

Children in Digital Age – Croatian Perspective

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ABSTRACT

Today, it is difficult to imagine life without digital technology and the Internet. They have become an integral part of our everyday lives, especially the lives of children and young people. Children use the Internet for learning, entertainment, communication, creativity and to express themselves. Digital technology and especially the Internet gives them access to a variety of information, services and opportunities that can enrich their childhood, development, and well-being. However, the digital environment also carries numerous challenges and risks for children's rights. Children can be exposed to violence, abuse, exploitation, explicit sexual content, hate speech, misinformation and disinformation, various other types of manipulation and other harmful content on the Internet. Children may also face violations of their right to privacy, dignity, identity, and participation in the digital environment. They can be discriminated against or excluded because of lack of access, equipment, skills or support to use digital technology. Therefore, it is important to ensure that children have the same rights and protections in the digital environment as they have in our everyday lives. This implies respect, exercise and protection of all children's rights established by the Convention on the Rights of the Child and other international and national documents. It also implies involving children in decision-making and policies that affect their lives in the digital age. In Croatia, there are numerous actors and initiatives that deal with issues of children's rights in the digital environment. Among them are state bodies, non-governmental organisations, academic institutions, the media and the business sector. They carry out various activities, such as education, prevention, counselling, research, advocacy and monitoring, to promote and protect children's rights in the digital world. This chapter aims to provide an overview of children's internet use in Croatia; this includes the legal framework for the protection of children's rights in the digital age together with definitions of legally relevant terms in national legislation as well as some examples of judicial practice and discussion about rights to privacy, to be forgotten, to access to information, to education, to be safeguarded from abuse, to freedom of expression, and to be heard.

KEYWORDS

children's rights, digital environment, children and the Internet, digital age, information society and children, social media, audiovisual medial services, video-sharing platforms, media literacy

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1. Definitions and Taxonomic Rationale

To better protect children in a digital environment, one of the key prerequisites is to understand how children use the Internet. In recent years, numerous studies have been carried out on this topic, involving children of different age groups and with a different approach. Most of them were carried out by non-governmental organisations and academic institutions.

The most recent research was done in 2022 by the Safer Internet Centre Croatia¹ in cooperation with public and private institutions. This research included 2016 respondents in 21 high schools in all regions of Croatia. The results of this research were presented at the Cyber Security Conference in October 2022.² The main goal of this research was to deepen the knowledge about the risky behaviours of 1st and 3rd class high school students (aged 14 and 16) in the online environment and to find out to what extent high school students are exposed to harmful content and sexual harassment in the online environment. The research showed that 37.6% of high school students spend five or more hours a day on the Internet, of which more than 10% spend 10 or more hours on the Internet, and 56% of high school students use the Internet more than they did before the COVID-19 pandemic. They spend the most time on networks that offer video content, such as YouTube, Instagram, Snapchat, and TikTok, and 5.4% of respondents said they also use the social network Tinder. Furthermore, with regard to inappropriate content, as many as 20% of high school students witnessed or experienced sexual harassment on the Internet in the last year. Almost 50% of respondents state that they witnessed their peers share sexual content on a group chat, profile, or forum. More than 30% state that their peers secretly take photos of naked, half-naked, or inappropriately dressed people or during certain sexual acts and share them on the Internet. Additionally, more than 30% of the respondents testify that their peers share photos of sexual content with people their age. Almost 30% of high school students state that they would not report sexual harassment on the Internet because they are worried that they would be blamed for it. The research also showed that 41.2% of young people were sexually assaulted at least once. They were more often girls (48.7%), than boys (34%). However, every fourth child has experienced some form of sexual abuse on the Internet and most of the respondents first encountered sexual content on the Internet around the age of 13.

Other research with a focus on children and their interaction with information technology in a digital world also showed similar results. National research on children's safety on the Internet titled "HR Kids Online"³ conducted by Society for Communication and Media Culture in cooperation with government agencies,

1 Safer Internet Centre Croatia: making the Internet a good and safe place [Online]. Available at: www.csi.hr (Accessed: 21 January 2024).

2 Ramljak et al., 2022.

3 Cibodi et al., 2020.

non-governmental organisations (NGOs), and the private sector in 2017 included 1,017 children aged 9–17 years and the parent who has more insight into the child's online practices. The key results of the research showed that children most often access the Internet via smartphones. Almost 50% of children aged 9–11, 66% of children aged 12–14, and 75% of children aged 15–17 can access the Internet whenever they want or need to. Every fourth child aged 9–14 and every third child aged 15–17 are completely or mostly concerned about their privacy on the Internet. Every 10th child aged 15–17 accepts all friend requests from other people on social networks. Simultaneously, almost 25% of children of that age look for new friends or contacts on the Internet every week. Every fifth child aged 9–17 completely or mostly does not know how to change privacy settings, for example, on social networks. Almost every third child aged 9–17 has communicated online with people they have not met in person in the last year (from the time of the survey). This was done by every 10th child aged 9–11, every fourth child aged 12–14, and almost every other child aged 15–17. When the last time something upset or bothered them online, more than half of children aged 9–17 closed the app, one in three children blocked the person so they could no longer contact them, one in four children ignored the problem, and one in five children changed their privacy settings. More than half of children aged 9–17 have received a hurtful or inappropriate message. More than 33% of children aged 9–11, almost 50% of children aged 12–14, and almost 75% of children aged 15–17 had received such a message. Children who spent more time on the Internet during the week and over the weekend received such messages more often. Almost 66% of children aged 9–17 have seen sexual photos or a film of a naked person on the Internet in the past year, without intending to see them. This was experienced by 75% of children aged 9–11, more than 65% of children aged 12–14, and almost 65% of children aged 15–17.⁴ Research also showed that parents often talk about internet activities with younger groups of children. Concurrently, parents monitor the online activities of younger groups of children much more often than they do teenagers' activities, but also give younger children advice on what to do if someone is harassing them online.

The results of both surveys clearly show that digital technology and the Internet are a large part of the everyday life of children in Croatia. Research also shows the extent to which children are at risk when using the Internet and the need for better regulation when it comes to internet communication, harmful content, and a better level of protection for children's rights in the digital environment. For this reason, we continue to review the current legislative framework for children's rights in Croatia's digital environment.

When considering the legal framework for the protection of children in the digital environment in Croatia, we must consider all legal areas and laws that protect children and their rights. As a party of the Convention on the Rights of the Child (hereafter,

4 EU Kids Online istraživačka mreža, 2020.

“Convention”),⁵ Croatia is among those countries that have undertaken the obligation to ensure the protection of children’s rights and freedoms. Respecting, protecting, and promoting those rights and freedoms is a task that derives from the Croatian Constitution,⁶ and the well-being of children depends on achieving those goals. Art. 62 of the Croatian Constitution stipulates that the state protects motherhood, children, and youth, and creates social, cultural, educational, material, and other conditions that promote the realisation of the right to a dignified life. Furthermore, art. 63 of the Constitution imposes the obligation on the parents to raise, support and educate children but also gives them the rights and freedoms to decide independently about their children’s upbringing. Finally, Art. 64 stipulates that it is everyone’s duty to protect children. Furthermore, for protection of children in a digital environment, other relevant legislation is the Family Act (FA),⁷ Primary and Secondary School Education Act (PSSEA),⁸ Criminal Code (CC),⁹ Electronic Media Act (EMA)¹⁰ and its regulations, Media Act (MA),¹¹ General Data Protection Regulation (GDPR)¹² together with an Act on implementation of the General Data Protection Regulation (AIGDPR),¹³ and the Electronic Commerce Act (ECA).¹⁴

The FA includes provisions relating to protection of children’s right to education¹⁵, right to freedom of expression and the right to be heard¹⁶, and the right to access to information¹⁷. These rights are also guaranteed by the provisions of the PSSEA. The FA does not provide an exact definition of the term “child”; on the contrary, the limits of the term are only mentioned when FA says that an adult is someone who has reached the age of 18. Similarly, the concept of “parent” is also not defined in the FA; instead, the FA talks about motherhood and paternity, which can be determined by presumption, recognition, or court decision¹⁸.

5 United Nations (1989) UN Convention on the Rights of the Child, New York, 20 November 1989; The Republic of Croatia has been a party since the beginning of its state independence based on the succession notification (Official Gazette of the SFRJ, No. 15/1990, Official Gazette, International Agreements, No. 12/1993, 20/1997).

6 Constitution of the Republic of Croatia (Official Gazette No. 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01, 76/10, 85/10, 5/14).

7 Family Act (Official Gazette No. 103/15, 98/19, 47/20, 49/23, 156/23).

8 Primary and Secondary School Education Act (Official Gazette No. 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12, 94/13, 152/14, 7/17, 68/18, 98/19, 64/20, 133/20, 151/22, 155/23, 156/23).

9 Criminal Code (Official Gazette No. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21, 114/22, 114/23).

10 Electronic Media Act (Official Gazette No. 111/21, 114/22).

11 Media Act (Official Gazette No. 59/04, 84/11, 81/13, 114/22).

12 European Parliament and the Council, 2016.

13 Act on implementation of the General Data Protection Regulation (Official Gazette No. 42/18).

14 Electronic Commerce Act (Official Gazette No. 173/03, 67/08, 130/11, 36/09, 30/14, 32/19).

15 Arts. 84 and 94 of the FA.

16 Art. 86 para. 1 of the FA.

17 Art. 86 para. 2 of the FA.

18 Arts. 58 and 60 of the FA.

The CC includes provisions relating to protection of privacy and personal data and especially provisions relating to the right to be safeguarded from the abuse in the digital environment. It also provides a definition of the term “child” in Art. 87 para. 7, where a child is defined as a person who has not reached the age of 18. In this regard, the Juvenile Courts Act¹⁹ in art. 2 defines a minor as a person who has reached the age of 14 at the time of committing the crime but has not reached the age of 18.

With regard to the media literacy and protection of children from inappropriate or harmful content, especially on video-sharing platforms (VSP), the EMA governs the obligations of the providers of those services and imposes special obligations for the purpose of protecting children’s rights.

Relating to the protection of privacy, specifically protection of personal data of the children and their processing, erasure, consent, and transparency in a digital environment the relevant provisions can be found in the GDPR and AIGDPR.

Finally, the ECA defines all digital services, including digital media and social networks as information society services, and establishes the rules and conditions under which such services must be provided. According to Art. 2 para. 2 of the ECA, information society services are services that are provided electronically for a fee at the individual request of the user, and in particular internet sales of goods and services, offering data on the Internet, advertising via the Internet, electronic search engines, and the possibility of searching for data and services that are transmitted via an electronic network, mediate access to the network or store user data.

There is no special law in Croatia that specifically regulates the protection of children against digital harm; each of the aforementioned laws covers a certain area of protection of children’s rights or provision of services to children in the digital environment for the purpose of a further comprehensive analysis. Therefore, it is necessary to take them all into account.

2. Legal Protection of Children’s Rights on the Internet

2.1. The Right to Privacy and the Right to Be Forgotten

With the development of information and communication technologies, the right to privacy, as a fundamental human right, has become a key topic for everyone who uses these technologies, and this especially refers to the protection of children’s privacy in the digital environment. Notably, the right to privacy consists of at least five discrete dimensions: physical and mental integrity, decisional autonomy, personal identity, informational privacy, and physical/spatial privacy.²⁰ This right is inextricably linked to other rights such as freedom of expression, safeguard from abuse, and access to information. In the context of online environments where personal data has become a valuable asset, it is important to impose safeguards to protect informational privacy

19 Juvenile Courts Act (Official Gazette No. 84/11, 143/12, 148/13, 56/15, 126/19).

20 See: Tobin and Field, 2018, p. 554 for an extensive discussion.

of every user and especially children, as they require specific protection with regard to their personal data because they may be less aware of the risks, consequences, and safeguards concerned and of their rights in relation to the processing of personal data. Children's right to informational privacy is their right to have their personal information, communication, and activities protected from arbitrary or unlawful interference by others. This right is based on the recognition that children are entitled to respect for their dignity, autonomy, and identity, and that privacy is essential for their development and well-being.

As in other European Union (EU) member states, in the Republic of Croatia, children's right to privacy as well as their right to be forgotten is protected primarily by the GDPR. This is an EU regulation that aims to protect the personal data of individuals, especially children, who are considered vulnerable and less aware of the risks and consequences of sharing data online. Processing of data is usually a very broad term that can be categorised into three groups: data given, data observed, and data that is derived or inferred.²¹ Therefore, it is essential to consider all provisions of the GDPR and of the AIGDPR relating to the processing of children's personal data.

Art. 6 of the GDPR protects children's personal data by requiring a lawful basis for processing it, such as consent, contract, legal obligation, vital interest, public interest, or legitimate interest including special provisions with regards to children's consent when it comes to information society services. This refers to the processing of data that can be classified into all three groups mentioned above. Art. 8 of the GDPR stipulates that children under 16 cannot give valid consent by themselves, and need the authorisation of the holder of parental responsibility if that age limit is not set lower by the member states. Croatian AIGDPR in art. 19 sets the limit of 16 years of age for valid consent given by a child to information society services, the same as the GDPR. As the holder of parental responsibility is not defined under the GDPR, it must be determined by consulting the Croatian FA. This restriction of children's rights to give valid consent is also reflected in the FA's Art. 95 para. 4, which determines that the holder of parental responsibility has the right, duty, and responsibility to supervise the child in his socialising with other people, such as via communication on social networks, or other forms of electronic communication, and to prohibit him from socialising and communications that are not in accordance with the child's well-being.

For a child or holder of parental responsibility to give valid consent to the processing of personal data, they must be able to make an informed decision. This implies fulfilling the fundamental principle of transparency according to Art. 5 para. 1a of the GDPR as well as all other principles. The principle of transparency contributes to the awareness of children and holders of parental responsibility about the nature, risks, consequences, safeguards, and their rights with regard to the processing of personal data and ultimately protection of their informational privacy. In accordance with art. 12 of the GDPR, this includes the provision of information about what is done

21 Cf. Caglar, 2021, p. 6.

with their personal data, being open about the possible risks that can be connected to the processing, what the safeguards are and letting them know about their rights if they want to object to the processing. This must be done in a concise, transparent, intelligible, and easily accessible form, using clear and plain language, in particular for any information addressed to a child.

In cases where the child or holder of parental responsibility withdraws his consent to the processing of personal data, or the consent is invalid (not given or acquired in accordance with a law), or the personal data are unlawfully processed or no longer necessary in relation to the purposes for which they are collected or otherwise processed, Art. 17 of the GDPR stipulates that everybody has the right to erasure of their personal data. Rec. (65) of the GDPR specifically refers to the cases where the data subject is a child and explains that the right to be forgotten is relevant in particular where the data subject has given his or her consent as a child and is not fully aware of the risks involved by the processing, and later wants to remove such personal data, especially on the Internet. Other provisions of the GDPR that contribute to the protection of children's privacy, such as the implementation of the principles of accountability and security, can also be considered in this context, but given the limited scope of this analysis, we do not address this further.

In addition to GDPR and AIGDPR as a *lex generalis* regulation dealing with the protection of informational privacy, children's privacy in a digital environment is also protected by other regulations. In connection with media publication of children's personal data, both offline and online, the Croatian MA especially protects children by stipulating in Art. 16 para. 1 that the media are obliged to respect the privacy, dignity, reputation, and honour of citizens, especially children, youth and families, regardless of gender and sexual orientation. It is forbidden to publish information that reveals the identity of a child if it endangers the well-being of the child. Furthermore, this provision is strengthened by the EMA's Art. 24 para. 5 when it comes to all forms of electronic media (audiovisual media services, electronic publications, and VSP); it stipulates that it is not permitted to publish information that reveals the identity of a child under the age of 18 involved in cases of any form of violence, regardless of whether he is a witness, a victim, or the perpetrator or if the child has attempted or committed suicide, nor to provide details of the child's family relationships and private life. Furthermore, when personal data are processed by the VSP, Art. 96 para. 8 of the EMA stipulates that minors' personal data collected or otherwise obtained by the VSP's service providers during the establishment and application of an age verification system for VSP service users in relation to content that could harm minors' mental, physical, or moral development or while providing parental control systems that are under the end user's control in terms of content that could harm minors' physical, psychological, or moral development, such data may not be processed for commercial purposes, such as direct marketing, profile creation, or targeted behavioural advertising.

The right to privacy and right to seek just pecuniary compensation for violating this right is also guaranteed by the Civil Obligations Act²² in Art. 1100 para. 1, which stipulates that in the event of violation of personality rights, the court shall, where it finds that this is justified by the seriousness of the violation and circumstances, award a just pecuniary compensation, irrespective of the compensation for material damage and in the absence of the latter.

Finally, children's right to privacy is protected and enforced by the Croatian CC. Section XIV of the CC deals with criminal offences against privacy. This section pertains to protection of privacy for all citizens, including children. In connection with the use of information technology, Art. 142 para. 1 of the CC pertains to violation of confidentiality of letters and other shipments and stipulates that whoever opens someone else's parcel, letter, telegram, electronic mail, or any other means of correspondence without authorisation, or violates their confidentiality in another way, or keeps, conceals, destroys, or hands over someone else's closed parcel or letter, telegram, electronic mail, or any other means without authorisation correspondence, will be punished by imprisonment for up to one year. Furthermore, with regard to misuse of recordings of sexually explicit content, Art. 144a para. 1 of the CC stipulates that whoever abuses a relationship of trust and without the consent of the recorded person makes available to a third person a recording of sexually explicit content that was recorded with that person's consent for personal use and thus violates the privacy of that person, shall be punished by imprisonment for up to one year. This also pertains to anyone who uses a computer system or in another way creates a new or modifies an existing recording of sexually explicit content and uses that recording as a real one, thereby infringing a person's privacy on that recording. If the recording has become available to a large number of persons through a computer system or network or in another way, the perpetrator shall be punished by imprisonment of up to three years²³. Finally, with regard to protection of personal data, art. 146 (1) of the CC stipulates that whoever collects, processes, or uses the personal data of persons contrary to the conditions specified in the law, will be punished by a prison sentence of up to one year. If the offence is committed against a child contrary to the conditions specified in the law, punishment shall consist of a prison sentence of up to three years. It is also important to note that this criminal offence is prosecuted *ex officio*.

2.2. The Right of Access to Information and the Right to Education

When considering children's right of access to information and the right to education and their realisation in the digital environment, it is worth noting that children have the right to seek, receive, and impart information and ideas of all kinds, through any media of their choice, in a language they understand and without any censorship or

22 Civil Obligations Act (Official Gazette No. 35/05, 41/08, 125/11, 78/15, 29/18, 126/21, 114/22, 156/22, 145/23, 155/23).

23 Art. 144a para. 3 of the CC.

interference. To achieve this goal, it is necessary to create a safe environment and protect children from potentially dangerous and harmful content.

The Croatian FA determines children's right to education as a fundamental part of parental care. According to art. 92 (1) 2 of the FA, the content of parental care includes among other obligations an obligation for the upbringing and education of the child. Furthermore, Art. 94 para. 3 of the FA stipulates that parents have the duty to take care of their child's all-round, regular, and further education and encourage his artistic, technical, sports, and other interests according to their possibilities. In addition to the obligations of parents, the right to access information and the right to education in a digital environment is also guaranteed in educational institutions. The Croatian PSSEA sets out the main goals and principles of upbringing and education in educational institutions; in Art. 4 para. 1 of the PSSEA, one of the main goals is the obligation of educational institutions to ensure that students acquire basic (general education) and professional competencies, and are trained for life and work in a changing socio-cultural context according to the requirements of the market economy, modern information and communication technologies, and scientific knowledge and achievements. Furthermore, art. 4 in paragraph (2) 10 stipulates that everyone has the right to education. Children have the right to an influx of information or content, which is transmitted in an objective, critical, and pluralistic manner, based on modern scientific and educational standards important for the complete and harmonious development of their personality. The task of the public school system is to be neutral and balanced and to enable the child to exercise this right.

With regard to children's rights to access to information in a digital environment, it is important to consider the Croatian EMA as one of the most important laws addressing children's access to electronic media content. The EMA represents the implementation of Audiovisual Media Services Directive (AVMS Directive)²⁴ into the Croatian legislative framework that contains provisions pertaining to VSPs and regulates electronic publications²⁵ in Croatia. With regard to securing a safe environment for children when accessing electronic media and user-generated content published on a VSP, thus enabling them to access the information freely without endangering their well-being and development, Art. 24 paras. 2–3 and Art. 96 para. 1 of the MA stipulates that it is prohibited in electronic publications and on VSPs and other audiovisual media services to publish content that can seriously harm the physical, mental, or moral development of minors, especially those that include gratuitous violence. Furthermore, para. 3 of Art 24. stipulates that content of audiovisual media services, electronic publications, and user-generated content published on a VSP that is likely to harm the physical, mental, or moral development of minors must not be published, except when the provider ensures, by selecting the broadcast time, age verification

24 European Parliament and the Council, 2018.

25 According to Art. 3 para. 6 of the EMA, electronic publications are editorially designed, produced, or collected media content published via the Internet by electronic publication service providers for the purpose of public information, entertainment, or education.

tools or any other technical measure, that minors in the transmission area will not, as a rule, hear or see it. With regard to audiovisual commercial communications related to games of chance, audiovisual media services and radio programmes that are broadcast in unencoded form, the provider is obliged to ensure that they are preceded by an audible warning or that they can be recognised by means of visual symbols for the entire period of their duration. VSPs also have special obligations with regard to the protection of minors determined by Art. 96 para. 7 of the EMA, which consists of an obligation to establish and apply an age verification system for users of video-sharing platform services in relation to content that could harm minors' psychological, physical, or moral development; the obligation also pertains to the establishment of parental control systems that are under the control of the end user in terms of content that could harm minors' physical, psychological, or moral development. The obligation extends to ensuring effective media literacy measures and tools and raising user awareness of these.

In relation to parental responsibilities and children's right to access to information it is also important to consider an Ordinance on protection of minors in electronic media (OPMEM).²⁶ This ordinance prescribes the technical measures and obligations of the providers of audiovisual media services, electronic publications, and VSPs when they publish media content that is likely to harm or that may seriously harm minors' physical, mental, or moral development. According to art. 15 of the OPMEM, on-demand audiovisual media services (e.g. Netflix, HBO+, and others) have an obligation to establish the conditional access system that prevents minors from accessing, seeing, or hearing content that is likely to harm their physical, mental, or moral development and to categorise²⁷ such content with visual symbols that are clearly visible in their catalogue and during every announcement or recommendation of such content. With regard to the same type of content published in electronic publications, art. 17 of the OPMEM stipulates that providers must implement age verification systems or other technical means to prevent minors from freely accessing such content. In case of content that is likely to impair minors' physical, mental, or moral development that is used for educational, artistic, scientific, or informative purposes, providers are obliged to ensure that such content is easily recognisable using warnings describing the possible harmful nature of the content. Similarly, Art. 16 of the OPMEM regulates the obligations of the VSPs with regards to user-generated content. VSPs that are under the jurisdiction of Croatia have an obligation to undertake appropriate measures regarding the user-generated content that can or is likely to harm minors' physical, mental, or moral development (through conditional access, an age verification system, parental guidance, and reporting and flagging content).

26 Ordinance on the Protection of Minors in Electronic Media (Official Gazette No. 106/22).

27 Art. 8 of the OPMEM prescribes the categorisation of all electronic media content into three groups – Category 12 for content suitable for children older than 12, Category 15 – for children older than 15 and Category 18 – content not suitable for children.

2.3. The Right to Be Safeguarded From Abuse

Children's right to be safeguarded from abuse in a digital environment and especially in connection to the use of social networks and other forms of digital communications in the Croatian legislative framework is primarily guaranteed by the CC. Protection from intrusive behaviour is guaranteed by art. 140 of the CC, where paragraph (1) stipulates that whoever persistently and over a long period of time follows or stalks another person or tries to establish or establishes unwanted contact with him or intimidates him in another way and thereby causes him anxiety or fear for his safety or the safety of persons close to him, shall be punished by imprisonment of up to one year. Paragraph (2) of the same article stipulates that if this offence was committed in relation to a close person, a person with whom the perpetrator was in an intimate relationship, or a child, the perpetrator shall be sentenced to imprisonment of up to three years. Although this provision deals with intrusive behaviour generally, in criminal cases that are committed in a digital environment using information and communication technologies, this provision is also applicable. In close connection to the criminal offence of intrusive behaviour is also the criminal offence of enticing children to satisfy sexual needs, which is prohibited and regulated by Art. 161 para. 1 of the CC. This article stipulates that an adult who commits a criminal offence against a person under the age of 15, with the intention that he or another person commits a criminal offence of sexual abuse of a child under the age of 15²⁸, or exploits children for pornography²⁹ or pornographic shows³⁰, through the information of communication technologies or in another way, proposes a meeting with her or another person and who takes measures to ensure that meeting takes place, shall be punished by imprisonment from six months to five years. Another safeguard for children in general but which also applies to a digital environment is set out in Art. 163 of the CC; it regulates exploitation of children for pornography, which in paragraph (1) stipulates that whoever entices, recruits, or encourages a child to participate in the filming of child pornography or who organises or facilitates its filming, shall be punished by imprisonment from one to 10 years. Furthermore, paragraph (2) of the same article stipulates that whoever unauthorisedly records, produces, offers, makes available, distributes, disseminates, imports, exports, obtains for himself or another, sells, gives, shows, or possesses child pornography or consciously accesses it through information and communication technologies shall be punished with the penalty from paragraph (1) of this article. Paragraph (3) stipulates that whoever, by force or threat, deception, fraud, abuse of power, or difficult position or dependency, forces or induces a child to record child pornography, shall be punished by imprisonment from three to 12 years. Paragraph (4) of this article pertains to the devices used and content created and stipulates that special devices, means, computer programs, or data intended, adapted, or used for committing or facilitating the commission

28 Art. 158 of the CC.

29 Ibid., Art. 163.

30 Ibid., Art. 164.

of the criminal offence referred to in paragraphs 1, 2, and 3 of this article shall be confiscated, and pornographic material that was created by the commission of the criminal offence referred to in paragraphs 1, 2, and 3 of this article will be destroyed. Paragraph (5) of this article, which pertains to children's possession or production of such materials, also stipulates that a child shall not be punished for the production and possession of pornographic material depicting himself or himself and another child if they themselves produced the material and possess it with the consent of each of them and exclusively for their personal use. Finally, paragraph (6) provides a definition of child pornography as material that visually or otherwise depicts a real child or child that does not exist in reality or person who looks like a child in real or simulated sexually explicit behaviour or which depicts the genitals of a real child or a realistically depicted non-existent child or person who looks like a child for sexual purposes. Materials depicting the genitalia of a real child or a realistically depicted non-existent child or person who looks like a child, and which have artistic, medical, or scientific significance are not considered pornography in the sense of this article.

Similar to previous articles of the CC, Art. 164 of the CC regulates the criminal offence of exploiting children for pornographic shows. Paragraph (1) of this article stipulates that anyone who lures, recruits or encourages a child to participate in pornographic performances shall be punished by a prison sentence of one to 10 years. Paragraph (2) of this article pertains to material benefit obtained from this criminal offence and stipulates that whoever makes money from pornographic performances in which a child participates or otherwise exploits a child in a pornographic performance, shall be punished by imprisonment from one to 12 years. According to paragraph (3), whoever forces or induces a child to participate in a pornographic performance by force or threat, deception, fraud, abuse of authority, or a difficult position or dependent relationship, shall be punished by imprisonment from three to 12 years. In connection to online environments, paragraph (4) stipulates that anyone who watches a pornographic performance live or via means of communication shall be punished with imprisonment from paragraph (1) of this article if he knew or should have known that a child was participating in it. Furthermore, in connection with devices used to commit this criminal offence paragraph (5) regulates that special devices, means, computer programs, or data intended, adapted, or used for committing or facilitating the commission of the criminal offence referred to in paragraphs (1), (2), and (3) of this article shall be confiscated, and pornographic material that was created by the commission of the criminal offence referred to in paragraphs (1) and (2) of this article will be destroyed. Finally, paragraph (6) provides a definition of a pornographic performance as the live presentation or through communication means of a real child or a realistically depicted non-existent child or a person who looks like a child in real or simulated sexually explicit behaviour or the sexual organs of a real child, a realistically depicted non-existent child or a person who looks like a child for sexual purposes.

Introducing children to pornography in any way including in digital environments is also a criminal offence regulated by Art. 165 of the CC. Paragraph (1) stipulates

that whoever sells, presents, shows, or publicly exhibits, through a computer system, network, or media for storing computer data or otherwise makes accessible writings, images, audiovisual content, or other objects of pornographic content to a child under the age of 15, or shows pornographic material to a child under the age of 15, shall be punished by imprisonment from six months to five years. According to paragraph (2), items, special devices, means, computer programs, or data intended, adapted, or used to commit or facilitate the commission of this criminal offence shall be confiscated, and pornographic material shall be destroyed. Finally, paragraph (3) of Art. 165 defines pornography as material that visually or otherwise depicts a person in real or simulated sexually explicit behaviour or that depicts human sexual organs for sexual purposes. Materials that have artistic, medical, or scientific significance are not considered pornography in the sense of this article.

Finally, as a *lex generalis* for all information society services, ECA with its Art. 5a para. 1 stipulates that a court or other competent government body can take measures to limit the freedom to provide information society services to service providers based in the member states of the EU. This would apply to the service provider that causes or threaten to cause damage, and at the request of an authorised person whose rights have been violated. Limit to the freedom to provide service is imposed for the purpose of prevention, research, detection, and prosecution of perpetrators of criminal acts, including the protection of minors and the fight against all forms of incitement to hatred due to race, gender, religion, or nationality and violations of individual persons' human dignity.

2.4. The Right to Freedom of Expression and the Right to Be Heard

The right to freedom of expression is guaranteed by Croatian Constitution in Art. 38, which pertains to freedom of the press and other means of communication, freedom of speech and public performance, and the free establishment of all institutions of public communication. Furthermore, as a personal right of every child, the FA in Art. 86 determines the child's right to express his opinion. According to paragraph (1) of this article, parents and other persons who take care of the child are obliged to respect the opinion of the child in accordance with his age and maturity. Paragraph (2) stipulates that in all proceedings in which a decision is made about a child's right or interest, the child has the right to learn the important circumstances of the case in an appropriate manner, to receive advice and express his opinion, and to be informed of the possible consequences of respecting his opinion. The child's opinion is taken into account in accordance with his age and maturity. Although this provision of paragraph (2) is primarily focused on proceedings like parental custody, adoption, and other formal proceedings, it can also be applicable in cases where consent of holders of parental responsibility is required for children's use of some digital services or for the processing of the child's personal data if they are younger than 16.

Media literacy is one of the key prerequisites for being able to exercise the right to freedom of expression and to protect other rights like privacy or the right to receive information. The right to information reflects the need of children and young people

to search for information and thus fulfil themselves as individual beings acting in society.³¹ The child has the right to freedom of expression and that right must, regardless of frontiers, include the freedom to seek, receive, and disseminate information. For this reason, it is important that the state requires the promotion of media and digital literacy. With regard to electronic media and VSPs, this is mandated in art. 11 of the EMA, where the activity of publishing audiovisual and radio programmes and the content of electronic publications is of public interest when the programmes relate, among other things, to media literacy. Moreover, art. 19 of the EMA stipulates that the Council for Electronic Media must promote programmes for the development of media literacy knowledge and skills. Art. 96 para. 7 of the EMA imposes similar obligation on providers of VSPs and stipulates that while providing their services they must provide effective measures and tools for developing media literacy and raising user awareness of these measures and tools.

3. Overview of Relevant Case Law

Regarding children's right to be safeguarded from abuse, specifically in relation to Art. 163. of the CC that pertains to the exploitation of children for pornography, we can refer to the case on which the Supreme Court of the Republic of Croatia has ruled.³² In this case, the defendant appealed to the Supreme Court based on the verdict of the first-instance criminal court, by which he was sentenced to three years and six months in prison for exploiting a child for pornography and publishing the content on Facebook. Based on the facts of the case, the ruling of the court in the first instance and rules on the possibility of mitigating the sentence of Arts. 48 and 49 of the CC, the Supreme Court changed the sentence to two years and six months of imprisonment and one year and three months of a conditional sentence. The facts of the case are as follows. The accused was in an intimate relationship with the injured party whom he met through Facebook. The injured party stated on her Facebook profile that she was 24 years old. During the proceedings before the court of the first instance, it was proven that the defendant knew that the injured party was a minor, because during the relationship he congratulated her on her 15th birthday via Facebook and found out during the relationship that she was attending high school. After a quarrel with the injured party, the defendant posted a photo on his Facebook that he had taken, in which the injured party satisfied him orally. The defendant claimed that he did it out of anger, but after a few minutes he regretted posting the photo and removed it from his Facebook profile. The Supreme Court confirmed the decision of the lower court on the correct determination of the existence of the criminal offence of exploiting a child for pornography from Art. 163 CC. Moreover, evidence trying to prove the claim that the accused did not know that she was a minor was rejected. Owing to the defendant's

31 See: Koren, 2005, p. 268 for an extensive discussion.

32 Supreme Court of the Republic of Croatia, case No. Kžzd 38/2019-9.

youth, his behaviour during the proceedings, his confession, and his lack of prior convictions, the Supreme Court decided to partially reduce the sentence imposed by the lower court.

In connection with the use of social networks by children for the exchange of explicit content, we can refer to the decision of the County Court in Bjelovar.³³ In this case, the County Court decided on the appeal of two minor defendants filed against the decision of the Municipal Court in Bjelovar,³⁴ which had imposed a sanction on the defendants in the form of an educational measure ordering them to be involved in the work of humanitarian organisations or in work of communal or environmental significance so that in during a six-month period, the minor J.P. worked 80 hours, and the minor T.R. 30 hours, in a way that did not interfere with their education. In this case, J.P. encouraged T.R. to ask a minor classmate to send him a photo of her naked body via Facebook profile, which she did. After receiving the photo the defendants published a photo in a Facebook group. As her face was not shown in the photo, in the appeal against the decision they claimed that it was not the injured party (M.K.) but instead a generic photo from the Internet. The court carefully analysed the evidence and established that the photo in question indeed shows the injured minor party M.K., which she herself confirmed. During the trial it was also established that the defendants forwarded the photograph in question to other students in the class, clearly stating that it was the injured minor M.K. Their actions constituted the dissemination and display of child pornography according to art. 163 of the CC, which was clear when taking into account the text that accompanied the publication of the photo, that read: ‘Would you have sex with her?’ The court also determined that the case in question was not about the exploitation of children for pornography according to art. 163 of the CC, as the injured party M.K. confirmed that she sent the photo of herself voluntarily, due to sympathy that she felt towards T.R. Bearing in mind the defendants’ age, the seriousness, danger, and frequency of the criminal offences (no prior record), as well as their previous behaviour, and the fact that they expressed regret and embarrassment over the event in question, the County Court confirmed the first-instance court’s assessment and decision.

Next, the case law represents the protection of children’s right to privacy in electronic media. In this case the County Court³⁵ in Pula decided to reject an appeal against the verdict of the Municipal Civil Court in Zagreb,³⁶ which found that children’s right to privacy was violated by publishing an article in an online news portal. The Civil Court ruled in favour of the minor plaintiffs J.K. and J.K. and awarded damages in the amount of HRK 25,000 (equivalent to EUR 3,500) for each plaintiff, which the publisher must pay. In this case, the publisher posted a newspaper article on an online portal that dealt with the topic of parental custody. The article presented the claims of

33 County Court in Bjelovar, case No. Kžm-3/2018-5, 20 September 2018.

34 Municipal Court in Bjelovar, case No. Km-10/2017-19, 28 March 2018.

35 County Court in Pula, case No. Gž-1407/2017-2, 30 July 2018.

36 Municipal Civil Court in Zagreb, case No. Pn-1070/17-39, 4 August 2017.

the father who was trying to obtain custody of the children and thus presented information about the mental illness of the mother, his ex-wife, and circumstances from family life which, according to his claims, had an extremely negative impact on the children's development. He also complained about social services provided by government institutions. The information provided was very detailed and contained enough elements to enable the unequivocal identification of all those involved, including the minor children. The court found that the newspaper article presented inaccurate and unverified information in an inappropriate manner and that the mother and minor children's right to privacy as well as their honour and reputation were violated. Before the publication of the article, mother was not given the opportunity to state her point of view on the problem described by her ex-husband, that is, to dispute his claims about the family circumstances in which the children lived. The publisher also published a photo of the father along with the published text. The Civil Court found that in the case in question, the article was not an authorised text (in its entirety), and the publisher could not be released from responsibility for damages because he grossly violated the provisions of art. 16 of ZM (which stipulates the protection of children's rights to privacy), by revealing the identity of the children, thereby jeopardising their well-being and privacy. The problem with this decision, as with many other cases involving electronic media and publishing information about minors online is that although both Courts found that the publisher violated the children's right to privacy, they did not order the removal of the content^{37,38} that enables the identification of minors from the online portal; even after seven years, this article is still available online in an unchanged form.

One of the landmark cases with regard to the right to be forgotten is the case decided by the Constitutional Court of the Republic of Croatia.³⁹ In this case, the Constitutional Court annulled the decisions of the County Court in Dubrovnik⁴⁰ and Municipal Civil Court in Zagreb⁴¹ and sent the case back to the Municipal Court to carry out the procedure and decide on the case again. Although this case does not involve minors, it is important for deciding on the capacity to act as a defendant when trying to enforce the right to be forgotten and is certainly applicable in the future if minors seek to exercise the aforementioned right. In this case, the applicant M.M. was trying to exercise his right to be forgotten. He first appealed to the Agency for the protection of personal data in Croatia (AZOP), who rejected his claim as unfounded.⁴² Subsequently, he initiated a lawsuit in a civil court. In the first-instance proceedings,

37 Art. 1047 of the Civil Obligations Act stipulates that upon request, the court can order that appropriate measures be taken to prevent the occurrence of damage or disturbance or to remove the source of danger, at the expense of the owner of the source of danger, if he does not do so himself.

38 Art. 1047 of the Civil Obligations Act anticipates that possibility.

39 Constitutional Court of the Republic of Croatia, case No. U-III-3633/2020, 25 October 2023.

40 County Court in Dubrovnik, case. No. Gž-32/2017-3, 4 March 2020.

41 Municipal Civil Court in Zagreb, case No. Pn-3874/2014-14, 30 November 2016.

42 AZOP, decision No. UP/I-041-02/16-01/16, 567-02/10-16-05, 9. June 2016.

the plaintiff asked the court to order Google Hrvatska d.o.o. (a company registered in Croatia) for the removal of search engine results that displayed links to several texts containing his personal data when his full name was entered. The defendant referred to the lack of capacity to act as a defendant and emphasised his objection that he was not the operator of the internet search engine in question and that the search engine was managed by Google Web Search (Google International LLC), so he was legally and technically unable to respond to the request to remove the link from the search results. The defendant also stated that Google Hrvatska d.o.o. is part of Google Inc., but that there is no direct corporate connection with Google Inc. as the former exclusively promotes and sells advertising space. The first-instance court (Civil Court in Zagreb) accepted the defendant's arguments concerning lack of capacity to act as a defendant and completely rejected the applicant's claim as unfounded. Based on the applicant's appeal, the second-instance court (County Court in Dubrovnik) confirmed the legal interpretation of the first-instance court and also rejected the applicant's appeal as unfounded. Based on the complaint, the Constitutional Court decided that the defendant (Google Hrvatska d.o.o.) in this case is a subsidiary of Google Inc., which is exploiting Google Web Search; Google Inc. is using the defendant in Croatia as an entity to promote and sell advertising space; the defendant is registered in Croatia as a legal entity and develops his activities with an orientation towards entrepreneurs and individuals located in Croatia as a commercial agent of the Google group; promoting and selling advertising space, in which the defendant is engaged in Croatia, represents an important part of the business activity of the Google group and it should be considered closely related to Google Web Search. When it comes to the Internet, "data processing" in the meaning of Directive 95/46 represents displaying/publishing personal data on the website; the defendant has a "business establishment" in Croatian territory and "data processing" is carried out within the advertising and commercial activity of the business establishment on the territory of a member state. Following this reasoning, and contrary to the legal understandings of the first- and second-instance courts, the Constitutional Court decided that the defendant's advertising and commercial activity is an essential part of the Google group's business activity and is closely related to Google Web Search; thus according to Directive 95/46, the defendant has the capacity to be a defendant for data deletion because he has a business establishment in Croatia and performs data processing as part of its advertising and commercial activities.

4. Institutional Protection of Children's Rights

One of the public institutions that is involved in the protection of children's rights on the highest level is the Ombudsman for Children (hereafter, "Ombudsman") and the Office of the Ombudsman for Children. The scope of the Ombudsman's work is set out

in art. 7 of the Ombudsman for Children Act (OCA)⁴³ and includes monitoring the coordination of the laws and other regulations in the Republic of Croatia, concerned with protecting children's rights and interests and the provisions of the Constitution of the Republic of Croatia, of the Convention, and other international documents concerned with the protection of children's rights and interests. Furthermore, the Ombudsman also monitors the fulfilment of the obligations of the Republic of Croatia arising from the Convention and other international documents concerned with the protection of children's rights and interests. Their scope of work also includes the implementation of all regulations concerned with the protection of children's rights and interests of and the violation of their individual rights. It also studies general occurrences and manners of violation of children's rights and interests, including their protection and the violations of their rights in a digital environment. Its task is also to propose undertaking measures intended for the creation of a coherent system of protection and promotion of children's rights and interests and for the prevention of harmful activities jeopardising their rights and interests. Furthermore, it encourages children to express their opinion and it respects their opinion, initiates and participates in public activities aimed at the improvement of their position, and proposes measures to enhance the influence of children in society⁴⁴.

In term of authority, the Ombudsman can warn and give proposals and recommendations in respect to promoting and protecting children's rights and interests. According to Art. 12 of the OCA state administration bodies, local and regional administration units as well as corporations and natural persons have the obligation to cooperate with the Ombudsman and submit reports upon his/her demand, give answers to his/her inquiries, and report immediately, at the latest within a 15-day period, to the Ombudsman on activities performed that concern his/her warning, proposal, or recommendation. The Ombudsman has the right to access all data, information and files concerned with the rights and protection of children, regardless of their level of secrecy. Arts. 14 and 15 of the OCA stipulate that if, during the performance of his/her duties, a child is found to be subject to physical or mental violence, sexual abuse, maltreatment or exploitation, negligence, or careless treatment, he/she will immediately lodge a report about it to the competent General Attorney Office, and warn a competent centre for social welfare suggesting measures for the protection of the rights and interests of the child.

With regard to the online environment, the Ombudsman issued several recommendations pertaining to ensuring the conditions to participate in online classes for all children; protection of children's privacy related to the creation, use, and downloading of photographs; issuing invitations to the media not to publish records of violence among children and young people, and many other activities. Moreover, the Ombudsman actively participates in some of the projects that aim to increase the protection of the children online, such as the project Centre for a safer Internet.

43 Ombudsman for Children Act (Official Gazette No. 73/17).

44 Art. 8 of the OCA.

Another institution that is actively involved in protecting children in a digital environment is the Ministry of the Interior (MI). With its project “Red Button”,⁴⁵ the MI has established a platform (an online application) for reporting illegal internet content (even where the legality is in doubt) that refer to various forms of child exploitation or any form of abuse. This platform provides for reporting sexual abuse and exploitation of a child via the Internet, sexual abuse and exploitation of children in direct contact with the perpetrator, and any other punishable behaviour committed to the detriment of the child (family violence, peer violence, physical abuse, neglect, or violation of the child’s privacy through the Internet). Similarly, abuse can be reported on the platform in the case that a child meets someone online who encourages or forces him/her to talk about intimate matters via a social network or messaging application or asks him/her to meet to have sex, to behave sexually in front of a webcam, to take photos or videos of sex content, or photos of his/her naked body or intimate body parts. The application was launched in 2013, and since then, more than 2,500 reports have been submitted. The application can be used by child/victim or by third party/parent to report online abuse or inappropriate or illegal content on the Internet. The reporting process is divided into steps, where the application guides the user through a set of questions related to the event or with regard to the content that he/she wants to report. After reporting a possible criminal offence, the police will conduct a criminal investigation to find the perpetrator, collect the necessary evidence and other important data, take measures related to the safety and protection of the victim, and inform the state attorney’s office of the findings. If the legal requirements are met, they will arrest the perpetrator and bring him to court and/or propose the imposition of precautionary measures that prohibit him from communicating with the victim. The victim will be informed orally and in writing of the rights that belong to him as a victim of a criminal act. In case of illegal internet content, the police will take appropriate measures to remove the content in question or make it inaccessible to children.

The Council for Electronic Media (CEM), an independent regulatory body for electronic media, is also involved in the protection of children’s rights in the digital environment. Their main task is to promote programmes pertaining to media literacy. As stipulated in art. 19 (1) of the EMA, the CEM has an obligation to promote programmes for the development of media literacy knowledge and skills. They are also obliged to inform the European Commission about the actions taken with regard to those programmes. To fulfil its obligations, the CEM has established a platform to promote media literacy (medijskapismenost.hr). This portal is a platform providing support to everyone who participates in media education, primarily children and young people, but also adults. By doing so, the portal provides a variety of educational materials for teaching media literacy in kindergartens and schools, examples of good practice, advice and recommendations for parents and guardians, information on the impact

45 The application can be found on: <https://redbutton.gov.hr/online-prijava/7> (Accessed: 15 January 2024).

of different types of media and media content and social networks on children and young people, safety on the Internet, the problem of misinformation, and reports on global media and communication trends, as well as policies related to media literacy, media education, and media and digital platforms. The main goal of establishing this platform was for it to become a central place for information about media education, media literacy, policies and trends in the media and audiovisual industry, and to empower parents and all those involved in the education of children to actively seek knowledge and information about media, social networks, and digital platforms and the ways in which they can influence children's development.⁴⁶ The CEM is also involved in many other activities that promote media literacy, for example, organising "Days of media literacy", preparing educational material, and organising education for children.

One of the most prominent initiatives for the protection of children on the Internet is the project "Safer Internet Centre Croatia: Making internet a good and safe place".⁴⁷ The project leader is the NGO Centre for Missing and Abused Children. Although it is an NGO project, it is strongly supported by a number of government institutions that are actively involved, and close cooperation has been established with the Ombudsman, CEM, MI, A1 (telecommunications company), and others. The project's goal is to maintain and improve the work of the Safer Internet Centre, the hotline service for reporting harmful content on the Internet, and the helpline service for children and parents so that they can report harmful content and receive professional help. The above services are free for users.⁴⁸ Similar to the MI project "Red Button", this project enables users to report illegal content on the Internet such as materials depicting the sexual abuse of children; hate speech; visual representations of sex; abused children; trade in children; other forms of child exploitation; racial and other discrimination; or inappropriate chat with children on the Internet.

In the context of strategic planning, the Government of the Republic of Croatia has adopted the "National plan for children's rights in the Republic of Croatia for the period from 2022 to 2026"⁴⁹ together with an "Action plan for children's rights in the Republic of Croatia for the period from 2022 to 2024".⁵⁰ Within the Strategy and Action plan, one of the Government's special objectives is the *systematic support for children in the digital environment* (Special objective No. 4). To achieve this goal, several special implementation measures have been anticipated. Measure No. 1

46 Council for Electronic Media, n.d.

47 Safer Internet Centre Croatia: Making the internet a good and safe place [Online]. Available at: www.csi.hr (Accessed: 21 January 2024).

48 Services can be accessed on the www.csi.hr/hotline where users can report abuse (Accessed: 21 January 2024).

49 National plan for children's rights in the Republic of Croatia for the period from 2022 to 2026 (Official Gazette No. 55/2022).

50 Action plan for children's rights in the Republic of Croatia for the period from 2022 to 2024 [Online]. Available at: <https://mrosp.gov.hr/UserDocsImages/dokumenti/Socijalna%20politika/Dokumenti/Akcijски%20plan%20za%20prava%20djece%20u%20RH%20za%20razdoblje%20od%202022.%20do%202024.%20godine.pdf> (Accessed: 21 January 2024).

is encouraging preventive programmes in the educational system aimed at media literacy. The purpose of this measure is to work on developing media literacy skills, which will help children and young people learn to use the media, analyse and critically question media content, find credible sources of information, protect privacy and personal data, recognise potential harmful media content and inappropriate advertising, recognise and protect themselves from any form of electronic harassment, as well as learn empathy in digital and real world communication. EUR 36,000 is the expected cost for this measure over a period of four years. Measure No 2. is improving the safety and protection of children on the Internet and social networks. The main goals of this measure are to protect children and minors from exposure to illegal and disturbing content, raise the level of knowledge and awareness of children about the dangers of the Internet, and protect their privacy in the context of using the Internet and social networks. To implement this measure, EUR 36,000 have been allocated. Both measures will be achieved through the activities of the CEM.

Finally, media literacy and its promotion is also included in the National curricula for primary school education⁵¹ and high school education.⁵²

5. Summary

According to the data from the Croatian Bureau of Statistics,⁵³ 100% of Croatian children and young people aged 16–24 use the Internet. This is another indicator of how important it is to ensure adequate protection of their rights in the digital environment. The Republic of Croatia, as an EU member state and a state party to the Convention, has implemented numerous legislative measures to protect children's rights in the digital environment. For protecting privacy and the right to be forgotten, the GDPR and AIDDPR are applied, and for protecting the right to access information, measures related to the electronic media and VSP are applied. Furthermore, the Croatian CC has implemented provisions that protect children's rights from abuse, and the provisions of the Council of Europe Convention on Cybercrime⁵⁴ have also been implemented. Finally, by introducing media literacy programmes, an attempt has been made to ensure the right of children to express themselves. In the legislative sense, all the aforementioned laws and their provisions can significantly contribute to the fight for more complete realisation of children's rights in the digital environment. In practical terms and in terms of the laws' implementation, there are certain shortcomings. The first problem is that the rights of children in the digital environment are protected through numerous laws, and it is sometimes extremely difficult to determine which

51 Ministry of Science and Education, 2017a, p. 67.

52 Ministry of Science and Education, 2017b, p. 7.

53 Croatian Bureau of Statistics, 2023.

54 Convention on Cybercrime, Budapest, 23.XI.2001, European Treaty Series - No. 185.; Law on the Ratification of the Convention on Cybercrime (Official Gazette, International Agreements No. 09/2022).

law is relevant for a particular case. This is also the case with determining the competent authority for individual cases where children's rights are violated. Another problem is that the development of information and communication technology is not adequately accompanied by legislative activities; it is often the case that considerable time passes from the development of some new service on the Internet that children use extensively to the point of regulation of such services. A good example is the adequate regulation of on-demand audiovisual media services and video-sharing platforms. More than 15 years have passed since the appearance of the first VSPs or on-demand audiovisual media services until the moment when Croatia (based on the implementation of the AVMS Directive) passed adequate legislation regulating the provision of these services. In the meantime, the provision of these services in Croatia was not regulated adequately, so children were not protected in exercising their rights guaranteed by the Convention. The situation is similar regarding social networks. Better protection of children and their rights regarding these services will be implemented in Croatia only after the Digital Services Act⁵⁵ enters into force.

Regarding the institutional protection of children's rights in the digital environment, numerous initiatives exist that have been mainly launched by NGOs. Although the government and regulatory agencies encourage such initiatives and projects, the financial resources that are invested are insufficient to ensure their sustainability. The situation is similar in education. The national curriculum envisages the education of children related to the exercise and protection of their rights in the digital environment, but this education is distributed through numerous subjects, primarily the subjects of the Croatian language (media literacy) and computer science (digital literacy). The curriculum does not envisage a single subject that would introduce children in an adequate and complete way to all the challenges and threats they encounter in the digital environment.

For the purpose of better implementation of the existing legislation, it is necessary to work on the education of judges and other competent persons, especially with getting to know the way in which children use information and communication technology in order to be able to better protect their rights. *De lege ferenda* in general with regard to protection of children's rights in a digital environment, the legislator in Croatia should be more proactive in regulating new information services on the Internet that children use extensively (not waiting for initiatives at the EU level). Information and communication technology and related services are developing extremely fast, and their lack of legal regulation can have extremely negative consequences for children's rights and for society as a whole.

55 European Parliament and the Council, 2022.

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