

Children in Digital Age – Slovenian Perspective

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ABSTRACT

This country report explores the use and impact of digital devices among Slovenian children and adolescents, along with the Slovenian legal framework concerning children's rights, specifically in the context of digital services and social media. It reveals that smartphones are the most used devices among Slovenian youth, with significant hours spent on them daily. Television and computers are also commonly used, though less so than smartphones. The influence of parents in guiding technology use and the popularity of various social networks among different age groups are highlighted. Legal definitions of a child and minor, as well as the role of parents, are explored within the Slovenian legal system. The document further examines Slovenia's stance on children's rights in the digital era, emphasising the lack of a specific law for children's rights while acknowledging the Constitution and Family Code's role in ensuring their protection. The role of public institutions, legal remedies, and education in safeguarding children in the digital space is also examined, highlighting the contributions of various organisations and legal acts in promoting safe internet use and protecting children's rights online. The abstract underscores the complexity and evolving nature of children's digital rights, emphasising the need for continued vigilance and adaptation to protect these vulnerable members of society.

KEYWORDS

digital device usage, Slovenian adolescents, legal framework, children's rights, online content regulation

1. Definitions and Taxonomic Rationale

1.1. Statistics

When discussing the use of digital devices among children or adolescents in the Slovenian context, three devices take the lead: smartphones, television, and computers. Children aged 12 to 15, or primary school students, use these devices on average one to three hours per day, with a quarter using smartphones more frequently – specifically three to five hours daily – and a fifth using them for over five hours daily. Among individuals aged 15 to 19, or high school students, smartphone usage is even higher, with most using them for three to five hours daily and a significant quarter using

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them for five to ten hours daily. The second most common device that adolescents use is television, as they watch it for approximately one to three hours per day, with high school students spending significantly more time watching streaming TV content than primary school students. Adolescents use computers on average for one to three hours per day, and slightly less than half use them for less than an hour per day. Among Slovenian adolescents, the radio is the least frequently used medium. Most of them have never used virtual reality glasses, and just under half have used gaming consoles (such as PlayStation) or tablets. Most adolescents, both primary and high school students, use digital devices during rest and relaxation, simultaneously while watching television, and before bedtime. Primary school students use devices the least during reading, while high school students use them during lunch or dinner. The habits of adolescents are significantly influenced by their parents. Parents guide the use of technologies by adolescents, most commonly warning them about the dangers of devices, though they less frequently prohibit specific content. The use of devices is employed as a means of discipline, mainly when adolescents violate family rules or receive poor grades. Almost half of primary school students' parents also follow them on social networks and check their activities on devices.¹

Among the content or accompanying media that adolescents follow on devices, personalised music apps are the most popular, with almost two-thirds of primary school students using them daily. Streaming TV content comes in second place, with about a third of them using it daily, while podcasts and online newspapers are not as popular. Online platforms or social networks are the most used platforms among adolescents, with almost all of them using them – 96% of primary school students and 98% of high school students. Preferred social networks among Slovenian adolescents include Snapchat, TikTok, YouTube, and Instagram, with Discord and Pinterest also being common choices. Only a few per cent of adolescents use Facebook. Among primary school students, Snapchat is the most popular, while Instagram is the favourite among high school students. Most adolescents use their phones, apps, and social networks primarily for daily conversations, listening to music, or sending private messages; they post their own content the least.²

1.2. Definitions

The Family Code³ defines a child as a person who has not yet reached the age of 18, unless they have acquired full legal capacity before that. The Family Code replaced the Marriage and Family Relations Act,⁴ which did not contain a definition of a child.

1 Črnič et al., 2023, pp. 12–25.

2 Ibid., pp. 26–36.

3 Family Code, Uradni list RS, št. 15/17, 21/18 – ZNorg, 22/19, 67/19 – ZMatR-C, 200/20 – ZOOMTVI, 94/22 – odl. US, 94/22 – odl. US in 5/23.

4 Marriage and Family Relations Act, Uradni list RS, št. 69/04 – uradno prečiščeno besedilo, 101/07 – odl. US, 90/11 – odl. US, 84/12 – odl. US, 82/15 – odl. US, 15/17 – DZ in 30/18 – ZSVI.

In accordance with Article 8 of the Constitution of the Republic of Slovenia⁵ (hereinafter: the Constitution), which establishes the direct application of ratified and published international treaties, the definition of a child as per the Convention on the Rights of the Child⁶ was applied as the law applicable to the child specifies an earlier age of majority. Despite the direct application of the Convention on the Rights of the Child, Article 5 of the Family Code expressly stipulates that a child is a person who has not yet reached the age of 18. The onset of adulthood at the age of 18 is an objective criterion that distinguishes a child from an adult. With the commencement of the child's chronological eighteenth year, a legal presumption arises, based on which it is presumed that the child is sufficiently old and mature to acquire full legal capacity. The Family Code also specifies exceptions to this presumption. Childhood can be terminated in advance by judicial emancipation of the child, by acquiring full legal capacity, specifically in the case of the child entering into marriage or becoming a parent. In the Republic of Slovenia (hereinafter: Slovenia), a child under the age of 18 requires representation by a legal representative, who can be a parent or guardian, for the performance of procedural acts and the conclusion of legal transactions, with the exception of family law disputes, where full procedural capacity is recognised at the age of 15.⁷ In criminal proceedings, a minor who has reached the age of 16 can independently submit a proposal or file a private lawsuit.⁸

The concept of a minor is not specifically defined in Slovenian legislation. Generally, it is understood to refer to a person under the age of 18.⁹ According to the stance of the Second Instance Court, in Slovenian legislation, terms such as “child”, “minor person”, “minor blood relative”, “minor”, “person under the age of 15”, and “minor victim” are used for these individuals. This is particularly evident in the twenty-first chapter of the Criminal Code,¹⁰ where the term “child” is used in the title, while various terms are used in specific articles.¹¹

Similarly, in the Slovenian legal system, there is no specific legal definition of the term parents. In accordance with the provisions of the Family Code, it can be inferred that parents are the bearers of rights and obligations. To the best of their abilities they are tasked with creating conditions that ensure the comprehensive development of the child, known as parental care. Parental care is a joint responsibility of both parents and ceases when the child reaches the age of 18 or if the child acquires full

5 Constitution of the Republic of Slovenia, Uradni list RS, št. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a in 92/21 – UZ62a.

6 Convention on the Rights of the Child, adopted by the United Nations General Assembly through Resolution 44/25 on 20 November 1989.

7 Kraljič, 2019, pp. 61–63.

8 Article 54 para. 2 of the Criminal Procedure Act, Uradni list RS, št. 50/12 – uradno prečiščeno besedilo, 6/16 – popr., 54/15, 38/16, 27/17, 23/20, 91/20, 95/21, 186/21, 105/22 – ZZNŠPP in 16/23).

9 Article 24 of the Family Code.

10 Criminal Code, Uradni list RS, št. 50/12 – uradno prečiščeno besedilo, 6/16 – popr., 54/15, 38/16, 27/17, 23/20, 91/20, 95/21, 186/21, 105/22 – ZZNŠPP in 16/23.

11 Ljubljana Higher Court, Sodba V Kp 48/2010 dated 11 November 2010.

legal capacity before reaching majority.¹² With the cessation of parental care, parents are no longer the child's legal representatives. At that point, the child achieves legal emancipation from the parents. The constitutional basis for the institute of parental care is provided by Article 54 of the Constitution, which grants parents the right to educate and raise their children. Parents, in exercising parental care, are unlimited in relation to others unless their parental care is restricted or revoked. However, the best interests of the child restrict their actions. The fundamental guiding principle for parents in caring for the child is, indeed, the best interests of the child. Parental care initially belongs to both parents, but the court can prohibit one of them from exercising certain rights in cases where the child's well-being is endangered.¹³

The Slovenian legislator defines the concept of digital services in the Consumer Protection Act.¹⁴ It is characterised as a service that enables consumers to create, process, or store data in digital form or to access such data. Additionally, it includes services that facilitate the exchange of data in digital form or any other form of interaction with this data, uploaded or generated by consumers or other users of the service.¹⁵ It is essential to distinguish the concept of digital services from the term "information society service", which, in accordance with the Electronic Commerce Market Act,¹⁶ represents a service typically provided for remuneration, remotely, using electronic means, and at the individual request of the service recipient.¹⁷

Slovenian legislation also does not provide a definition for social media. In the year of 2017, the court interpreted social media as a means of public communication with an indefinite circle of individuals and falls within the realm of the World Wide Web (Internet).¹⁸

1.3. Legal Framework

The position and rights of children in Slovenia are among the priority objectives of Slovenian foreign policy. Slovenia is also recognised for its role in numerous international initiatives, including advocating for the inclusion of human rights education on the agenda of the United Nations and addressing the issue of children in armed conflicts within NATO.¹⁹ In 1992, Slovenia inherited the United Nations Convention on the Rights of the Child from its predecessor, the Socialist Federal Republic of Yugoslavia. This inheritance occurred through the Fundamental Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia²⁰ and the Notifi-

12 Art. 6 and Art. 152 para. 2 of the Family Code.

13 Kraljič, 2019, pp. 62–68.

14 Consumer Protection Act, Uradni list RS, št. 130/22.

15 Art. 4 para. 3 of the Consumer Protection Act.

16 Electronic Commerce Market Act, Uradni list RS, št. 96/09 – uradno prečiščeno besedilo, 19/15, 189/21 – ZDU-1M in 18/23 – ZDU-10.

17 Art. 3 para. 11 of the Electronic Commerce Market Act.

18 Maribor Higher Court, Sklep I Kr 32384/2017 dated 14 November 2017.

19 Erjave, 2014, p. 5.

20 Fundamental Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Uradni list RS, št. 1/91-I in 19/91 – popr.

cation of Succession regarding conventions of the United Nations.²¹ By supporting various projects aimed at improving the well-being of children, Slovenia has gained a reputation as an advocate for children's rights at the international level since gaining independence in 1991.²² In 1999, Slovenia also ratified the European Convention on the Exercise of Children's Rights.²³

The rights of children in Slovenia are subject to the protection of conventions, and there is no specific law that regulates children's rights. As the fundamental and highest general legal act of Slovenia, the Constitution, in Article 56, stipulates that children are entitled to special protection and care, and they enjoy human rights and fundamental freedoms in accordance with their age and maturity. Children are provided with special protection against economic, social, physical, mental, or other exploitation and abuse. The law also specifically regulates the position of children and minors whose parents do not care for them, who have no parents, or lack appropriate family care, and enjoy special protection from the state. The Constitution mandates compulsory primary education financed from public funds, and the state creates opportunities for citizens to acquire proper education.²⁴ Compulsory primary education, in keeping with the Basic School Act,²⁵ is organised as a unified nine-year primary school for children between six and 15 years old. The Family Code, as a crucial legal framework for regulating family relationships and the rights of children, adheres to the fundamental principles established by the Constitution. In essence, it enforces the respect and protection of the rights of children as guaranteed by the Constitution. The Family Code specifies the rights and obligations of family members, with a particular focus on the rights of children as essential subjects in family relationships. In accordance with the Constitution and the Family Code, children have the right to special protection and to enjoy their human rights and fundamental freedoms adapted to their age and maturity. The Family Code precisely regulates the rights of children in the family environment and their rights to protection against all forms of exploitation and abuse. Moreover, the Family Code extensively addresses the situation of children and minors for whom parents cannot provide care, children without parental care, and those who require special protection from the state. In connection with the challenges of the digital age, the Family Code also establishes important foundations and guidelines for protecting the rights of children in the digital environment. Based on these guidelines, safeguards are put in place to protect children from potential dangers posed by the digital age. This is crucial as children in modern society are increasingly turning to the use of digital devices and the Internet.

21 Akt o potrditvi nasledstva glede konvencij, statotov in drugih mednarodnih sporazumov, ki predstavljajo akt o ustanovitvi mednarodnih organizacij, Uradni list RS, št. 35/92.

22 Erjavec, 2014, p. 5.

23 Zakon o ratifikaciji Evropske konvencije o uresničevanju otrokovih pravic (MEKUOP), Uradni list RS, št. 86/1999.

24 Art. 57 of the Constitution of Republic of Slovenia.

25 Basic School Act, Uradni list RS, št. 81/06 – uradno prečiščeno besedilo, 102/07, 107/10, 87/11, 40/12 – ZUJF, 63/13, 46/16 – ZOFVI-K in 76/23.

The Slovenian legislator has anticipated several acts regulating relationships, as well as the rights and obligations of individuals in the digital environment. The new Personal Data Protection Act,²⁶ which replaced the existing one in January 2023 and regulates substantive areas within national jurisdiction as stipulated by the General Data Protection Regulation²⁷ (hereinafter: GDPR), together with the provisions of the GDPR, establishes rules for the collection, processing, and storage of personal data, which is particularly important when it comes to children's data. GDPR Article 6 para. 1 sets out the legal bases for the processing of individuals' personal data. One of the legal bases for processing personal data is the individual's consent, in accordance with Article 6 para. 1 point a) of the GDPR. When personal data is processed based on a child's consent regarding information society services, the GDPR sets the age limit at 16 for valid consent. However, Member States can independently set a lower age, provided it is not lower than 13 years. In Slovenia, consent for the use of information society services offered directly to children or services that are likely to be used by children is valid if the child is 15 years or older. If the child is under 15, consent is valid only if given or approved by one of the child's parents, their guardian, or the person granted parental care. When an information society service is offered free of charge, consent may also be granted by a foster parent or a representative of the institution in which the child is placed. In cases where the terms of service of the information society service provider prescribe a higher age for a child to use these services, the age from these terms of service is considered. The child's consent must not be conditioned by excessive requirements from the controller that require the child to provide more personal data than necessary for the purpose of such an activity.²⁸

When discussing the position of children in the digital age, it is essential to mention the Electronic Communications Act²⁹ and the Consumer Protection Act. The Electronic Communications Act regulates the use of electronic communications, including the Internet, establishes rules for online privacy protection, and provides certain protective mechanisms to prevent unauthorised access to children's communications online. In addition, the Consumer Protection Act addresses the position of consumers and specifies that providers of digital services must ensure a high level of consumer protection, including for children. This means that digital platforms designed for or used by children must be structured to provide a safe and appropriate online environment for them.

Moreover, if the relevant legislation does not provide adequate legal protection for the child, parents can invoke Article 134 of the Obligations Code³⁰ and file a request to cease violations of their children's personality rights. Everyone has the right to demand from a court or another competent authority to order the cessation of actions

26 Personal Data Protection Act, Uradni list RS, št. 163/22.

27 European Parliament and the Council, 2016.

28 Article 8 of the Personal Data Protection Act.

29 Electronic Communications Act, Uradni list RS, št. 130/22 in 18/23 – ZDU-10.

30 Obligations Code, Uradni list RS, št. 97/07 – uradno prečiščeno besedilo, 64/16 – odl. US in 20/18 – OROZ631.

violating the inviolability of a person's personality, personal and family life, or any other personality right, to prevent such actions, or to remove their consequences. If the violator does not stop such behaviour, they must pay a specified amount to the affected party. Parents can refer to this provision even in cases where someone on the Internet unjustifiably publishes content related to a child.

2. Children's Rights on Internet Platforms

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

The right to privacy is a fundamental human right, including the rights of children, regulated both at the international and constitutional levels, protecting the child from state authority, the public, and individuals. The right to privacy encompasses decisional, mental, spatial, and informational privacy.³¹ Slovenia, on the international level, has incorporated the Universal Declaration of Human Rights³² into its legal system, defining the right to protection against arbitrary interference with private life in Article 12. Additionally, the Convention on the Rights of the Child, through Article 16, ensures children the right to legal protection against arbitrary or unlawful interference with their private life, family, home, or correspondence, as well as against unlawful attacks on their honour and reputation. In Slovenia, the right to privacy is further safeguarded by the International Covenant on Civil and Political Rights,³³ adopted in 1992, which obliges member states to ensure civil and political rights. The European Convention on Human Rights³⁴ also protects human rights and fundamental freedoms.³⁵ At the national level, Article 35 of the Constitution protects the right to privacy and personal rights. It ensures the inviolability of human physical and mental integrity, privacy, and personal rights, including one's own image. When considering the right to privacy of children, Article 35 of the Constitution should be interpreted in conjunction with Article 56 of the Constitution, which stipulates that children enjoy human rights and fundamental freedoms in accordance with their age and maturity.

With the development of digitisation, social media, and websites, there is often a disclosure of personal data and other private information of individuals, which is particularly problematic when individuals, especially children, have insufficient awareness of how the Internet works and its pitfalls. However, parents are the ones who have a wealth of information about their children and may consequently (excessively) expose them, for example, by posting visual material, disclosing health conditions, information about behaviour, and the like. Respecting the right to privacy in the relationship between parents and children can be very problematic because the

31 Lampe, 2004, p. 42.

32 United Nations General Assembly, 1948.

33 United Nations General Assembly, 1966.

34 Council of Europe, 1950.

35 Stopar, 2018, pp. 32–33.

posts reveal the child's privacy without their consent. Currently, there are no explicit legal provisions in Slovenia restricting parents from posting children's personal data online, so there is a sense that children's right to privacy is often overlooked.³⁶ According to the law in Slovenia, children acquire limited legal capacity only when they reach the age of 15, while they gain full legal capacity upon reaching the age of 18 or earlier in cases specified by law. Consequently, children under the age of 15 cannot enforce legal remedies against violations of their privacy through online posts. Within the framework of parental care, parents are not restricted in sharing their children's data with the public. However, they must consider the legal limitation set by Article 7 of the Family Code, which stipulates that parents must, in all activities related to the child, ensure the child's best interests. In certain situations, parents may not be aware that they are violating the child's right to privacy. According to the Ombudsman of the Republic of Slovenia (hereinafter: Ombudsman), the publication of photos and personal data of children today does not constitute such a threat to children that would justify state intervention in the family.³⁷ Parents must nevertheless exercise maximum restraint when intervening in a child's privacy of this nature and allow the child to decide on an appropriate approach as they mature. The issue becomes further complicated in cases where parents do not agree. The Ombudsman believes that parents should decide unanimously on the public sharing of children's photos, and if such consensus is lacking, abstaining from posting is necessary.³⁸

Violations of a child's privacy can also occur through the actions of journalists and the media in general, particularly with the publication of photographs and other personal data of children. Increasingly, there are reports about children who are victims of violence or are involved in legal, administrative, or other proceedings because of family circumstances. Exposure in media reporting can harm the child. Therefore, the Criminal Code defines the publication of personal data of children involved in legal proceedings as a criminal offence.³⁹

The right to be forgotten is, by contrast, a more recent legal concept that is of paramount importance for the protection of personal rights and data in the digital age.⁴⁰ In Slovenia, the right to be forgotten is regulated by the GDPR, which, through Article 17, allows individuals to request the erasure of their personal data from data controllers without undue delay, assuming the conditions for erasure from the same article are met. The Slovenian Personal Data Protection Act refers to the GDPR regarding the right to be forgotten and stipulates that an individual can seek judicial protection throughout the duration of the violation, without prior exercise of rights under other provisions of the law or the use of other legal remedies.⁴¹ Slovenian legislation does not have specific provisions related to a child's right to be forgotten. Article 8 of

36 Ibid.

37 Ibid.

38 Varuh človekovih pravic, 2016.

39 Dolčič, 2014, p. 65.

40 Drobež, 2020, pp. 41–43.

41 Art. 11 of the Personal Data Protection Act.

the Data Protection Act specifies that the consent of a child for the use of information society services offered directly to children, or for which it can be presumed that children will use them, is valid if the child is 15 years or older.

The GDPR does not require the service provider to verify whether a user claiming to be underage and unable to give consent on their own (in accordance with the laws of a member state) is old enough. However, it clearly states that processing the data of children who are not old enough is illegal. The service provider is not obligated to verify a user's claims about their age, but they must verify whether a parent has given further consent or approval. When verifying age, it is important to avoid unnecessary data processing and to be proportionate to the risk posed by the proposed processing. In low-risk cases, a simple statement from the user may be sufficient. Once a child reaches the prescribed age, the consent given by the parent can be revoked in accordance with Article 7(3) of the GDPR, and they also have an “unconditional” right to erasure under Article 17 para. 1 point f).⁴² When it comes to collecting personal data as part of the offer of information society services in accordance with Article 8 para. 1, the controller must immediately delete this personal data in a manner that does not allow for delay. In this case, the right to erasure is entirely mandatory and independent of other conditions. Despite the right to be forgotten that a child can exercise when they become legally competent, it is necessary to consider the harm that such an action can cause to the child when posting information online.

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

The right to access information is subject to convention protection in Slovenia. Slovenian legislation does not have specific provisions regarding children's rights concerning access to information. Article 17 of the Convention on the Rights of the Child emphasises the important role of the mass media and ensuring access to information and materials from various domestic and international sources, especially those aimed at enhancing the child's social, spiritual, and moral well-being, as well as physical and mental health. To this end, member states are encouraged to disseminate information beneficial to children, engage in international cooperation, create children's books, consider the needs of children from minority language groups, and develop guidelines for protecting children from harmful content. In Slovenia, the right to access information is predominantly exercised in connection with the right to education. The Ombudsman informs children and young people about their rights and provides support through online information, email, phone contact, in-person assistance, postal services to the institution's address, brochures, posters, bulletins, and similar means. The Slovenian police (among other institutions) provide a website specifically designed for children. This platform offers information on online safety and abuse. In addition, the Public Information Access Act⁴³ enables citizens to access

42 European Data Protection Board, 2018, pp. 25–27.

43 Public Information Access Act, Uradni list RS, št. 51/06 – uradno prečiščeno besedilo, 117/06 – ZDavP-2, 23/14, 50/14, 19/15 – odl. US, 102/15, 7/18 in 141/22.

information held or controlled by public authorities, institutions, and other entities of public law. The law outlines the framework for information available to the public and the access procedure. The purpose of this regulation is to ensure transparency in the functioning of entities and to promote citizens' right to obtain information. Slovenia is also bound by the provisions of the GDPR, which, in Articles 13 and 14, imposes an obligation on data controllers to provide individuals whose personal data they process with information about the processing. Furthermore, the GDPR stipulates that data controllers must ensure that information presented to children is in a clear and understandable language adapted to their age. This implies that the information should be simple, clear, and tailored to the age of the children.

The conventional right to education is one of the fundamental rights of children, carrying broad societal and legal significance, and providing individuals with access to education crucial for their personal and social development. The Constitution guarantees freedom of education in Slovenia, where primary education is compulsory and funded by public resources, thus maintaining religious and political neutrality. It is the state's duty to create opportunities for citizens to acquire appropriate education.⁴⁴ In line with the Constitution, the education of children is the right and duty of parents, subject to limitation or withdrawal only for the benefit of the child.⁴⁵ Consistent with the constitutional principles of a democratic and social state, the state must create opportunities for citizens to obtain relevant education.⁴⁶ Therefore, every child has equal access to appropriate education, meaning they can participate under the same conditions in all forms of education. The state is obligated to provide material and other resources to establish and operate schools.⁴⁷ In summary, individual education rights in the Slovenian legal system are governed by over a hundred different legal acts. Education is not just an individual's right but also a responsibility of the state, where access to various forms of education is crucial for equality, the development of children, and societal progress.

2.3. The Right to Be Safeguarded From Abuse

The Convention on the Rights of the Child prohibits any form of child abuse. Slovenia, through Article 19 of this convention, is committed to safeguarding children from all forms of abuse, violence, harm, neglect, torture, or exploitation through appropriate legislative, administrative, social, and educational measures while the child is under the care of parents, legal guardians, or other individuals responsible for their well-being. In accordance with Article 56 of the Constitution, children are provided with special protection against economic, social, physical, mental, or other exploitation and abuse. The primary task of the family is the successful socialisation of children, and therefore, the criminalisation of domestic violence with the Domestic Violence

44 Art. 57 of the Constitution of the Republic of Slovenia.

45 *Ibid.*, Art. 54.

46 Kocjančič, 2009, p. 132.

47 Kaučič, 2008, p. 152.

Prevention Act⁴⁸ sends a clear message of the state's rejection of such behaviour. When anomalies occur in family relationships, the state has the right and duty to intervene and protect its most vulnerable members who, due to their age and level of maturity, cannot care for themselves.⁴⁹ Moreover, the safety of children online has become one of Slovenia's key concerns, particularly in preventing abuse and ensuring a secure online environment for children. Based on international and national trends and guidelines, the Slovenian legislator has established specific provisions for the protection of children in the online environment.

Children must have the opportunity to receive education (including online or through other content) and access information. However, their access to information must be restricted when certain content could harm them. Such limitations to access certain content, for example, are determined by the Audiovisual Media Services Act,⁵⁰ which is the fundamental law that defines the rights, obligations, and responsibilities of legal and natural persons engaged in the provision of audiovisual media services (via television) and video-sharing platform services.⁵¹ Article 10 of the Audiovisual Media Services Act stipulates that special protection is provided to children and minors. The interests of children and minors take precedence over all other rights and judgements. Through audiovisual media services, it is prohibited to affect the physical, mental, or moral development of children and minors. No child or minor should be exposed through audiovisual media services to arbitrary or unlawful interference in their private life, family, or home, nor to unlawful attacks on their honour and reputation. Content that could harm the physical, mental, or moral development of children must be categorised appropriately, indicating for which age group the content is unsuitable. Providers of audiovisual media services must publish an appropriate acoustic and visual warning regarding content unsuitability for a specific age before broadcasting begins. During broadcast, the content must be constantly marked with an appropriate visual symbol. Content not suitable for children (adult content) must be protected by technical means (password) to ensure that children generally cannot hear or see it.⁵² Providers of audiovisual media services must establish rules of conduct designed to enable children to develop healthy eating habits.⁵³

Children are also specifically protected in the field of advertising content. In the field of consumer protection, the Consumer Protection Act, in Article 40, specifies that advertising must not contain elements that cause or could cause physical, mental, or other harm to children, or elements that exploit or could exploit their trust or lack of experience. Furthermore, Article 41 stipulates that all advertising messages that are part of or represent an information society service must be clearly recognisable

48 Domestic Violence Prevention Act, Uradni list RS, št. 16/08, 68/16, 54/17 – ZSV-H in 196/21 – ZDOsk.

49 Javornik Novak, 2014, p. 137.

50 Audiovisual Media Services Act, Uradni list RS, št. 87/11, 84/15, NPB1, 204/21 in NPB2.

51 Ibid., Art. 1 of the Audiovisual Media Services Act.

52 Ibid., Art. 14.

53 Ibid., Art. 23.

as advertising messages. If advertising in an advertising message directly addresses children to purchase the advertised product or persuades parents or other adults to buy the advertised product for children, such advertising would be considered an unfair aggressive business practice. If a company uses unfair business practices and thereby causes harm to a consumer, the consumer can demand a price reduction or terminate the contract and request a refund of the amount paid. The consumer can also seek compensation for damages from the company under general rules of liability for harm.⁵⁴ Unfair business practices are assessed by the court, as well as the Market Inspectorate of Slovenia and other competent inspection authorities.⁵⁵

The Mass Media Act⁵⁶ also contains provisions aimed at protecting children's moral, physical, and mental integrity. Article 49 of the Mass Media Act stipulates that media houses must ensure the protection of minors from content that could harm their health or development. This includes restrictions on displaying violence, pornography, inappropriate language, and other content that could be harmful to children. Access to pornographic content in electronic publications must also be technically restricted to prevent children from accessing it.⁵⁷

An important part of child protection is, therefore, restricting their access to content that could harm them. If children, despite these restrictions, become victims of online harassment, such as insults, threats, or the posting of photos or videos (real or altered), they have the right (through their parents or other institutions) to demand that such harassment ceases. Often, the police are also the appropriate authority in such cases.

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

The Convention on the Rights of the Child recognises the right of children to freedom of expression, encompassing the freedom to seek, receive, and impart all kinds of information and ideas, regardless of frontiers, in oral, written, printed, or artistic form, or by any other means chosen by the child. This right is limited only by the respect for the rights and reputation of others and the protection of state or public security. The state must respect the child's right to freedom of thought, conscience, and religion, along with the related rights of parents or legal guardians.⁵⁸ The right to freedom of expression is defined in various laws and subordinate regulations in the Slovenian legal system across different areas. Particularly noteworthy is Article 39 of the Constitution, which guarantees everyone the freedom of expression of thought,

54 Art. 55 of the Consumer Protection Act.

55 Ibid., Art. 57.

56 Mass Media Act, Uradni list RS, št. 110/06 – uradno prečiščeno besedilo, 36/08 – ZPomK-1, 77/10 – ZSFCJA, 90/10 – odl. US, 87/11 – ZAvMS, 47/12, 47/15 – ZZSDT, 22/16, 39/16, 45/19 – odl. US, 67/19 – odl. US in 82/21.

57 Art. 84 of the Mass Media Act. In accordance with Art. 176 of the Criminal Code, anyone who displays, or in any other way provides access to, objects of pornographic content to a person under the age of fifteen shall be punished.

58 Arts. 13–14 of the Convention on the Rights of the Child.

speech, public appearance, printing, and other forms of public informing and expression. Everyone is free to gather, receive, and disseminate news and opinions. The Ombudsman emphasises the need for the state to ensure that the child's perspectives are effectively heard in legal proceedings, stressing the necessity to expand the system of a child's advocate. This commitment is enshrined in laws that regulate individual procedures, including the Placement of Children with Special Needs Act.⁵⁹ A child should never be merely an object of a specific legal procedure determining their rights and duties based on the opinions of parents, teachers, and other experts. Despite the fact that children may not comprehend all decisions due to their psychophysical characteristics, it should not be taken for granted that their parents or guardians will always decide in their best interest, even though it is their duty and right according to the Family Code.⁶⁰ Due to observations of insufficiently equipping children with relevant information, not involving children in problem-solving, and disregarding the distinctiveness of their perception, Slovenia has established a system of child advocacy. This allows children involved in proceedings determining their rights and interests to have an advocate appointed. The Ombudsman is the one who assesses whether the conditions for appointing an advocate exist.⁶¹ Slovenia strives to ensure that children's perspectives are genuinely heard and considered, enhancing the child's position in proceedings and striking a balance between expressing opinions and safeguarding the child's interests in various legal situations.

In Slovenia, the right of the child, which is directly connected to the right of children to freedom of expression, is also realised – the right to be heard. In the Slovenian context, there is an increasingly established awareness that the right to be heard as a child is primarily a right and not a duty. With the legal institution of the child advocate, Slovenia has implemented Article 12 of the Convention on the Rights of the Child into practice. This article stipulates that states ensure the right of the child capable of forming their own views to freely express those views.⁶² The Ombudsman strives for children to be heard in proceedings and matters that determine their best interests. The child advocacy institution is based on the child's consent and strengthens the voice of the child. It relies on trust between the child and the advocate, ensuring that the child's opinion is conveyed to those who need to hear it – such as courts, social work centres, and other authorities deciding on the child's future. This right applies to all proceedings related to the child. The advocate not only conveys the child's opinion but helps the child recognise their own wishes and needs, enabling a safe expression of experiences, emotions, and perceptions. It is essential to distinguish that the advocate is not the legal representative of the child, a court expert, or an extended arm of other institutions, but operates independently in their role.⁶³ So far, the child advocate

59 Placement of Children with Special Needs Act, Uradni list RS, št. 58/11, 40/12 – ZUJF, 90/12, 41/17 – ZOPOPP in 200/20 – ZOOMTVI.

60 Dolčič, 2014, pp. 59–62.

61 Jenkole, 2006, p. 35.

62 Javornik, 2021, pp. 13–13.

63 Ruparčič, 2021, pp. 6–10.

has most often been appointed in proceedings related to divorce, the reallocation of the child, changes in visitation, removal of the child from the family and placement in institutional or foster care, and regarding visits in foster care.⁶⁴ The right of children to be heard is also important from the perspective of exercising civil rights. In Slovenia, children do not have the right to vote, as it is reserved for citizens who have reached the age of 18. Therefore, it is even more important for adults to listen to and consider the voices of children. Considering this, Slovenian organisations and institutions are joining various projects to increase opportunities for children's participation. Recently, Slovenia participated in the Council of Europe's CP4Europe project, aimed at strengthening and promoting children's rights to participate at the national and pan-European levels.⁶⁵ Participation of children is also encouraged in the school environment in Slovenia. Educational institutions provide space for expressing opinions and ideas and involve children in decisions that affect their school environment. In the Slovenian context, there is an awareness that the right of children to be heard is crucial for their holistic development and the realisation of their rights.

3. Presentation of the Case Law in the Area Concerned

3.1. Case 1: Admissibility of Online Content

Ljubljana Higher Court assessed⁶⁶ the admissibility of online content publication related to children by one of the parents (with the objection of the other parent). During the proceedings, the court prohibited the defendant (mother or custodian) from publishing and disseminating already published content related to their under-age children on all social media platforms. The court also ordered her to immediately delete the already published content on social media. The defendant appealed against the decision.

The court clarified that when parents do not reside together, and the child is not entrusted to the care and upbringing of both parents (as in the present case), decisions regarding the daily life issues of the children are made by the parent to whom the children are entrusted for care and upbringing. On matters significantly affecting the development of the children, the parents make decisions through mutual agreement and in accordance with the best interests of the children. If parents, even with the assistance of the social welfare centre, cannot reach an agreement on issues significantly affecting the development of the children, the court makes the decision.⁶⁷ A temporary order regarding the issue of posting content about children on social media is a provisional decision of the court on a matter significantly affecting the development of the children, on which the parents (apparently, even with the assistance of

64 Varuh človekovih pravic, 2019.

65 Council of Europe, n.d.

66 Ljubljana Higher Court, Sklep IV Cp 1440/2020, 21 September 2020.

67 Art. 151 of the Family Code.

the social welfare centre) could not reach an agreement, as the appellant was posting and disseminating content about the children, while the plaintiff objected to it.

The court agreed with the plaintiff's assertion that the children are recognisable in the environment where they live. This is true to a certain extent for all individuals, but unfortunately, it is even more so for the children of the parties involved in the dispute. The court explained that the more concerning aspect of recognition is caused by the writing and posting of other content about the children on social media. This exposure, as commonly known, is much broader and potentially more far-reaching, and due to the nature of social networks, it can even be permanent. Therefore, it has a stronger and more lasting impact on the lives of children. The appellate court concurred with the first-instance court's finding that the right of children to respect for their private and family life and the concern for their healthy growth and harmonious personal development take precedence over the parents' right to express themselves (about their children) on social media. The appellate court did not find any short- or long-term benefits that children could derive from the publication of content about them on social media, not only in the specific situation or for the specific children but in general. The court stated that widely informing the community through social media exposes children, who are already vulnerable due to their age and their parents' separation, to the public in the long term, and this alone poses a (long-term) threat to them. Simultaneously, they may face comments and reactions from people they encounter, which could cause them severe distress, endangering them both in the short term and the long term. The Child Welfare Centre also assessed that media exposure endangers children. The appellate court found that the posts by the mother/custodian endangered the children, so the decision of the first-instance court to issue a temporary injunction was appropriate.

3.2. Case 2: Posting Photographs and Videos of the Underage Child

In the case VSL Decision IV Cp 105/2021,⁶⁸ the justification of the issued interim injunction was under consideration. The injunction prohibited the plaintiff (mother or custodian) from posting photographs and videos of the underage child on all social media platforms, especially on Facebook, TikTok, Instagram, and YouTube. The court ordered her to immediately remove all previously posted photographs and videos on the mentioned platforms. In the event of a violation of the issued interim injunction, a monetary penalty in the amount of EUR 300 was stipulated.

The plaintiff filed an appeal, contending that the issue of posting photos and videos of the child on social media is not a matter significantly affecting the child's development, and therefore, it is not a matter on which the parents should reach mutual agreement. She argued that the child had been entrusted to her care and upbringing. She stated that the matter is of a daily nature, and as such, she has the full right to independently decide on the publication of photos depicting the child's everyday life. In the twenty-first century, she noted, social media and postings have become

68 Ljubljana Higher Court, VSL Sklep IV Cp 105/2021, dated 22 February 2021.

entirely commonplace, and her posts of the child do not pose any threat whatsoever. She further asserted that the plaintiff's claims are merely general statements alleging potential risks of the global internet and possible misuse. The plaintiff emphasised that especially during the then-prevailing epidemiological conditions and the need for remote schooling, virtually all children were inevitably exposed to the online world, where sensitive personal data and photographs are also transmitted.

The Higher Court concurred with the plaintiff's assertion that the condition of a likely demonstrated endangerment of the child is not fulfilled. According to the opinion of the Higher Court, the defendant did not likely demonstrate that the plaintiff's posts (photographs and videos) would jeopardise the child's interests and, therefore, necessitate protection through an interim injunction. The court issues an interim injunction when it is demonstrated that the child is likely endangered.⁶⁹ In accordance with the second paragraph of Article 157 of the Family Code, a child is considered endangered if they have suffered or are highly likely to suffer harm, and this harm or the likelihood of its occurrence is a result of the acts or omissions of the parents or a consequence of the child's psychosocial problems manifested as behavioural, emotional, learning, or other issues in their upbringing. The mentioned harm includes damage to the physical or mental health and development of the child or to the child's property.⁷⁰ The court clarified that any posting of photos and videos on social media does not automatically constitute a threat to the child's interests. Merely the (potential) possibility that such posts of photos and videos on social media could pose a threat (in the future) does not meet the condition of a demonstrated likely endangerment of the child.

3.3. Case 3: Postings on Social Media of the Child

In the case VSL Decision IV Cp 2105/2021,⁷¹ the Higher Court also assessed whether postings on social media endanger the child. The mother, on her profile, the company profile, and profiles of third parties on the Instagram and Facebook social media platforms, posted photographs of her three-year-old daughter. In certain photos, the child was only in swimwear, revealing her complete appearance, including her face, making her easily identifiable. The father did not consent. The content was published in a manner accessible to everyone, written in English, and included hashtags, facilitating rapid dissemination on the internet. The content was also posted with the intention of promoting a brand. Consequently, the first-instance court concluded that the dissemination of such personal and confidential content online, where the publication can reach virtually anyone, poses a threat to the child. Exposure to such content may cause her mental distress and make her vulnerable to abuse.

The Higher Court concurred with the first-instance court's conclusion that the publication of photos and videos allowing the identification of a child infringes upon

69 Art. 161 of the Family Code.

70 Ibid., Art. 157 para. 3.

71 Ljubljana Higher Court, VSL Sklep IV Cp 2105/2021 dated 5 January 2022.

their right to their own image as an integral part of the right to privacy. It also agreed with the assessment that posting photos and videos of children on social media increases the risk of potential abuse of the child. However, this alone is not sufficient to establish a likely demonstrated causal link between any photo publication of the child and harm to their health and development, let alone the occurrence of irreparable harm necessitating immediate intervention. The opinion of the Ombudsman also indicates that the decision of parents to post photos of their children online falls under decisions that can significantly influence a child's healthy development, and therefore, their consent is generally required. However, it does not constitute such a threatening action to the child that would invariably warrant state intervention in the family relationship.

3.4. Case 4: Disclosure of Personal Data

The Higher Court, in the judgement II Cp 693/2018,⁷² addressed the contentious post by the defendant, who published on the Facebook platform a disclosure revealing the name, surname, and address of the plaintiff, and the fact that she was taking care of two vulnerable boys. The post pertained to a highly publicised removal of the two boys, for whom the parents were no longer able to care, and they were staying with the grandmother at the time of removal. After the removal, the boys were placed in a foster family (that of the plaintiff). The court clarified that the fundamental function of foster care is to nurture and raise the child, performing certain duties that parents would otherwise have within the scope of parental rights. The primary principle of guardianship is to pursue the best interests of the child. Therefore, a foster family is also considered a family, and the privacy of its members (including the foster mother) is protected to the same extent as the privacy of other families. However, the uniqueness of foster families lies in their acceptance of children whose interests are endangered, requiring special care. Consequently, the privacy of their family life is even more sensitive. The publication of the names, surnames, address, and the fact that the boys in question were with the plaintiff constitutes a serious intrusion into the plaintiff's privacy.

3.5. Case 5: Offensive and Vulgar Content

In the decision VSL Decision I Cp 1189/2021,⁷³ the Higher Court clearly expressed its position regarding the posts of both parties, stating that both former partners, being aware that their online posts contain offensive and vulgar content accessible to anyone (including their children), should, in the future, carefully consider the consequences that their publicly hostile confrontations may have on their children.

72 Ljubljana Higher Court, VSL Sodba II Cp 693/2018 dated 3 October 2018.

73 Ljubljana Higher Court, VSL Sklep I Cp 1189/2021 dated 1 September 2021.

3.6. Case 6: Protected Privacy of a Minor

The Supreme Court of the Republic of Slovenia, in the judgement VSRS Decision I Ips 12291/2012,⁷⁴ clarified that in criminal proceedings where, according to the law, public access is excluded, the privacy of a minor is protected to the extent that information about the proceedings cannot be published without the court's permission, even if the minor or their parents consent to the publication of such information. The purpose of the provision in the second paragraph of Article 287 of the Criminal Code is to protect and safeguard the privacy of children, especially when a child is exposed to media coverage, even at the request or with the consent of the parents. The purpose of legal provisions is to prevent deliberate and gross violations of children's rights to privacy and their personal rights, particularly in sensationalist media reporting. The guiding principle in legislation is to ensure the protection of the best interests of the child in all proceedings and activities related to children.

3.7. Summary of Cases

To sum up, the first three cases revolve around a substantially similar issue of publishing photographs and videos of children on websites or social media platforms. In these initial three cases, a common concern is evident among one of the parents that the publications could harm or jeopardise the child's welfare. Typically, it is clear that both parents should consent to the publication of photos of a child online because it is a decision that significantly influences a child's healthy development. However, the mere act of publishing a child's images does not necessarily imply that the child is endangered, nor does it automatically warrant state intervention in family relationships. The determination of whether a child is genuinely at risk due to the publication is assessed on a case-by-case basis. Nevertheless, from the analysis of these legal proceedings, it can be inferred that parents are increasingly aware of the importance of protecting children's rights in the online environment.

In the fourth case, the significance of safeguarding privacy, especially in foster family relationships, is explained. The fifth case serves as a reminder to parents about the harm their statements can cause to children, highlighting the court's meticulous attention to the protection of children's interests. Lastly, the sixth case illustrates the protection of children's privacy in criminal proceedings, taking into consideration the potential harm that media publications could inflict on minors.

4. Protecting Children in the Digital Space: The Role of Public Institutions, Legal Remedies, and Education in Public Schools

Several public institutions and authorities in the Republic of Slovenia are responsible for protecting children's rights online.

74 Supreme Court of the Republic of Slovenia, VSRS Sodba I Ips 12291/2012 dated 1 February 2018.

The Ombudsman represents a constitutional category that does not fall within the executive, judicial, or legislative branches of government. The Ombudsman does not operate as part of the government mechanism but acts as its overseer, limiting its arbitrariness in encroaching on human rights and fundamental freedoms. The Ombudsman operates independently and autonomously in relation to other state bodies. The Ombudsman's jurisdiction is not limited to direct violations of the human rights and freedoms set out in the Constitution; the office is also responsible for addressing any violations of individuals' rights by public authorities.⁷⁵

The Ombudsman ensures the protection of individuals, including children, by investigating their complaints and, if the complaints are justified, recommending corrective actions. Anyone who believes that their human rights or fundamental freedoms have been violated by an act or action of a state authority, local community authority, or public authority can file a complaint with the Ombudsman to initiate an investigation.⁷⁶ State authorities, local community authorities, and public authorities must provide the Ombudsman with all data and information within their jurisdiction upon request, regardless of the level of confidentiality, and allow for investigations; otherwise, fines can be imposed.⁷⁷ In the final report, the Ombudsman provides their assessment of the facts and circumstances of each individual case, determining whether there has been a violation of human rights or fundamental freedoms and how they were violated, or if there was any other irregularity. The Ombudsman does not interfere with the civil law rights that individuals have for compensation. Additionally, the Ombudsman can recommend the initiation of disciplinary proceedings against employees of authorities who have caused the identified irregularity.⁷⁸ Authorities must inform the Ombudsman about the actions taken based on their suggestions, opinions, criticisms, or recommendations; otherwise, the Ombudsman can report this directly to the superior authority, the relevant ministry, report it to the National Assembly in a special report, or publicly disclose the matter.⁷⁹

The Agency for Communication Networks and Services of the Republic of Slovenia (AKOS) is an independent authority that regulates and supervises the electronic communications market, manages and monitors the radiofrequency spectrum in Slovenia, performs tasks in the field of radio and television activities, and regulates and supervises the market of postal services and railway transport services in Slovenia.⁸⁰ AKOS is also responsible for monitoring violations of the provisions of the Audiovisual Media Services Act and can impose fines on violators.

75 Varuh človekovih pravic, n.d.

76 Art. 26 of Human Rights Ombudsman Act, Uradni list RS, št. 69/17 – uradno prečiščeno besedilo.

77 Ibid., Arts. 6 and 56.

78 Ibid., Art. 39.

79 Art. 40 of the Human Rights Ombudsman Act.

80 Agencija za komunikacijska omrežja in storitve Republike Slovenije (n.d.) O agenciji [Online]. Available at: <https://www.akos-rs.si/o-agenciji> (Accessed: 30 November 2023).

The Information Commissioner of Slovenia is a supervisory authority responsible primarily for violations of the Personal Data Protection Act, the Public Information Access Act, and the GDPR. The Information Commissioner can initiate an inspection procedure, require the rectification of irregularities, and impose fines on the violator. The Information Commissioner is not competent when the violation is committed by a natural person within the scope of their purely personal or domestic activities.

Regarding the protection of children in the digital environment, it is essential to highlight the involvement of the police, the judiciary, and the Centre for Social Work. In the field of child protection in the digital environment, the police investigate criminal offences such as stalking, threats, unauthorised wiretapping and audio recording, unauthorised video recording, abuse of personal data, display, creation, possession, and dissemination of pornographic material, extortion, cyberattacks, and public incitement to hatred, violence, or intolerance.⁸¹ It is important to note that all state authorities and organisations with public authority must report criminal offences that are subject to prosecution *ex officio* if they become aware of them or otherwise learn of them.⁸² Furthermore, in accordance with Article 15.a of the Criminal Code, in cases where a criminal offence against life and body, against human rights and freedoms, against sexual integrity, or any other offence under this Code with signs of violence is committed against a minor, the perpetrator is prosecuted *ex officio*. This further reinforces the obligation of all state authorities and organisations with public authority to report criminal offences. The police also engage in advisory and awareness-raising activities.

Children's rights are also safeguarded by social welfare institutions, including the Centres for Social Work. Authorities, institutions, and other organisations that identify the endangerment of a child, a minor, or a person deprived of legal capacity in their work are obliged to inform the Centre for Social Work in their area about it.⁸³ The court and the relevant Centre for Social Work intervene when it is necessary to protect the rights and interests of children. Measures to protect the interests of the child include temporary orders, emergency removal of the child, and more lasting measures. The court imposes measures to protect the child's interests if it determines that the child is at risk. The Centre for Social Work can propose measures to the court, participate in legal proceedings, and provide its opinion.

In raising awareness among children, adolescents, parents, and teachers about safe internet use and children's rights in the digital environment, various organisations play a significant role, such as the project Centre for Safer Internet.⁸⁴ The Centre for Safer Internet is a project implemented by the Faculty of Social Sciences at the

81 Arts. 134.a, 135, 137, 138, 143, 176, 213, 221 and 297 of the Criminal Code.

82 Art. 145 of the Criminal Procedure Act.

83 Art. 91 of the Social Assistance Act, 1992, Uradni list RS, št. 3/07 – uradno prečiščeno besedilo, 23/07 – popr., 41/07 – popr., 61/10 – ZSVarPre, 62/10 – ZUPJS, 57/12, 39/16, 52/16 – ZPPreb-1, 15/17 – DZ, 29/17, 54/17, 21/18 – ZNOrg, 31/18 – ZOA-A, 28/19, 189/20 – ZFRO, 196/21 – ZDOsk, 82/23 in 84/23 – ZDOsk-1.

84 See: <https://safe.si/center-za-varnejši-internet/o-centru> (Accessed: 30 November 2023).

University of Ljubljana, the Academic and Research Network of Slovenia, the Slovenian Association of Friends of Youth (ZPMS), and the Centre MISSS (Youth Information and Counselling Centre of Slovenia). The Centre for Safer Internet provides three main services:

1. The Awareness Centre Safe.si⁸⁵ operates with the aim of raising awareness among various target groups, including children, teenagers, parents, teachers, and social workers. This is achieved through various activities, such as online and offline events and lectures. The main purpose is to raise awareness about safe and responsible internet and mobile device use. Safe.si regularly collaborates with both primary and secondary schools. Some key content areas covered by the lectures include understanding fundamental concepts such as privacy, security, and responsibility online; recognising online dangers, cyberbullying, and harassment; the importance of thoughtful and responsible content sharing online; the use of secure passwords and their management; preventing the spread of false information; promoting respectful online communication and behaviour; and establishing family rules for internet and device use.
2. The National Network TOM⁸⁶ (Telephone for Children and Adolescents) is a publicly verified social welfare programme designed to prevent and address the social difficulties of individuals in vulnerable population groups. TOM is part of the ZPMS and was established in 1990 at the initiative of the Commission for Children's Rights at ZPMS. Through a toll-free telephone number (or online), young people can share their problems and obtain advice and additional information from counsellors, with guaranteed anonymity and confidentiality of the conversation. TOM also advises and assists young people with issues related to the Internet.
3. Spletno oko⁸⁷ is a Slovenian online reporting point where internet users can anonymously report child sexual abuse material or hate speech on the Internet. Over the course of 11 years of operation, it has received more than 22,000 reports believed to contain illegal hate speech or child abuse material. In over 2,000 cases, they identified the presence of actual illegal elements, which were then forwarded to the police for further action. Spletno oko, in collaboration with the police, the international organisation INHOPE, internet service providers, online portals, and other relevant government and non-governmental organisations, strives to reduce the presence of child sexual abuse materials and hate speech on the Internet.

85 See: <https://safe.si/> (Accessed: 30 November 2023).

86 See: TOM, telefon za otroke in mladostnike [Online]. Available at: <https://e-tom.si/> (Accessed: 30 November 2023).

87 Spletno oko, n.d.

The Slovenian Computer Emergency Response Team (SI-CERT) serves as the coordinator for resolving cybersecurity incidents and provides technical advice in cases of intrusions, computer infections, and other abuses. Additionally, it issues warnings to network administrators and the public regarding current threats on electronic networks. SI-CERT conducts the national awareness programme “Varni na internetu”⁸⁸ and collaborates on the SAFE-SI project. It operates under the auspices of The Academic and Research Network of Slovenia.⁸⁹

During primary education, children become acquainted with computer technology through an elective subject called Computer Science. In this subject, they learn about fundamental concepts of hardware and software, computer programs, word processors, data storage, email communication, web browsers, and more.⁹⁰ The primary school curriculum⁹¹ does not include a mandatory subject specifically dedicated to safe internet use or online dangers. These topics are introduced to children through the school’s efforts to incorporate them into their activities, which can also be achieved through collaboration with external organisations that conduct workshops and activities.

In February 2023, Slovenian primary school students achieved a Guinness World Record for the largest online quiz in the world. The quiz involved 20,000 Slovenian primary school students (with 15,225 participants answering all the questions) from nearly 200 schools. The quiz questions covered topics related to personal data protection, social networks, online violence, online empathy, and other challenges that young people encounter on the Internet. The quiz was organised by A1 and the Safe Internet Institute, as an extension of the programme “Spletne brihte”, through which the organisers have been educating children for two years about safe and responsible internet and digital technology use.⁹² It is evident that such topics are not unfamiliar to children, but schools need to be willing to incorporate these themes and activities into their educational process, as such lectures or content are not part of the mandatory curriculum.

Child protection on the Internet is generally not specifically legislated in Slovenia. As mentioned, the field is scattered across various laws. Certain content, such as television programmes, advertising, media contributions, and the like, is legally regulated with restricted access for children. However, on the Internet, general rules apply both for child protection and child protection online. The primary responsibility for child protection lies with parents, whose duty is to ensure the child’s well-being in all activities related to the child and to raise them with respect for their person, individuality, and dignity.⁹³ When it is determined that parents are not acting in the child’s best interest, the state may intervene. It is important to note that state

88 See: <https://www.varninainternetu.si/> (Accessed: 30 November 2023).

89 See: <https://www.cert.si/> (Accessed: 30 November 2023).

90 Batagelj, 2002.

91 Strokovni svet Republike Slovenije za izobraževanje, n.d.

92 Dnevnik, 2023.

93 Art. 7 para. 1 of the Family Code.

authorities, public service providers, holders of public authority, local government bodies, and other natural and legal persons must ensure the child's best interests in all activities and procedures related to the child.⁹⁴ Children enjoy special protection from the state whenever their healthy development is at risk and when other interests of the child demand it.

5. Summary

Slovenia has established a legal framework for child protection, but it is fragmented and somewhat lenient, especially regarding the Internet. The right to privacy is the most regulated, governed by the GDPR and the Personal Data Protection Act, which clearly state that organisations need a legal basis to process personal data. Unauthorised invasion of privacy can lead to court injunctions or compensation claims, and in some cases, criminal prosecution. Online and on social media, the legal basis for data processing is usually a contract, consent, or legitimate interest. Children are further protected here, as they cannot enter into contracts until a certain age. In line with general terms, children can typically create social media accounts when they turn 13. In Slovenia, a legal transaction (contract) made by a child under 15 is invalid. Considering the law, parental consent is required until the child turns 15 for creating an online account. In practice, this age restriction is often circumvented by stating a false birth year, either by the child or a parent. Article 8 of the GDPR is rarely applied in practice for social media use. For children, the legitimate interest of the controller is more stringently assessed under Article 6(f) of the GDPR. Court cases have shown disagreements among parents about online content shared by one parent, raising concerns about its impact on the child. There are worries that posting photos, videos, and other content featuring the child could harm or endanger them in the future. Courts have ruled that decisions to post on social media significantly influence a child's healthy development, but posting child images does not necessarily mean the child is endangered or that state intervention in family matters is needed. Whether a post actually endangers a child is judged case by case. Legally, child posts on social media are rarely unlawful unless they genuinely endanger the child based on actual circumstances. However, it is debatable whether parental posts of child content are beneficial, or if the decision should be left to the child upon reaching an appropriate age. The child's right to information or education is not precisely defined in Slovenian national legislation, but efforts by public institutions to provide clear and comprehensible information are evident. Ensuring a safe environment for children, both physically and virtually, is vital. Slovenian internet child protection involves numerous laws, mainly focusing on restricting access to certain content. While rules for limiting access to inappropriate content on TV or on-demand services are clear, children can generally access anything online. Restrictions apply to pornographic content and

94 Ibid., Art. 7 para. 4.

alcohol advertising, but verifying age online is rare, thus allowing easy access to inappropriate content. Children can also quickly become victims of cyberbullying, subject to the same legal standards as physical-world harassment. Parents primarily have the responsibility to act in the child's best interest and protect them appropriately. Other public institutions are obligated to intervene when parents fail. Children should have a safe space for expression, and their rights should only be limited when in their best interest. Slovenian legislation on internet child protection is lax, but court practices, guided by the child's best interest, fill the gaps. Education on safe internet use for both children and parents is crucial, as parents often underestimate the dangers of internet and social media use. There are no concrete legislative proposals in Slovenia for further protecting children's rights online. Everyone can contribute to a safe and friendly digital world by sharing positive content and reporting negative ones.

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