well-being. Children's rights and their 'best interests' are of primary consideration in all actions concerning them, including the digital environment.

Action: Adopt a robust data protection regime for children's data that is rights-respecting –including the collection, storage, and use of their data for third-party purposes as well as for automated decision-making (ADM) systems). The GDPR is a fundamental shift in how user data is perceived, however it is necessary to fully articulate children's rights and protections as a stand-alone matter, as the ICO has done in the UK. A similar EU approach should be adopted and spread by the EU.

Target group: EU Data Commissioners.

Desired outcome/impact: Children will receive age-appropriate protections in relation to the processing of their data. In combination, these measures to protect children's data will better uphold their right to privacy, education, participation, and their best interests in the digital environment.

Action: Introduce minimum standards for age appropriate design of digital services.

The EU Commission should prioritise the development of robust standards for the design and development of digital services, and regulate to require that children's safety, rights, and privacy are upheld by design and default. As part of these standards, services should be required to do one of the following:

- Identify children and offer them an age-appropriate service that respects their rights.
- Offer all their users, irrespective of age, a service that embodies children's rights and is age appropriate for children.
- Offer adult-only services that have a robust age assurance system in place to prevent child access.

Target group: The Council of Europe and any digital service or product provider.

Desired outcome/impact: The digital sector accepts its responsibilities to children and ensures their services meet a set of minimum standards that embody their rights and protect them from harm. These standards, set out by the Council of Europe, must be systemic in nature and useful to innovators and commercial companies, covering issues such as Child Impact Assessments, presentation of published terms, age assurance, default settings, and moderation.

Action: Mandate the use of Child Impact Assessments. Child Impact Assessments should be undertaken and harms, risks or unintended consequences identified must then be mitigated. Impact Assessments are a common and established means of identifying the future consequences of a current or proposed action. For example, under the [UK Data Protection Act \(2018\)](#) and the statutory [Age Appropriate Design Code](#), a [Data Protection Impact Assessment \(DPIA\)](#) must be carried out to assess and mitigate any risks to the rights and freedoms of children arising from data processing. Child Impact Assessments should be routine for the sector in design of service and as part of major upgrades or new features.

Target group: Any digital service or product provider.

Desired outcome/impact: Conducting Child Impact Assessments before products and services are distributed would allow services to anticipate and mitigate known harms, unintended consequences and emerging risks before they impact children. A harm is a risk that is realised, so conducting robust Child Impact Assessments on an ongoing basis to prevent avoidable harm.

4. DEVELOPING A SUCCESSFUL STRATEGY

Council of Europe strategies have recently been subject to internal evaluation. While the Strategy for the Rights of the Child scored highly in many respects, we are always looking for ways to improve.

Please share any areas for improvement which you have identified in the current Strategy for the Rights of the Child (2016-2021) (excluding any information already provided under question 1).

Please share any resources or good practice examples which your institution or organisation may have, for elaborating (and implementing) a rights-based Strategy. (Please ensure that links are provided, where possible)

1. An illustration of how risks to children accumulate through a series of design choices on common platforms can be found in 5Rights project [Risky by Design](#).
2. For 5Rights' priorities for the UK's Online Harms Bill, including frameworks for regulation and the argument for Child Impact Assessments, please consult 5Rights publication, [Building the Digital World that Young People Deserve](#).
3. For an authoritative overview of how children's rights, as ratified by the UNCRC, apply to the digital environment, please refer to the UNCRC General Comment on children's rights in relation to the digital environment. This is available in draft [here](#), and [here](#) (for a child-friendly version) and is open for [public consultation](#) until 15th November 2020.