**German comments to the advanced version of the Committee on the Rights of the Child’s draft general comment on children’s rights in relation to the digital environment**

**I. Introduction**

**GER recommends adding a paragraph regarding COVID-19:**

With the global emergence of the COVID-19 pandemic in early 2020, the importance of children’s rights in relation to the digital environment has increasingly gained traction worldwide. At the peak of the pandemic in 2020 1,5 billion learners were out of school, and large groups of children had no access to the Internet, which increased the digital divides drastically.

**III. General principles**

**A. The right to non-discrimination (art. 2)**

**12.** Specific groups of children may require particular measures to prevent discrimination on the grounds of gender, disability, socioeconomic background, ethnic or national origin, or any other ground.

**Comment:** This term is more inclusive.

**B. The best interests of the child (art. 3, para.1)**

**13.** The best interests of the child is a dynamic concept that requires an assessment appropriate to the specific context. Although the digital environment was not originally designed for children, they occupy the digital space along with adults. Therefore, this principle has a special importance in relation to the digital environment. States shall ensure that in all decision-making regarding the provision, regulation, design and management of the digital environment that may impact children’s rights, the best interests of the child shall be determined by fulfilling the principles of art. 12 CRC and be considered a primary consideration.(CRC/C14, para 43)

**14. Comment:** As regards paragraph 14 of the General Comment, GER approves the great importance of the best interest of the child as primary consideration in all actions concerning children. The current draft Second Amendment Act to the German Youth Protection Act adapts the best interest of the child as its determining principle.

**C. Right to life, survival and development**

**16**. **Comment**: GER welcomes the consultation of children to identify and adress ermerging risks. The consultation should take place in a child-friendly way and should take into account vulnerable groups and bad experiences, which may have been made.

**D. The right to be heard (art. 12)**

**19., 37., 87.** **Comment**: Concerning paragraphs 19, 37 and 87, GER reinforces the significance to increase the accountability of providers to actively engage children by applying efficient safeguards and other measures to enable a safe usage of digital services. This strategy has also been taken into account for the amendment to the German Youth Protection Act. This responsibility includes content labelling with comprehensible age classification.

**IV. General measures of implementation by States (art. 4)**

**A. Legislation**

**24. Comment:** The requirement set out in paragraph 24 asking for an update of the national legislation is necessary to adjust the laws to guarantee the protection of children by guarding them from risks and enabling their participation by fostering skills. GER pursues this goal with the amendment to the German Youth Protection Act, which adapts the law to current and future challenges.

**C. Coordination**

**28., 35.: Comment:** GER supports the approach in paragraphs 28 and 35 to implement programmes in cooperation with businesses and the civil society. It is intended to create a corresponding legal mandate for the Federal Centre for Child and Youth Media Protection (Bundeszentrale für Kinder- und Jugendmedienschutz), today known as Federal Review Board for Media harmful to Minors (Bundesprüfstelle für jugendgefährdende Medien), to fulfil this mission. For that purpose, networking structures are established, providing an operational basis to enable those stakeholders to jointly assume their responsibility.

**D. Allocation of resources**

**29., 33. Comment:** The allocation of resources in paragraph 29 and the Dissemination of information, awareness-raising and training in paragraph 33 are of existential importance. These aspects will also be in the responsibility of the Federal Centre for Child and Youth Media Protection. The ultimate goal is to develop an overall strategy for an intelligent risk management.

**G. Dissemination of information, awareness-raising and training**

**34.** **Comment**: It is important, that health professions working for and with children receive training that includes how the digital environment impacts the rights of the child in the multiple contexts and ways in which children access and use technologies, especially in the field of child and adolescent psychotherapy and psychiatry. Since the specialization for the age group of children and adolescents is comprehensively deepened in further education, the transmission of knowledge of children’s rights in relation to the digital environment should be part of further education. In Germany the responsibility for further education in the health professions lies with the federal states and the medical and psychotherapist chambers (associations?) and - if established - the nursing chambers.

**V. Civil rights and freedoms**

**C. Freedom of thought, conscience and religion (art. 14)**

**63.** States shall respect the right of the child to freedom of thought, conscience and religion in the digital environment. Automated systems are sometimes unduly used to make inferences about a child’s inner state, in education, health, criminal justice or commercial contexts, among others. States shall ensure that automated systems are not used to impact or to influence children’s behaviour or emotions.

**Comment:** In the therapeutic context an impact might be desirable.

**E. Right to privacy (art. 16)**

**70.** Digital technologies can be used to collect data about, inter alia, children’s identities, activities, location, communication, preferences and relationships. Children’s personal data are often processed to offer educational, health and other benefits to children. Certain combinations of personal data, including biometric data can be used to uniquely identify a child. Digital practices such as automated data processing, behavioural targeting, mandatory identity verification, and mass surveillance are becoming routine. Such practices may lead to arbitrary or unlawful interference with children’s right to privacy; they are rarely transparent to children or their parents or caregivers, and may have adverse consequences on children, which may extend to later stages of their lives. Children are concerned about their privacy and want to better understand how their data is collected and used.

**Comment**: General statements cannot be supported in this way. Please swap sentence 1 and 2. „can be“ instead of „are“. Otherwise it sounds too much like surveillance.

**77.** The digital environment presents particular problems for parents and caregivers in respecting child’s right to privacy. Technologies that monitor online activities for safety purposes may prevent a child accessing a helpline or searching for sensitive information. States should advise parents and caregivers, and the public including children, on the importance of the child’s right to privacy, and on how their own practices may threaten that privacy, for example by building a digital identity for that child that may be used by third parties in ways that can be revealing, embarrassing or even dangerous.

**Comment**: States should also advise children since abuses of the child’s right to privacy may also originate from other children.

**IX. Basic health and welfare (art. 24)**

**101.** **Comment:** Digital technology “offers significant opportunities to reduce inequalities to access health services and reach children in disadvantaged or vulnerable situations or in remote communities” (article 101). Alongside these opportunities potential risks should not be ignored. Digital technologies might even exacerbate existing inequalities, for example if groups with a higher socio-economic status use technologies more often or particularly benefit from using them.

**X. Education, leisure and cultural activities**

**A. The right to education (arts. 28, 29)**

**GER recommends adding the following paragraph:**

Children should be informed about the possible negative effects of digitalisation on the desired transition of societies towards sustainable development, like high energy consumption, use of scare natural resources, impact on democratic processes etc. They should be taught the skills, values and attitudes that are necessary for more sustainable societies. States should therefore promote the implementation of education for sustainable development (ESD) to enable a critical, resilient and responsible handling of digital technologies, practices and contents.

**XI. Special protection measures**

1. **Protection from economic, sexual and other forms of exploitation (art. 32, 34, 35 and 36)**

**122.** States should review relevant laws and policies to ensure that children are protected against economic and other forms of exploitation and that their rights with regard to decent, suitable and light work in the digital environment and related opportunities for remuneration are protected.

**GER recommends adding the following paragraph**:

In particular, States should protect children from any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

**XIII. Dissemination**

**129**. States should ensure that the general comment is widely disseminated to all relevant  
stakeholders, in particular parliaments, governmental authorities, the judiciary, business  
enterprises, the media, educators and civil society and public at large, and be made available in multiple formats and child-friendly languages so as to reach, in particular, children, parents and caregivers.

**Comment**: GER recommends adding „child-friendly“.