



Protecting Children against Digital Harm – Novelties and Challenges of the Romanian Regulatory Framework

Zsolt KOKOLY

Assistant Professor

Sapientia Hungarian University of Transylvania,

Department of Law (Cluj-Napoca, Romania)

e-mail: kokolyzsolt@sapientia.ro

ORCID iD: 0000-0002-9082-8949

Abstract. The paper conducts an analysis of children's rights in Romanian legislation with a special focus on their application in a digital context. Legal novelties concerning children's rights in the digital environment have begun to come into effect relatively recently, and the audiovisual and online media content landscape still experiences fluctuations in the process of normative evolution. Protection of children against digital harm is examined from multiple angles: the experiences in transposing European normative acts (developments following the application of the Digital Services Act and experiences for Romanian authorities and other organizations entrusted with the protection of children's rights in the digital world); efforts of the Romanian lawmaker in improving school climate / creating a safe school environment with safe Internet use (legal provisions and institutional solutions originating from or applied in the educational process), as well as a series of legislative changes (the 2025 revision and amendment of the Regulatory Code on Audiovisual Media Content, or several legal projects). The paper aims to examine the newly existing normative framework also through the lens of pertinent case-law in order to assess the efficiency of these legal instruments and to evaluate institutional responses and practices.

Keywords: children's rights, Romanian law, digital environment, audiovisual media and online content, data protection, digital harm, safe Internet for children

1. Introduction

Presently, the general framework of the Romanian laws concerning children's rights comprises a series of international conventions signed by Romania and

adopted into its national law, as well as the structure of the legal sources created in the national normative framework.

The core document in the field of children's rights, the United Nations Convention on the Rights of the Child (1989),¹ was ratified by Romania on 28 September 1990 and transposed by Law no. 18/1990.² The Convention has been a source of inspiration when drafting Law no. 272/2004 on the protection and promotion of children's rights,³ which became the special law after its adoption governing children's best interest in Romanian national law.⁴

The normative framework is completed by the constitutional provisions enshrined in the Constitution of Romania adopted in 1991 (amended in 2003)⁵ and the relevant articles in the New Civil Code of Romania⁶ (in effect since 2011), as well as the New Criminal Code of Romania⁷ (in effect since 2014) that provides the system of sanctions to enable the protection of children's rights.

The protection of children in digital environment is governed by a series of pertinent special legislative acts, which have been adopted or amended in the 2020–2025 timeframe: the Media Law⁸ was revised in 2022 following the general revision of the governing European legal instrument, the Audiovisual Media Services Directive;⁹ the pursuant Regulatory Code of Audiovisual Content was revised in 2025;¹⁰ the Law of National

- 1 Convention on the Rights of the Child Adopted and opened for signature, ratification, and accession by General Assembly Resolution no. 44/25 of 20 November 1989 – entry into force: 2 September 1990.
- 2 Legea nr. 18 din 27 septembrie 1990 pentru ratificarea Convenției cu privire la drepturile copilului [Law No. 18 of 27 September 1990 for the ratification of the Convention on the Rights of the Child]. *Monitorul Oficial*, Part I. No. 314 from 13 June 2001 (subsequent publication).
- 3 Legea nr. 272 din 21 iunie 2004 privind protecția și promovarea drepturilor copilului [Law No. 272 of 21 June 2004 on the protection and promotion of the rights of the child]. *Monitorul Oficial*, Part I. No. 159 from 5 March 2014 (subsequent publication).
- 4 For a complete list of legislative acts pertaining to the protection and promotion of children's rights in Romania, see Autoritatea Națională pentru Protecția Drepturilor Copilului și Adopție (ANPDCA), no date.
- 5 Constituția României [The Constitution of Romania]. *Monitorul Oficial*, Part I. No. 767 from 31 October 2003.
- 6 Codul Civil din 17 iulie 2009 (Legea nr. 287/2009) [The Civil Code of 17 July 2009 (Law No. 287/2009)]. *Monitorul Oficial*, Part I. No. 505 from 15 July 2011 (subsequent publication).
- 7 Codul Penal din 17 iulie 2009 (Legea nr. 286/2009) [The Criminal Code of 17 July 2009 (Law No. 286/2009)]. *Monitorul Oficial*, Part I. No. 510 from 24 July 2009.
- 8 Legea 504/2002 a audiovizualului [Audiovisual Law No. 504/2002]. *Monitorul Oficial*, Part I. No. 534 from 11 July 2002.
- 9 Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation, or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities PE/33/2018/REV/1. OJ L 303, 28.11.2018, pp. 69–92.
- 10 Decizie nr. 573 din 25 iunie 2025 privind Codul de reglementare a conținutului audiovizual [Decision No. 573 of 25 June 2025 on the Code for the Regulation of Audiovisual Content]. *Monitorul Oficial*, Part I. No. 641 from 8 July 2025.

Education¹¹ was completed in 2020 with the methodology to create a safe and positive online educational environment (2020), further statutory instruments drafted at ministerial level being included in 2025.

The online protection of minors is enabled by the Digital Services Act (DSA),¹² applied since 2024 overall in European Member States,¹³ with the pursuant Guidelines by the European Commission¹⁴ published in 2025. These newly introduced sets of rules also offer new competences for national regulatory institutions and dedicated organizations.

As the details provided above indicate, the specific normative framework regarding children's rights in digital environment has a relatively recent history and combines both the legal tools provided by the European lawmaker and the ones tailored to the needs of children by the Romanian lawmaker.

2. Core Principles in Protecting Children in Constitutional, Civil Law and Provisions of Special Norms

The principles of protecting children are enshrined in the Constitution of Romania (2003): Articles 22 to 35 establish a general framework of fundamental rights and freedoms that affect all natural persons, thus also natural persons having the legal condition of child. These rights are the right to life, to physical and mental integrity, individual freedom, the right to defence, freedom of movement, personal and family privacy, inviolability of domicile, secrecy of correspondence, freedom of conscience, freedom of expression, the right to information, the right to education, access to culture, the right to protection of health, and the right to a healthy environment.

Article 49 of the Constitution is dedicated to the protection of children and young people, granting children and young people special protection

11 Legea 1/2011 a educației naționale [National Education Law No. 1/2011]. *Monitorul Oficial*, Part I. No. 18 from 10 January 2011.

12 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act). PE/30/2022/REV/1. OJ L 277, 27.10.2022, pp. 1–102.

13 Transposed into national law by Legea 50/2024 privind stabilirea unor măsuri pentru aplicarea Regulamentului (UE) 2022/2065 al Parlamentului European și al Consiliului din 19 octombrie 2022 privind o piață unică pentru serviciile digitale și de modificare a Directivei 2000/31/CE (Regulamentul privind serviciile digitale), precum și pentru modificarea și completarea Legii nr. 365/2002 privind comerțul electronic [Law No. 50/2024 establishing measures for the application of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act), as well as for the amendment and supplementation of Law No. 365/2002 on electronic commerce]. *Monitorul Oficial*, Part I. No. 232 from 19 March 2024.

14 European Commission, 2025.

and assistance in realizing their rights. It is the obligation of the state to grant allowances for children and benefits for the care of ill or disabled children, extending social protection for children and young people also to other forms, which are established by law.

The constitutional provisions enshrined in Art. 49 forbid the exploitation of minors, their employment in activities that might be harmful to their health or morals or might endanger their life and normal development, while also forbidding the employment of minors under the age of 15 for any paid labour. Similar to the obligation of the state to provide allowances and benefits, the public authorities are bound to contribute to secure the conditions for the free participation of young people in the political, social, economic, cultural, and sporting life of the country.

In fact, the section on the protection of children and young people comprised in Art. 49, para. 1 stating that children and young people enjoy special protection and assistance in realizing their rights enforces an exception to the principle of equality of rights, stating that citizens are equal before the law and public authorities, without any privilege or discrimination (comprised by Art. 16, para. 1). The enshrinement of this derogation, which could qualify as positive discrimination, is justified by the special condition children and young people have as opposed to the condition of other citizens.¹⁵

The Constitution of Romania enshrines in Art. 20 the implementation of all international and European legal documents recognizing and promoting human rights, including children's rights. Art. 20 of the constitutional provisions refers to the application of international treaties on human rights, as well as precedence of law in case of inconsistencies, stating that constitutional provisions concerning the citizens' rights and liberties shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the conventions and other treaties Romania is a party to.

The New Civil Code of Romania (in force since 2011) represents a second pillar in the general framework on children's rights, offering a definition for the notion of 'child' (*copil*) in Art. 263, in which it formulates the principle of superiority of the child's interest. In the legal interpretation offered by the legislator, in the sense of legal provisions regarding the protection of children, the term 'child' refers to a person who has not turned 18 years of age nor has gained full capacity to act according to the law.

However, the text of the New Civil Code uses the syntagm 'child' interchangeably with the notion of 'minor', thus offering another approach in definition, based on the capacity to act. Regarding the scope of capacity to act, Art. 38 defines full capacity to act as starting the moment the person comes of age and, subsequently, states that a person becomes of age when turning 18 years.

15 Bodoaşcă, 2018, pp. 362–363.

Apart from the exceptions recognized by the law, people who have not turned 14 years of age have no capacity to act, as stated in Art. 43. However, the law recognizes exceptions where capacity to act is granted to persons who have not yet turned 18 years of age (the case of the married minor or the case of anticipated capacity to act, both cases pertaining to persons who have turned 16).

Art. 41 defines the concept of partial capacity to act, granting it in terms of age to any person turning 14 and proceeding later in Art. 42 to a description of the scope and extent of partial capacity to act. According to the legal provisions, the minor may engage in legal acts regarding work, artistic or sporting activities, or activities related to the person's profession, having the approval of the parents or guardian and in respect of special legal provisions, if there are any. In the case detailed above, the minor acts independently upon their rights and also executes independently obligations that arise from these rights, while also being granted the liberty to dispose independently of any earned income.

In the present paper, the term 'child' (instead of 'minor') is used in the interpretation given by the New Civil Code and corroborated with the definition formulated by the special law (Law No. 272/2004 on the protection and promotion of the rights of children) in Art. 4 (a): 'child – a person who has not turned 18 years of age nor has gained, according to the law, full capacity to act'.

Children are granted rights that enjoy special protection from the moment the child is conceived, under the presumption of a subsequent live birth, as formulated in Art. 36 of the New Civil Code. Presuming the child will be born alive, he has certain patrimonial and extra-patrimonial rights from the moment of conception; the former include the right to inherit or the right to own goods, while the latter include the right to dignity, the right to physical and mental integrity, identity, and development.

Article 264 of the New Civil Code refers to children's rights in administrative or legal procedures concerning their person, making it mandatory that a child who has reached the age of ten be heard. Moreover, should the competent authority consider it necessary for the solution of the case, a child younger than ten years of age can also be heard. The right to be heard refers to the possibility of the child asking for and receiving any information, in accordance with their age, to express their opinion and to be informed on the consequences their opinion may cause, as well as on the consequences of any decision regarding their person.

The main legislative act governing the protection and promotion of children's rights in Romania is Law No. 272/2004 on the protection and promotion of the rights of children, acting as a common frame of reference on children's rights.

At the centre of this law lies the protection and promotion of the child's best interest, the legal provisions following the Convention on the Rights of the Child, structured in 12 chapters, where each chapter comprises a set of rules on the protection and promotion of children's rights.

The dimensions of the child's best interest are confined in Art. 2, enshrining in para. 1 that the present law, any other regulations adopted in the field of protecting and promoting the rights of the child, as well as any legal act issued or, if the case, signed in this field, are subdued primarily to the child's best interests. The child's best interest is seen as adjacent to the child's right to a normal physical and moral development, to socio-emotional equilibrium, and to family life. The principle of the child's best interest governs the rights and obligations the child's parents have and their other legal representatives, as well as any other person who is lawfully entitled to care for the child. Also, the principle of the child's best interest prevails over all proceedings and decisions regarding the child made by public authorities and authorized private entities, as well as in cases argued before court authorities. People involved in the activities detailed above must involve the family in all decisions, actions, and measures regarding the child and must ensure the care, upbringing, formation, development, and education within the family.

In determining the child's best interest, a set of criteria may be taken into consideration, such as the need for physical, psychological development, for education, health, security, stability and adhesion to a family; the child's opinion, depending on their age and stage of maturity; the evolution of the child, especially in cases of abuse, negligence, exploit, or any other form of violence on the child, as well as potential situations of risk that may arise in the future; the capacity of the parents or the people who will raise and care for the child to respond to the child's concrete needs, as well as maintaining personal relationships with people with whom the child has formed relations of attachment.

Based on the legal interest at their centre, the rights comprised in the legal framework offered by Law No. 272/2004 on the protection and promotion of the rights of children may be categorized into rights to development, rights to protection, and rights to participate.

The rights to development refer to the satisfaction of basic needs, including the need to develop personality traits and mental and physical abilities. The main rights granted by the law in this category are the right to development, the right to education, the right to medical care, the right to social assistance, and the right to play.

The legal provisions regarding rights to development include the child's right to be brought up in a family alongside their parents, with both parents bearing the responsibility for the upbringing of the child (articles 35 to 36). Parents need to take into consideration the child's capacities to develop, corroborated with their rights to participate. Conversely, the state has the responsibility to assist the parents in their mission regarding the upbringing of the child by ensuring the network of facilities such as schools, hospitals, and other institutions.

Some of the rights to development include the child's right to be brought up in conditions enabling his physical, mental, spiritual, moral, and social development

(Art. 37); the child's right to benefit from a lifestyle permitting their physical, mental, spiritual, moral, and social development (Art. 47); the child's right to receive an education stimulating the development of their abilities and personality without discrimination (Art. 51); and the child's right to rest and vacation (Art. 53).

Rights of protection comprise another category of children's rights formulated in the special law. These rights serve the purpose of insuring children against situations of risk such as illegal transfer abroad, violence, abuse, or negligence from the parents or guardians, sexual or other kinds of abuse, implication in illegal substance traffic, and human trafficking. Protection rights also encompass a series of measures pertaining to the relation of the child with their family, as well as the case of children in vulnerable situations.

Rights to protection refer to abuse, negligence, exploitation, trafficking, illegal migration, abduction, violence, and Internet pornography, as well as any other form of violence, regardless of the environment: family, institutions of education, healthcare providers, protection services, locations investigating criminal acts and rehabilitation/detention, the Internet, mass media, workplaces, sports facilities, community centres, etc. (Art. 89).

Rights to protection extend to the exploitation of children by prohibiting forced labour or forced domestic activities, the prohibition covering also educational institutions, special protection, re-education, and detention, or the cultural, artistic, sporting, publicity, and modelling environment, which bears a potential risk or is susceptible to compromising the child's education or damaging their health or physical, mental, moral, or social development (Art. 91).

The prohibition against exploiting children is formulated also in Art. 110, which specifically refers to any form of exploitation such as illicit transfer of the child and failure to return, sexual exploitation and sexual violence, child abduction and child trafficking in every form and purpose, forced development of children's talents damaging the optimal course of their physical and mental development, exploitation by mass media, or exploitation in the framework of research or scientific experiments.

Art. 95 forbids any kind of violence on children, as well as depriving children of their rights so as to jeopardize their life, physical, mental, spiritual, moral, or social development or their corporal integrity or physical or psychological health, both inside the family and in institutions of protection, care, and education of children, in healthcare and educational facilities, and in any other public or private institution providing services for or conducting activities with children.

Protection rights also govern the relationship between children and their parents, as children have the right to identity: to a name, to citizenship, and, if possible, to know their parents and be brought up by them (Art. 9), or to have personal relationships and direct contact with their family, relatives, or other people they are attached to emotionally (Art. 17).

Children have the right to protect their own image and their intimate, private, or family life (Art. 27), as well as the right to have their personality and individuality respected (Art. 32).

The third category of children's rights warranted by the special law refers to the rights of participation, offering children the possibility to have a say in matters pertaining to their lives. These rights offer children the possibility to express their opinions and to discuss problems they consider of importance, as well as the opportunity to search and receive information they consider relevant for them. Romanian law explicitly grants children freedom of expression and, as a separate right, the right to freely express opinions in matters pertaining to them in legal and administrative procedures.

Participation rights have limitations, as children need to be capable of forming their own opinions to express and exert them; however, this does not mean that young children are not entitled to participation rights, as they have their own needs and capacities for participation. The right to participate must be corroborated with age limits set out by legal norms, with Romanian law granting children over ten years old the right to be heard in all legal and administrative procedures concerning them. Even children younger than ten may be heard if the competent authority deems it necessary, and their opinion can be taken into consideration based on their age and level of maturity. Generally, as the child grows older, they will have more and more participative needs, and they will be more and more capable of forming and expressing their own opinions.

The category of participative rights encompasses key rights for children, such as the right to freedom of expression, as well as to seek, receive, and promote information, as granted by Art. 28; freedom of thought, conscience, and religion (Art. 30); freedom of association in formal and informal structures, as well as the right to freedom of peaceful assembly, within the limits stipulated by the law (Art. 31); and the right to file complaints on their own regarding the violation of their fundamental rights (Art. 34).

Children belonging to a national, ethnic, religious, or linguistic minority have the right to their own cultural life, to declare their ethnic and religious affiliation, and to practise their religion, as well as the right to use their language with other members of the community to which they belong.

Law no. 272/2004 on the protection and promotion of the rights of children has been revised several times, the most recent amendments being introduced in 2022.

Amendments refer to the freedom of information, including in online environments (Art. 28), and assign responsibility to the institutional network of child protection services to act promptly in instances where a child's development is jeopardized (Art. 41). The introduction of bullying, including cyberbullying, as a phenomenon of psychological violence on children in educational institutes (Art. 52) is the consequence of the amendment of the Law of National Education

to comprise measures on violence, including physical and psychological violence (bullying and cyberbullying), as well as emotional abuse.

A law declaring 2025 as ‘The National Year of the Child’ in Romania has created child rights awareness-raising opportunities.¹⁶ Amendments to Law 272/2004 on the protection and promotion of children’s rights institutionalized child participation at all levels of public administration, making Romania the first EU country to systematize child participation.¹⁷

3. Special Regulation Regarding the Protection of Children against Digital Harm

Children represent a group considered more vulnerable against digital harm than the average group of citizens (typical consumers / data subjects), as young children may not have the necessary digital skills or may not know their rights in the digital environment. Children can be affected by two types of vulnerability: inherent vulnerabilities that arise from neediness and dependence on others and situational ones that appear in specific circumstances or situations.

The legal framework on measures to combat digital harm to children mainly includes legal provisions from the New Criminal Code. Phenomena such as cyberbullying, grooming, sexting, sextortion, online identity theft, personal data theft, online hate crimes, abuse of one’s image, etc. that are usually associated with the concept of digital harm against children must be corroborated with the existing regime of criminal acts stated in the Code and assimilated with one or several of the criminalized behaviours.

There are some manifestations of digital harm to children that have a sanctions regime outside the scope of the Criminal Code too: the phenomenon of cyberbullying in educational facilities is regulated in the Law on National Education, while failure to observe rules regarding the participation of children in audiovisual media programmes or the labelling and content rating of audiovisual media content to respect their mental and psychological development is regulated in the Media Law and the Regulatory Code on Audiovisual Content.

16 Legea nr. 264/2024 pentru instituirea anului 2025 ca „Anul Național al Copilului” [Law No. 264/2024 establishing the year 2025 as ‘The National Year of the Child’]. *Monitorul Oficial*, Part I. No. 1081 from 29 October 2024.

17 UNICEF, 2025, p. 5.

3.1. Protecting Children against Digital Harm and Online Safety in Education – Legal Instruments Provided by Self- and Co-regulation

Online safety in education and protecting children and young people against digital harm in the network of pre-university educational facilities is a priority for the Romanian lawmaker, and thus safeguarding children's rights in digital spaces is featured prominently in its strategies, agendas, and policy papers. Public utility associations, organizations from the public sphere, the actors implicated in the educational process have also contributed substantially to the shaping of the binding and soft law toolkit.

Such a phenomenon addressed and defined in the normative framework of national education is bullying and cyberbullying. Cyberbullying is defined in the annex on methodology and action plan completing the Law on National Education, formulated in Art. 1, para. c as follows:

Psychological violence in cyberspace, or cyberbullying, comprises actions conducted relying on Internet networks, computers, tablets, and mobile phones, and it can contain elements of online harassment, combining illicit and/or offensive content that refers to any behaviour transmitted by means of technology, as identified on social media, websites, and messaging. This form of violence is not limited to repeated behaviour regarding mails, posting messages, images, or videos with abusive/belittling/offensive content, including here also the deliberate exclusion/marginalisation of a child in online environments or hacking personal email passwords as identified in online groups of social networks or other online formats of electronic communication.

In the text of the annex, cyberbullying is discussed in the general framework of psychological violence in educational facilities, with physical violence and cyberbullying representing two forms of manifestation of the same prohibited behaviour: bullying.

The main pertaining legal source, the annex of the Law on National Education, defines psychological violence as bullying through physical, verbal, relational, and/or cybernetic actions or series of actions, made intentionally and by using a power imbalance that results in violations to one's dignity or the creation of an atmosphere of intimidation, hostility, degradation, humiliation, and offence, directed against one person or one group of persons, which leads to discrimination and social exclusion that may be linked to adhesion to a certain race, nationality, ethnicity, religion, social category or a vulnerable category, sex or sexual orientation, personal traits, action or series of actions, behaviours,

taking place in educational institutes and all locations destined for education and professional development (Art. 6¹, glossary).

A 2023 survey¹⁸ on the state of play of children's rights in Romania has concluded that almost half of the children have been subjected to some form of physical or psychological violence at school, the percentage of girls having experienced cyberbullying being 12% higher than that of boys.

Even though continued forms of bullying may have serious consequences on the mental health of students and their academic performance, there are no sanctions in the text of the guidelines to the Law on National Education for instances of cyberbullying in educational facilities, as most actions are directed to prevention. However, in cases of confirmed cyberbullying, the multidisciplinary team of the educational facility has attributes in mediation and conciliation. Administrative measures may extend only to resorting to the school statutes or the student charter, with disciplinary measures such as movement from one class to another or expulsion from the school being considered as measures of last resort.

To distinguish between bullying in school and other behaviour common among children, the legal framework requires that the following elements be identified: intent (as bullying is always intentional and meant to offend someone), repetitive nature (aggression is always directed against the same victim), and imbalance (in all cases, the victim is vulnerable and in no position to defend himself in the presence of an imbalance of age, personal traits, socioeconomic position, or gender).

As stated before, measures contained in the statutory instruments by overseeing institutions in the field of education, school environment are aimed to create a compliance framework, with a pronounced character of prevention – it was in this context that the order enabling audiovisual surveillance in schools was approved in 2025 by the Minister of Education and Research.

The object of the order by the Ministry was to establish a clear set of rules that would govern the installation of audiovisual surveillance systems in school spaces, as a means to ensure protection of people, goods, and values, as well as to prevent acts of physical and/or psychological violence (Art. 1).

As for the location of the audiovisual surveillance system that may be installed in school facilities, Art. 4 of the order establishes that such systems may be installed in classrooms, outside the school building, in the hallways, in the festive halls, in the hallways of boarding schools or dormitories, as well as in the sports facilities, excepting locker rooms and lavatories. Schools are required to establish the location and the timeframe where and during which the use of audiovisual surveillance systems is deemed strictly necessary, but as a general recommendation, it is stated that a conventional audiovisual surveillance system

18 Salvați Copiii România, 2023a.

functioning during the night and outside operating hours should be enough to meet the initial goal.

The scope and extent of installing audiovisual surveillance systems in school facilities is governed by the legal framework on data protection and the obligation to use the recorded audiovisual material only when investigating cases of physical or psychological violence that occur on school grounds.

Besides the use of audiovisual surveillance systems in pre-university educational facilities, there are other measures originating from the sphere of self- and co-regulation such as the ‘School Student Code of Conduct’,¹⁹ also originating from 2024. Drafted at the initiative of an NGO (*Save the Children Romania*) and involving an extensive advisory process with over 1,100 students from all Romanian counties, the document introduces key elements for the safety and well-being of pupils at schools: specific rules for combating bullying and cyberbullying.

The Code of Conduct prohibits in Art. 15, para. b the introduction and the distribution within the school of materials that pose a risk to the national independence, sovereignty, unity, and integrity, as well as content promoting antigypsyism, violence, intolerance, or harming the public image of a person. Pupils are also prohibited from distributing within the school (or during school activities) materials featuring electoral, religious proselytism, obscene or pornographic content.

As a means in reducing the risk for occurrences of prohibited behaviour, pupils are required to refrain from using mobile phones or any other type of electronic communication during classes or during activities held outside the school perimeter (Art. 15, para h.). According to the statute, mobile phones and communication devices should be deposited at the beginning of the activities in a safe place used for this purpose, pupils being granted access to them during recess or in specially designated areas (of course, the use of such devices for educational purposes and with the approval of the school staff constitutes an exception).

Though adopted in August 2024 by Decree of the Ministry of Education, the provisions regarding the prohibition of mobile phones or other communicational devices within schools were still widely disregarded throughout the 2024–2025 school year; all the while, misuse of technology and occurrences of prohibited behaviour – and subsequent digital harm – kept rising. The Ministry of Education issued a press declaration at the beginning of 2025, reaffirming the necessity for educational facilities to act upon their statutes and respective codes of conduct.²⁰ Use of mobile phones or other communicational devices was *expressis verbis* mentioned; however, the official recommendation in applying these particular provisions shows a shift from total prohibition to control.

19 Statutul elevului din 1 august 2024 [The Student Statute of 1 August 2024]. *Monitorul Oficial* No. 795 from 12 August 2024.

20 Ministerul Educației, 2025.

3.2. Protecting Children against Digital Harm – Legal Instruments Provided by the New Criminal Code

Cyberbullying is defined under this specific title in the normative framework pertaining to educational facilities, but the phenomenon is also determined in a criminal dimension, translating in the New Criminal Code to several criminal acts against the freedom of the person and engages the penal responsibility of the child. Children aged 14–16 may be held responsible if the act was committed with discernment, while children over 16 years old are held responsible. Manifestations of cyberbullying may be identified under the offences of threat, blackmailing, or online harassment with an added component of online or electronic communication. The Criminal Code identifies the constitutive feature of threat in the ability to instil a state of fear in someone (Art. 206), so threats made as jokes do not qualify as criminal acts.

Another act of cyberbullying may comprise blackmail, which refers to forcing a person to do or not to do or suffer something in exchange for illicit gain for oneself or someone else; the threat to expose a real or fictitious act that is compromising for a person or for a family member is also considered a threat (Art. 207). Blackmail is easily done by use of electronic or digital technology: phone calls, social media platforms, or other online forums.

Harassment is another type of criminal behaviour that covers cyberbullying – according to the legal provisions, it refers to an act of repeatedly following, without lawful ground or without lawful interest, a person or a person's home, place of work, or any other place the person frequents, thus instilling a state of fear (Art. 208). Phone calls or any other communication by electronic means is also considered to be harassment if, by its frequency or content, it instils a state of fear in a person.

Actions inflicting harm on children in digital environments may also be congruent with criminal offences identified as cybercrimes (criminal acts against the safety and integrity of informatic data and systems). Hacking accounts qualifies as unauthorized access to an information system, which can be aggravated if the purpose was to obtain data (Art. 360). Online identity theft is also punishable by law as it assimilates the status of computer fraud (Art. 325) – thus, the act of registering and using an account on social media that is discoverable by the general public using another person's real name and providing real data pertaining to that person (information, pictures, photographs, video) qualifies as a criminal act, as confirmed by pertinent case-law.²¹

21 Decizia nr. 4 din 25 ianuarie 2021 a Înaltei Curți de Casație și Justiție [Decision No. 4 of 25 January 2021 of the High Court of Cassation and Justice]. *Monitorul Oficial*, Part I. No. 171 from 19 February 2021.

Theft of personal data and online images is also covered by the criminal act of violating private life, where taking unauthorized photographs, images, or recordings of a person in his/her private home or recording a private conversation constitutes violation of his private life (Art. 226). The legal provision also incriminates the unauthorized disclosure, distribution, presentation, or transmission of a conversation or images realized in circumstances such as described above to a third person or to the public, as well as the use of technological devices for audio or video recording if it is meant to realize unauthorized recording of another person or unauthorized disclosure or distribution of the material.

Art. 226 was amended in 2023 to incorporate provisions relating to the phenomenon known as ‘revenge porn’, criminalizing the action of disclosing, distributing, presenting, or transmitting in any way the intimate image of a person identified or identifiable by the information provided, without prior consent, in a way that provokes psychological pain to the person concerned or represents a violation of their image. Art. 226, para. 2² states that intimate image may refer to a nude person, wholly or partially exposing genitalia, engaged in sexual activities or in sexual intercourse.

While the acts described above represent instances where all parties may be children (both victims and enablers), there are criminal acts that refer explicitly to adult–children relations. For instance, the phenomenon of grooming corresponds to the factual state of sexually corrupting a child (Art. 221) or that of exploiting the child for sexual purposes (Art. 222). In these cases, the legal provisions establish a clear age limit and set stricter age limits, incriminating acts made by an adult who persuades a child under 13 years of age to engage in sexual acts with him, even if the persuasion was made by means of transmission at a distance.

A 2023 survey by the same organization – as cited in the previous chapter – shows that two out of three images reported in 2022 as illegal or harmful online content have depicted child sexual abuse material (CSAM) or children in sexually charged images, amounting to 68% out of the total of flagged content (8,816 reports). 82% of the victims in CSAM originated from the age range of 11–15 years, while 89% of CSAM was generated by the children themselves.²²

The strictest punishment from the sphere of activities that may inflict digital harm on children is stated in the article referring to child pornography (Art. 374). Production, possession with the aim of exhibition or distribution, acquisition, storage, promotion, distribution, or providing any type of pornographic material featuring children is punishable by law. Stimulating or recruiting a child to participate in pornographic shows or watching pornographic shows with the participation of children is assimilated into the previously described situation.

22 Salvați Copiii România, 2023b.

Other types of activities that may cause harm to children in a digital environment are covered by regulatory regimes under the notion of hate speech or enticement to discrimination (Art. 369).

4. Mutual Assistance and Cooperation of State Authorities and Institutions in Protecting Children's Rights in the Digital World

The protection and promotion of children's rights in Romania is sustained by a network of multiple pillars, comprising the national regulatory authority, central public authorities, local authorities, and specialized bodies with attributes in this field.

The main institutions with responsibilities for protecting children's rights are the National Authority for the Protection of Children's Rights and Adoption (NAPCRA),²³ which is the Romanian central authority within the field of children's rights, completed by a network of central and local public authorities: the general directorates for social services and child protection,²⁴ the councils for the protection of children's rights²⁵ (both operating at the county level), and the Public Social Services Departments²⁶ (operating at the community level).

As the central authority, NAPCRA ensures the application of national legislation within the field of children's rights at the national level and coordinates the activities developed by public or private bodies in the same field.

The authority provides representation of Romania abroad while taking necessary measures to provide the transposition of international legislation into the national legislation. NAPCRA monitors and controls the way children's rights are respected at the national level and provides recommendations to central or local authorities with regard to the measures that should be adopted in this respect.

While NAPCRA acts as the national regulatory authority in the field of protecting and promoting children's rights, there are several other national institutions or central authorities with attributes in the field of children's rights. The Ombudsman's Institution is a national institution for the promotion and protection of human rights, within the meaning established by the United Nations General Assembly Resolution of 20 December 1993, which has adopted the Paris Principles. One of the deputies to the Ombudsman has attributes in the field of sustaining, protecting,

23 Official Romanian title: *Autoritatea Națională pentru Protecția Drepturilor Copilului și Adopție* (ANPDCA).

24 Official Romanian title: *Direcția Generală pentru Asistență Socială și Protecția Copilului* (DGASPC).

25 Official Romanian title: *Comisia pentru protecția drepturilor copilului*.

26 Official Romanian title: *Serviciul public de asistență socială*.

and promoting children's rights and is also called, in this sense, the Children's Ombudsman. It has the mission of defending children's rights until they turn 18 years, as well as enforcing the respect and promotion of children's rights and intervening in the following cases: physical, psychic, and sexual abuse; abduction; bullying; poverty; placement home situations; school and school garden situations; integration of children with disabilities; maintaining the relationships between children and people to whom they are attached; children with parents working abroad; as well as any other situations where children's rights might be endangered (art-s 13–14 of the governing special law).²⁷

The amendments to the Law of National Education in 2020 have invested a network of educational facilities (schools, county boards of education, the county centres for resources and educational assistance, teacher training centres, and the Ministry of Education and Research) with the power to act on bullying and cyberbullying by implementing prevention strategies and swiftly addressing cases of this phenomenon in educational facilities.

The objective of the new methodology²⁸ included in the Law of National Education rests on four pillars, as stated in its Part One – Scope. The first objective is to help create a safe and positive environment in the educational facility, based on respect of people, non-discrimination, motivation to learn, and ensuring the well-being of children in nursery/kindergarten/school.

Its second objective is to offer a working instrument for professionals working with children in nursery/kindergarten/school, families of children, authorities responsible for protecting children against any form of violence, including psychological violence such as bullying, as well as specialized service providers for the rehabilitation of victimized children, witnesses, and/or children with aggressive behaviour.

The third objective is to promote activities to prevent and eliminate any form of bullying and cyberbullying in the pre-university educational system, while the fourth objective is to prevent, identify, signal, and intervene with a multidisciplinary team in cases of psychological violence such as bullying and cyberbullying.

27 Legea nr. 35 din 13 martie 1997 privind organizarea și funcționarea instituției Avocatul Poporului [Law No. 35 of 13 March 1997 on the organization and functioning of the Ombudsman institution]. *Monitorul Oficial*, Part I. No. 844 from 15 September 2004.

28 Ordin MEC nr. 4.343/2020 din 27 mai 2020 privind aprobarea Normelor metodologice de aplicare a prevederilor art. 7 alin. (1^a), art. 56¹ și ale pct. 6¹ din Anexa la Legea educației [Order of the Ministry of Education and Research No. 4,343/2020 of 27 May 2020 approving the Methodological Norms for the application of the provisions of Art. 7, para. (1^a), Art. 56¹ and point 6¹ of the Annex to the Education Law]. *Monitorul Oficial* No. 492 from 10 June 2020.

4.1. Regulatory Authorities in the Field of Audiovisual and Digital Environment – Challenges and Synergies of Cooperation

Prerogatives in the regulation and moderation of audiovisual and online/digital content and the technical compliance and platform oversight are not centralized in one institution in Romania (as is, for instance, the case with Arcom in France – a declared model in shaping the audiovisual regulatory policy of the Romanian lawmaker). Content moderation is the prerogative of the National Audiovisual Council (NAC)²⁹ and protection of children's rights in the digital world forms one of the core missions, while control over service providers and platforms is the responsibility of the National Authority of Management and Regulation in Communications (NAMRC).³⁰

The National Audiovisual Council (NAC) has a dual quality, acting as the warrantor of the public interest in the field of audiovisual communication and the national regulatory authority in the field of audiovisual media programmes, the scope of regulation expressly extending to online media content as the revisions and amendment of the governing special law (the Media Law). As the public warrantor, NAC has the obligation to protect human dignity, the right to one's own image, and children's rights (Art. 2, Para. (e)) and has the authority to issue regulatory decisions containing binding legal norms regarding the protection of children's rights (Art. 17, Para. 1, Pt. d, Subpt. 5).

Following the adoption and the application of the Digital Services Act (DSA) since 2024, another institution has been invested with additional power in the field of protecting children against digital harm: having been assigned as Digital Services Coordinator (DSC) in Romania according to Art. 28 of the DSA, the National Authority of Management and Regulation in Communications (NAMRC) is responsible that providers of online platforms accessible to minors put in place appropriate and proportionate measures to ensure a high level of privacy, safety, and security of minors, on their service. NAMRC also oversees providers of online platforms that they do not present advertisements on their interface based on profiling as defined by Art. 4 pt. 4 of DSA and neither use personal data of the recipient of the service when they are aware with reasonable certainty that the recipient of the service is a minor, in accordance with the GDPR.

In this new capacity as DSC, in October 2024, the NAMRC has granted its first trusted flagger certificate³¹ to *Save the Children* organization,³² a public utility association whose mission is to guarantee equal opportunities for children,

29 Official Romanian title: *Consiliul Național al Audiovizualului* (CNA).

30 Official Romanian title: *Autoritatea Națională pentru Administrare și Reglementare în Comunicații* (ANCOM).

31 Autoritatea Națională pentru Administrare și Reglementare în Comunicații (ANCOM), 2024.

32 Official Romanian title: *Salvați Copiii România* (<https://www.salvaticopiii.ro/>).

having promoted children's rights in Romania since its establishment in 1990, in accordance with the provisions of the United Nations Convention on the Rights of the Child and having included more than 3,800,000 children in their educational, protection, and medical-social assistance over the years.

Considering the data and the information provided to ANCOM by *Save the Children*, corroborated with those available within the public space and viewed by ANCOM, the Authority deems that the organization has demonstrated to a sufficient degree that it fulfils all the conditions for being granted the trusted flagger status, laid down in Article 22, para. 2 of the DSA.

Thus, the trusted flagger certificate granted to *Save the Children* ascertains the status of trusted flagger in the field of competence 'Facts concerning minors', with the following subcategories:

- 'Failure to implement the age-specific restrictions on minors by persons who create pornographic websites (including pornographic content accessible to minors)';
- 'Child pornography or the production, possession, procurement, storage, display, promotion, distribution, as well as provision of child sexual abuse material';
- 'Gaining the trust or luring the minors with the goals of committing sexual abuse'.

Furthermore, the certificate confirms that *Save the Children* has specialized knowledge and specific skills regarding the detection, identification and notification of illegal content in Romanian and in English.

One of the longstanding programmes of *Save the children* is the 'Net class' ('Ora de net')³³ programme, with the esc_AbUZ reporting line developed within – currently the only civil point of contact for reporting the online child abuse materials hosted on servers in Romania. The civic hub for reporting harmful content for children on the Internet (both illegal and legal), esc_ABUZ, processed 19,369 reports in 2024, of which 84% targeted materials generated by children themselves, most of them (99%) depicting female persons. At the same time, the counselling centre responded to 2,260 inquiries, most on media education, online identity, and cyberbullying.³⁴

33 OradeaNet, no date.

34 Salvați Copiii România, 2025.

4.2. Legal Practice Related to Content Rating in Audiovisual and Online Environments

The Media Law governing audiovisual and online media content encompasses provisions on the protection and promotion of children's rights, including a separate chapter with the title 'Protection of Children' (Chapter III^{2*}). Art. 39 introduces a framework for using age-appropriate content rating and labelling of media content to prevent harm to children's development. Legal provisions in place state that audiovisual media content providers under Romanian jurisdiction offering audiovisual media services that may affect the physical, psychic, mental, or moral development of children may only communicate these services to the public in a way that ensures that under normal circumstances, children cannot see or hear them. Measures used in this sense include selecting the hours of broadcasting, age-checking mechanisms, or other technical measures. These measures must be proportionate to the possible negative effects of the programme. The most offensive programmes, such as those with unjustified violence or pornography, fall under the strictest measures.

It is forbidden to process children's personal data that are collected or otherwise generated by audiovisual media service providers for commercial purposes such as direct marketing, profiling, and behaviour marketing. Media service providers must offer the public sufficient information regarding the content that may affect children's physical, mental, or moral development. In this sense, audiovisual mass-media service providers must use a system that describes the potentially harmful nature of the content of an audiovisual mass-media service; such a system may be established by media service providers by coregulation and/or autoregulation, including here codes of conduct of the European Union.

The legal norms in the Regulatory Code on Audiovisual Content reiterate in the Preamble the legal responsibility of the NAC, as the warrant of public interest, to ensure protection of the physical, mental, and moral development of children in audiovisual programmes, including commercial audiovisual communications. In this sense, as the measures for the protection of children must be correlated with the fundamental freedom of expression as established in the Charter of Fundamental Rights of the European Union, these measures enable the use of parental control or a programme labelling system and the prohibition on distributing pornographic content.

The Regulatory Code on Audiovisual Content establishes different regimes for managing children's right to privacy in audiovisual media content: children younger than 14 years, children aged between 14 and 16 years, and children between 16 and 18 years. These age distinctions derive their legal basis from the principle of capacity to act as described in the New Civil Code.

Chapter I (Respecting Children's Rights in Audiovisual Programmes) of Title II (Protection of Children) comprises specific measures relating to the obligations of media service providers relevant to the participation of children in media programmes.

Article 4 details the legal norms governing the representation and participation of children of 14 years or younger in media programmes, forbidding the broadcast of any indication that might lead to the identification of a child up to 14 years old if they are the victim of sexual abuse, if they are accused of committing a crime, or if they have been witnesses to crimes. If the child up to 14 years old is the victim of crimes other than the ones listed above or has been subjected to physical or mental abuse, broadcasting of images of the child or its declarations is only possible after receiving the child's, parent's, legal representative's, or any other carer's consent. In situations where the child up to 14 years has been subjected by their parents or legal representatives to physical or mental abuse, broadcasting images or declarations is possible only with the child's consent, the other parent's consent (who is not the presumed author of the abuse), or the consent of an authority responsible for the child.

Media service providers are prohibited from using reenactments of crime, abuse, or dramatic elements using children. Moreover, children up to 14 years old may not give interviews or declarations pertaining to dramatic events they witness in their community or their family (Art. 5).

The legal provisions of the Regulatory Code on Audiovisual Content distinguish between three age groups, setting different types of criteria for children under 14 years old, children aged between 14 and 16, and those between 16 and 18.

In the case of children aged between 14 and 16 who are accused of committing a crime or who are the victim of a crime or have been physically, psychologically, or sexually abused, their inclusion in news programmes, debate shows, or audiovisual reportages can be made only by fulfilling all the following conditions: the written consent of the child; the written consent of the parents or the legal representative; assistance during the transmission or the recording by a parent or the legal representative, or by a lawyer in case of criminal investigation or arrest; and elimination of all elements that may lead to the identification of the child (Art. 6).

In the case of children over 16 who are accused of committing a crime, their participation in audiovisual programmes requires explicit consent, written or recorded, as well as assistance by a lawyer if they are under criminal investigation, held in custody, or arrested. In the case of children over 16 who are either victims or witnesses to a crime or have been physically, psychologically, or sexually abused, the following steps are required: an explicit consent, written or recorded, as well as the elimination of all elements that may lead to the identification of the child, if requested by them, their parents, or their legal representative (Art. 6).

Generally, the participation of children in audiovisual media programmes is conditioned by obtaining consent beforehand; participation of children under 14 years is discouraged, except for cultural events and sports competitions.

Chapter II of the title on protection of children is dedicated to content rating of audiovisual media programmes to protect children. The general rule is to restrict access to audiovisual media programmes that may affect the physical, mental, or moral development of children either by conditioning access to the programme or by broadcasting it only in the allotted timeframe based on its content classification (Art. 12).

Studio programmes or live shows featuring smoking and alcohol consumption, as well as vulgar, trivial, or obscene behaviour, are prohibited from broadcasting in the timeframe between 6:00 and 20:00. It is also prohibited to illustrate information with pornographic images; moreover, the following types of productions are prohibited from broadcasting in the timeframe between 6:00 and 23:00: productions showing physical, psychological, or verbal violence in a reiterative manner or with a high level of intensity or gravity; productions showing scenes of sex, trivial, vulgar, or obscene language or behaviour; people in demeaning postures, even with consent; and wrestling not regulated by national or international sports associations (Art. 18).

The scope of the classification of audiovisual programmes is the protection of the child and providing information to the public regarding the content of the programme. Content rating is conducted according to several criteria: frequency, nature, and techniques of violent scenes, especially if children are featured in them; sexual content; characters represented; and their typology and relation to violence (Art. 19 through Art. 28).

The content rating of programmes follows a more nuanced age-limit structure than the one presented in the chapter relating to the participation of the child in audiovisual media programmes, as it establishes six categories of content rating systems: programmes suitable for all ages (no restrictions or warning signs); programmes where parental guidance is recommended for children up to 12 years old (AP label); programmes forbidden for children under 12 (labelled 'Programme 12', broadcast after 20:00); programmes forbidden for children under 15 (labelled 'Programme 15', broadcast after 22:00/23:00); programmes forbidden for children, other than pornographic programmes, such as horror movies, erotic movies, extreme violence, programmes sponsored by alcohol producers (labelled 'Programme 18', broadcast only between 1 and 6 o'clock); pornographic programmes (labelled 'Programme 18+', broadcast only between 1 and 5 o'clock under certain conditions).

News programmes are also subject to certain criteria regarding protection of children and must use different means to mitigate potential risk to children, such as verbal and written warnings before scenes containing graphic descriptions

or upsetting content, or delaying techniques when broadcasting live other than news and sports transmissions (Art. 29).

Following a revision process lasting more than 3 years, the revised Code of Audiovisual Content has entered into effect in June 2025. In its revised form, the Code expresses the engagement of the NAC to protect vulnerable categories and to ensure a fair and predictable regulatory framework for all media service providers, irrespective of their traditional or digital *modus operandi*.

Novelties adopted in the new Code bring structural changes designed to protect children, to enhance pluralism, to counter disinformation, and to regulate online content in a similar way to methods applied for traditional television and radio.

The revised text consolidates the protection of minors, introducing stricter prohibition on broadcasting images or declarations by children in sensitive context, clear criteria for the participation of children in media programmes, as well as the obligation to restrict content potentially harmful for children, here including also online content.

Most important concrete changes in the field of children's rights are the prohibition of featuring public people in gambling ads, in order to mitigate the symbolic pressure on children and vulnerable people, the broadcasting of educational and social messages within publicity blocks to encourage informed and responsible behaviour (such as preventing violence).³⁵ 12 themes for public awareness campaigns have been incorporated in the revised Code, a number of them destined for children or young people. For instance, one of the ads should protect children's and adolescents' health by putting emphasis on respecting the law: 'Selling alcohol, cigarettes and energy drinks to children is prohibited by law!' Other examples of social awareness themes focusing on young people to be explored in campaigns are 'Drugs and gambling lead to dependency. Choose not to waste your life, ask for help!' (double focus: prevention and support, targeting young people, as well as their families), or 'You can follow, like, or share a book too. Get online: read!' (a creative message connecting reading with digital literacy).

Protection of children is also consolidated by stricter prohibition on broadcasting images or declaration of children in sensitive context, clear sets of criteria for their participation in media programmes, as well as the obligation to restrict access to content potentially harmful for children, including here online environment too.

Labelling and signalling sensitive content are also enforced by the obligation to signal sensitive content by using messages like: 'Attention! This material may affect the development of children.'; 'The information presented in this programme has no scientific basis.' 'This programme is fictional (for reality shows with scripted elements).'

35 Consiliul Național al Audiovizualului (CNA), no date.

4.3. Legal Practice Related to Processing of Children's Personal Data and the Right to be Forgotten

Children become data subjects when their personal data are being processed, and processing a child's personal data requires additional protection, as children are less aware of the risks and consequences of sharing data and their rights. As indicated previously, children represent a vulnerable category of data subjects, so management of their personal data presents multiple questions.

One of these questions is the problem of age: the New Civil Code confers partial capacity to act to children who have turned 14, while the regulatory framework on data protection in Romania³⁶ states the necessity of obtaining consent from a parent or legal guardian to enable companies to process personal data for children under 16 years old.

This raises the question of whether a child who has turned 14 may already exercise their right regarding processing their personal data and the right to be forgotten, taking into consideration also the fact that the European General Data Protection Regulation (GDPR) allows countries to provide lower ages of consent (although not below 13 years).

The Civil Code grants the child partial capacity to act, the right to independently conduct acts of maintenance and management that do not cause any prejudice to him, as well as acts like accepting an inheritance, liberalities free of encumbrances, and acts of disposition for current, small-value operations payable by the time of the transaction.

This would entail the possibility that the child who has turned 14 could already decide independently upon the processing of his personal data and right to be forgotten.

As a rule, the Romanian data protection legal framework incorporates Art. 8(1) of the GDPR and requires data controllers to make reasonable efforts to verify that the person exercising the parental authority has given consent on behalf of the child: 'In relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the

36 Legea nr. 190 din 18 iulie 2018 privind măsuri de punere în aplicare a Regulamentului (UE) 2016/679 al Parlamentului European și al Consiliului din 27 aprilie 2016 privind protecția persoanelor fizice în ceea ce privește prelucrarea datelor cu caracter personal și privind libera circulație a acestor date și de abrogare a Directivei 95/46/CE (Regulamentul general privind protecția datelor) [Law No. 190 of 18 July 2018 on measures for the implementation of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation)]. *Monitorul Oficial*, Part I. No. 651 from 26 July 2018.

holder of parental responsibility over the child'. However, the national regulatory authority did not specify and has not issued any guidance over how the age of children should be ascertained.

This ambivalence in the age of the child data subject – and, implicitly, the lawfulness of data processing – becomes more visible in the relationship between children and educational facilities, as schools collect and store a great variety of children's personal data, where some of the data must be shared with third parties inside or outside the educational system.

The issue of processing personal data of children within educational facilities has gained another layer with the adoption of the document referring to the use of audiovisual surveillance systems in schools. The national regulatory authority in the field of data protection (ANSPDCP)³⁷ has conducted in 2024 multiple inspections in public institutions, including educational facilities. The yearly report for 2024 details one case where biometric personal data of children were jeopardized because of two surveillance systems, installed to permit access based on facial recognition.³⁸ The authority established that use of such systems could be in breach of principles formulated in Art. 5, para a. and para c. GDPR ('lawfulness, fairness and transparency' and 'data minimisation') and risking to harm the right to privacy and the protection of personal data of both school students and staff.

Romanian legal scholarship remains also concerned with the processing of children's personal data following the use of electronic monitoring and surveillance systems, stressing that such systems should be used primarily to benefit the security, health, and wellbeing of children and data subjects, and only second to that comes the protection of valuables. Given that priority is given to the child's superior interest, there are opinions that the special Law 272/2004 on the protection and promotion of children's rights should be amended and completed with provisions stipulating that authorities may opt for installing video surveillance systems as a means for ensuring the protection of children's physical and psychological development, keeping the balance between criteria of safety and security on the one hand and the right to privacy on the other hand, all the while respecting the principle of the child's superior interest.³⁹

37 Official Romanian title: *Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal* (ANSPDCP).

38 *Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal* (ANSPDCP), no date, pp. 61–62.

39 Ploșteanu, 2023, pp. 91–99.

5. Conclusions

The current state of play referring to children accessing digital services entices new opportunities to use global resources of knowledge and connection, but there are also risks attached. The chapter dedicated to the safety of children in digital environments in the Romanian National Strategy for protecting and promoting children's rights 2022–2027⁴⁰ offers a list of risks, comprising exposure to content not suited to their age or to inadequate contact-inclusive abusers, forms of violence, loss of privacy due to the publishing of sensitive personal data (in public or through interpersonal communication networks), loss of control over online identity, loss of confidentiality and disclosure of information on location, or abuse with personal data resulting in negative psychological consequences. In accordance with the EU Strategy on the Rights of the Child,⁴¹ the national strategy of Romania suggests that responsibilities in ensuring a safe digital environment for children should be assumed by companies providing these services, parents and adults who have responsibilities for children's care, teaching staff, and state institutions that establish the regulatory framework and conditions for the functioning of digital services.

Children's rights, such as the right to education, to information, to free expression of opinions, to confidentiality, to play, to rest, to leisure, and to protection against all forms of exploitation, are just as relevant in the virtual environment. However, methods of guaranteeing these rights in a digital environment need to be adapted to the specifics thereof.

Studies indicate that the number of children in Romania who engage in different online activities is high, but they are very poorly or not at all protected against risks, thus resulting in negative experiences. The number of children to have a negative experience in online environments is also high. Studies have also demonstrated that only one out of five children are subjected to parental control over audiovisual media content or restriction to use the camera; the number of children restricted from accessing social media websites may be even lower.⁴²

Amending and updating the regulatory framework on the protection and promotion of children's rights and creating a substantial corpus of documents ranging from reports, surveys, studies, strategy and policy papers, agenda to case-law and institutional practice and information material to sustain the decision-making process have been in the forefront of policy makers in this field.⁴³

40 Guvernul României, 2023, p. 50.

41 European Commission, 2021.

42 Guvernul României, 2023, p. 51.

43 For instance, a bill on protecting minors under 18 years before harmful content available at very large online platforms (vlops) is in the process of evaluation before the Senate (L183/2025 Propunere legislativă privind protecția minorilor sub 18 ani în fața conținutului nociv distribuit pe platformele online de tip very large online platforms (vlop) [Legislative Proposal L183/2025

At present, general objectives in this field envision access for children to digital public services in safe conditions while also establishing specific objectives in this field, such as increasing the adult population's capacities to contribute to the safe use of virtual environments by children.

References

- Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal (ANSPDCP) (no date) Document nr. 2940. Available at: <https://www.dataprotection.ro/servlet/ViewDocument?id=2940> (Accessed: 15 July 2025).
- Autoritatea Națională pentru Administrare și Reglementare în Comunicații (ANCOM) (2024) *ANCOM a acordat primul certificat de notificador de încredere organizației Salvați Copiii*. Available at: https://www.ancom.ro/en/ancom-a-acordat-primul-certificat-de-notificador-de-incredere-organizatiei-salvati-copiii_7310 (Accessed: 15 July 2025).
- Autoritatea Națională pentru Protecția Drepturilor Copilului și Adopție (ANPDCA) (no date) *Legislație națională*. Available at: <https://copii.gov.ro/1/legislatie-nationala/> (Accessed: 15 July 2025).
- Bodoașcă, T. (2018). 'Observații critice în legătură cu egalitatea în fața legii a copiilor din afara căsătoriei cu copiii din căsătorie.' *Studii de dreptul familiei*, pp. 362–363.
- Consiliul Național al Audiovizualului (CNA) (no date) *Comunicat de presă referitor la Noul Cod de reglementare a conținutului audiovizual*. Available at: <https://www.cna.ro/Comunicat-de-pres-ref-Noul-Cod-de.html> (Accessed: 15 July 2025).
- Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities PE/33/2018/REV/1. OJ L 303, 28.11.2018, pp. 69–92.
- European Commission (2021) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Empty*. COM(2021) 142 final, Brussels, 24 March 2021.
- European Commission (2025) *Annex to the Communication to the Commission: Approval of the content of a draft Communication from the Commission –*

on the protection of minors under 18 against harmful content distributed on very large online platform (VLOP) type online platforms]). The legislative procedure is still ongoing, with the Government report on the bill submitted on 13 November 2025.

- Guidelines on measures to ensure a high level of privacy, safety and security for minors online, pursuant to Article 28(4) of Regulation (EU) 2022/2065*, C(2025) 4764 final, Brussels, 14 July.
- Guvernul României (2023) ‘Strategia națională pentru protecția și promovarea drepturilor copilului ‘Copii protejați, România sigură’ 2023–2027’, *Monitorul Oficial al României*, Partea I, nr. 942 bis, 18 October 2023.
- Ministerul Educației (2025) *Comunicat de presă: regim riguros privind utilizarea telefoanelor mobile în școli*. Available at: https://edu.ro/comunicat_presa_07_2025_regim_riguros_utilizare_telefoane_scoli (Accessed: 15 July 2025).
- OradeaNet (no date) *Linia de raportare*. Available at: <https://oradenet.ro/linia-de-raportare> (Accessed: 15 July 2025).
- Ploșteanu, M. (2023). ‘Consecințe ale principiului interesului superior al copilului asupra monitorizării și supravegherii cu mijloace electronice ale acestora.’ *Revista Română de Dreptul Afacerilor* 6, pp. 91–99.
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, pp. 1–88.
- Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a single market for digital services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA relevance). PE/30/2022/REV/1. OJ L 277, 27.10.2022, pp. 1–102.
- Salvați Copiii România (2023a) *Sondaj: Doi din cinci copii sunt victime ale cyberbullying-ului*. Available at: <https://www.salvaticopiii.ro/sites/ro/files/2023-11/sondaj-doi-din-cinci-copii-sunt-victime-ale-cyberbullying.pdf> (Accessed: 15 July 2025).
- Salvați Copiii România (2023b) *Două din trei imagini raportate în 2022 ilustrează imagini cu abuz sexual asupra copiilor*. Available at: <https://www.salvaticopiii.ro/sites/ro/files/2023-11/doua-din-trei-imagini-raportate-in-2022-ilustreaza-imagini-cu-abuz-sexual-asupra-copiilor.pdf> (Accessed: 15 July 2025).
- Salvați Copiii România (2025) *Annual Report 2024*. Available at: https://www.salvaticopiii.ro/sites/ro/files/2025-05/raport_anual_2024_-_engleza-online.pdf (Accessed: 15 July 2025).
- UNICEF (2025). *UNICEF Romania – Romania Annual Report 2024*. New York: UNICEF [Online]. Available at: <https://open.unicef.org/download-pdf?country-name=Romania&year=2024> (Accessed: 15 March 2025).