

# Realising children's rights in the digital environment: Identifying priorities for public and private actors

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Protection of children's rights online & offline, Budapest

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*“We grew up with the internet. I mean, the internet has always been here with us. The grown-ups are like ‘Wow the internet appeared’, while it is perfectly normal for us.”*

**Boy, 15 years old, Serbia**





# Children in a Digital World



The digital environment is reshaping children's lives in many ways, resulting in **opportunities** for and **risks** to their well-being and enjoyment of human rights.

**Every child, as an individual rights-holder, should be able to exercise his or her human rights and fundamental freedoms online as well as offline.**

International

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

The rights included in the **United Nations Convention on the Rights of the Child** apply in the digital environment.

### **Council of Europe Framework**

The rights included in the **ECHR** apply to all individuals, including children, and apply in the digital environment.

Council of Europe

The rights of the child in the digital environment have been identified as one of the five priority areas to guarantee the rights of the child in the Council of Europe **Strategy** for the Rights of the Child (2016-2021).

On 4 July 2018, the Committee of Ministers adopted a **Recommendation on Guidelines to respect, protect and fulfil the rights of the child in the digital environment** (2018(7)).



Guidelines to respect,  
protect and fulfil the  
rights of the child in the  
digital environment



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<https://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a>

# Guidelines to respect, protect and fulfil the rights of the child in the digital environment



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Recommends that the governments of the member States:

1. **review their legislation, policies and practice** to ensure that they are in line with the recommendations, principles and further guidance set out in the **appendix** of this recommendation, promote their implementation in all relevant areas and evaluate the effectiveness of the measures taken at regular intervals, with the participation of relevant stakeholders;
2. ensure that this recommendation, including the guidelines in the appendix, is **translated and disseminated as widely as possible among competent authorities and stakeholders**, including parliaments, specialised public agencies and civil society organisations, as well as children, in a child-friendly manner and through accessible means, modes and formats of communication
3. **require business enterprises to meet their responsibility to respect the rights of the child in the digital environment** and to take implementing measures, and encourage them to co-operate with relevant State stakeholders, civil society organisations and children, taking into account relevant international and European standards and guidance;
4. **co-operate with the Council of Europe** by creating, implementing and monitoring strategies and programmes that respect, protect and fulfil the rights of the child in the digital environment, and share, on a regular basis, examples of strategies, action plans, legislation and good practices related to the implementation of this recommendation;
5. **examine the implementation** of this recommendation and the guidelines in its appendix within the Committee of Ministers and with the participation of relevant stakeholders every five years at least and, if appropriate, at more frequent intervals.



# Guidelines to respect, protect and fulfil the rights of the child in the digital environment



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## Priorities for policymakers

### 1. Legal frameworks

- Child Rights Impact Assessments
- Comprehensive legal framework, taking into account international and CoE instruments, such as Lanzarote & Cybercrime Convention and Modernised Convention 108
- Preventive and restorative approaches in case of peer-to-peer violence and abuse

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## Priorities for policymakers

1. Legal frameworks
2. Policy & institutional frameworks
  - “comprehensive strategic national approach”
  - policies and measures: consistent and mutually reinforcing
  - identify competent bodies with the responsibility and authority to implement the actions set out therein
  - contain realistic and time-specific targets (evaluation)
  - supported by adequate human and financial resources
  - based on current scientific knowledge, ongoing and sufficiently resourced research and good practices
  - engage stakeholders



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## Priorities for policymakers

1. Legal frameworks
2. Policy & institutional frameworks
3. Co-operation and co-ordination at national level





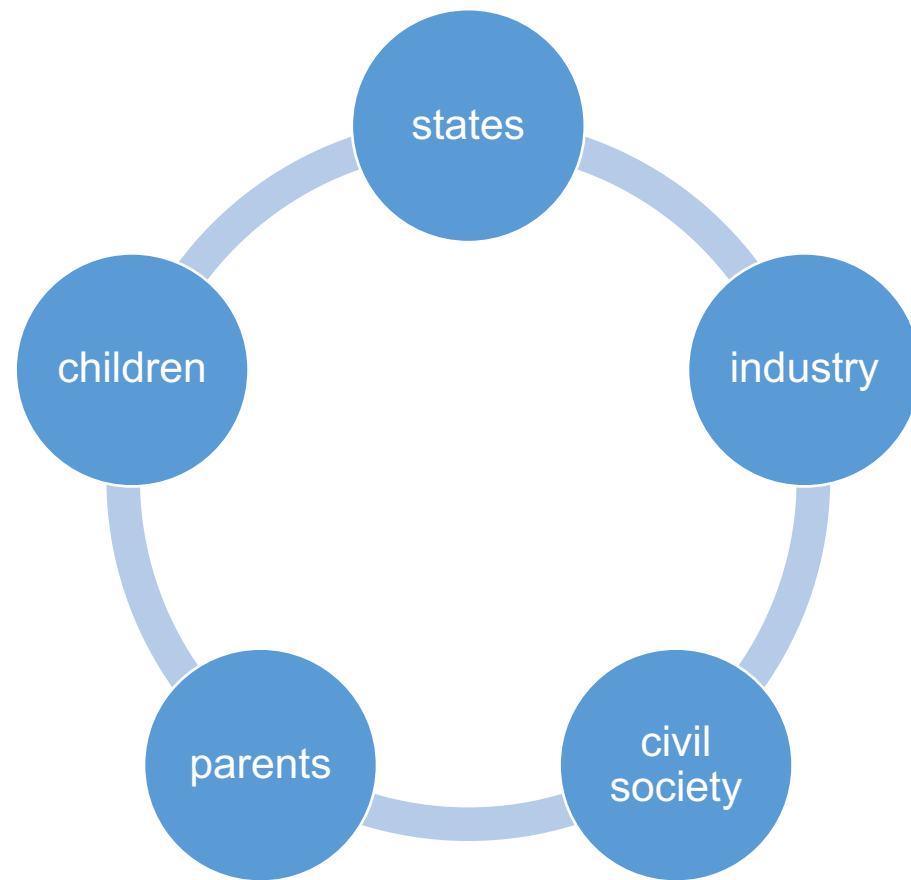
## The Better Internet for Kids Policy Map

## BIK policy coordination

- All participating countries have implemented BIK in some form. However, **no country reports the existence of a single policy framework** for BIK. BIK is primarily addressed through **separate policies** which are focussed on BIK-related issues or as **part of broader policies**.

- National policy covers all themes and pillars of the BIK strategy to some extent. However, the area of **positive content** for children receives less attention. 10 countries report there is no national policy on quality online content for children.

- Coordination at the national level is made complex given the **large number of ministries** involved in policy development (on average between 4 and 6 ministries). Just under a third of countries say there is no formal coordination mechanism for BIK policy, while just 3 countries report the existence of a multi-stakeholder body with responsibility for BIK.



- national, regional and local law-enforcement and other authorities
- educational and social-service agencies
- independent human rights institutions
- data protection authorities
- professionals working for and with children
- civil society, including child and youth-led organisations
- business enterprises
- industry associations
- researchers
- families and children

UN: Children's rights and business principles

UNCRC: General comment no. 16 on State obligations regarding the impact of the business sector on children's rights

Council of Europe: Recommendation on human rights and business

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### Priorities for policymakers

1. Legal frameworks
2. Policy & institutional frameworks
3. Co-operation and co-ordination at national level
4. International co-ordination and co-operation
  - ratification of international instruments
  - mechanisms for international co-operation and assistance
  - regional and international capacity-building efforts
  - strengthen co-operation within relevant intergovernmental bodies, transnational networks and other international organisations

Within the digital environment  
**five fundamental principles and rights**  
must be taken into account at all times:

Best interests of the  
child

Evolving capacities  
of the child

Right to non-  
discrimination

Right to be heard

Duty to engage other  
stakeholders

## Operational principles and measures to respect, protect and fulfil the rights of the child in the digital environment

Access

Right to freedom of expression and information

Participation, right to engage in play and right to assembly and association

Privacy and data protection

Right to education

The right to protection and safety

Enforcement and remedies

## Operational principles and measures to respect, protect and fulfil the rights of the child in the digital environment

Access

Right to freedom of expression and information

Participation, right to engage in play and right to assembly and association

Privacy and data protection















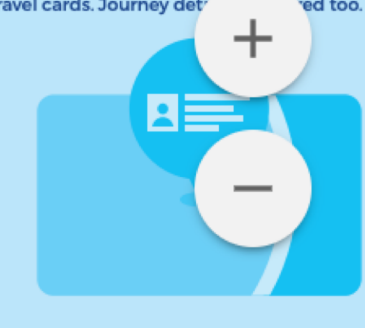
Right to education

The right to protection and safety

Enforcement and remedies





<p><b>IN THE HOME</b></p> <p><b>Connected baby cameras</b></p> <p>Some cameras come with easy to guess default passwords, and you are not prompted to change them, so hackers can access the video streams.</p> 	<p><b>ONLINE</b></p> <p><b>Browsing the web</b></p> <p>When browsing the web people reveal details about themselves, such as their age, likes/dislikes and health conditions.</p> 	<p><b>OUT AND ABOUT</b></p> <p><b>School databases</b></p> <p>4 in 5 schools use CAPITA SIMS to log pupil data.</p> 	<p><b>OUT AND ABOUT</b></p> <p><b>Retail loyalty schemes</b></p> <p>Parents in Boots' Parenting Club give their due date and are sent vouchers up to age 3. But Boots continue to use this data to send offers to the parent.</p> 	<p><b>OUT AND ABOUT</b></p> <p><b>Biometric data in schools</b></p> <p>Schools use biometric data to register pupils, in school libraries and canteens.</p> 
<p><b>IN THE HOME</b></p> <p><b>Connected toys</b></p> <p>Last year millions of CloudPets messages between children, family and friends were found stored online unprotected.</p> 	<p><b>ONLINE</b></p> <p><b>Parents on social media</b></p> <p>Parents with children share around 71 photos and 29 videos of their child every year on social media.</p> 	<p><b>OUT AND ABOUT</b></p> <p><b>Location tracking watches</b></p> <p>Location tracking watches (aimed at children too young to have their own phone) allow parents to track their location.</p> 	<p><b>OUT AND ABOUT</b></p> <p><b>Study and behaviour apps</b></p> <p>ClassDojo's privacy policy is over 12,000 words. Data is shared with 31 organisations.</p> 	<p><b>OUT AND ABOUT</b></p> <p><b>The Red Book</b></p> <p>A new digital care record is being developed which health professionals will be able to see.</p> 
<p><b>IN THE HOME</b></p> <p><b>Smart speakers</b></p> <p>Amazon Echo, a smart speaker, stores an audio recording and transcript of every command or question.</p> 	<p><b>ONLINE</b></p> <p><b>Children on social media</b></p> <p>Over half of the UK's 11-12 year-olds are on social media.</p> 	<p><b>ONLINE</b></p> <p><b>Smartphones and tablets</b></p> <p>Talking Angela (an app with an animated cat game) contains 16 trackers to capture data.</p> 	<p><b>OUT AND ABOUT</b></p> <p><b>Medical records</b></p> <p>More data is being shared in health - e.g. between the NHS and partner companies.</p> 	<p><b>OUT AND ABOUT</b></p> <p><b>Travel pass</b></p> <p>Children have to give information like their age when applying for travel cards. Journey details are also shared too.</p> 



# The right to privacy and data protection

## International legal framework

### Article 16 of the UNCRC

‘No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation’.

Also:

Article 12 of the 1948 Universal Declaration of Human Rights

Article 17 of the 1966 International Covenant on Civil and Political Rights

## Council of Europe legal framework

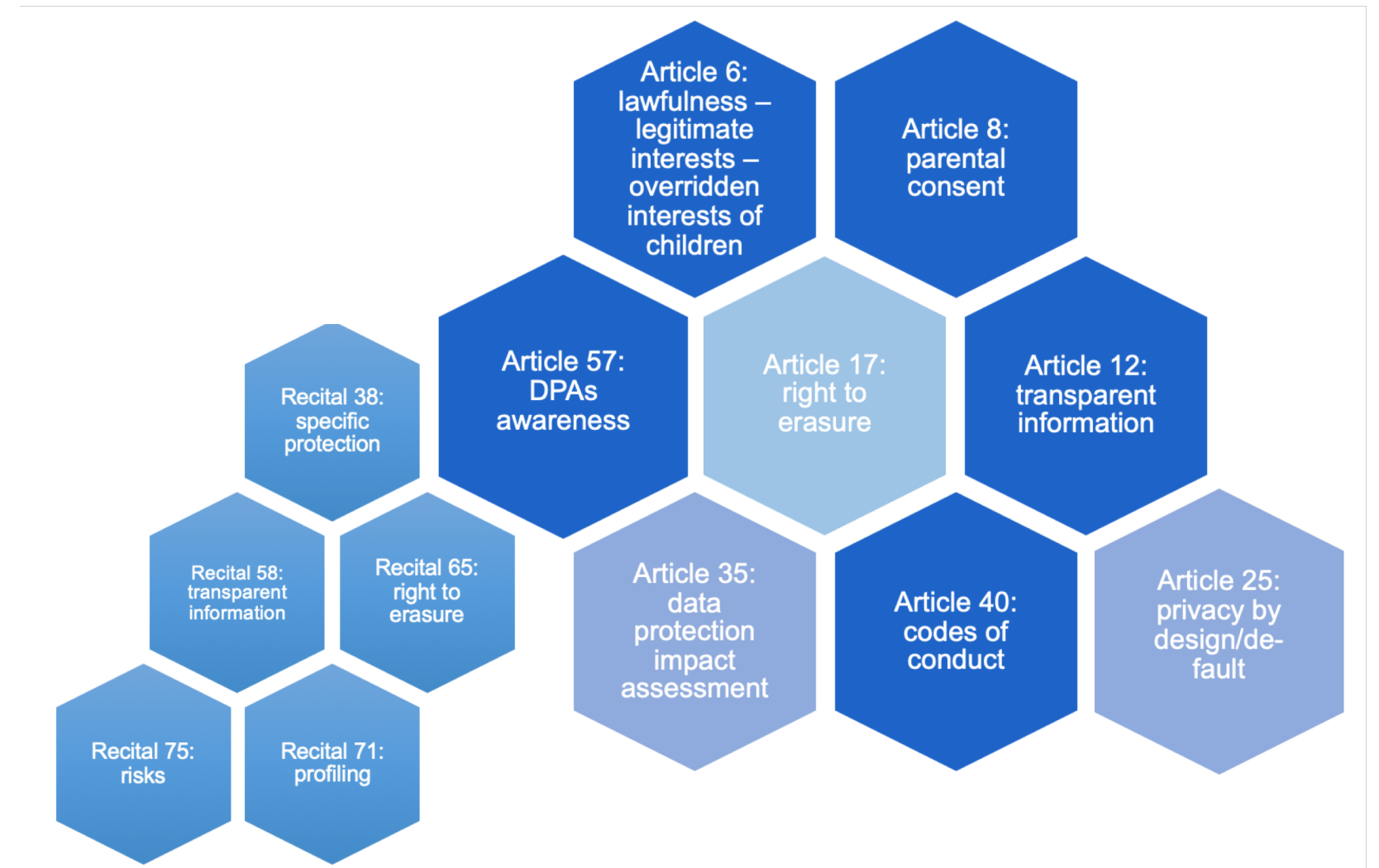
- Article 8 ECHR
- 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108)
- 2018 [Modernised Convention](#) for the Protection of Individuals with Regard to the Processing of Personal Data
  - The purpose of the Modernised Convention is to protect **every individual**, whatever his or her nationality or residence, with regard to the **processing of their personal data**, thereby contributing to respect for his or her human rights and fundamental freedoms, and in particular the **right to privacy**.

# The right to privacy and data protection



## European Union legal framework

- Article 7 (respect for private and family life) and 8 (protection of personal data) of the Charter of Fundamental Rights of the European Union
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (**General Data Protection Regulation**)



**Operational principles and measures to respect, protect and fulfil the rights of the child in the digital environment**

Access

Right to freedom of expression and information

Participation, right to engage in play and right to assembly and association

Privacy and data protection

Right to education

The right to protection and safety

Enforcement and remedies

**Check-list for policymakers for every operational principle**

- have children been consulted?
- have you considered and reviewed the evidence?
- have you engaged the relevant stakeholders?
- have you considered vulnerable groups?
- have you provided specific remedies for children?
- have you taken into account emerging issues and technologies?

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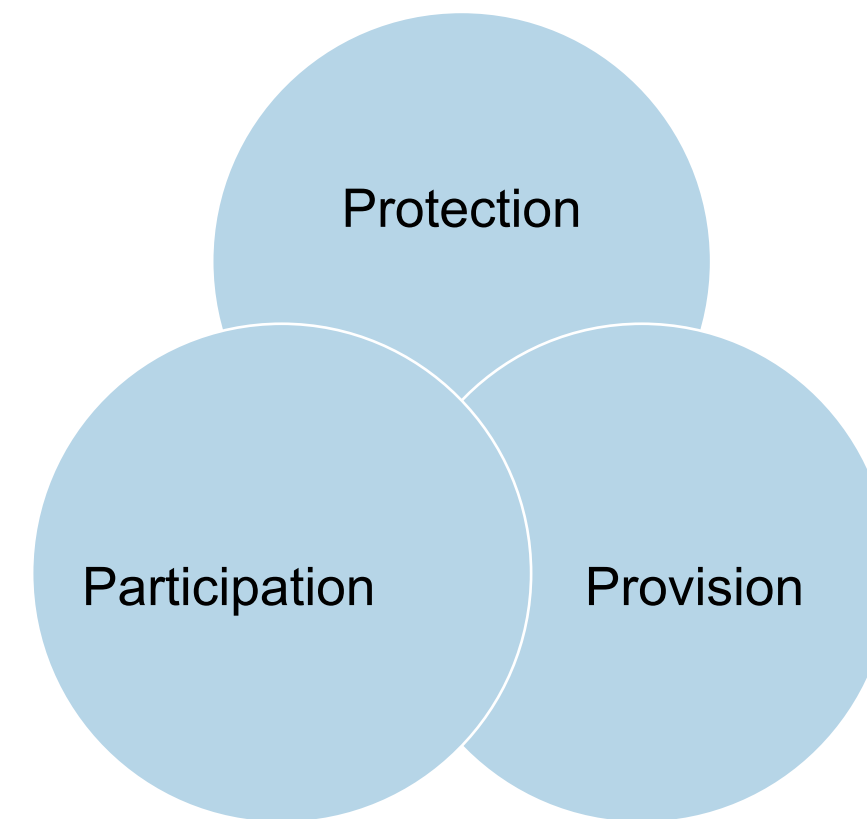


### **Priorities for private actors (business enterprises)**

Business enterprises have a responsibility to respect human rights

- Develop, apply and regularly review and evaluate child-oriented industry policies, standards and codes of conduct to maximise opportunities and address risks in the digital environment
- Perform child-rights risk assessments
- Actively engage children to participate meaningfully in devising, implementing and evaluating policies, mechanisms, practices, technologies and resources
- Provide children with information on their rights, including their participation rights, in a way they can understand, and which is appropriate to their maturity and circumstances, and on available remedies





As such, these guidelines, when read together with the Council of Europe Strategy for the Rights of the Child (2016-2021), the Internet Governance Strategy (2016-2019) as well as the Human Rights Guide to Internet Users, form a **solid set of ground rules** which can assist states in providing the necessary basis for looking after **children's best interests** in the complex but fascinating world of the digital environment.

Snežana Samardžić-Marković, Council of Europe,  
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