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Children in digital justice:

Protecting procedural rights from digital offences to remote hearings

A policy briefing for the European Union and the Council of Europe



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About this policy briefing

Across Europe, the digitalisation of criminal justice is outpacing the legal frameworks designed to protect those who pass through it. Children are among those most exposed, and as suspects or accused persons, they increasingly face proceedings that have been digitalised with insufficient regard for their specific rights, vulnerabilities and developmental stage. Furthermore, those suspected or accused of digital offences, often involving peers, encounter responses that do not yet consistently apply the child justice principles to which they remain entitled.

The European Union procedural rights frameworks for child suspects and accused persons were drafted for analogue, in-person proceedings and contain few provisions addressing digitalised proceedings. Existing rules on Artificial Intelligence (AI) in justice establish no child-specific requirements. A 2024 European Commission implementation report on children's procedural rights (1) noted the possibility of legislative follow-up, recognising these gaps are not theoretical. This policy briefing sets out why any such initiative needs to address the digital dimension, providing seven targeted recommendations for the European Union and the Council of Europe, drawing on empirical evidence from the EU-funded project, Protecting Procedural Rights of Children in the Digital Age (2).

This policy briefing draws on research into children's procedural rights in remote hearings and other digital justice practices in four countries – Ireland, Romania, Spain and Ukraine – carried out as part of the EU-funded project Protecting Procedural Rights of Children in the Digital Age (PPRO-Child), implemented by Penal Reform International (PRI) with Terre des hommes Hungary, Terre des hommes Romania, Terre des hommes Ukraine, and Fundación Tierra de hombres España. The research included rapid needs assessments in each country and drew on the insights of Child Advisory Boards made up of children with lived experience of justice proceedings. Other sources are cited throughout.

More information about the PPRO-Child project, and all its resources, is available at https://www.penalreform.org/where-we-work/europe/procedural-rights-of-children-in-the-digital-age/

The resources include:

- The comparative report Upholding children's rights in remote hearings in child justice systems: Lessons from four jurisdictions (Ireland, Romania, Spain, Ukraine)
- The 10-point plan: Protecting the procedural rights of children in the digitalisation of justice, available in English, French, Romanian, Spanish and Ukrainian
- Country factsheets for Ireland, Romania, Spain and Ukraine, in English and national languages, available here
- A set of guidelines on remote hearings for children, in English and Spanish
- Digitalisation of child justice practices: An EU dashboard and country snapshots
- A project one-pager and a poster created with child-led material.

1 European Commission, Report from the Commission to the European Parliament and the Council on the implementation of Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, COM(2024) 489 final, 24 October 2024, available at: https://eur-lex.europa.eu/eli/dir/2016/800/oj/eng

(2) See: www.penalreform.org/where-we-work/europe/procedural-rights-of-children-in-the-digital-age/

Introduction

Digital technologies are reshaping criminal justice across the EU faster than the law can follow. Children bear a disproportionate share of the consequences. Children who are suspects or accused persons face proceedings that have been digitalised without child-specific safeguards accounting for their rights, vulnerabilities and developmental stage. Children who are suspected or accused of digital offences, often peer-to-peer, might be subject to responses that do not yet fully apply child justice principles and the specific rights to which every child in conflict with the law is entitled.

This Policy Briefing identifies those two situations where the EU legal framework is failing children and sets out what needs to change: children as suspects or accused persons in digitalised proceedings, and children suspected or accused of digital offences. It recognises that closely related dimensions, including the situation of children as victims or witnesses in digitalised proceedings and the use of digital surveillance tools in cases involving children, intersect significantly with the issues examined here and equally deserve dedicated analysis.

The EU Directive 2016/800 – a binding framework on procedural safeguards for children who are suspects or accused persons in criminal proceedings (3) – was drafted for analogue, in-person proceedings. The Artificial Intelligence Act of 2024 classifies certain justice applications as high-risk but includes no child-specific requirements. Therefore, no EU instrument addresses how Directive 2016/800's safeguards apply when a child appears by videoconference, when an algorithm informs a detention decision, or when children suspected or accused of digital offences enter justice systems through pathways that lack child-specific guidance. Behind these procedural gaps lie two foundational principles that digitalised justice systems are failing to honour: the best interests of the child under the UN Convention on the Rights of the Child (CRC), Article 3, which requires asking not just whether a hearing ran without technical problems but whether it was the right way to treat this particular child, and non-discrimination under CRC Article 2, which requires that digital access, literacy, and neurodevelopmental differences do not determine the quality of justice a child receives.

Terms used in this briefing:

- ***Digitalisation of justice*** refers to the process of introducing digital technology into justice systems, and digital justice to the field this creates.

- ***Digitalised proceedings*** are proceedings in which at least one stage is shaped by digital technology, from remote hearings to AI-assisted risk assessment and digital evidence.

- ***A remote hearing*** is one in which the child, or another participant, is not physically present in the room and joins by video link or videoconference; a hearing is hybrid when some participants are in the courtroom and others join remotely. Many courts outside Europe call these virtual hearings.

- ***Digital offences*** are offences allegedly committed through or with digital technologies, a separate question from how proceedings are conducted.

In 2024, the European Commission published its implementation report on Directive 2016/800 assessing levels of compliance with the procedural safeguards for children in criminal proceedings. The report found that many Member States are still falling short of these standards and flagged that new legislation may follow. This Policy Briefing sets out why any such legislative follow-up must squarely address the digital dimension of children's procedural rights, an area the current framework does not adequately cover.

(3) See full text: https://eur-lex.europa.eu/eli/dir/2016/800/oj/eng

1. Children as suspects or accused persons in digitalised proceedings

The digitalisation of criminal justice in Europe has not followed a single plan. It accumulated, system by system, largely in response to immediate pressures, including the COVID-19 pandemic, then the efficiency imperatives that followed. The result is a patchwork of practices across Member States. For children, this matters greatly as their capacity to understand proceedings, exercise rights, and withstand institutional pressure differs fundamentally from most adults. The framework designed to protect them was not built for the environment in which it is now being applied.

1.1 The EU legal framework: A digital blind spot

The EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings is the primary binding instrument governing children's rights in criminal justice across the EU. Article 16 guarantees the right to be present at trial and to participate effectively. Article 7 requires an individual assessment of each child's specific needs, vulnerabilities, and circumstances before any consequential decision is taken. Article 6 mandates legal assistance without undue delay, with confidential communication between the child and their lawyer. Article 14 protects the child's privacy throughout proceedings.

The Commission's 2024 implementation report (COM(2024)489) found that compliance across Member States remains uneven on several of these provisions, including the right to information and individual assessments. The report noted the possibility of legislative follow-up, but the compliance gaps it identified predate remote hearings and are compounded by a Directive that says nothing about how its safeguards apply when proceedings are held remotely. What constitutes effective participation when a child appears by videoconference from a detention facility? What constitutes confidential legal consultation when lawyer and child are connected through a commercial platform? When must a remote hearing be refused? The Directive does not answer these questions, and research undertaken shows that Member States are deciding individually, with significant variation in the protection children actually receive (4).

The EU Directive 2016/343 (5) on the presumption of innocence and the right to be present at trial reinforces the right to attend proceedings. Read alongside Article 16 of Directive 2016/800, this creates an obligation that extends beyond technical connection: for children, presence means effective participation. Neither directive addresses what this requires for remote hearings. Directive 2013/48/EU on the right of access to a lawyer guarantees confidential communication between suspects or acused persons, including children, and their legal representative. It does not address what confidentiality means when both parties are connected through a platform such as Zoom, Google Meet, Teams or even WhatsApp, which is precisely what happened in multiple jurisdictions during the pandemic and, in some cases, continues today (6).

The General Data Protection Regulation and Directive (EU) 2016/680 on law enforcement data processing impose data protection requirements that apply to digital tools used in justice systems. Article 22 of the General Data Protection Regulation, which establishes a right not to be subject to decisions based solely on automated processing, is potentially relevant to AI-assisted risk assessments affecting children. In practice, law enforcement exemptions

(4) Penal Reform International (Lynch, N. and O'Mara, O.), Upholding children's rights in remote hearings in child justice systems: Lessons from four jurisdictions (Ireland, Romania, Spain, Ukraine), 2025.

(5) Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, available at: https://eur-lex.europa.eu/eli/dir/2016/343/oj/eng

(6) Foussard, C., Vigil, A., & Perez, M., 'Impact on child justice in a world of digital courts: Perspectives from the bench' (2023) 9(2) Intersections: East European Journal of Society and Politics, available at: https://doi.org/10.17356/ieejsp.v9i2.1143

significantly limit its reach, and the interaction between data protection obligations and the procedural safeguards of Directive 2016/800 has not been worked through at EU level.

These instruments also govern how long children's data may be kept, not only how it is processed, and here the framework has a child-specific dimension that is rarely drawn out. Directive (EU) 2016/680 provides a right to erasure of law-enforcement data (Article 16), reinforced in the child justice context by clear standards: UNCRC General Comment No. 24 (2019) requires that children's justice records be kept strictly confidential, closed to third parties, and not used in later adult proceedings, and that they be removed from the criminal record when the child reaches 18 (paras 80–81). The records generated by digital tools in justice systems (risk classifications, automated case entries, database flags) fall within these obligations. Yet a child flagged by a risk tool or entered onto a police database at twelve may carry that classification for years, long after proceedings end and regardless of their outcome. Early entry into criminal justice records is itself a documented harm to a child's reintegration. Retention and deletion therefore belong in any standard for digital and AI tools in child justice, giving effect to a right to be forgotten.

The EU Artificial Intelligence Act (Regulation (EU) 2024/1689) classifies AI systems used for risk assessment in criminal proceedings as high-risk under Annex III, triggering requirements of transparency, human oversight, accuracy, and robustness. Article 5 prohibits systems that exploit the vulnerabilities of specific groups, including children. These provisions matter, but they establish no child-specific standards, require no children's rights impact assessment before deployment, and leave unresolved how AI-generated risk outputs relate to the individual assessment required under Article 7 of Directive 2016/800.

The EU Fundamental Rights Agency's 2025 report, Digitalising Justice: A Fundamental Rights-Based Approach (7), examined 31 digital tools in use across seven Member States. Its conclusions are direct: digitalisation proceeds without systematic fundamental rights impact assessments; consultation with vulnerable groups including children is rare; and training of justice professionals on the rights implications of digital tools is inadequate. Member States' approaches are driven primarily by efficiency considerations rather than rights-based criteria.

1.2 Remote hearings: Presence without participation

Research on the impact of remote hearings on child justice outcomes is consistent on one point: the format of a hearing matters (8). The Brennan Center for Justice documented that video proceedings are associated with higher detention rates than in-person hearings, a finding that, taken seriously, raises immediate questions about whether the shift to remote hearings has already produced worse outcomes for children without anyone measuring it (8A). The PPRO-Child research by Penal Reform International and Terre des hommes in Ukraine, Romania, Spain (9) and a study on the impact of digital courts on child justice based on interviews with judges across eight jurisdictions (10) provide detailed empirical evidence on what those outcomes look like in practice.

The case for remote hearings is not entirely without merit. Judges interviewed in the 2023 study involving judicial perspectives identified genuine benefits in specific circumstances: reduced travel time and cost for families with limited means, less time waiting in court corridors, and in some cases a less intimidating atmosphere (11). In the Netherlands, one judge observed that children in pre-trial detention hearings appeared more open and less anxious over

(7) Download at: https://fra.europa.eu/en/publication/2025/digitalisation-justice

(8) Penal Reform International, Upholding children's rights in remote hearings in child justice systems: Lessons from four jurisdictions (Ireland, Romania, Spain, Ukraine), (2025).

(8A) Download at: https://www.brennancenter.org/our-work/research-reports/impact-video-proceedings-fairness-and-access-justice-court

(9) Penal Reform International, Upholding children's rights in remote hearings in child justice systems: Lessons from four jurisdictions (Ireland, Romania, Spain, Ukraine), (2025).

(10) Foussard, C., Vigil, A., & Perez, M. (2023).

(11) Ibid.

videoconference, partly because they were spared the wait in court. In the United States, one judge adapted to each child's preference on a case-by-case basis.

Whether a remote hearing serves a child's interests depends entirely on that child's specific circumstances, informed by an individual assessment under Article 7 of Directive 2016/800 and the best interests principle under CRC Article 3. The child's own view must be sought and given due weight, as CRC Article 12 requires, including on the format of their hearing. A system that defaults to remote hearings without this assessment respects neither principle. Nine in ten legal professionals surveyed in the PPRO-Child study said that remote hearings decreased their ability to form connections with children. Judges across multiple jurisdictions in the 2023 study mentioned above described the loss of non-verbal communication as particularly damaging: reading a child's body language, noticing signs of distress, and adjusting the pace of a hearing in real time are not peripheral elements of child justice. They are central to how a judge assesses individual circumstances, detects vulnerability, and ensures that proceedings are adapted to the child before them. *Judge Pascual of Argentina* put it directly:

> "It is important for the court to see people's reactions and sense their feelings as this will inform the court's decision and judgment. Remote hearings have made this more challenging. The empathy aspect has been impacted."
> -Judge Pascual, Argentina

PRI and TdH research gathered testimony from children across the four countries. Nearly a third entered remote hearings without knowing their rights or understanding what was about to happen. Fewer than 35% of children in Spain and Ukraine felt able to speak privately with their lawyer during a remote hearing. In Romania, one child described joining a hearing from which the judge and court staff had physically vacated the courtroom to allow a remote consultation with the lawyer. In Ireland, eleven children at Oberstown Children Detention Campus were asked about their experiences of remote hearings. All but one said they had no idea what was happening. Several said they felt like spectators, not participants.

What children said

> "I just feel like I'm not really a part of it, like I'm sitting there watching a YouTube video or something."
> -Child, Ireland

> "You don't know when you're meant to talk or not... it was over so fast, I didn't even know it started."
> -Child, Ireland

> "When I wanted to say something, the videoconference closed on me, and the judge got to tell me then that you can take him... I went back to my room and I was thinking. How come I didn't get a chance to say anything?"
> -Child, Romania

Research across four jurisdictions shows that remote hearings weaken children's procedural rights and their ability to participate meaningfully. Children frequently joined hearings from environments that were noisy, monitored by others, or otherwise unsuitable, compromising their privacy and limiting what they felt able to say. A hearing is only 'remote' from the court's side; for the child, it takes place in a specific room, often in detention and in front of others, and that room determines whether they can participate at all. Without prior preparation and explanation, children consistently reported not understanding what was happening or what was expected of them. Article 16 of Directive 2016/800 requires effective participation. The question a court should ask is not whether a proceeding ran without technical problems, but whether the child before it could genuinely understand what was happening, exercise their rights, and participate meaningfully. The PPRO-Child research gives a clear answer: without structured support and preparation, most children cannot.

Confidentiality raises two distinct problems that are sometimes conflated. The first concerns the platforms themselves. During the pandemic, courts across multiple jurisdictions used commercial tools: Zoom, WhatsApp, Google Meet, Skype, Microsoft Teams, Line. These platforms were not designed for confidential judicial proceedings. Data can be stored, processed, or accessed by third

parties in ways that a justice system cannot control. The obligation under Article 6(5) of Directive 2016/800 to maintain the confidentiality of communications between the child and their lawyer does not pause because a commercial platform is being used.

The second problem is structural access to private legal consultation. Across the four PPRO-Child jurisdictions, children frequently had no opportunity to speak privately with their lawyer before or during remote hearings. This problem is independent of the platform: it arises when no time is allocated for private consultation, when the child is in a room with others present, or when no secure private channel is established. The child's right to effective legal representation was not suspended. The conditions for exercising it were simply not put in place.

The digital divide compounds these problems. Children in contact with criminal justice systems are not representative of the general child population in terms of digital access or digital literacy. In Romania and Bulgaria, over half of young people aged 16 to 29 lack basic digital skills (11A). In the United Kingdom, 42% of young people have neither home broadband nor a personal computer (11B). Within the PPRO-Child research, Ukrainian children rated their confidence with digital technologies at 2.5 out of 5, compared to 3.46 among Spanish children. Children described joining hearings from shared rooms where they could not speak freely, from devices with poor connectivity, or without any prior access to the platform being used. Children in contact with criminal justice systems are disproportionately affected by the social and economic inequalities that the digital divide reflects. Improving connectivity or digital literacy alone will not close a gap that is rooted in structural disadvantage.

Children with neurodevelopmental conditions or communication difficulties face particular risks in remote hearings. Among the children surveyed, 19% in Spain and 18.5% in Ukraine identified as neurodivergent. In Ireland, one professional estimated that 90% of children in contact with the justice system have significant speech, language, or developmental difficulties.

Remote hearings make these conditions less visible: judges cannot observe non-verbal behaviour, detect signs of confusion, or adapt the pace of proceedings in the ways that direct contact makes possible. The concern, documented by practitioners across the PPRO-Child jurisdictions, is that neurodivergent children are not only less equipped to navigate digital platforms, but that the remote format systematically removes the compensatory human elements that in-person proceedings can provide.

The recommendations issued by PRI and TdH as part of the PPRO-Child project on remote hearings involving children are clear. Physical hearings must remain the norm, and remote hearings should never be used as a default option or justified on grounds of cost or convenience. Their use should be limited to procedural and administrative matters. They should not be used for hearings that determine guilt or innocence or affect the child's liberty. At a minimum, these include plea hearings, judicial control of detention upon arrest, detention hearings, decisions on whether a child should be tried as an adult, and sentencing. Even for procedural matters, a remote hearing should only take place after an individual assessment confirms that it is in the child's best interests and that effective participation is achievable. It also requires the child's freely given and fully informed consent, reached in consultation with their lawyer, and child-specific safeguards before, during and after the hearing.

These recommendations do not assume in-person proceedings are without fault. Courtrooms can be intimidating, waits can be long, and many in-person hearings still fall short of child-friendly standards, which is partly why some children prefer to appear by video. Consent to a remote hearing must therefore be genuine. It should never be a response to in-person proceedings that fail children, nor the result of pressure from authorities. The answer to the shortcomings of physical hearings is to improve them, not to move children onto a screen. Where procedural safeguards are compromised in a remote hearing, the child must have the right to a new in-person hearing, with access to legal aid.

(11A) View at: https://ec.europa.eu/eurostat/web/products-eurostat-news/w/edn-20260715-1

(11B) View at: https://digitalyouthindex.uk/data-snapshots/digital-castaways/

What EU law guarantees	What the research documents
Art. 16 Dir. 2016/800: right to be present and to participate effectively in proceedings	Children consistently reported not understanding what was happening or what was expected of them. Without prior preparation and explanation, children described feeling confused, alienated, and excluded from proceedings
Art. 6 and 6(5) Dir. 2016/800: legal assistance and confidential communication with lawyer	Children reported not being able to speak to their lawyers before or during their remote hearing. Commercial platforms such as Zoom, WhatsApp and Google Meet were used in multiple jurisdictions without child-specific confidentiality safeguards
Art. 7 Dir. 2016/800: individual assessment of each child's needs and vulnerabilities before any consequential decision	No EU standard requires individual assessment before a decision on hearing format. Decisions made by individual judges or administrators, producing wide variation in protection
Art. 14 Dir. 2016/800: protection of the child's privacy throughout proceedings	Commercial videoconferencing platforms used in multiple jurisdictions without specific privacy or data protection guarantees for children

1.3 AI tools and automated decision-making: The gap the AI Act does not close

Risk assessment tools and automated case management systems are being deployed in some countries to inform decisions about children in criminal proceedings. These tools generate risk scores or classifications that purport to indicate the likelihood of reoffending, the suitability for diversion, or the appropriate level of supervision. They are presented as objective and systematic. The evidence on their operation suggests they are neither.

Algorithmic risk tools are trained on historical criminal justice data. That data reflects existing patterns of over-policing, structural disadvantage, and discrimination. One documented European example classified changing schools, missing classes due to family instability, and living in poverty as indicators of future criminal behaviour, disproportionately flagging children from marginalised communities (12). As the UN Special Rapporteur on the independence of judges and lawyers has observed, AI systems in judicial settings frequently reproduce and amplify structural inequalities, because every tool reflects the worldview and assumptions of its designers (13).

(12) Cited in Penal Reform International, 10-Point Plan: Protecting the procedural rights of children in the digitalisation of justice, 2026, available at: https://www.penalreform.org/resource/10-point-plan-child-justice/

(13) UN Special Rapporteur on the Independence of Judges and Lawyers (Margaret Satterthwaite), AI in judicial systems: promises and pitfalls, UN Doc A/80/169, July 2026.

The AI Act classifies these tools as high-risk under Annex III and imposes requirements of transparency, human oversight, and robustness. This does not prohibit their use in child justice proceedings. It does not require a children's rights impact assessment before deployment. Furthermore, it does not establish how AI-generated risk outputs relate to the individual assessment required under Article 7 of Directive 2016/800. A child assessed by a trained professional as presenting low risk can still be detained if an algorithm indicates otherwise. Nothing in the current EU framework resolves this conflict, or requires that it be resolved in favour of the human, individualised assessment.

The practical difficulty of challenging an algorithmic output deserves attention. Exercising the right to contestation requires knowing that an automated tool was used, obtaining an explanation of how it reached its output, and having legal support capable of formulating a challenge on that basis. For most children in criminal proceedings, none of these conditions are reliably met. The AI Act's transparency requirements do not translate automatically into child-accessible mechanisms for understanding or contesting outputs that have influenced a decision about their liberty.

The prohibition on AI-led decision-making in child justice is, together with limiting the use of remote hearings, one of the two recommendations from the PPRO-Child 10-point plan that this briefing considers most urgent. Decisions about a child's liberty, guilt, or sentence must be made by a human professional with training in child justice, on the basis of an individual assessment, with full due process. Algorithms cannot understand context, developmental stage, or vulnerability. They can only reproduce, at scale, the assumptions built into their design.

A monitoring gap underlies both the remote hearings problem and the AI tools problem. A report by the EU's Fundamental Rights Agency found that responsible institutions in most jurisdictions do not collect or publish data on the use of digital tools in justice proceedings, including their frequency, conditions of use, or impact on outcomes (14). The PPRO-Child research encountered the same problem directly: in all four countries studied, no systematic records existed on remote hearing participation rates. Article 21 of Directive 2016/800 requires Member States to report implementation data every three years. That obligation should be extended explicitly to cover digitalised proceedings and the use of AI tools in cases involving children.

The EU Fundamental Rights Agency assessment: Efficiency over rights

The EU Fundamental Rights Agency examined 31 digital tools in use across seven Member States and found that digitalisation is proceeding without systematic fundamental rights impact assessments; consultation with vulnerable groups including children is rare; and training of justice professionals on the rights implications of digital tools is inadequate. Member States' approaches are driven primarily by efficiency considerations.

(FRA, Digitalising Justice: A Fundamental Rights-Based Approach, 2025)

(14) European Union Agency for Fundamental Rights (FRA), Digitalising Justice: A fundamental rights-based approach, 2025, available at: https://fra.europa.eu/en/publication/2025/digitalisation-justice.

2. Children suspected or accused of digital offences: Applying child justice principles where the law has yet to follow

When a child is suspected or accused of an offence committed online, whether cyberbullying, sharing non-consensual images, running a scam, accessing systems without authorisation, or any other conduct that falls within the scope of criminal law, that child is a child in conflict with the law. The legal consequences of that status are not optional and do not vary depending on whether the offence took place in a physical or digital environment. Directive 2016/800, the UNCRC Articles 37 and 40, and the child-friendly justice principles of the Council of Europe apply in full.

Across Europe, the policy frameworks governing prevention and response to digital offences have been constructed primarily around adult perpetrators and child victims. Where the person suspected of an online offence is themselves a child, these frameworks offer little differentiation, with limited application of diversion and insufficient attention to the specific rights that child justice systems are designed to guarantee. A significant part of the academic and policy literature on children and online harm focuses almost exclusively on sexual offences, where the instruments are most developed and the political attention most intense. This has left a substantial gap: the child who commits a fiscal offence through undeclared online earnings as an influencer, who participates in a coordinated hacking operation, or who engages in digital fraud occupies a legal space where child-friendly justice principles are rarely even considered, let alone applied.

2.1 The legal landscape: A framework built for victims, silent on children suspected or accused of offences

The instruments governing children's online safety are extensive, and their focus is almost entirely protective. The Lanzarote Convention requires States Parties to criminalise all forms of sexual exploitation and sexual abuse of children, online and offline (15). The Lanzarote Committee's 2024 Declaration on emerging technologies confirms that sexual offences against children remain criminalised whatever the technological means used, including AI-generated material (16). PACE Recommendation 2274 (2024) calls for strengthened protection against all forms of online violence (17). Committee of Ministers Recommendation CM/Rec(2018)7 establishes comprehensive guidelines on children's rights in the digital environment (18). UNCRC General Comment No. 25 (2021) addresses States' obligations to protect children from digital risks while respecting their rights to expression, participation, and access to information (19).

Serious and binding as they are, these commitments reflect a decade of work to bring child protection frameworks into the digital age while remaining almost entirely oriented toward the child as victim. When an instrument does address the child suspected of causing online harm, it is limited to the narrowest category of conduct: the self-generation or sharing of sexual images between children of similar ages.

(15) Lanzarote Convention (Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS No. 201), requiring States Parties to criminalise all forms of sexual exploitation and sexual abuse of children

(16) Lanzarote Committee, Declaration on the protection of children against sexual offences facilitated by emerging technologies, 2024

(17) Parliamentary Assembly of the Council of Europe (PACE), Recommendation 2274 (2024)

(18) Committee of Ministers of the Council of Europe, Recommendation CM/Rec(2018)7 on Guidelines to respect, protect and fulfil the rights of the child in the digital environment, (2018).

(19) UN Committee on the Rights of the Child, General Comment No. 25 (2021) on children's rights in relation to the digital environment, (2021).

The Lanzarote Committee's 2022 monitoring report and its 2026 compliance report represent the most developed body of guidance on this question. The Committee is explicit: children should not be prosecuted for possessing their own self-generated sexual images or for sharing another child's images produced voluntarily for private use (20). The June 2026 joint statement by the Lanzarote and Budapest Committees confirms that AI-generated child sexual abuse material is criminalised under existing conventions but equally emphasises that responses for child perpetrators must prioritise education, therapeutic support, and restorative justice, with criminal justice as a last resort (21).

What the Lanzarote Committee found in 2026

Despite recommendations made in 2022, almost two thirds of the States examined still allow children to be prosecuted for possessing their own or their underage intimate partner's sexual images and videos. Almost half still allow prosecution for sharing their own images. The Committee had already called for reform in 2022. Four years later, most States had not acted.

(Lanzarote Committee Compliance Report, 3 June 2026)

Beyond this specific body of guidance, the child justice standards addressing children who are suspected, accused or convicted of offences are not specifically articulated for children who have committed offences in a digital context. The political and institutional energy devoted to protecting children online has not been matched by equivalent attention to ensuring that children suspected or accused of causing harm online retain the procedural rights and child-specific protections to which they are entitled.

Practically speaking, this means that prosecutors and courts encountering a child accused of a digital offence have inadequate guidance on ensuring that child justice standards apply. In the absence of such guidance, responses can be shaped by the broader political and institutional pressure to treat online offending seriously, a pressure that was built around adult perpetrators and that does not naturally accommodate the developmental realities of children. This raises the risk that children accused of digital offences are subjected to responses that fail to account for their developmental stage, prioritise punishment over rehabilitation, and fall short of the individualised assessment and proportionate treatment that international child justice standards require.

2.2 Peer-to-peer digital offending: When victim and perpetrator are both children

Empirical evidence on digital peer-to-peer harm consistently challenges the assumption that victim and perpetrator are distinct and stable categories. Among children who engage in aggressive behaviour online, a significant proportion have themselves been targets of online aggression, and the reverse is equally true. This overlap is not incidental. It shapes what a proportionate response looks like and why a framework built around clear-cut victim and perpetrator roles will systematically fail in peer-to-peer cases.

Among European children aged 9 to 16, 6% reported having engaged in aggressive acts online in the year prior to the EU Kids Online survey (2017-2019), covering 25,101 children across 19 countries. For almost half of these children, online aggression went hand in hand with victimisation (22). The study concludes that online aggression must be considered within the complex and fluid offline-online continuum, and that victims are more likely to become aggressors and aggressors more likely to report victimisation. This has direct implications for how justice systems should respond when a child accused of online aggression is also, in many cases, a child who has been harmed. When a child who has been harassed online retaliates by harassing back, or when a child who has received a non-consensual image forwards it

(20) Lanzarote Committee, 2022 monitoring report; and 2026 compliance report.

(21) Joint statement of the Lanzarote and Budapest Committees (June 2026).

(22) Ponte, Carvalho and Batista, 2021, Communications, 46(3), 419-445.

to others, both children involved simultaneously hold rights and retain, as children suspected or accused of a crime, the full set of procedural protections that child justice systems are designed to provide.

Gender is another dimension that this victim–perpetrator overlap can hide. The European Institute for Gender Equality reports that most victims of non-consensual intimate-image abuse are women and girls, who also experience the more severe and repeated forms of online abuse (23). Yet where these cases reach the justice system, boys are more often the ones charged, particularly for circulating images, even as girls are disproportionately blamed and held responsible for the harm done to them (24).

There is also a dimension that existing instruments do not yet address directly: the question of consent and relational context. The nature of the conduct, the relational context, the degree of understanding of consequences, and the presence or absence of coercion need to inform individualised responses. Current legal frameworks in most Member States do not draw these distinctions with sufficient precision, and EU-level guidance does not exist to encourage them. Individual assessment, as required by Article 7 of Directive 2016/800, requires that these distinctions be made and therefore individual assessments must be prioritised at the early stages of any proceeding involving children accused of digital offences.

2.3 The risk of over-criminalisation of children who commit digital offences

The policy frameworks developed at European level to address online harm against children have been constructed around the protection of child victims and the prosecution of adult perpetrators. The European Commission's 2020 Strategy for a more effective fight against child sexual abuse (COM/2020/607) (25), the proposed Child Sexual Abuse Regulation of 2022 (26), and the 2024 proposal to recast Directive 2011/93/EU (27) each establish comprehensive prevention, detection, reporting and prosecution frameworks. None addresses systematically the situation where the author of the conduct is themselves a child. The Lanzarote Committee's 2026 (28) compliance report documents the consequence: despite recommendations made in 2022, most States examined still permit the prosecution of children for possessing their own self-generated sexual images. The political and institutional energy devoted to protecting children online has not generated equivalent attention to the specific obligations that apply when the person responsible is a child.

The Lanzarote Convention (Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS No. 201 (29) and the Budapest Convention on Cybercrime (ETS No. 185) (30) are the two principal Council of Europe instruments governing the criminalisation of online sexual harm against children.

(23) EIGE- European Institute for Gender Equality, Combating Cyber Violence against Women and Girls (2022)

(24) Salter, M., Crofts, T. and Lee, M. (2013) 'Beyond criminalisation and responsibilisation: Sexting, gender and young people', Current Issues in Criminal Justice, 24(3), 301-316.

(25) European Commission, EU Strategy for a More Effective Fight Against Child Sexual Abuse, COM/2020/607 final, 24 July 2020.

(26) European Commission, Proposal for a Regulation laying down rules to prevent and combat child sexual abuse, COM/2022/209 final, 11 May 2022.

(27) European Commission, Proposal for a Directive on combating the sexual abuse and sexual exploitation of children, COM/2024/60 final, 6 February 2024.

(28) Lanzarote Committee, Compliance Report — Protection of children against ICT-facilitated sexual exploitation and sexual abuse, Council of Europe, adopted 3 June 2026. Available at: https://rm.coe.int/compliance-report-protection-of-children-against-ict-facilitated-sexua/48802c625f

(29) Council of Europe, Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), CETS No. 201, opened for signature 25 October 2007.

Their respective monitoring bodies issued a joint statement in June 2026 (31) addressing the application of both conventions to AI-generated child sexual abuse material. The statement confirms that existing obligations under both conventions extend to synthetic and algorithmically generated content. It also draws a distinction with direct legal consequences: where the author of such conduct is a child, defined under the UN Convention on the Rights of the Child as any person under the age of 18, responses must prioritise education, therapeutic support and restorative justice, with recourse to criminal justice measures justified only where those alternatives have proved insufficient. This means that a child who commits an offence online, whether involving harmful content, harassment, or fraud, retains the full set of entitlements that child justice systems are designed to provide, including access to diversionary and alternative measures that prioritise education, psychosocial support, and restorative justice processes that create space for dialogue between the child author, the victim, and where appropriate, those close to the victim, before any recourse to criminal prosecution is considered.

According to international child rights standards, children suspected or accused of crime, including digital crime, benefit from specific rights which aim to protect them, in recognition of their evolving maturity. There is a neuroscientific consensus that children's brain development influences their capacity to perceive risks, control impulses, and anticipate the consequences of their conduct, capacities that continue to develop well into early adulthood.

This specificity of child brain development and discernment is reflected in international child justice standards, notably CRC General Comment No. 24 (2019) on children's rights in the child justice system (32), which recommends a minimum age of criminal responsibility of 14 on the grounds that below this threshold children cannot be considered to possess the necessary degree of understanding and moral capacity to bear criminal responsibility.

Nevertheless, a significant number of EU Member States set that threshold considerably lower, notwithstanding the scientific evidence. In the context of digital offending, where the physical distance between author and victim removes the immediate, visible feedback about harm caused that physical proximity would provide, children suspected or accused of an offence may find it particularly difficult to appreciate the full consequences of their conduct.

The Beijing Rules (33) require that responses be proportional to both the gravity of the offence and the personal circumstances of the child, with diversion from formal proceedings as the preferred approach wherever appropriate. CRC Articles 37 and 40 establish that deprivation of liberty must be an absolute last resort and that the child's reintegration and social development must be actively protected. Article 7 of Directive 2016/800 (34) requires an individual assessment of each child's circumstances before any consequential decision is taken. CRC Article 12 requires that the child's own account be heard and given due weight. These are precisely the standards that the June 2026 Lanzarote and Budapest joint statement recalls and calls on Member States to implement when a child is suspected or accused of digital harm.

(30) Council of Europe, Convention on Cybercrime (Budapest Convention), ETS No. 185, opened for signature 23 November 2001.

(31) Lanzarote Committee and Cybercrime Convention Committee (T-CY), Joint Statement on AI-generated child sexual abuse material, Council of Europe, June 2026.

(32) UN Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system, CRC/C/GC/24, 18 September 2019.

(33) UN General Assembly, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), Resolution 40/33, 29 November 1985.

(34) European Parliament and Council of the EU, Directive 2016/800/EU on procedural safeguards for children who are suspects or accused persons in criminal proceedings, 11 May 2016, Article 7.

States have an obligation to create the conditions in which children can exercise their rights, as established under CRC Article 4 (35). Where a child commits a digital offence using tools that States have allowed to proliferate without meaningful regulation, without adequate digital literacy education, and without child-specific safeguards, the question of individual responsibility must be situated within that context. The response to a child in conflict with the law must account for the social and environmental conditions that shaped the conduct, a principle long established in international child justice standards, which becomes even more complex to apply in a constantly evolving digital environment. Failing to do so risks reducing child justice principles to formal commitments without operational substance, leaving children suspected or accused of digital offences exposed to responses that neither reflect their rights nor serve the objective of their reintegration.

UN CRC General Comment No. 24 (2019): What the Committee requires

The Committee recommends a minimum age of criminal responsibility of at least 14 years. Diversion should be the general rule, not the exception. Deprivation of liberty must be an absolute last resort. Any response must be proportional not only to the gravity of the offence but to the personal circumstances of the child. These obligations apply without distinction to all offences, including those committed online.

The monitoring gap: An obligation that is not being tracked

There is currently no EU-level mechanism to monitor how Member States apply child justice principles to children accused of digital offences. Available data come primarily from academic research. The Lanzarote Committee's compliance reporting covers sexual offences only. For cyberbullying, fraud, hacking, fiscal offences, and other digital conduct by children, systematic data on prosecutorial practice, diversion rates, and use of individual assessments simply does not exist at European level. Without monitoring, the gap between principle and practice is invisible.

(35) UN Convention on the Rights of the Child, Article 4, adopted 20 November 1989, UNGA Resolution 44/25.

3. Recommendations

The gaps documented above require action at multiple levels. The following recommendations are directed at the EU institutions and the Council of Europe. Each is grounded in the legal analysis and empirical evidence set out in this briefing.

A. To EU institutions

1. Update Directive 2016/800 to establish binding standards for digitalised proceedings involving children.

The Directive should be amended to establish that the right to effective participation (Article 16) and the right to individual assessment (Article 7) apply with full force in remote hearings and all other digitalised proceedings. Concretely: remote hearings may not serve as the default for children. Remote hearings should be limited to procedural and administrative matters and should not be used for hearings determining guilt or affecting the child's liberty, including plea, detention and sentencing hearings. No hearing may be conducted remotely, in full or in part, without two conditions. The first is the child's freely given and fully informed consent, given in consultation with their lawyer. The second is a prior individual assessment confirming that the remote format is in the child's best interests and that effective participation is achievable. Member States must adopt child-specific protocols covering the physical environment, pre-hearing legal consultation, and real-time comprehension monitoring. The Commission's 2024 implementation report (COM(2024)489) has already opened the door to legislative follow-up.

2. Establish child-specific requirements for AI systems used in child justice proceedings.

Prohibit the use of AI and automated decision-making for risk assessment, sentencing or case decisions concerning children. For any other high-risk AI system used in proceedings involving children, through delegated guidance or targeted amendments to the AI Act's implementing measures: require a mandatory children's rights impact assessment before deployment; establish that AI-generated outputs cannot substitute for the individual assessment under Article 7 of Directive 2016/800 and must be disclosed to the child and their lawyer in accessible terms; and make the results of any internal monitoring for discriminatory outputs available to relevant national supervisory authorities.

3. Close the definitional gap on AI-generated harmful content in the revision of Directive 2011/93/EU.

The revision of the directive on combating child sexual abuse should clarify how existing obligations apply to synthetic and AI-generated content depicting children. In doing so, it must explicitly prevent the over-criminalisation of children in peer-to-peer contexts. The June 2026 joint statement by the Lanzarote and Budapest Committees confirms that criminal justice measures should be a last resort for children suspected or accused, with education, therapeutic support, and restorative justice as the primary response.

4. Promote multi-agency safeguarding structures for digital harm cases involving children.

Through guidance, CERV or Justice programme funding, and where warranted legislative initiative, the Commission should support Member States in establishing designated multi-agency bodies responsible for assessing and coordinating responses to digital peer-to-peer harm involving children. Any response framework must ensure proportionality to the child's developmental stage, with diversion and restorative approaches as the expected default for children suspected or accused of less serious offences, in line with CRC General Comment No. 24 and the Beijing Rules. Response frameworks should be gender-sensitive, recognising that girls are disproportionately harmed by image-based and sexualised online abuse while boys are more often criminalised, so that assessment, diversion and support are calibrated accordingly.

5. Extend data collection under Article 21 of Directive 2016/800 to cover digitalised proceedings.

The triennial data collection should capture disaggregated information on the use of remote hearings, AI tools, and digital processes in proceedings involving children, including outcomes, documented rights violations, and complaints. Disaggregation should cover at minimum age, gender, disability, neurodivergence,

migration status, and, where permitted by national law, ethnicity, and other relevant characteristics. Without this level of detail, the structural inequalities this briefing documents will remain invisible in the very data meant to track them. The FRA should be tasked with producing regular assessments of children's experience of digital justice across Member States.

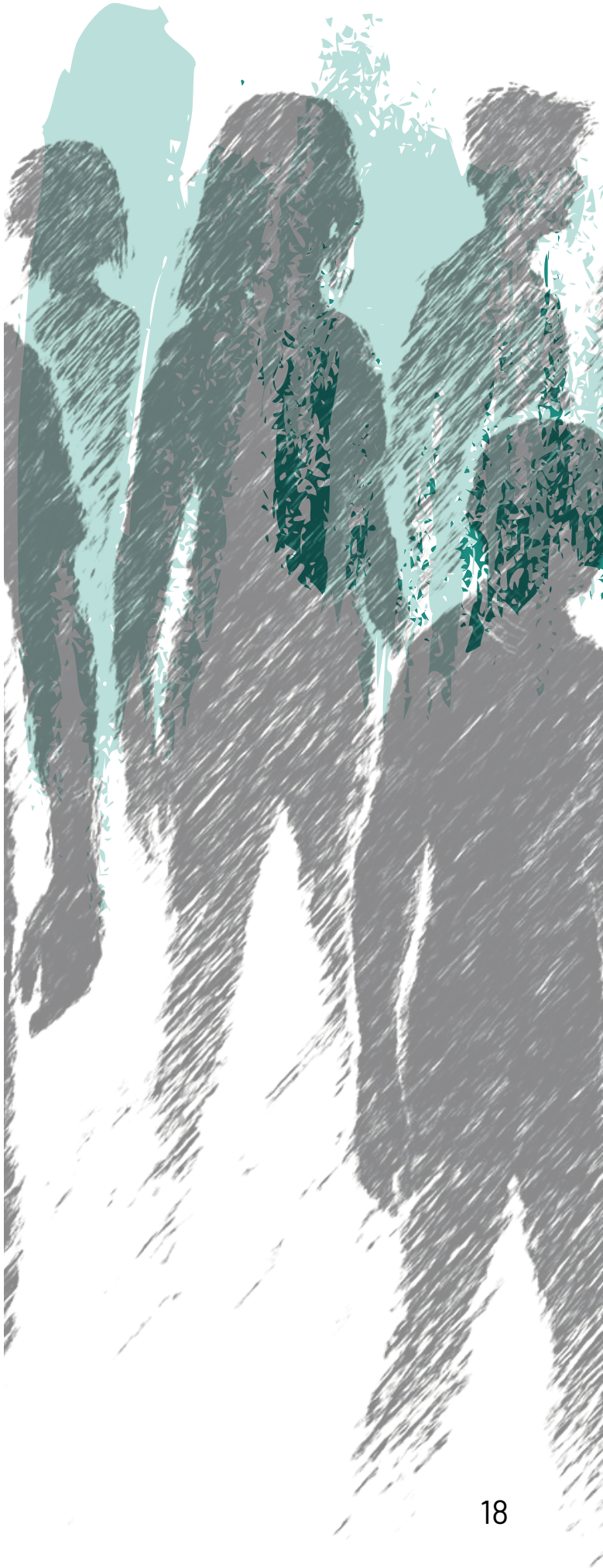
B. To the Council of Europe

6. Issue interpretive guidance on the child-friendly justice guidelines addressing digital proceedings.

The Council of Europe should issue targeted interpretive guidance to the 2010 child-friendly justice guidelines, establishing child-specific standards for remote hearings, AI-assisted decision-making, and digital evidence handling in criminal proceedings involving children. The PPRO-Child project evidence from Ireland, Romania, Spain and Ukraine provides a direct empirical basis for this work. Children with lived experience of digitalised proceedings must be involved not only as consultees but as active participants in the design of reforms and tools, from the earliest stages of development. The PPRO-Child Child Advisory Boards demonstrate that this is operationally achievable. This is what CRC Article 12 and child-centred justice principles require.

7. Support consistent national implementation of the June 2026 Lanzarote/Budapest joint statement on AI-generated content.

The June 2026 joint statement by the Lanzarote and Budapest Committees confirms that existing conventions cover AI-generated sexualised representations of children. The Council of Europe should support Member States in translating this interpretive position into national legislation consistently, while ensuring that any legislative changes include explicit safeguards against the over-criminalisation of children in peer-to-peer contexts.



Protecting Procedural Rights of Children in the Digital Age

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