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Domenico Rosani: Child's participation online and the General Data Protection Regulation – a dialogue between educational and legal sciences is urgently needed

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Im Lichte der kürzlich in Kraft getretenen Datenschutz-Grundverordnung nimmt die Debatte über Kinderpartizipation und -schutz im Netz neue rechtliche Gestalt an, mit der es sich auseinanderzusetzen gilt. Wenngleich mehrere Bestimmungen kritikwürdig sind, ebnen andere den Weg hin zu einer verbesserten Berücksichtigung von Kinderanliegen und der Errichtung eines schützenden Digitalumfeldes. Um dieses Ziel zu erreichen, ist jedoch der umfängliche Austausch zwischen Fachleuten der Erziehungs- und Rechtswissenschaften und Kindern unabdingbar.

In the light of the recent General Data Protection Regulation, the debate on child's participation and protection online is taking on a new legal framework that needs to be addressed. While several provisions could be widely criticized, others might open up new ways for a better consideration of the child's position and the establishment of a protective digital environment. However, a sincere and thorough exchange between educational and legal experts and children is urgently needed.

Literature:

Article 29 Working Party (2011). Opinion 15/2011 on the definition of consent. 01197/11/EN WP 187, adopted on 13 July 2011.

Article 29 Working Party (2017). Guidelines on Automated individual decision-making and Profiling for the purposes of Regulation 2016/679, 17/EN WP 251, adopted on 3 October 2017.

Article 29 Working Party (2018). Guidelines on consent under Regulation 2016/679, 17/EN WP 259 rev. 01, adopted on 28 November 2017 as last revised and adopted on 10 April 2018.

Better Internet for Kids (2018). GDPR is here: mapping the GDPR age of consent across the EU: June 2018 www.betterinternetforkids.eu/web/portal/practice/awareness/detail?articleId=2733703 [accessed: 10-10-2018]

Boyd, Danah (2016). What If Social Media Becomes 16- Plus? New battles concerning age of consent emerge in Europe", Bright Magazine, 18 December 2015. https://medium.com/bright/what-if-social-media-becomes-16-plus-866557878f7#.6rmppea9s [accessed: 05-30-2018]

Byrne, Jasmina/Burton, Patrick (2017). Children as Internet users: how can evidence better inform policy debate? In: Journal of Cyber Policy 2 (1), pp. 39–52.

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Carr, John (2016). John Carr on the GDPR: Poor process, bad outcomes, 31 March 2016, www.betterinternet-forkids.eu/bg/web/portal/home/-/asset_publisher/UkbOS3dmMlyU/content/id/687469 [accessed: 05-30-2018]

Council of Europe (CoE) (2010). Recommendation CM/ Rec(2010)13 of the Committee of Ministers to member states on the protection of individuals with regard to automatic processing of personal data in the context of profiling, 23 November 2010.

Council of Europe (CoE) (2012). Recommendation CM/ Rec (2012) 2 of the Committee of Ministers to Member States on the participation of children and young people under the age of 18, 28 March 2012.

Council of Europe (CoE) (2016). Strategy for the Rights of the Child 2016-2021, March 2016.

Council of Europe (CoE) (2017). Internet Literacy Handbook, Strasbourg: Council of Europe.

Dias, Patrícia/Brito, Rita/Ribbens, Wannes/Daniela, Linda/ Rubene, Zanda/Dreier, Michael/Gemo, Monica/Di Gioia, Rosanna/Chaudron, Stéphane (2016). The role of parents in the engagement of young children with digital technologies: Exploring tensions between rights of access and protection, from 'Gatekeepers' to 'Scaffolders'. In: Global Studies of Childhood, 6 (4), pp. 414–427.

ESSIE survey – ICT in Education (2011). SMART 2010/0039. https://ec.europa.eu/digital-single-market/en/news/ict-education-essie-survey-smart-20100039 [accessed: 05-30-2018]

European Union Agency for Fundamental Rights (FRA) (2018a). Mapping minimum age requirements concerning the rights of the child in the EU. http://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements-concerning-rights-child-eu [accessed: 05-30-2018]

European Union Agency for Fundamental Rights (FRA) (2018b). Fundamental Rights Report 2018. Luxembourg: Publications Office of the European Union.

European Union Agency for Fundamental Rights (FRA) and Council of Europe (CoE) (2018). Handbook on European data protection law, 2018 edition. Luxembourg: Publications Office of the European Union.

European Commission (2011). An EU Agenda for the Rights of the Child, COM (2011) 60 final, Brussels, 15 February 2011.

European Commission (2012a). Commission staff working paper – Impact assessment accompanying the document Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) and Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, SEC(2012) 72 final, Brussels, 25 January 2012.

European Commission (2012b). Proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data, COM/2012/011 final, Brussels, 25 January 2012.

European Commission (2012c). A European Strategy for a Better Internet for Children, COM(2012) 196 final, Brussels, May 2012.

European Commission, Education & Training 2020 Working Group on Digital Skills and Competences (2017). Digital Assessment, Tallin, 4-5 October 2017. https://ec.europa.eu/education/sites/education/files/key_messages_tallinn_-_digital_assessment.pdf [accessed: 05-30-2018]

European Economic and Social Committee (EESC) (2017). Cooperation with civil society to prevent the radicalisation of young people [own-initiative opinion], SOC/565, adopted on 6 December 2017.

European NGO Alliance for Child Safety Online (eNACSO) [Carr, John] (2017). An open letter to the European Data Protection Supervisor and the Chair of the Article 29 Working Party, 15 May 2017, www.lse.ac.uk/media@lse/documents/MPP/eNACSO-letter-re-GDPR.pdf [accessed: 05-30-2018]

European NGO Alliance for Child Safety Online (eNACSO) [Nairn, Agnes/Carr, John/Lilliu Barbara] (2016). When free isn't it. Business, children and the internet. www.enacso.eu/wp-content/uploads/2015/12/free-isnt.pdf [accessed: 05-30-2018]

Garante per la protezione dei dati personali (2018). Parere sullo schema di decreto legislativo recante disposizioni per l'adeguamento della normativa nazionale alle disposizioni del Regolamento (UE) 2016/679, n. 312, 22 May 2018.

Grandi, Ciro (2017). Le conseguenze penalistiche delle condotte di cyberbullismo. Un'analisi de jure condito. In: Annali online della Didattica e della Formazione Docente, 9 (13), pp. 40–58.

High Level Commission Expert Group on Radicalisation (HLCEG-R) (2017). Interim Report (Preliminary Findings and Recommendations), 8 December 2017.

Jasmontaite, Lina/De Hert, Paul (2015). The EU, children under 13 years, and parental consent: a human rights analysis of a new, age-based bright-line for the protection of children on the Internet. In: International Data Privacy Law, 5 (1), pp. 20–33.

Livingstone, Sonia/Third, Amanda (2017). Children and young people's rights in the digital age: An emerging agenda. In: new media & society, 19 (5), pp. 657–670.

Livingstone, Sonia/Haddon, Leslie/Görzig, Anke/Ólafsson, Kjartan (2011a). EU Kids Online – Final Report, London School of Economics and Political Science, September 2011.

Livingstone, Sonia/Haddon, Leslie/Görzig, Anke/Ólafsson, Kjartan (2011b). Risks and safety on the internet: The perspective of European children. Full Findings, London School of Economics and Political Science, www.lse.ac.uk/media%40lse/research/EUKidsOnline/EU%20Kids%20II%20(2009-11)/EUKidsOnlineIIReports/D4FullFindings.pdf [accessed: 05-30-2018]

Macenaite, Milda (2017). From universal towards child-specific protection of the right to privacy online: Dilemmas in the EU General Data Protection Regulation. In: new media & society, 19 (5), pp. 765–779.

Macenaite, Milda/Kosta, Eleni (2017). Consent for processing children's personal data in the EU: following in US footsteps? In: Information & Communications Technology Law 26 (2), pp. 146–197.

Mansell, Robin (2002). From digital divides to digital entitlements in knowledge societies. In: Current Sociology, 50 (3), pp. 407–426.

Mantelero, Alessandro (2016). Children online and the future EU data protection framework: empirical evidences and legal analysis. In: International Journal of Technology Policy and Law, 2 (2/3/4).

Mc Cullagh, Karen (2016). The general data protection regulation: a partial success for children on social network sites? In: Bräutigam, Tobias/Miettinen, Samuli (2016). Data Protection, Privacy and European Regulation in the Digital Age. Helsinki: Forum Iuris, pp. 110–139.

Milkaite, Ingrida/Verdoodt, Valerie (2017). The General Data Protection Regulation and children's rights: questions and answers for legislators, DPAs, industry, education, stakeholders and civil society. Roundtable report, Brussels, 23 June 2017, www.betterinternetforkids.eu/documents/167024/2013511/GDPRRoundtable_June2017_FullReport.pdf [accessed: 05-30-2018]

Reid, Alan S. (2009). Online protection of the child within Europe. In: International Review of Law, Computers & Technology, 23 (3), pp. 217–230.

Savirimuthu, Joseph (2016a). EU General Data Protection Regulation Article 8: Has Anyone Consulted the Kids?, Media Policy Project Blog, 1 March 2016, http://blogs.lse.ac.uk/mediapolicyproject/2016/03/01/eu-general-data-protection-regulation-article-8-has-anyone-consulted-the-kids/ [accessed: 05-30-2018]

Savirimuthu, Joseph (2016b). Networked Children, Commercial Profiling and the EU Data Protection Reform Agenda: In the Child's Best Interests? In: Iusmen, Ingi/ Stalford, Helen. The EU as a Children's Rights Actor. Law, Policy and Structural Dimensions. Opladen – Berlin – Toronto: Barbara Budrich Publishers, pp. 221–257.

Staksrud, Elisabeth/Milosevic, Tijana (2017). Adolescents and children in global media landscape: from risks to rights. In: Annals of the International Communication Association, 41 (3-4), pp. 235–241.

Terras, Melody M./Ramsay, Judith (2016). Family Digital Literacy Practices and Children's Mobile Phone Use. In: Frontiers in Psychology (7) Article 1957.

The Children's Commissioner for England (2017). How parents and carers can support their children to manage their rights and privacy online, November 2017. www.childrenscommissioner.gov.uk/2017/11/28/how-parents-and-carers-can-support-their-children-to-manage-their-rights-and-privacy-online/ [accessed: 05-30-2018]

UK Information Commissioner's Office (ICO) (2018). Consultation: Children and the GDPR guidance, https://ico.org.uk/media/about-the-ico/consultations/2172913/children-and-the-gdpr-consultation-guidance-20171221.pdf [accessed: 05-30-2018]

Unicef (2017). Children in a digital world. New York: Unicef.

United Nations, Committee on the Rights of the Child (2013). General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), CRC/C/GC/17, 17 April 2013.

United Nations, Committee on the Rights of the Child (2016). General Comment No. 20 (2016) on the on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016.

Zhang, Xiaolu (2010). Charging children with child pornography – Using the legal system to handle the problem of "sexting". In: Computer Law & Security Review, 26 (3), pp. 251–259.