



INFLUENCER OR VICTIM? LEGAL ASPECTS OF USING THE CHILD'S IMAGE ON SOCIAL MEDIA BY FAMILY MEMBERS FOR PROFIT

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Abstract

In a world where every click can be turned into profit, children are becoming the protagonists of a digital transformation that is fundamentally changing the definition of work and the relationship between childhood and technology. This has created a new landscape where the lack of legal protection regarding children's rights in relation to income and labor conditions exposes them to exploitation. The creation and distribution of content by parents featuring their children on platforms such as YouTube, Instagram, and TikTok raises concerns about whether children are being exploited for profit without their consent or understanding. In addition to being involved in content to generate income, children are also exposed to the creation of a permanent digital footprint, which can negatively impact their privacy and rights. This article aims to provide an in-depth analysis of the legal gaps in the field of children's rights and labor, including specific cases from practice, and highlighting the risks that are not covered by existing legal frameworks. In particular, the article examines how international legislation addresses the issue of child exploitation by their family members for financial gain. The article concludes with recommendations emphasizing the need for regulation to protect children's rights. Due to the nature of this phenomenon, research in this field is still limited, and this article seeks to fill these research gaps.

Keywords: *influencer, children, exploitation, social media, legal frameworks*

Introduction

Nowadays, children are growing up surrounded by technological developments, putting parents in front of new challenges related to their children's well-being and safety. Although parents bear the responsibility and obligation to protect children in the digital environment, in practice, there is a growing trend where "family influencers" create content that includes children or directly engage them on various social media platforms. The main goal is often financial gain, through the distribution of content to provide significant income. This phenomenon is known as "sharenting", while the children involved in this practice are referred to as "kidfluencers".

Sharenting, a portmanteau of the words "sharing" and "parenting," refers to the practice of parents, guardians, or relatives regularly posting images or personal information about their children on social media platforms. This can include photos, videos, personal stories, updates on the child's daily life, and even the inadvertent disclosure of sensitive information, often without their consent. (Keskin et al., 2023).

On the other hand, the term “kidfluencer” refers to children who have posted online on various social media platforms, attracting a large number of viewers and followers, often earning money through sponsored content (Masterson, 2020).

Although parents may not intend to put their children at risk, the desire for financial gain and fame that comes from exposing children on social media can lead to a violation of the principle of the best interests of the child. When a child repeatedly appears in content curated for the public, being treated as a marketing product rather than a subject with rights, it naturally raises the question: Are we witnessing responsible parenting, or a new form of children’s economic exploitation of?

Children face various risks such as privacy violations, financial exploitation, forced labor, identity theft, and sexual exploitation. The long-term consequences can also negatively affect future personal and professional relationships. Another serious issue related to “sharenting” is the phenomenon called “digital kidnapping” where strangers “steal” photos of babies and repost them online as if the child were their own (Ferrara et al., 2024). Furthermore, through AI technologies, these photos can also be used to create sexual content. Barclays Bank estimates that by 2030, 7.4 million identity theft incidents per year could be linked to the excessive sharing of children’s photos and information on social media (Coughlan, 2018). The problem is that parents create an online identity for their child that is accessible by anyone without the child’s consent.

This article addresses the legal aspects of the phenomenon of “sharenting” by analyzing international legislation that includes relevant documents of the UN, the EU, and the Council of Europe. Subsequently, it examines the legal practices in countries such as France and the United States. The central part of the analysis focuses on the case of Albania, assessing the current legislation, legal gaps, and the need for specific regulatory interventions. Finally, the article presents conclusions and concrete recommendations for improving the protection of children as influencers in Albania.

1. Legal Aspects of Sharenting: Analysis of International Legislation

The concept of child labor has evolved significantly in recent years with technological developments, reflecting significant changes in social norms, economic conditions and the international legal framework. In earlier periods, forced child labor was any involuntary labor relationship that was carried out due to the economic needs of the family, where children were forced to help the family to survive or because of violence exercised against them.

However, the concepts of forced labor and economic exploitation of children have changed, moving into another sphere – the digital world. Therefore, economic exploitation must be analyzed in a broader concept than the traditional understanding of child labor. Child influencers generate a large source of income, becoming a profitable tool for parents. Forced child labor on social media is often organized or encouraged by the parents themselves by taking photos or videos according to a scenario, and the children must dress or act accordingly.

This phenomenon has two perspectives: should child labor be considered exploitation or entertainment? In such situations, the child performs regular work activities, with economic income, often without working hours, holidays or direct payment. To classify an activity as forced labor according to international standards, several elements must be met, such as: i) the child’s lack of will; ii) economic benefit for others (usually parents or guardians); and iii) impact on the child’s psychological and physical well-being. In this perspective, “sharenting” may constitute a modern form of forced child labor.

Despite this, the international legal framework regarding the economic exploitation of children on social media is still developing, but there are several international instruments that, although they do not directly mention this phenomenon, provide legal protection for children’s rights.

The Convention on the Rights of the Child, adopted by the United Nations in 1989, which constitutes the fundamental document for international children's rights, provides in its Article 3 the principle that in all actions concerning children, the best interests of the child shall be a primary consideration. This is further supported by Article 12, which guarantees the child the right to express his or her views freely, and Article 13, which recognises the child's freedom of expression. The Convention also addresses the right to privacy in Article 16, which provides that: "1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor unlawful attacks on his or her honour and reputation.". This article indirectly addresses the context of technology and social media, where family members often, without the consent of children, publicly share content that violates their right to privacy.

Furthermore, the Convention also safeguards in Article 32: "the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or is harmful to the child's health or physical, mental, spiritual, moral or social development." Although Article 32 envisages with the protection of children against hazardous work and influencer work is not "hazardous" because of the lack of immediate danger, Article 32 does require that any work, including influencer's work, does not interfere with the child's education and well-being. This means that these activities can be time-consuming and can have a physical and emotional impact, preventing children from having access to education and entertainment (Van Der Hof et al., 2020)

In UN General Comment No. 25, privacy is seen as vital to the dignity and security of children in the exercise of their rights. According to this Comment, the distribution of photos by parents can pose a threat to children.

From the perspective of the European Union, the General Data Protection Regulation (GDPR), which entered into force in 2018, provides for data security and sets privacy standards. Article 8 of the GDPR stipulates that the processing of a child's personal data is permissible when the child is at least 16 years old. In cases where the child is under the age of 16 (or lower depending on the Member State), such processing of the child's data shall be lawful only with the consent of the parents. However, this does not exclude the obligation that when the data processing is carried out with the consent of the parents, the fundamental rights and freedoms of the child are violated. Article 5 also defines the principle of data minimization, clearly stating that the processing of personal data must be proportionate to the legitimate purpose of the data processing.

The Digital Services Act (DSA), in Article 28, provides for the online protection of children, stipulating that online platform providers must put in place appropriate and proportionate measures to ensure the privacy, safety and protection of minors on their services. Online platforms must also comply with Article 5 of the GDPR. Furthermore, they must take measures to protect children from content that may impair their physical, mental or moral development.

Another concerning issue is the acquisition and use of children's photos and videos on social media by third parties without permission, for malicious purposes such as the creation of manipulated or deceptive content, including "deepfakes". In this context, the Artificial Intelligence Act defines deepfakes in its Article 3: "AI-generated or manipulated image, audio or video content that resembles existing persons, objects, places, entities or events and would falsely appear to a person to be authentic or truthful". Article 50, paragraph 4 of the Act further stipulates that "Deployers of an AI system that generates or manipulates image, audio or video content constituting a deep fake, shall disclose that the content has been artificially generated or manipulated.".

The Council of Europe, through the European Convention on Human Rights, guarantees in Article 8 the right to respect for private and family life. The European Court of Human Rights has interpreted this article broadly; the concept of "private life", the Court has stated, "extends to aspects relating to personal identity, such as a person's name, photo, physical or moral integrity".

Furthermore, in cases where the publication of photos and videos takes the form of work carried out for economic gain, in this case, Convention No. 138 of the International Labor Organization (ILO), on

the Minimum Age for Employment, may apply, which stipulates that any Member State ratifying this Convention shall, at the time of ratification, deposit a declaration on the minimum age for admission to employment. Article 3 of this Convention states that: “The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.”

In addition, ILO Convention No. 182, which aims to eliminate the worst forms of child labor, also includes their economic exploitation in activities that harm the physical or psychological development or that interfere with their education.

2. Legal Practice in France and the USA regarding Sharenting

In some countries, specific laws have begun to be approved in order to protect children who work as influencers on social media, to safeguard them from economic exploitation. In 2020, France passed a new law on the commercial use of images of children under the age of 16 on online platforms, as the work of child influencers was unregulated and could easily be exploited by their parents.

Under this law, child influencers are protected similarly to child models or actors. This law requires that the child’s parents seek prior government authorization before the child engages in online activities that constitute an employment relationship. Both parents will be responsible for their children’s image rights and will involve the child according to his/her age and degree of maturity. In the event of a disagreement between parents, a judge can prohibit one of them from posting or sharing the child’s photos without the other’s authorization. In the most extreme cases, parents can lose parental responsibility over their children’s image rights if the dissemination of the image by both of their parents seriously affects the child’s dignity or moral integrity (Kayali, 2023).

Additionally, several U.S. states, including California, Illinois, Minnesota, and most recently Utah, have enacted protective measures for children appearing on social media. On September 26, 2024, the governor of California signed legislation requiring parents and guardians to deposit at least 15% of a minor’s earnings into a trust account for when they turn 18. The Illinois law, which went into effect in July 2024, mandates that children aged 16 and under be compensated if, within a 30-day period, they appear on at least 30% of a video or online content for which an adult, whether a parent or guardian, is paid. The person making the videos in which the child appears is responsible for depositing the gross earnings into a “trust” account for the child to receive when they turn 18. Minnesota law, which goes into effect on July 1, 2025, also requires that minors be compensated for online content, and more specifically mandates that children under the age of 14 receive 100% of the proceeds (Kindelan, 2025).

For the purpose of this article’s analysis, I reviewed the new Netflix documentary “Bad Influence: The Dark Side of Kidfluencing,” which is an investigative documentary about Piper Rockelle, an American girl who started as an influencer at the age of 8, whose videos were made by her mother and her mother’s boyfriend, Hunter Hill. Piper, along with a group of friends known as “The Squad”, made posts for their personal media channels. Several members of the Squad moved in with Piper and her mother, Tiffany, in 2018 to increase their content output. Some parents of the Squad members took issue with the way Tiffany taught their children how to behave, both on and off camera, and her tendency to retaliate against those who questioned her judgment. In January 2022, 11 of the children filed a lawsuit complaining of exploitation and being frequently “subject to an emotionally, physically, and sometimes sexually abusive environment perpetrated by Piper’s mom” (Fequiere, 2025).

Tiffany Smith’s case clearly demonstrates that in the absence of a well-defined legal framework, child influencers can be exposed to a number of risks. It is therefore important that laws like those in France and some US states to be adopted by other countries, in order to ensure the protection of children’s rights and freedoms in this fragile terrain.

3. The Case of Albania: Analysis of Current Legislation and Legal Gaps Regarding the Protection of Children as Influencers

In Albania, the protection of children in the digital space is still an ever-growing challenge that requires legal intervention to prevent risks and safeguard children on social media platforms. A specific case from practice can be mentioned about the denunciation of N.R., 67 years old, and her son A.K., 44 years old, after both posted a video on TikTok showing a minor boy, 10 years old, using derogatory and vulgar words. The minor, A.K.'s son, was being exploited by his father and grandmother for monetary gain. The Berat Court sentenced grandmother N.R. to 2 years and 3 months in prison and the father of the minor A.K. to 3 years and 6 months. Additionally, the prosecution requested to revoke A.K.'s parental rights over his son.

Law No. 18/2017 "On the Rights and Protection of the Child", in its Article 6, provides for ensuring the best interest of the child. In the context of this article, parents who publish information or photos of their children on social media may violate the best interest of the child by exposing them to various risks such as cyberbullying, exploitation and misuse of personal data, harming the well-being and dignity of the child. Furthermore, the child's needs for physical and psychological development, education, safety and sustainability may be violated.

Article 17 of this Law guarantees the freedom to private life, by explicitly defining in paragraph 5 that: "Children may not be used or exposed by a parent, guardian, public or private institutions for the purpose of personal gain or to influence the decisions of public authorities." Failure to comply with this prohibition constitutes an administrative offense and is punishable by a fine, according to Article 69 of this law. Notably, Article 24 of this law provides that "The child is protected from economic exploitation, as well as from performing any forced labor within his family [...] or in cultural, artistic, sports, modeling activities or for advertising purposes, which poses a risk, impairs education, harms his health or physical, mental, spiritual, moral or social development." Although indirectly, this article also provides a protective framework to ensure that children are not exploited online for economic gain.

The Constitution of the Republic of Albania specifically guarantees the rights of children as part of fundamental human rights. Article 22 of the Constitution guarantees freedom of expression, while Article 35 ensures privacy and the protection of personal data. Another important legal act is Law No. 124/2024 "On the Protection of Personal Data", aligned with GDPR, which provides in Article 8(6) that: "The consent-based processing of the minors' personal data, within the online delivery of goods or services, is legitimate only if the minor is at least 16 years old. When the minor is under the age of 16, the processing is lawful only when consent is given or authorized by his parents or legal custodian, and only within what is granted or authorized by them."

Parental responsibility under the Family Code includes the entirety of rights and obligations aimed at ensuring the emotional, social and material well-being of the child, by taking care of them, maintaining personal relations, providing nurture, discipline, education, legal representation and administration of their wealth. This means that anyone who assesses a situation or makes a certain decision regarding the child must see not only the material well-being of the child (which is generally more easily measured) but also the moral well-being (social, emotional, the verification of which requires greater commitment and time). Despite their autonomy, in the concept of private law, there is a strong public interest and care (Article 53(2) and 54(1) of the Constitution). Without violating the character or private nature of parent-child relationships, the rule of law must protect this sphere of relationships through legislation from "exploitation" in the name of the "privacy" of family life (Mandro, 2009).

Article 216 of the Family Code states that: "A child is under parental responsibility until they reach the age of majority." However, parents may lose parental responsibility in the cases provided for in Article 223 of the Family Code. Parental responsibility must, in any case, be exercised jointly by both parents. If the parents do not agree on what is in the best interest of the child, they can appeal to the court, which shall decide after trying to resolve the matter amicably. In cases where the parents are deceased or unknown, have been declared missing, have been deprived of parental responsibility or have been deprived

of the capacity to act, the children may be placed in guardianship. Furthermore, the Family Code provides that the guardian must deposit the money that is owned by the minor in a bank designated by the court.

The minimum age for child labor is provided for in Article 98 of the Labor Code. Although child influencer work is not specifically defined in the Labor Code, I believe that it finds a place in its legal definitions as a modern job: “The special provisions of the Labor Code, that are enforced for the employees under the age of 18 years, shall be enforced for as much as possible, to any legal relationship of the employee who wants employment or a job in any type of profession.”

Child influencer work, as long as it does not harm the child’s safety, health or development, can be considered light work within the meaning of Article 99 of the Labor Code. The age limit for light work under the Labor Code is for children between the ages of 16 and 18. On the other hand, if the children’s content is for advertising purposes on social media, Article 102 of the Labor Code applies to children under the age of 15.

The Criminal Code of the Republic of Albania, in Article 124/b “Maltreatment of minors”, includes specific subjects that may be family members or the person who is obligated to take care of them. The second paragraph of the same article states that: “Coercion, exploitation, encouragement, or use of a minor to work, to obtain income, to beg, or to perform actions that damage his/her mental and/or physical development, or education, shall be punishable by two to five years of imprisonment.”

For the safety of children, the new Regulation of the State Police in Article 26 stipulates that: “The Police Officer, who identifies a child in need of protection, has the obligation to immediately notify the relevant police structure, as well as the child protection unit, according to the administrative units, for carrying out verifications and referring the case for the protection of the minor.” Police officers are obliged to identify children in need of protection who are economically exploited.

The Commissioner for the Right to Information and Personal Data Protection (IDP) has issued a guideline for the publication of children’s photos on the Internet for parents and educators. Additionally, the National Cyber Security Authority (NCSA) has published a guideline for parents and guardians for the protection of children online, which defines the new risks and challenges as well as the role that parents and guardians play.

Conclusions and Recommendations

In conclusion, it can be said that the existing laws and measures in the Republic of Albania make an effective contribution to addressing the issues related to the distribution of information, photos and videos by parents or legal guardians of children for economic gain. However, there are still gaps related to their legal clarity, applicability and ability to address the risks of this growing phenomenon.

The definition of child labor will need to be re-evaluated in line with technological developments and the reality of the digital age. It is also necessary to clearly define what will be considered child labor when acting as influencers, including very young children and not just those aged 15 to 16. Policymakers will need to adopt specific laws that address issues such as parental consent, working hours, financial protection, and safeguards against exploitation and abuse.

Responsible institutions such as the State Agency for the Protection of Children’s Rights and child protection units, the Commissioner for the Right to Information and Personal Data Protection, the National Cyber Security Authority and the State Police must adopt updated regulations and guidelines for the publication of photos and videos of children on social media by family members and guardians. In addition to regulatory measures, efforts should be made to educate and raise awareness among parents and guardians about the risks and problems of this phenomenon. This comprehensive approach is necessary to guarantee the well-being and safety of children, which can only be achieved through legal measures, their effective implementation, digital education and inter-institutional cooperation.

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