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Good practice in children's privacy protection in Lithuania and Italy

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1. Good practice

1.1. Good practice in Lithuania

1.1.1. Legislative environment

The right to privacy¹ is recognised by many international instruments, which were ratified or signed by Lithuania, declared in the Constitution of the Republic of Lithuania and implemented by concrete provisions of several national laws. In terms of informational privacy (privacy of personal data) the most important national legal act is the Law on Legal Protection of Personal data, which sets forth the basic personal data protection standards and guarantees the rights of data subjects.

European Convention for Protection of Human Rights and Fundamental Freedoms

Article 8 of the European Convention for Protection of Human Rights and Fundamental Freedoms², which was ratified by the Republic of Lithuania in 1995, establishes everyone's right to his private and family life, his home and his correspondence. The second part of the article sets forth the exceptional conditions under which public authorities might interfere with the exercise of this fundamental human right.

Charter of fundamental rights of the European Union

Article 9 of the Charter of Fundamental Rights of the European Union, which from 2 of December 2009 became a legally binding document for all the EU member states, including Lithuania recognises everyone's right to the protection of personal data concerning him or her. Part 2 of the same article establishes the following conditions for the processing of the personal data:

- data should be processed fairly for specified purposes
- data should be processed on the basis of the consent of the person concerned or some other legitimate basis laid down by law
- everyone has the right of access to data which has been collected concerning him or her
- everyone has the right to have the data concerning him or her rectified.

Article 16 of the Treaty on the functioning of the European Union repeats the provision of EU Charter of fundamental rights by stating "Everyone has the right to the protection of personal data concerning them."

Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data adopted by the Council of Europe on 28 of January 1981 was ratified by the Republic of Lithuania in 2001. The Convention is the only binding international legal instrument with a worldwide application in personal data protection field, open to any country, including non-members of the Council of Europe. The Convention aims to secure respect for individual right to privacy, when personal data is processed by automatic means in its signatory countries and regulate trans-frontier flows of personal data. Convention consists of three main parts which cover basic principles for

¹ Privacy here is intended in all four aspects: bodily, communication, territorial, informational.

² Official Gazette, 1995, No. 40-987

data protection, special rules on transborder data flows and mechanisms for mutual assistance and consultation between its signatory parties.

United Nations Convention on the Rights of the Child

UN Convention on the Rights of the Child³, ratified by Lithuania in 1995, is a first legally binding instrument which includes the right to privacy into the set of fundamental rights of the child. Article 16 of the Convention explicitly states that “no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation”. The child has the right to be protected by the law against such interferences or attacks.

Law on Fundamentals of Protection of the Rights of the Child

Article 10 of the *Law on Fundamentals of Protection of the Rights of the Child*⁴, in the same way as the UN Convention on the Rights of the Child, explicitly attributes universal human right to personal life and personal inviolability to the rights of the child by stating: “the child shall have a right to personal life, associations, privacy in correspondence, personal inviolability and freedom. These freedoms shall be protected and defended by the Constitution of the Republic of Lithuania, this Law and other laws and legal acts”. This Law also recognises to the children all other rights and freedoms established by the Constitution and legal acts.

Constitution of the Republic of Lithuania

Formulation of the right to bodily, territorial and communication privacy may be found in the Constitution of the Republic of Lithuania.⁵ Article 22 of the Constitution guarantees the inviolability of the private life of a human being as well as inviolability of personal correspondence, telephone conversations, telegraph messages, and other communications. It is important to underline, that broad term “other communications” contains all current telecommunication means, such as emails, chat conversations, messages on social websites or networks, etc. The same article of the Constitution states further that information concerning the private life of a person may be collected only upon a justified court decision and only according to the law. It also obliges the law and the court to protect everyone from arbitrary or unlawful interference in his private and family life, from encroachment upon his honour and dignity. This provision is also present in the *Civil Code of the Republic of Lithuania*.⁶ Article 2.23 of the Code determines the right to privacy and secrecy as a ‘specific civil right of natural persons’. It states that information on person’s private life may be made public only with his or her consent.

Law on Legal Protection of Personal Data

The most important and predominant regulation within the framework of personal data protection, including the personal data protection online, is the Law on Legal Protection of Personal Data of the Republic of Lithuania⁷ (hereinafter referred to as „the Data Protection Law“). The Data Protection Law was adopted on 11 of June 1996, since then amended for several times and redrafted in a new wording in 2008. In 1998 the application sphere of the Law was extended to regulate privately, in

³ Official Gazette, 1995, 60-1501.

⁴ Official Gazette, 1996, No. 33-807

⁵ Official Gazette, 1992, No. 33-1014 (1992-11-30). Adopted at the referendum on 25 October 1995

⁶ Official Gazette, 2000, No. 74-2262. English version available on:

http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=377611

⁷ Official Gazette, 1996, No. 63-1479; 2003, Nr. 15-597; 2004, Nr. 60-2120, 2008, 22-804

addition to publicly held computerized information. It was further amended in 2000 to ensure the implementation of the EU Directive on Data Protection (95/46/EC)⁸ and Directive on Privacy and Electronic Communications (2002/58/EC)⁹, and most recently in 2002 and 2008 to further bring Lithuania in line with European data protection standards and adjust to new technological developments.

The Data Protection Law aims to protect an individual's right to private life while processing personal data. The State Data Protection Inspectorate is responsible for the supervision and monitoring of the implementation of the Data Protection Law. Fulfilling its responsibilities the Inspectorate executes supervision of data controllers' activities, monitoring of the legality of personal data processing, prevention of violations and ensuring protection of the rights of data subjects. The State Data Protection Inspectorate also handles complaints against acts or omissions of the data controllers, with the exception of personal data processed by the media for the information provision purposes or for purposes of artistic and literary expression. The latter processing is supervised by another state institution - the Inspector of Journalist Ethics. His competencies are laid down in the Law on Provision of Information to the Public.¹⁰

The Data Protection Law sets forth:

- requirements and criteria for lawful data processing,
- rights, duties and liability of data controllers and processors, while processing personal data,
- data subjects' rights,
- security of the data,
- specific requirements for video surveillance and evaluation of solvency and debt management,
- conditions and requirements for transfers of personal data to data recipients in foreign countries,
- monitoring procedure of implementation of the Data Protection Law,
- data subjects' complaints handling procedure.

The law does not explicitly refer to the data protection of children or minors. However it establishes the rights of "natural persons" as data subjects and covers protection of data related to "a natural person", the data subject, who is identified or who can be identified directly or indirectly. Therefore it is applicable also to the children who according to the Lithuanian law are natural persons from the moment of their birth; even if until the 18 years of age they enjoy limited active legal capacity.

Law on Electronic Communications

In addition to the general principles and standards of the Law on Legal Protection of Personal Data the processing of personal data in the field of electronic communications is also governed by the *Law on Electronic Communications*.¹¹

There are several duties for the data controllers (service providers, website administrators) set forth in the Law on Electronic Communications to which they have to abide by and implement. First,

⁸ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Official Journal 2004 Special Edition, 13 Chapter, 15 volume, p. 355.

⁹ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector, Official Journal L 201 , 31/07/2002 P. 0037 - 0047

¹⁰ Official Gazete, 2000, Nr. 75-2272

¹¹ Official Gazete, 2004, No. 69-2382

Article 68 of the Law on Electronic Communications (as well as the Article 14 of the Data Protection Law) foresees opt-in direct marketing principle, i.e. establishes the duty of the data controller to obtain data subject's consent before using his personal data for direct marketing purposes via email or via other e-communication services. The consent of data subject is a prerequisite for such processing. The Law on Electronic Communications obliges the data controller to provide a clear, free-of-charge and easily realisable possibility for data subject to give or refuse giving his consent. Second, the data processor is obliged to set the storage period for the data which he gathers for direct marketing purposes. Third, data controller must provide a clear, free-of-charge and easily realisable possibility for the data subject to give or refuse giving his consent for the processing of his personal data for direct marketing purposes. The only exception to use personal data for the direct marketing purposes without a separate data subject's consent is if data processor received the personal data during the render of services or sale of goods and is carrying out direct marketing of similar goods or services.

Article 69 Part 3 of the Law on Electronic Communications forbids sending of anonymous direct marketing email messages and messages where the return valid address is not specified which the receiver could use to refuse the marketing.

Law on Services of Information Society

The Law on Services of Information Society¹² has been adopted in 2006 and amended in 2009. It implements E-commerce Directive (2000/31/EC)¹³. The law regulates the provision of information society services and governs other activities of the information society service providers. The law lays down the basic principles on which provision of information society services should be based. These principles, inter alia, include encouragement of self-regulation, legal protection of personal data, consumer protection. The law prohibits limiting the freedom to provide services of service provider established in another member state, except certain cases when such measures are necessary in order to defend public interest, including protection of minors and consumers. The law also establishes duty of service providers to inform the users of services about their identity, regulates conclusion of e-agreements and responsibility of service providers for the transfer, protection and assignment of data.

Article 16 of the Law on Services of Information Society is of particular importance. It declares the right of trade, professional and consumer associations to draw up codes of conduct (ethics) designed to regulate activities of the service providers. During the drafting process of such codes associations should provide the possibility to get involved for associations or organisations representing consumers whose interests are affected. Where it is appropriate, associations representing the visually impaired and disabled people should be consulted.

To service providers which voluntary have chosen to support a certain code of conduct (ethics) and declared its adoption, such a code is considered to be binding. Codes of conduct should be transmitted to the Information Society Development Committee under the Ministry of Transport and Communications of the Republic of Lithuania which publishes them to its website. According to the Law on Services of Information Society, the Information Society Development Committee encourages drafting up codes of conduct regarding the protection of minors and human dignity. Despite this duty prescribed by law, until now there are no codes of conduct based on Article 16 of the Law on Services of Information Society determining the rules on professional ethics related to the protection of minors.

¹² Official Gazete, 2006, No. 65-2380

¹³ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market, OJ L 178, 17.7.2000, p. 1–16

Law on Protection of Minors against Detrimental Effect of Public Information

Law on Protection of Minors against detrimental effect of public information¹⁴ (hereinafter referred to as „the Minor protection Law“) has been adopted in 2002 and revised at the end of 2009. The last significantly changed version of the Law came into force on 1 of March 2010.

The Minor Protection Law establishes categories of public information that have a detrimental effect on the mental health of minors, their physical, intellectual or moral development. Such categories of information are listed in the law and include information of violent, erotic, criminal, paranormal nature, information which invokes fear or horror, promotes gambling, self-mutilation or suicide, degrading human dignity, sexual relations between minors, etc.

A separate article of the Minor Protection Law prohibits dissemination of public information of detrimental effect to minors related to publication of their personal data. Such personal data of minor considerer minors who are suspect, accused or convicted for criminal acts, are victims of criminal act, have mutilated themselves, attempted or committed suicide, whose dignity is degraded, or whose opinions and assessments, photos or filmed material are presented in the context of negative social phenomena.

These restrictions to disseminate information which has a detrimental effect on the development of minors apply to all public information producers and disseminator, as well as producers of advertising, self-promotion (announcements), trademarks, computer games and other public information. The supervision of the implementation of the provisions of the Minor Protection Law is carried out by the Inspector of Journalist Ethics.

Government resolution No. 290

In terms of national regulations in the field of detecting, monitoring and closing down websites with illegal information, the Resolution No. 290 of the Government of the Republic of Lithuania should be mentioned. The Resolution was adopted on 5 of March 2003 approving the Procedure on the Control of Forbidden Information on Public Use Computer Networks and the Distribution of Restricted Public Information (hereinafter referred to as the "Procedure"). The Procedure aims to provide regulations for the control of forbidden information (the publication and distribution of which is prohibited by the laws of the Republic of Lithuania) on public use computer networks, distribution of restricted public information on these networks and control over the implementation of the above-mentioned regulations.

According to the Procedure, the Police Department under the Ministry of the Interior is obliged to ensure the proper operation of a special phone number and mailbox for any person to report violations of the Procedure. The Lithuanian Criminal Police Bureau and other law enforcement institutions must carry out the investigations within their competence in the way prescribed by law. Violations of the Procedure are reported to the information provider hosting service or to the network service provider. Where the information provider hosting service and the network service provider have been informed that illicit information is stored in their server, they must terminate access to such information, if the termination procedure is technically possible. The individuals having violated the Procedure are liable under the Laws of the Republic of Lithuania.

Recommendations of the State Data Protection Inspectorate

The State Data Protection Inspectorate of the Republic of Lithuania has published the following documents related to the protection of children's personal data on the internet:

- *Recommendations on Safe Data Transfer by https Protocol (2009)*

¹⁴ Official Gazete, 2002, No. 91-3890, 2009, No. 86-3637. Official English translation accessible on: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=304898

In 2009 the State Data Protection Inspectorate has prepared recommendations for data controllers in realisation of their duty to guarantee adequate organisational and technical measures for safety of personal data. The recommendations aim to advise the data controllers to use Https protocol which is regarded as a safe way of data transfers on the internet and to guarantee an adequate level of personal data protection. Recommendations focus on the installation of https protocol, its execution principles and types of SSL certificates.

- *Recommendations on Privacy protection in Using Wireless Local Area Networks (2008)*

Recommendations analyse data safety and privacy problems related to Wifi networks and provide recommendations for data subjects which use them. They also advise which security measures (such as data encryption) should be taken by data subject in order to avoid privacy loss, data interception, viruses and worms.

- *Recommendations on Safe Data Transfer by Email (2008)*

Recommendations are created for data subjects in order to explain them the use of cryptography as data safety measure for personal emails. The document provides concrete steps on how to install and configure cryptographic encryption using Windows 2003 certificate.

- *Recommendations on Safety Insurance of Public Electronic Communication Services and Networks (2004)*

The purpose of the Recommendations is to inform service and network providers as well as users with possible threats to privacy and provide methodical support related to security measures.

- *Recommendations "How to avoid SPAM?" (2003)*

Recommendations contain advises for telecommunication and internet service providers and users on how to avoid unsolicited commercial messages.

- *Recommendations regarding Personal Identification on the Internet (2003)*

Recommendations are prepared according to the Common Position regarding Online Profiles on the Internet adopted by International Working Group on Data Protection in Telecommunications on 4-5 of May 2000 in Crete. The aim of the recommendations is to provide all necessary information to internet users in order to enhance their confidence in internet websites and to inform the users about their respective rights. The recommendations set forth the basic requirements for data controllers (natural and juridical persons responsible for data processing on the internet) administrating websites, inform individual data subjects about their rights and possibilities to choose specific websites which correspond to their privacy expectations.

- *Recommendations for Data Processors on Preparation of Ethical Codes of Data Processing*

Recommendations aim to encourage data controllers to adopt Codes of Conduct, which would help them to implement national data protection requirements better and adequately guarantee data subject's rights.

- *Recommendations for Personal Data Protection on the Internet (2001)*

In 2001 in collaboration with private joint stock companies Alna AB and Sonex Consulting UAB, the State Data Protection Inspectorate prepared recommendations related to the use of internet and its services such as emails, search engines, chats, forums, e-commerce, direct marketing and the measures aimed to guarantee confidentiality of their users (cookies, proxy servers, special software, email filters, infomediaries).

1.1.2. Self regulation

As it was mentioned in the previous chapter, self-regulation of the activities of information society service providers through codes of conduct (ethics) in Lithuania is encouraged by the Article 16 of the Law on Services of Information Society. The Information Society Development Committee under the Ministry of Transport and Communications is in charged to supervise the preparation of such codes (to receive and publish the codes, to apply to the court requiring the amendment of codes which do not correspond to certain requirements) and to promote the preparation of such codes in the areas of minor and consumer protection.¹⁵ The associations have a duty to provide their Codes of conduct to the Information Society Development Committee. In practical terms up until now the Information Society Development Committee has not received any code of conduct (ethics) from trade, professional or consumer associations drafted on the basis of the mentioned legislation. In view of the above, only one initiative on the national level could be mentioned: regulation of the mobile network service provision through the National Code of Practice for Safe Use of Mobile Communications by Minors. It is important to note, that this code is more declarative than effective measure and it cannot be considered as a Code of conduct within the meaning of Article 16 of the Information Society Services Law. On the EU level an agreement of Safer Social Networking Principles for the EU, under which one of Lithuanian social networks is subscribed, is worth being mentioned.

National Code of Practice for Safe Use of Mobile Communications by Minors

On 1 February 2008, the Lithuanian mobile network operators UAB „Tele 2“, UAB „Omnitel“ and UAB „Bite Lietuva“ signed the Lithuanian National Code of Practice for Safe Use of Mobile Communications by Minors.¹⁶ This Code of Practice is applicable to mobile communication services provided by the signed operators in the territory of the Republic of Lithuania. Mobile communication services include internet website browsing, performance of financial transactions, photography, video filming, sending of images and multi-media messages, watching of television programs.

The aim of the Code is to protect consumers under 18 years of age from possibly harmful services and their content using mobile communication media (devices) and services and to provide parents and guardians with the means to protect minors and to show them how to use information society services responsibly. The Code of Practise foresees:

- Obligations of the providers of commercial information society services (operators):
 - to classify the services they provide into Harmful content and Public content services,
 - install appropriate age verification and access control measures aimed at limiting the possibilities of under-age users to use services of Harmful content. According to the Article 2.1 of the Code age verification measures include, but are not limited to such methods: at the time of purchase of the new mobile communication device, the purchaser's identity and age are verified on the basis of documentation submitted; when a contract is being made remotely, the consumer's identification can be verified using reliable third party sources (e.g. banks, insurance companies, certification centres, etc.). According to the Article 2.4 access control methods are methods and devices that assure security from unauthorised access to forbidden content (passwords, PIN codes), and other special technical access control devices (smart card, etc.),
 - to provide to the users, including under age persons or their parents or guardians, advice on how to safely use information society services and mobile telephone

¹⁵ One of the current developments in this respect: Information Society Development Committee takes part in the negotiations of the agreement between premium rate service providers and state institutions responsible for monitoring of such services. The agreement should include a separate chapter on the protection of minors.

¹⁶ http://www.gsmeurope.org/documents/eu_codes/lithuania.pdf

communication devices, the essential technical back up and training to educate users about the basics of safe use of these services.

- Measures which may be offered for parents or guardians of minors by operators:
 - Internet filters or other means, including access control devices,
 - Instalment of a service which enables parents or guardians to inform operators about Internet websites that provide harmful content.

The Code, however, provides that operators do not control the content of the internet and classify the content of internet websites according to the rules of the Code of Ethics, except in cases when the commercial information society services are being provided by an operator or another contractually engaged commercial information society services provider. In cases where the operators are providing web-hosting services, they are not obliged to control the content of the information being displayed on internet through this service but if they find out that information in contravention of the penal code is being published or services of harmful content are being provided, they should immediately take steps to stop the provision on internet of such publicly information.

The operators in the Code declare that the Code of Practice is not a Code of Practice (Ethics) within the meaning of Section 16 of the Information Society Services Law of the Republic of Lithuania.

Safer Social Networking Principles for the EU

Safer Social Networking Principles for the EU¹⁷ is a self-regulatory agreement, which was voluntarily adopted on 10 February 2009 by 20 companies administrating main social networking sites in Europe. The Principles have been developed by Social Networking Service providers in consultation with the European Commission, as part of its *Safer Internet Plus Programme*, and a number of NGOs. The document outlines seven principles by which social network service providers should be guided in order to minimise potential harm to children and young people, and recommends a range of good practice approaches which can help to achieve those principles. The seven principles include: awareness raising of safety education messages and acceptable use policies, ensuring age-appropriate services for the intended audience, empowering users through tools and technology, provision of easy to use mechanisms to report illegal content or conduct, response to notifications of illegal content or conduct, enabling users to employ a safe approach to personal information and privacy, assessment of the means for reviewing illegal or prohibited content or conduct. The Principles are not legally binding, but their application is strongly recommended, self declared to the European Commission, evaluated and tested.

ONE.LT - the most popular online social networking site in Lithuania¹⁸ - is one of the signatories of the Principles. As agreed between providers which support the Principles, it has submitted self declaration showing how it has considered the Principles in relation to the social networking services offered. On Safer Internet Day 2010, 9 February, the European Commission has published findings of independent assessment of the implementation of the Principles. The conformity to self declaration submitted by ONE.LT has been tested by the representative of Communications Regulatory Authority of the Republic of Lithuania. The tester in his report underlined that ONE.LT has intentions to be a socially responsible social networking service, provides a powerful awareness tool on safety online, protects well profile information, responds to notifications of illegal content, but still needs to improve age control mechanisms and parental control tools.¹⁹

¹⁷ http://ec.europa.eu/information_society/activities/social_networking/docs/sn_principles.pdf

¹⁸ www.one.lt Social network ONE.LT is used by close to 1 million users (majority of which are under 18 years of age).

¹⁹ http://ec.europa.eu/information_society/activities/social_networking/docs/individ_reports/one.pdf

1.1.3. Court decisions

There are some court decisions in Lithuania concerning different aspects of the right to privacy of children.

I. Right to image.

A minor girl took part in photo session during which several photos were made for her personal album. For these photos the photographer has been paid. Later, photographer used one of the photos as the background for advertisement of his photo studio, announcing it in the newspaper together with the photo studio requisites. The minor was reflected in the photo partly uncovered, wearing only underwear garments. Neither the minor nor her legal representatives gave the photographer permission to publish the image anywhere and in any manner or for any purpose.

The Supreme Court of the Republic of Lithuania held that agreement of taking photos does not mean *ex officio* that the person gave his consent to reproduce, sell, display, and print these photos or to use them for advertisement purposes and the like. The argument of photographer that the minor was photographed as a model so he could expect that publication of such photos will not violate her right to image was not considered as well-grounded. Based on case law the court noted that when the photo (image of the person) is intended to be used for the advertisement purposes, the special informed consent of model, including condition about such use, has to be obtained. In addition, the court evaluated the fact that in the picture which was illegally used was depicted minor (12 years old) girl, who is developing personality, extremely sensitive and responsive to its peculiar surroundings, people and events with a typical age-specific assessment of all things. The court found that printing of underage girl's photo where she is reflected partly uncovered without her consent and knowledge, even she was photographed with her consent, has clearly the negative consequences for development of her personality.

Deciding on the moral damage the court acknowledged as the significant factors that the photo was printed in the newspaper of considerable circulation, with the possibility to reprint a photo and so on (Decision No. 3K-3-294/2003 of the Supreme Court of the Republic of Lithuania of 24th February of 2003²⁰).

II. Publication of personal data of minors in media and protection of minors against detrimental effect of public information.

1. The applicant, one of the TV broadcasters, has addressed to the administrative court asking to annul the decision of the Inspector of Journalist Ethics on publication of information relating to minors on TV broadcasts. Law on Protection of Minors against Detrimental Effect of Public Information establishes categories of public information that have a detrimental effect on the physical, intellectual or moral development of minors and also prohibits publishing of such information. The applicant argued that this prohibition to disseminate public information has to be associated with actions that may adversely affect the minor's personal development, therefore, using this rate, it is necessary to specify the objective characteristics, leading to the conclusion that there is a negative impact on minors. The court concluded that the prohibition of publication of the information is unconditional and further determination whether it has caused negative effects on

²⁰ <http://www.infolex.lt/tp/8606>

minor is not necessary (Decision of the Supreme Administrative Court of Lithuania in administrative case No. A⁷-731-06 of 7th February of 2006²¹).

2. Following the practice of Supreme Administrative Court of Lithuania the personal information of minors, including photos, may not be published in the context of the information which according to the Law on Protection of Minors against Detrimental Effect of Public Information have a detrimental effect on the physical, intellectual or moral development of minors, even the consent of legal representatives was obtained. The court did not agree with arguments that such consent confirms the fact that the publication of personal data can not make any damage to a minor. The above disclosure could not be justified by the fact that it was intended to protect the interests of the minor or for socially valuable purposes. Supreme Administrative Court of Lithuania upheld the conclusion of the court of first instance that publication of the minor's personal data in the context of negative social events is the opposite of the legitimate interests of the minor's, since public disclosure of such information may lead to negative consequences, causing a normal development of minor (Decision of the Supreme Administrative Court of Lithuania in administrative case No.N¹⁴-172/07 of 25th January of 2007²²; Decision of the Supreme Administrative Court of Lithuania in administrative case No.N-444-8507/2009 of 27th November of 2009²³).

3. As regards the possibility to reveal identity of the minor, the Supreme Administrative Court of Lithuania rejected the arguments of the applicant that it is impossible to identify minors since only the names of them were mentioned in several publications. The panel of judges based on the fact that in one of the publications not only the minor's name and gender, but also his father's and grandmother's names, city of residence were disclosed; in another publication the name of minor, the first letter of the surname, age, school and class, dorm address, mother's age, name and the first letter of surname were mentioned, moreover, in the next article under-age and her mother's surnames have already been identified; in the third publication the minor's name, the first letter of the surname, age, the information relating to health, foster home, marital status (dead mother, five children in the family) were disclosed (Decision of the Supreme Administrative Court of Lithuania in administrative case No. N-444-8507/2009 of 27th November of 2009²⁴).

III. The rights and obligations of parents related to the privacy of child.

1. The Senate of the Supreme Court of the Republic of Lithuania in the Law Review on the Practice of the Courts Concerning Definition of the Residence of Underage Children in Case of Separation of Parents No.35 of 21st June of 2002 stated: "Assessing the child's right to personal life it is necessary to find a balance between this right and parental authority. Parents, in order to realize exclusive rights and responsibilities of parenting and care, are entitled to know more about children's personal lives than other people. However, parents' right to interfere in the children's privacy is not absolute, but based on the condition that it is necessary to perform parental duties.

Children's right to personal inviolability and freedom includes physical integrity, i.e. any unreasonable interference affecting children's health, physical activity, and so on will constitute the offense of it, and psychological integrity, protecting mental, spiritual and intellectual areas. Parents exercising their parental authority to a child, have not to abuse their rights using methods that violate the child's honor and dignity. Having noticed that infringement of a child's right to privacy, honor and dignity occurred outside the family, for example in media, school, extracurricular activities for schools, public institutions or elsewhere, parents should actively take measures to prevent these violations and to protect violated rights. When there is a dispute between parents

²¹ <http://www.infolex.lt/tp/66715>

²² <http://www.infolex.lt/tp/75892>

²³ <http://www.infolex.lt/tp/142873>

²⁴ <http://www.infolex.lt/tp/142873>

regarding the child's upbringing, establishment of his place of residence or considering any other matter relating to the child, and father or mother appeals to the media and the latter provides the public with information that can negatively affect a child, create negative attitude of other persons (including other children) towards him, a court should assess such actions of parents in view of the child's interests, evaluating whether these measures (methods) of the protection of child's rights are appropriate. In case when information disseminated to the public by media can damage the child's right to privacy, honor and dignity, the court must determine whether the father (mother) has taken statutory measures to protect the rights of the child. Exercising parental rights and responsibilities and using methods that violate children's rights, as well as parents' failure to act on the redress must be seen as contrary to the interests of the child²⁵“.

2. It should be noted that the court proceedings on the publication of information about the private lives in the media usually focus on violations of right to privacy of adults, even though all the facts confirm that the information published has or clearly will have impact on the children's privacy (e.g. information about the extramarital sex of the famous person published in media (Decision of the Supreme Court of the Republic of Lithuania in civil case No. 3K-3-393/2008 (S) of 14th August of 2008); information concerning circumstances of birth of daughter of well-known persons – that she was born after caesarean section operation (Decision of Vilnius District Administrative Court in administrative case No. I-118-121/2009 of 23rd January of 2009); the photos of prominent people from the nudist beach disseminated in media (Decision of the Supreme Court of the Republic of Lithuania in civil case No. 3K-3-26/2009 of 13th February of 2009); etc.).

IV. Control of forbidden information on public use computer networks.

The Constitutional Court of the Republic of Lithuania on 19th September of 2005 adopted decision in case No.19/04²⁶ which addressed the question whether provisions of paragraphs 12, 14, 16 of the Procedure on the Control of Forbidden Information on Public Use Computer Networks and the Distribution of Restricted Public Information (hereinafter referred to as the „Procedure“), which was approved by the Resolution of Government No. 290 of 5th March of 2003, are in line with the article 25 of the Constitution of the Republic of Lithuania. According to paragraph 12 of the Procedure, provider of information hosting services should be responsible for information that is being stored under request of the founder (owner) of website and (or) service user only in cases when: 1) he is providing services having factual knowledge about violations of the Procedure committed using services or server provided by him; 2) having known that forbidden information is being stored in the server he does not destroy nor limit the access to it immediately. According to paragraph 14, providers of information hosting services and (or) providers of public use computer networks must terminate access to the information stored in the server in cases when <...> they get to know about the forbidden information stored in the server and it is possible technically to terminate access to it. Paragraph 16 determines that Police Department under the Ministry of the Interior has <...> to inform provider of information hosting services or provider of public use computer networks about the detected violation. Article 25 of the Constitution of the Republic of Lithuania lies down: “Individuals shall have the right to have their own convictions and freely express them. Individuals must not be hindered from seeking, obtaining, or disseminating information or ideas. Freedom to express convictions, as well as to obtain and disseminate information, may not be restricted in any way other than as established by law, when it is necessary for the safeguard of the health, honour and dignity, private life, or morals of a person, or for the protection of constitutional order<...>²⁷”. The Constitutional Court noted that according to the Constitution of the Republic of Lithuania everyone is obliged not to disseminate information that is

²⁵ <http://www.infolex.lt/tp/25595>

²⁶ http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=262264&p_query=&p_tr2=

²⁷ http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=21892

forbidden by law and not to violate procedure of distribution of restricted information. Persons who become aware that they are somehow involved in the dissemination of forbidden information, or otherwise contribute to the dissemination of such information, or in any other way violate procedure of the distribution of restricted information must immediately stop such action. The Constitutional Court held that above mentioned provisions of the Procedure are in line with the article 25 of the Constitution of the Republic of Lithuania.

1.1.4. Studies and researches

Up until now in Lithuania there have been just a few efforts to conduct academic researches on personal data protection in electronic communication field. Several academics from the Department of Legal Informatics of Mykolas Romeris University and Center of Legal Informatics of Vilnius University have published subject related academic articles.²⁸ The majority of them have analysed general problems of personal data protection within the context of the internet, addressing challenges posed by the development of modern communications to the national and EU standards of personal data protection.

There have been just a couple of academic publications which are to a certain extent relevant to the protection of minors on the internet.

In 2006 the current Children's Rights Ombudsman, Edita Žiobienė, has published an article in academic journal *Jurisprudencija* entitled „*Protection of Minors Against Detrimental Effects of the Public Information*“.²⁹ The article analysed legal regulation of protection of minors' right to privacy and suggested how to amend the existing laws in order to make the mechanisms of protection of minors more effective.

In 2007 Ignas Vajega, a student of Mykolas Romeris University, wrote a Master's thesis „*Codes of conduct: their place and meaning in regulation of illegal and harmful information disseminated in computer networks*“.³⁰ Under the supervision of the professor I. Rotomskis, the student analysed the importance of codes of conduct for the regulation of illegal and harmful information in computer networks. The thesis contained analyses of the concept and the definition of the code of conduct and detrimental information, overview of the EU initiatives and court decisions related to the regulation of the detrimental content on the internet, Lithuanian court practise in respect to self regulation. In the conclusions of the thesis the author states that in Lithuania, differently than in other EU member states, publication of illegal or harmful information within the computer networks is regulated very strictly by the state and there is almost no space left for self regulation.

1.1.5. Education initiatives

Safer Internet Project

Safer Internet (Saugesnis internetas) project is carried out in Lithuania since 2005 within the framework of European Safer Internet Action Plan Programme of the European Commission's (EC)

²⁸Publications of the Department of Legal Informatics of Mykolas Romeris University: http://www.mruni.eu/lt/padaliniai/fakultetai/soc_informatikos_fakultetas/katedros/elektroninio_verslo_katedra/mokslin_e_veikla/publikacijos/ Publications of the Center of Legal Informatics of Vilnius University: <http://www.itc.tf.vu.lt/mokslas/mokslas.html>

²⁹ Žiobienė Edita, *Protection of Minors Against Detrimental Effects of the Public Information // Jurisprudencija, vol. 9 (87), 2006, p. 31-36.*

³⁰ http://tools.laba.lt/marc/getobj.php?obj=LT-eLABa-0001:E.02~2007~D_20080207_135241-93697

Information Society and Media Directorate-General³¹. This project has been implemented through three projects:

1. *Safer Digital Lithuania (2005-2007)*

Safer Digital Lithuania was launched in 2005 by telecommunications company UAB Bite Lietuva together with the Ministry of Education and Science of the Republic of Lithuania (MES) and Center for Social and Psychological Services. During the period of 2005 - 2007 two projects – Safer Digital Lithuania and Hotline Lithuania (see below) – were implemented.

2. *Safer Internet LT (2007-2009)*

In the period from 1 of April 2007 to 31 of March 2009 the program was continued by the Consortium of the Telecommunications Regulatory Authority (RRT) and MES which won the tender organised by the European Commission to implement the programme through the project “Lithuanian Awareness and Hotline Actions for Safer Internet” (acronym - Safer Internet LT).

3. *Safer Internet LT AN-HL (2009-2010)*

From 1 of April 2009 “Safer Internet LT” is carried out by the consortium of two partners - RRT and Centre of Information Technology of Education under the Ministry of Education and Science (CITE) through the project “Safer Internet LT AN-HL”³². This project will last until 31 of December 2010.

The objective of the project is to draw the society’s attention to information of illegal and harmful content on the internet related to violations such as pornography, paedophilia, racism, and xenophobia. Particular attention is paid to protection of children and adolescents from the harmful content of the internet.

The Safer Internet project implements the following activities:

- **National awareness raising node** (center) for Lithuania, which intends to help children, parents and educators to avoid the dangers associated with digital communication and aims to educate the society on the issues about safer internet.
- **Hotline facility** which accepts and processes reports from the public about the illegal and harmful content on the internet (see the description below).
- The project’s **website** www.draugiskasinternetas.lt, which is the main tool of informing about the awareness raising activities, safe use of the internet and possible online threats. The material is specially created and constantly adjusted to young people, their teachers and parents and includes interactive scenarios, quizzes and plans for awareness raising lessons and advises. It is also the main channel to report about possibly illegal and harmful internet content. During the period from 2007 to 2009 the website was visited 77 260 times.³³

Besides the mentioned main activities (awareness raising centre for Lithuania and Hotline service), the project coordinators and partners also implement a wide range of visibility events, campaigns, conferences, seminars for targeted user groups about Safer Internet, maintain a Youth Panel, an online education programme for parents and adults to learn about children's online safety.

The most important of the mentioned activities are described below as separate projects.

Hotline service

³¹ http://ec.europa.eu/information_society/activities/sip/index_en.htm

³² Project is supported by the following organisations: Information Society Development Committee under the Government of the Republic of Lithuania; Ministry of Education and Science of the Republic of Lithuania; Office of the Inspector of Journalist Ethics of the Republic of Lithuania; Police Department under the Ministry of the Interior of the Republic of Lithuania; Association „Infobalt”; The Children’s Rights Ombudsman of the Republic of Lithuania; Organization „Save the Children Lithuania”; UAB „Bitė Lietuva”; UAB „Microsoft Lietuva”; TEO LT, AB; Association „Langas į ateitį”; Lithuanian Human Rights League; Portal one.lt; UAB „Omnitel”; Association of Lithuanian social pedagogues.

³³ http://ec.europa.eu/information_society/apps/projects/factsheet/index.cfm?project_ref=SIP-2008-CN-141804

The Hotline was established in 2007 within the Communications Regulatory Authority of the Republic of Lithuania. During General Assembly of INHOPE on 28-29 May 2008 in Dublin it became a member of INHOPE, the International Association of Internet Hotlines founded in 1999 under the EC Safer Internet Action Plan. The hotline accepts and processes reports about illegal and harmful content on the internet (information of paedophilic or pornographic character or information inciting racial and ethnic hatred). These reports may be submitted through an electronic report form, an e-mail or by phone.³⁴

All received reports are screened by hotline employees. If the reported content is illegal or harmful and is located on the Lithuanian servers, the information is forwarded to the Police Department under the Ministry of Interior and Office of the Inspector of Journalist Ethics of the Republic of Lithuania. In case the illegal or harmful content is located on international servers, such information is forwarded to appropriate hotline of INHOPE or directly to the Lithuanian Police. During the first 2 years of operation from 2007 to 2009, 964 reports on illegal or harmful content were investigated by the hotline. Criminal cases were opened by Lithuanian Police Department against 4 Lithuanian websites hosting illegal material and 2 of them were brought to court.

Safer Internet Day

Safer Internet Day (SID) is a part of a global campaign to promote a safer internet for children and young people supported by the European Union through the Safer Internet Programme.

SID in Lithuania takes places since 2006. Below, the main SID activities in the last three years are described.

SID 2008

In 2008 many events dedicated to SID 2008 took place in Lithuania: a video clip on safe internet issues was broadcasted through the national and commercial televisions, competition “Life Online is What YOU Make of IT” was carried out, reflectors and stickers with the record of Lithuanian awareness node website’s address were distributed in schools, lessons promoting the safe use of the internet for schoolchildren were organized. An important activity of SID 2008 was a creative preparation of the awareness raising material for primary schools - Letter of a Friendly Bear.³⁵ A letter was written by an imaginable bear which advises children how to remain safe in the internet: refuse to give personal and family information on the internet, avoid meeting online friends, purchase things online with parents' consent, not to disclose passwords, etc. This letter was later used as a methodical material by teachers in the classroom. Concluding SID 2008 event, which included discussions and lessons about the use of internet, was organized by the Lithuanian Human Rights League, MES and Microsoft Lietuva in the Parliament of the Republic of Lithuania.

SID 2009

In 2009 on the occasion of SID a broad information campaign on cyber-bullying was carried out. Video clip of Insafe on the issue was broadcasted through National TV channel and disseminated on the internet, especially on the sites that are popular among teenagers. Another video clip, “Wonder what your child is doing on the internet!“, dedicated to attract attention of parents to the problem of how harmful could be internet for their children, was created and presented on the Safer internet project’s website. Another significant activity of SID 2009 was Safer Internet Academy in the TEO bus (described below). As in previous year, SID 2009 concluding event was organized in

³⁴ Illegal online content to the Hotline may be reported on <http://www.draugiskasinternetas.lt/en/main/reports>, by sending an e-mail to cert@cert.lt or calling by telephone number +370 5 210 5679.

³⁵ http://www.draugiskasinternetas.lt/repository/dokumentai/Meskiuko_laiskas.pdf

the Lithuanian Parliament by the Lithuanian Human Rights League, Ministry of Education and Science, Microsoft and other partners. In addition, a test for children “What do you know about the internet” on the internet safety issues was held on the social networking portal one.lt.

SID 2010

The topic for SID 2010, which took place on 9th of February 2010, was "Think B4 U post!". The campaign related to the topic encouraged all internet users, especially children and youth, to think before uploading information about themselves or other people on the internet. In support of the campaign, a social video clip “Think before you post” has been transmitted by two different commercial televisions, as well as accessible on the websites of Safer Internet project partners and social network Facebook. Moreover, e-subscriptions of the journal „Computer Active Lietuva“, which focuses on safe internet and computer use, were distributed by its editor to all schools in Lithuania. As usual SID 2010 was concluded with a conference in the Parliament of the Republic of Lithuania “Parliament of the Republic of Lithuania opens the door to international Safer Internet Day”. During the event Parliament of the Republic of Lithuania, state institutions and general public discussed about children protection in cyberspace and real world, illegal and harmful information related to pornography, paedophilia, racism, xenophobia.

Safer Internet Academy on wheels TEOBUS

In 2010 the Safer Internet Academy was held in Lithuania for a second year in a row. The Safer Internet Academy was organised on by the Centre of Information Technologies of Education under the Ministry of Education and Science, Communications Regulatory Authority and the telecommunications company TEO LT, AB. As in the previous year, in 2010 the Safer Internet Academy made a tour through Lithuania and conducted lectures on the TEOBUS for more than 2.200 pupils of forms 6-9, their parents and teachers. For three months in thirteen cities of Lithuania pupils with the parents and teachers had the opportunity to listen to lectures about bullying on the internet, personal information protection and possibilities to avoid computer dependence. During the tour of 2010, special attention was paid to the protection of personal information – photographs, videos and personal data, virtual bullying, computer dependence and safe internet use.

Documentary film “The Net”³⁶

A new documentary film entitled Network (Tinklas) has been produced in 2010 and for the first time showed on the National TV (length 45 min.) on Safer Internet Day 2010. The initiators and authors of the idea were RRT and Lithuanian Human Rights League, the film initiators were the Ministry of Education and Science of the Republic of Lithuania, “Microsoft Lietuva” and the social network ONE.lt. The creation of the film has been financially supported by TEO LT AB, CITE, Lithuanian Radio and Television and co-financed by the European Commission.

The documentary is dedicated to the issues of children’s safety on the internet. The film explains problems which are created by illegal content or undesirable behaviour on the internet, presents international and local initiatives which are introduced to combat these negative phenomena, and advices how to protect children on the internet. The main themes which are touched and analysed by the film director Andrius Seliuta include cyberbullying, child sexual abuse, illegal content and addiction to computers, online games and social networks. Famous Lithuanian artists and psychologists, pedagogues and representatives of international organizations, state institutions and private entities talk about their own experience, the advantages and disadvantages of the internet, give pieces of advice to parents on where to turn their particular attention. The protagonists of the film are ordinary Lithuanian children, their parents and teachers who tell their stories, share

³⁶ <http://games1.one.lt/tinklas/>

experiences and explain what the word “internet” means to them. The objective of documentary is to remind parents of their duty to care about children’s safety at the computer and on the internet. For the promotion of the film national campaign with relevant film broadcasting through TV channels and cinemas was conducted in 2009-2010.

Youth Panel

A new action of the Safer Internet LT AN-HL programme this year is the establishment and maintenance of the Youth Panel (Jaunimo forumas) where children and young people can express their views and exchange knowledge and experiences concerning the use of new online technologies and contribute to the design of awareness raising actions, tools and material. The Panel is coordinated by the Centre of Information Technology of Education under the Ministry of Education and Science. The Youth Panel is accessible on the E-School portal http://portalas.emokykla.lt/SI_Jaunimoforumas.

On the website, the coordinators of the Youth Panel invite children to become active protagonists of safe internet. One of the proposed ways is to join the Safer Internet Youth Panel team and take part in the following activities: publicise Safer Internet, disseminate information about the project, discuss issues related to the use of the internet, help to administrate and update the Youth Panel website, organise youth competitions and events, create Safer internet group on Facebook and others.

Online Educational Program “Window to the Future”

As ICT literacy of adults, including parents and school leaders, in Lithuania is still much lower than competencies of youngsters and there is a lack of safer internet policies and practices on local level, new awareness tools have been created to reach the adults as a target group by the association Window to the Future (Langas į ateitį). This association was formed in 2002 by leading Lithuanian businesses, such as mobile telecommunications company Omnitel, fixed telecommunications company TEO LT, banks Swedbank and SEB, as well as IT companies Alna and ATEA and others with an aim to support the development of the information society in Lithuania. In 2008 Window to the Future received a grant from Microsoft Unlimited Potential Programme to implement a project “Modern Ways of acquiring ICT Knowledge” and developed four online e-learning courses. These courses, inter alia, include online education program dedicated to parents and adults about children’s internet safety “Save yourself and children on the internet”. The program “Save yourself and children on the internet” focuses on the following topics:

1. Safety and Privacy using computer and internet. Overview of main threats and safety tips.
2. Protection of children from detrimental content of the internet services. Overview of programmed safety measures. Recommendations for parents.
3. Computer safety. Passive and active safety measures using computer networks, internet and email. Antivirus software, spyware detection and elimination. Main operational system safety conditions. Software updates.
4. Personal data protection. Privacy safety measures within internet services. Advises for the safe online work.
5. Netiquette. Application of intellectual property and data protection rights.

Main educational materials and knowledge assessment possibilities provided as the e-learning courses are free of charge and may be used by adults with minimal computer literacy knowledge. During the 1 year period after the introduction of the course, the online learning courses were attended by approximately 1500 people, 900 of whom finished the course successfully and received certificates.

Discussion forums and conferences

In November 2007 a discussion forum „**Freedom of Self-Expression on the Internet: Communication, Law, Ethics**” took place in Mykolas Romeris University, in Vilnius, to which participated representatives of RRT, MES and Office of the Inspector of Journalist Ethics. After a year a second discussion forum „**Comments on virtual space: responsibility and self regulation of the media**” followed, where presentations about the Safer Internet LT project and the hotline were made by representatives of RRT and Office of the Inspector of Journalist Ethics. The objective of the forums was to find common understanding on the problem of responsibility of the media arising on the internet.

In December 2007 and 2008 annual conferences „**Children’s Safety on the Internet**” organised by Microsoft Lietuva, RRT and MES were held. The goal of these conferences was to share the information with the governmental and non-governmental institutions and private sector organizations about children’s safety problems and to raise tasks for all institutions involved to tackle this problem.

Competitions

During the period of October 2008 – January 2009 competition “**The safe internet school**” for the heads of schools, was carried out by MES. During the competition heads of schools had to execute a project entitled “Implementation of strategy of information and communication technologies in our school”. 74 schools participated in this competition. The best school in the sense of internet safety was announced.

In January 2010 Lithuanian schools were invited to take part in the contest “**Safer Internet Day in my school**”. This contest aimed to prepare teachers and pupils for the events of Safer Internet Day, which was celebrated on 9th of February 2010. Participants of the contest had to create descriptions of the most inventive, original and creative Safer Internet Day events. The contest attracted many participants and many descriptions were received. The winners were officially awarded during the conference “Parliament of the Republic of Lithuania opens the door to International Safer Internet Day” held on the Safer Internet Day in the Parliament of the Republic of Lithuania.

Bottom of Form

Awareness raising publications

The publication “Tips for children”³⁷ created in December 2009 by CITE has been disseminated at schools, in various meetings with pupils and donated as prizes. The publication provides short essential tips for children (their parents and teachers may also find them useful) to feel safer and distribute one’s time properly on the internet. In the publication children can find a few simple tips on how: to protect their health; to be friendly and pay attention to elder people’s advices; to choose their friends; to keep their privacy safe; to socialize; to take care of their computer protection. A chapter on privacy encourages children to keep their privacy safe in an understandable manner by stating:

- do not give your personal information to strangers – after all we do not give our home key to strangers,
- remember, that the password known by two people is not a secret!
- do not give your photos or videos to strangers, also do not show your room by using a webcam,
- do not tell any information about your parents, their personal and financial documents,

³⁷http://saferinternet.org/c/document_library/get_file?p_l_id=10527&folderId=56528&name=DLFE-2708.pdf&version=1.5

- you have to understand that people on the internet may not be who they pretend to be.

The booklet “Advices for parents. Making our Children Safer on the Internet”³⁸ was designed and issued by the RRT. Its distribution started on SID 2009 and in total 50000 copies of the booklet were distributed throughout Lithuania. Booklet aimed at encouraging parents to provide internet safety education for their children.

Specialised E-security website

The website www.esaugumas.lt was launched on 7 February 2006 (SID 2006). As a new information and awareness rising measure the site publishes actual information on safety in various networks and information security. The creation of the website has been initiated by RRT in cooperation with the Ministry of the Interior of the Republic of Lithuania and supported by private business entities³⁹. The website contains information about possible dangers on the internet: viruses, unsolicited messages, cheating and cyber bullying, other security threats. It also provides information for adults on how to avoid security threats on the internet.

Project “Development and initial implementation of an educational strategy on Internet safety for multipliers, teachers and parents”

The project “Development and initial implementation of an educational strategy on Internet safety for multipliers, teachers and parents” was started in 2004 within the framework of Socrates, Grundtvig 2 programme. The project is carried out by several consumer associations from different EU member states: coordinated by the Bulgarian National Consumers Association in cooperation with National Consumer Confederation (Lithuania), Association of Polish Consumers, Association of Consumer Organizations in Slovakia. The project consists of two stages:

- *Development and initial implementation of an educational strategy on internet safety for multipliers, teachers and parents.* In this stage the projects partners created educational strategy, organized two workshops, conducted national needs analyses and best practices research.
- *Initial application of educational strategy measures on children internet safety for teachers and parents.*

The project aims to explore the needs of the target groups (parents and teachers), to create a strategy for effective protection of the internet users (especially children), to develop educational modules for adult learning providers, to build up the expertise of partner organizations’ staff and their institutional capacity to inform and educate parents, teachers and media representatives, to empower and rise partners’ and teacher’s capability to prevent children abuse on the internet, to measure the effectiveness of the applied direct measures on raising awareness of parents, teachers and institutions on the importance of coordinated efforts to prevent harmful effects (violence, racism, pornography, etc.) from the use of internet.

The website of the project <http://www.onlinechildprotection.org/lt/> provides information in 4 languages of the projects partners and English about internet generated risks (cyber bullying, spam, pornography, etc.), possible safety and self-protection measures, advices about the control of the illegal content and children safety in cyberspace.

Child Center

³⁸ http://www.draugiskasinternetas.lt/repository/Lankstinukas_patarimai%20tevams.pdf

³⁹ UAB "Blue Bridge", UAB "Panda Software"

The Expert Group for Cooperation on Children at Risk (EGCC) or Child Center, brings together senior officials from the ministries responsible for children's issues in the member countries of the Council of the Baltic Sea States (Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia and Sweden) and the European Commission. One of EGCC's objectives is to identify, support and implement cooperation on children at risk between countries and organisations in the region. It examines and reviews areas of concern with regard to children and based on the findings adopts programmes and implements actions within areas of concern. The EGCC has distinguished the area of children and the internet as an area of concern and has started a special project related thereto. It has published information on internet counselling, abusive images (child pornography) and sexual abuses on the internet as well as tips on how to make internet a safer place on its webpage⁴⁰ in twelve languages. The webpage also contains news and updated information about the developments in the area of children safety on the internet in all member countries of the Council of the Baltic Sea States.

⁴⁰ <http://www.childcentre.info/vaikai-ir-internetas/>

1.2. Good practice in Italy

1.2.1. Legislative environment

The United Nations Convention on the Rights of the Child

The reference document on children's rights is **The United Nations Convention on the Rights of the Child**⁴¹, adopted in 1989 and entered into force in 1990, often referred to as **CRC** or **UNCRC** – ratified by Italy in 1991 – which sets out the civil, political, economic, social and cultural rights of children. In particular, the art. 16 of this documents states:

1. *No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.*
2. *The child has the right to the protection of the law against such interference or attacks.*

Data Protection Code

As for the Italian regulatory framework on data protection – included children's data protection – the most important legislative instrument is the **Legislative Decree n° 196 of 30 June 2003** that entered into force on January 1 2004, the so called **Data Protection Code**⁴², also known as the **Privacy Code**.

The Data Protection Code has been meant to update, complete and consolidate Italy's data protection legislation since 1996 by introducing important innovations and conforming national legislation to European regulations, in particular the Data Protection Directive (95/46/EC) and the Directive on privacy and electronic communications (2002/58/EC).

The code aims to strengthen the data protection rights of individuals, allowing them to exercise their rights and instigate proceedings more easily. Individuals do not have to demonstrate that damage or distress has been caused as a result of a data protection breach. They merely have to demonstrate that their privacy has been breached. The Data Protection Commissioner (Garante Privacy) is in charge of supervising and enforcing the application of the Data Protection Code. In an effort to simplify the complaints process, the Commissioner has published a complaints form on its website. The privacy code is divided into three parts⁴³:

- The first part sets out the general data protection principles that apply to all organisations;
- Part two of the code provides additional measures that will need to be undertaken by organisations in certain areas, for example, healthcare, telecommunications, banking and finance, or human resources;
- Part three is related to sanctions and remedies. It is expected that the second part of the code will be developed further through the introduction of sector-based codes of practice. Seven codes are planned (including surveillance, with particular regard to video surveillance, human resources, private investigators, and advertising/marketing) which will be developed in consultation with industry groups. The provisions relevant to us are in the second and third part, i.e. articles 167 and 130.

The Chapter II at the section 50 of the Data Protection Code refers specifically to children. In particular, this chapter is related to the *Reports or Images Concerning Underage Persons*:

⁴¹ <http://www2.ohchr.org/english/law/crc.htm>.

⁴² <http://www.garanteprivacy.it/garante/document?ID=1219452>.

⁴³ ENISA (2010), *Italy Country Report*, p. 8; URL: <http://www.enisa.europa.eu/act/sr/files/country-reports/Italy.pdf>.

“The prohibition to publish and disseminate, by any means whatsoever, reports or images allowing an underage person to be identified, which is referred to in Section 13 of Presidential Decree no. 448 of 22 September 1988, shall also apply if an underage person is involved for whatever reason in judicial proceedings concerning non-criminal matters.”

Directive n. 104 by the Ministry of Education

Another important document concerning the relation between children and privacy is the **directive n. 104 of 30 November 2007 released by the Ministry of Education**⁴⁴. This directive indicates the guidelines for the use of mobile phone and other electronic tools in order to protect pupils' privacy during educational activity. Explicitly it specifies the importance to ban collection, conservation, use and dissemination of data considered sensitive information.

Ministerial decree – 8 January 2007

Related to the child pornography on the Internet, in 2007 a ministerial decree was signed by the Minister Communications. This act, also called “Gentiloni Decree”, obliges **Internet Service Providers to block child pornography sites within 6 hours from being announced to do so**⁴⁵. With this decree, the Centro nazionale per il contrasto della pedopornografia (**National Centre against Child Pornography**) is the responsible body for the notification of the ISPs on the sites that must be blocked. It is coordinated by the Post Police under the supervision of the Ministry of Communications (at present the Ministry of economic development). The Centre has to create and update a list of sites considered as containing child pornography and keep informed those responsible by notifying the ISPs⁴⁶. The decree obliges ISPs to study and find the technical system to comply with the law.

Resolution on Children's Online Privacy

As for the Data Protection Commissioner activities, in 2008, during the 30th International Data Protection Commissioners Conference⁴⁷, he signed the resolution promoted by the Privacy Commissioner of Canada on **Children's Online Privacy**. With this document they have resolved to⁴⁸:

- Support the development of education-based approaches to improving the state of online privacy, both locally and globally;
- Strive to ensure children and young people around the world have access to a safe online environment respectful of their privacy;
- Collaborate with partners and stakeholders internationally as well as locally, recognizing cooperation with professionals who influence the lives of children daily is crucial;
- Work with each other to share best practices and implement educational activities towards the public meant to increase awareness among children and young people of the privacy risks inherent in their online activities and the smart choices available for controlling their personal information;
- Encourage educators to recognize privacy education as fundamental to a child's education and to include privacy education in their curricula;

⁴⁴ http://www.edscuola.it/archivio/norme/direttive/dir104_07.pdf.

⁴⁵ http://www.comunicazioni.it/binary/min_comunicazioni/normativa/pedopornografia.pdf.

⁴⁶ http://www.edri.org/edrigram/number5.1/italy_blocking.

⁴⁷ <http://www.garanteprivacy.it/garante/doc.jsp?ID=1566072#n>.

⁴⁸ http://www.priv.gc.ca/information/conf2008/res_cop_e.cfm

- Call for legislation in their respective jurisdictions limiting the collection, use and disclosure of children’s personal information, including appropriate provisions for violating those requirements;
- Call for appropriate limitations on the collection, use and disclosure of personal information about children for the purposes of online micro-targeting or behavioural advertising;
- Urge operators of websites created for children to demonstrate social responsibility by adopting privacy policies and usage agreements that are clear, simple and understandable, and educating users about existing privacy and security risks and website choices available to the users.

In 2009, the Italian Data Protection Commissioner released the guidelines for an awareness usage of Social Network called “Social Network: attenzione agli effetti collaterali” (**Social Network: Watch out for side effects**)⁴⁹, with a specific attention on minors’ risks. The document stated that a “lively debate is in progress is in progress between those who extol the unique communication chances provided by social networks and those who only see the risks to surfers’ private life and rights”. The Italian DPA decided to draft this short guidance to help those were planning to sign up to a social network and those who had already joined a social network to use this new tool knowledgeably. It isn’t meant to cover all issues, because it was more a quick guide both for newbies and for experts.

On May 2010 the handbook called “Privacy tra i banchi di scuola” (**Privacy amongst school desks**) was published by the Italian Data Protection Commissioner. This handbook aimed, on the one hand, to clarify current legislation enforcement about personal data protection and, on the other hand, to avoid wrong interpretations. Furthermore, its purpose was to strength awareness among pupils about own rights and duties. The Commissioner focused the attention on:

- General processing of students’ personal data in state and private schools;
- Right of access to personal data;
- Gradings, school reports, tests etc;
- Information to students;
- Photos, videos, audio materials;
- Security and control.

Despite the legislative attempts to regulate the Internet, a recent study about the Italian context asserts that nowadays “the legislation in force on providers’ liability and court decisions on the same topic are not really targeted [...] at the interests of the minors and the protection of the protection of their rights in connection with data protection”⁵⁰.

1.2.2. Self regulation

The main code of conduct to protect children rights on the Internet is the **Self-Regulation Code “Internet e Minori” (The Internet and Minors)**, presented in 2003 by the Ministry for Innovation and Technologies⁵¹.

The main goals of the code were:

⁴⁹ <http://www.garanteprivacy.it/garante/document?ID=1630260>.

⁵⁰ D’Atri, Alessandro; Saccà, Domenico (eds.), *Information Systems: People, Organizations, Institutions, and Technologies*, Springer Physica-Verlag HD, Heidelberg, 2010, p. 339.

⁵¹ http://www.comunicazioni.it/binary/min_comunicazioni/codice_autoregolamentazione/codice_minori.pdf.

- to help adults, minors and families for using the Internet in a safer and much more aware way;
- to create strict rules in order to avoid risks and content dangers for young people;
- to offer safer access for young people;
- to defend youth rights linked to privacy;
- to ensure better cooperation in preventing, comparing and punishing computer crime, especially prostitution and child pornography on the Internet.

The application of the code is supervised by a committee⁵², which controls and administers punishments and rewards. The basic approach of the Self-Regulation Code can be defined as protectionist, starting from a view of the Internet as a potential jungle of risks and dangers.

It has been highlighted that a wider protection isn't afforded by this document, instead "this Code is hardly a binding legal instrument, being rather an agreement among the parties who signed it. [...] It is the lack of a diffused culture of prevention and sensitivity among providers to be more evident. As a matter of fact that gap of protection of minors has clearly surfaced many times over the recent years"⁵³.

In this field it's important to mention the document known as the **Treviso Paper**⁵⁴, and its subsequent modifications. The Paper was drafted by Telefono Azzurro (children's telephone helpline) and, in 1990, adopted by the Italian Association of Journalists and by the Italian Press Federation which subjects Italian journalists to deontological standards in relation to underage citizens and in the treatment of news items that involve them directly or indirectly.

The last revision of the "Carta di Treviso" was approved on the 30th of March 2006. It integrates the Paper and it stated that: "Children must not be interviewed or involved in television or radio transmissions that might injure their dignity, invade their privacy, or involve them in advertising that might harm the balanced development of their personality, regardless of any form of consent from their parents (...) In the case of ill, injured, or disabled children, particular attention must be taken in the distribution of images and in events in order to avoid, in the name of evoking pity, of arriving at sensationalism which ends up becoming the exploitation of the individual". Furthermore, the paper underlined that "particular attention will be paid to the instrumentalization that can derive from interested adults to take advantage of, in their own interest, the image, activity or personality of minors. Such norms are also applied to on-line journalism, multimedia and other forms of journalistic communication that use innovative technological instruments for which the temporal availability of data will have to be taken into consideration".

As for the Internet Service Providers (ISP), the legal and self regulation isn't clear. Unfortunately, the self-regulation code **The Internet and Minors** "is not considered an added value for providers. It probably lacks a significant benefit for a company image"⁵⁵. Indeed, as for the Internet providers since 1997 they have an own self regulation code called **Code of conduct for Internet service providers in Italy**⁵⁶ signed by the Italian Association of Internet Service Providers (AIIP).

The fundamental aim of the Italian ISPs' Code of Conduct was the creation of a proper cultural, economical and technical environment for the development of the Internet Market. The purpose was to influence the other main aspects of the Internet such as E-Commerce, Education, Information and Telework. The creation of some basic rules concerning the contents and the liability on the Internet was considered essential in order to achieve the mentioned aim of the Code. Therefore, besides

⁵² <http://www.interneteminori.org/>.

⁵³ D'Atri, Alessandro; Saccà, Domenico (eds.), *Information Systems: People, Organizations, Institutions, and Technologies*, Springer Physica-Verlag HD, Heidelberg, 2010. p. 335.

⁵⁴ http://www.cooperazioneallosviluppo.esteri.it/pdgcs/italiano/NoteLegali/Carta_Treviso.pdf

⁵⁵ D'Atri, Alessandro; Saccà, Domenico (eds.), *Information Systems: People, Organizations, Institutions, and Technologies*, Springer Physica-Verlag HD, Heidelberg, 2010, p. 340.

⁵⁶ <http://www.oecd.org/dataoecd/52/56/1893214.pdf>.

other general principles and obligations, the code concerns three main points of reference for the self-regulation of ISPs activity:

- First of all, the concept of liability on the Internet: who is liable for what? The original idea was that every player (commercial operator or simple user) can make content available to the public on the Internet. Therefore, when someone publishes some content on the Internet (commercial sites or a personal web pages), he/she will provide content to the public. Moreover, the definition of roles played by commercial operators or by end users was not important in order to establish the liability for the contents: focus must be pointed on the single activities of the Internet players. Also It was necessary to make a clear distinction between the simple services (access, hosting, etc.) and the activities of general provision of content to the public. From the code's point of view, it must be considered that the ISPs cannot devote time and money to monitor the content made available to the public by other players. So, according this code of conduct, when offering a simple service of access or hosting, ISPs should not be considered liable, but for the content they make available to the public.
- On the other hand, in order to establish the liability of players who make content available to the public on the Internet, it is necessary to have the possibility to trace them on the Internet and to ensure their identification.
- Thirdly, anonymity must be defended. Anonymity safeguard was considered essential for the development of the Internet, for the diffusion of information and data, for the individual's privacy.

The code of conduct takes into consideration other important principles and obligations concerning the respect of human life, the refusal of every kind of discrimination, the protection of children against sexual exploitation and the **respect of minors sensitivity**. In order to prevent every action against minors, **the code promotes the adoption of filtering, blocking and rating standard systems by the ISPs and the possibility to inform and assist the end users in the implementation of such systems.**

The principles of the code also address the safeguards of privacy and the treatment of personal information and data through Internet, starting from the constitutional principle of secrecy of correspondence to the recent Italian regulations on Privacy.

Another very important matter considered by the Italian Code is the protection of Intellectual Property Rights. Intellectual Property, and Copyright in particular, is extremely important in order to safeguard protected works and also to ensure the creation of a market for the information and the development of the Internet as instrument for education, training and for the diffusion of the culture. In this light, the Code takes in account the fulfillment of all the requirements of Italian author rights, EU directives and WIPO treaties.

Another important part of the code of conduct concerns the mechanism of management and implementation of the code. This part starts from the point that a simple declaration of principle is not sufficient to implement the rules effectively. The code of conduct considered a two phase period for the creation of competent bodies for the management and implementation of the code. A first phase saw the birth of a self-regulatory body (*IARI - Istituto per l'AutoRegolamentazione di Internet*) that followed the first steps of the implementation of the code and prepared the ground for the second phase. In the second phase, the self-regulatory body would be changed change in a regulatory committee (*Comitato di Attuazione del Codice*) and would have appointed the members of a dispute settlement body (*Giurì di autotutela*).

The code stated that the main tasks of the regulatory committee were:

- to follow the development of the Code of Conduct and to make changes in self-regulation according;
- the technological and marketing evolution of the Internet;
- to inform and support ISPs in implementing the Code;
- to support the activities of the disputes settlement body;
- to develop contacts and relationships with similar self-regulatory bodies from other countries, organizations and governmental bodies;
- to conduct research and studies on the regulation of the Internet environment.

The tasks of the disputes settlement body were:

- to enforce the respect of the Code obligations by the ISPs;
- to receive information about violations of Code obligations;
- to sanction the misuse of the Internet.

The code affirmed that a cooperation at European level, but also at the worldwide level, was strongly promoted in order to adopt self-regulatory common rules and to harmonize national legislation.

In regard of mobile phone operators, in 2005 the main four mobile network operators (H3G, Tim, Vodafone and Wind), which also offer services to customers by their websites, adopted a **Code of conduct for premier services and child protection**⁵⁷.

This code of conduct aimed to regulate premium services and child protection and, specifically, regulated the following items:

- Type and content of the services offered;
- Tools for the protection of children;
- Obligations of mobile operators;
- Relations between mobile operators and Third Parties;
- Guarantee of application of the code;
- Self-disciplinary measures.

This code stated that mobile operators provide their customers with complete, clear, prompt, transparent and easily accessible information on the services offered and, in particular, on the economic conditions and content of the services offered also by means of a projection of an information message regarding the price of the services. As for the Internet, mobile operators implemented “all and any measures required to prevent improper use of chat room services, including, for example, moderators or blacklisted words”. In addition, mobile operators signing the code could offer – even against payment – access to services which could be directly controlled by the user through the use of a PIN, which was made exclusively available to parents, tutors or people entitled to make such a request.

Furthermore, mobile operators could rely “on identification systems to detect the user’s age provided that, in compliance with the provisions regulating the treatment of personal data, privacy, safety and dignity are protected and guaranteed”. In case of services exclusively targeting children (the so-called “*children’s services*”), mobile operators undertook not to intersperse them with advertising and promotional initiatives.

Specially, at the article 7 of the code of conduct, with regard to premium services, “mobile operators undertake, each for their part, to abide by the regulations enforced in relation to the protection of personal data and minimum safety measures and in relation to privacy in the sector of electronic communications, including any possible modifications and/or integrations. With specific

⁵⁷ http://www.gsmeurope.org/documents/eu_codes/italy_child_protection.pdf.

reference to the treatment of personal data of customers, mobile operators undertake to exclusively use them in relation to the activities strictly connected to the provision of the services referring to this code and for the use allowed by the law”.

With regard to self-regulation codes, it has been underlined that “such codes are considered ‘soft law’, which means that tend to set forth slightly flexible rules”⁵⁸. So it would be “the issuing of less mild punishment in case of breaches to the rules”⁵⁹, at European level.

1.2.3. Court decisions

Court decision related to the violation of children’s privacy are rare. The most recent one was on 24 February 2010, when three executives of Google Inc. – a multinational public cloud computing and Internet search technologies corporation – were found guilty by a judge of the Milan Court. They were guilty of violating the privacy of a youth over a 2006 video that depicted the child, who has Down Syndrome, being bullied. In what Internet experts are calling a dangerous precedent, the judge held the executives responsible after a copy of the video was posted on Google Video⁶⁰.

In the grounds of the judgement⁶¹ it is stated that “there is not, therefore, a requirement for prior review of data entered into the system but **it’s mandatory that those** [read "Google" in this case] **who receive personal data from third parties should give correct and timely notice**. This is required not only by law (Section 13 Data Protection Code), but also by common sense”.

These obligations, according to the judgment, should include the responsibility of a party like Google **to make explicitly clear to users what their responsibilities are regarding privacy and privacy protection**. By this interpretation, then, Google should tell its users: “Do not upload other people’s data without gaining their prior consent”. As Google is not telling their users this clearly enough (according to the ruling), Google is in a way encouraging the users to upload content that might harm the privacy or reputation of other people.

As it has been shown⁶², according to the judgement two fundamental points come out:

- a) The provider has no obligation to monitor user-generated content;
- b) The provider does not have to ensure that users fulfilled the obligations attributed to them by the rules on privacy when they spread content on the web that also includes information about or from third parties.

1.2.4. Studies and researches

In the last years, specific studies and in-depth researches on this field on Italian context are few.

In 2005, in a chapter of the book “Il commercio elettronico: dall’immagine al profitto”⁶³ (Electronic Commerce: from imagine to profit) it has been analyzed the risks of minors’ privacy related to the e-commerce. In particular, the author highlighted that:

- It’s easy to persuade them to do something;

⁵⁸ D’Atri, Alessandro; Sacca, Domenico (eds.), *Information Systems: People, Organizations, Institutions, and Technologies*, Springer Physica-Verlag HD, Heidelberg, 2010, p. 340.

⁵⁹ *Ibidem*.

⁶⁰ http://www.lastampa.it/_web/cmstp/tmplrubriche/tecnologia/grubrica.asp?ID_blog=30&ID_articolo=7495&ID_sezione=38&sezione=

⁶¹ http://www.lastampa.it/_web/download/pdf/sentenza_google.pdf.

⁶² <http://elvlog.wordpress.com/2010/04/18/the-google-trial-in-italy-the-motivation-behind-the-conviction/>.

⁶³ Morelli, Marcello (2005), *Il commercio elettronico: dall’immagine al profitto*, Franco Angeli, Milan.

- They are able to online shopping without parents or parents' permission;
- They are interested by online purchases and they often are attracted to subliminal advertising.

In 2006, a general study on the relation between children and media was published by the *National Centre for Documentation and Analysis of Childhood and Adolescence* (Centro nazionale di documentazione e analisi per l'infanzia e l'adolescenza)⁶⁴. This report, called (**Multimedia Children**)⁶⁵, explored potential risks for children linked to the adults' responsibility.

In 2007 the *Internet and Minors Committee* (Comitato Internet e minori) released the white paper called "Internet e minori. Opportunità e problematiche" (**Internet and minors. Opportunity and problems**). The aim of this book was to face minor's risks on the Internet starting from three points of view:

- Psycho-social-pedagogical issues;
- Legal issues;
- Technological issues.

This paper was addressed to parents, educators and workers with children and adolescents.

In 2008 it was published an essay called "Minori e Internet"⁶⁶ (**Minors and the Internet**) specifically addressed to experts and workers in this field. It gave an systematic analysis of **Internet usage by minors and also with regard to the faults of adults**. Furthermore, the book presented the Italian and European legal framework together with the social results and the prevention techniques adapted for the Internet.

In 2008 *Save the Children – Italy* published a study called "**Connected children. Italian pre-adolescents and new media**" on children's behaviours online in which came to light⁶⁷:

- the media form a part of what youngsters perceive as normality. A fact that is neither reassuring nor apocalyptic: more simply, it is a methodological yardstick for those working or acting as educators. We have to stop thinking of the media as tools: in spite of all their benefits and defects they nevertheless form an integral part of their day-to-day life (as, after all, they do in ours as well);
- the problem lies not only with the media, but also with the activities involved. Adolescents don't become more inappropriate or less ethical because they have a mobile phone; rather, it is the mobile phone that creates the conditions within which their practices, whether inappropriate or not, can be expressed. We have to stop blaming the media and shift our attention to the entire system that links them to the habits of the subjects involved: it is only via these habits that the media can be properly placed within their useful or practical contexts;
- **true responsibility lies with the adults**. This involves two types of responsibilities, as is highlighted by our research results. On the one hand, we have cultural responsibilities: the ways in which adults behave and portray themselves affect youngsters' formation of their own way of portraying themselves; youngsters' cultural structures are in some ways reflections of those elaborated and spread by adults. And on the other hand, we have educational responsibilities: the persistence of serious concerns, the prevalence of negative portrayals, all point to the operation of a system that associates the absence of known certainties (I fear what I don't know) with the inability or impossibility of an educational presence (I am afraid because I know I am not in control).

In conclusion, the study showed that minors are "active explorers": precisely this is due to their need to know, their natural curiosity and the excitement and sensations aroused in them (sexual

⁶⁴ <http://www.minori.it/>.

⁶⁵ http://www.minori.it/files/Quaderni_Centro_Nazionale_38.pdf.

⁶⁶ Panuccio Dattola, Francesca (2008), *Minori e Internet*, Giappichelli, Tourin.

⁶⁷ Rivoltella, Pier Cesare; Carenzio, Alessandra (2008), *Connected children. Italian pre-adolescents and new media*, Save the Children Italia Onlus, p. 3; URL: http://www.easy4.it/wp-content/uploads/2009/09/connected_children.pdf

growth and development) both externally (messages coming from the world of the media, marketing, and peer groups. It's "true that, as is the case in real life, potentially abusive adults on the Internet make use of every possible tool to seduce his/her victims, but the effort we must make is to equip boys and girls not with a fear of strangers, but rather the competence needed to be in a position to read, decipher and respond on their own in a safe and effective way to online solicitations, especially when it has to do with managing relations with others"⁶⁸. The study affirmed that this is a kind of educational work in which schools and families play a fundamental role, and all the more so today, with the proliferation of wireless and mobile phone connections (destined to grow with time), distance youngsters even further away from parental supervision.

In 2008 two Italian researches, Maria Francesca Murru and Giovanna Mascheroni from the Catholic University of the Sacred Heart of Milan, carried out a study for the Italian contest⁶⁹ within a **European Research on Cultural, Contextual and Risk Issues in Children's Safe Use of the Internet and New Media** called *EU Kids Online*⁷⁰, led by the London School of Economics and Political Science. This paper analysed the literature on this field and especially how Italian children use new media and their approach. As affirmed by the authors 17,6% of teenagers aged 12 to 19 said they were victims of harassment (there are no available data about exposure to harmful content for this group). Children interviewed (aged 7 to 11) admitted being victims of cyberbullying. Among these, 3,8% received threatening content, 4,5% received fake information about themselves, and 3,2% was forced out of forum or chats. Among teenagers aged 12 to 19, 8,1% received threatening content, 5,1% have been forced out of forum or chats, 21,7% received fake information about themselves. The paper revealed that 16% of teenagers aged 13-17 (interviewed in a previous survey) had experienced bad and unpleasant situations on the Internet.

In 2009, the Italian Center for the Security (under coordination of *Save the Children – Italy*) on the Internet carried out two researches:

- *Servizi web 2.0 e tutela dei diritti dell'infanzia e dell'adolescenza (Web services 2.0 and protection of children and teenagers rights)*⁷¹. This research was realised on high school pupils in order to understand their level of knowledge on privacy risks. In the first step, the analysis focused on: most used services and their risks; causes and possible solutions; definition of parents' requests to Services providers for minors' security. In the second phase, boys and girls developed a survey scheme and defined a chosen-questions questionnaire addressed to their contemporaries all over the country. In the third and fourth phases the questionnaires were distributed, collected and pondered. The total number of the distributed was 962 among pupils between 11 and 13 years old.
- *Progetto Giovani e nuovi media (Young People and the New Media)*. The aim of this project is to develop a strategy for improve security in cooperation with institutional and educational bodies.

A study carried out in 2010 showed that "Italian (and EU) legislation in force does not appear to address the protection of minors in ICT networks in a completely satisfactory manner. Such conclusion especially arises when one considers that no liability is attributed on providers which only transmit information generated by a recipient of their service, or which merely give access to a communication network, with only a few specific exceptions"⁷².

In the same study some solutions within the existing legislation were suggested:

⁶⁸ *Idem*, p. 18

⁶⁹ <http://www.lse.ac.uk/collections/EUKidsOnline/Reports/WP3NationalReportItaly.pdf>.

⁷⁰ http://eprints.lse.ac.uk/24372/1/D6.5_EU-Kids-Online-Final-Report.pdf.

⁷¹ http://images.savethechildren.it/IT/f/img_publicazioni/img27_b.pdf.

⁷² D'Atri, Alessandro; Saccà, Domenico (eds.), *Information Systems: People, Organizations, Institutions, and Technologies*, Springer Physica-Verlag HD, Heidelberg, 2010, p. 335.

- It would be important to pose on providers the obligation to give the consumers as detailed and precise set of information, and in case of breach of such obligation the contract should be void. In our opinion the doctrine of strong informative commitments on providers would prove to be a suitable one, provided that such information are extremely readable and proportioned to the level of education that can be expected from a minor.
- Another approach could be to have a recourse to the Italian Civil Code concerning consent expressed by minors. In fact, in the Italian legal system, the minor cannot conclude legally effective contracts, except the acts of everyday life. So the providers should carefully consider the risks that they may possibly undergo when contracting with minors.
- Internet providers have profits by the users' activity in their 'virtual spaces', so they could have indirectly liability.
- It's true that at present in general terms there is no such an obligation on hosting providers to monitor information voluntarily published by users, but may be proper to "expect from providers' a different course of action in case their users are underage, given the fact that they seem to take advantage of personal information collected. [...] It is reasonable that minors, given their 'privacy age gap' and their social needs, ask for a duty of care different from that pertaining adults"⁷³.

As for academic studies, we have to signal two degree thesis:

- "Intrappolati nella Rete: interazioni tra i minori e il mondo Internet" (**Caught in the Net: interaction between minors and the Internet**), by Elisa Corigliano, University of Calabria, 2004-2005⁷⁴.

The author focused her attention on the Internet's critical aspects for children. In particular, after an overview on the Internet's origin and development, here it was showed the rise of the so-called "computer crime" specifically related to "virtual reality" and child pornography. The study highlighted the minors' risk awareness and the role of parents, educators, teachers.

The survey was carried out on a sample of minors 10-15 years old following their behaviour on the web. Thus it had been possible to understand all real dangers for minors online: child pornography, obscene contents, frauds, violation privacy, overuse of the Internet.

- "Tutela dei minori in Internet" (**Minors protection on the Internet**), by Claudia Grassi, University of Camerino, 2008-09⁷⁵.

This thesis faced the legal issues of the minors on the Internet. After a summary of the Italian and European legislative framework, the author analysed minors' rights and their protection on the web: child pornography, violation of privacy.

A large space was dedicated to the relation between minors and social networking websites. In this kind of websites, due to an enormous decrease of users' privacy, the **Cyberbullying** is one of the most risk for minors. This term defines deliberate, repeated, and hostile behaviors by an individual or group in order to harm others involving the use of information and communication technologies. In fact, in social networking websites adolescents often neglect their privacy protection with risks for personal and social identity.

⁷³ D'Atri, Alessandro; Saccà, Domenico (eds.), *Information Systems: People, Organizations, Institutions, and Technologies*, Springer Physica-Verlag HD, Heidelberg, 2010, p. 340.

⁷⁴ <http://www.tesionline.it/default/tesi.asp?id=13108>.

⁷⁵ <http://www.tesionline.it/default/tesi.asp?id=30654>.

In conclusion, we can affirm that we suffer also of a lack of researches: “Scholars’ work and legal literature on this subject is also scarce, if any”⁷⁶. So we can assume this fact is related to the absence of an efficacy regulation.

1.2.5. Education initiatives

In the last years, several activities were carried out in this area in Italy. Main actors of these initiatives are Postal Police, Save the Children – Italy, Blue Telephone (Telefono Azzurro).

CORECOM

At that respect other interesting initiatives are carried out by the CORECOM (Regional Committee for Communication). These initiatives promote many actions, such as the guide *Internet e minori: navigazione sicura*⁷⁷ (**The Internet and minors: safe surfing**), published in 2007: a practical experiment in implementing the use of the Internet as a resource, while bearing in mind the risks connected to it. The paper was prepared through a project conducted in several schools in Veneto (North-East Italy). The guide is addressed to children, adolescents, parents and teachers to increase informed use of the Internet at school and at home with a certain sensibility. The guide includes a set of rules for parents (Parents Ten Commandments), a glossary, useful links and advice for children, all linking both the protectionist and the preparation paradigms.

Privacy Development Lab

In this field is active the *Privacy Development Lab*⁷⁸ has been set up at the Italian Data Protection Authority. This initiative stems from the belief that privacy is fundamental with a view to the full expression of everyone’s potentialities in accordance with the objectives everyone has set himself/herself. Starting from the core issue of the free construction of one’s own private sphere and the full-fledged exercise of "self-sovereignty", the Laboratory is aimed at probing into analyses, tools, and systems to fully achieve one’s own objectives.

This Laboratory is meant first and foremost as a forum for the free exchange of views among all the entities that are keen to contribute to this issue, where analyses can be developed and proposals put forward. The debate on these topics that play a key role in order to freely develop one’s private sphere and fully exercise "self-sovereignty" must be unrestrained and framed constructively. The Laboratory has been devised as a means to foster everyone’s contribution in accordance with a work-in-progress scheme. A circular pattern of operation is envisaged for the Laboratory: starting from an open-ended text that explains how to achieve one’s own objectives, proposals can be put forward, and the text can be worded anew to continue discussion.

Italian Institute for Privacy (IIP)

Another public organization deal with privacy and minors is the *Istituto Italiano per la Privacy - IIP* (Italian Institute for Privacy). This is a research centre dedicated to the thematic of cybersecurity and protection of personal data in global ICT society. It’s founding partner of the European Privacy

⁷⁶ D’Atri, Alessandro; Saccà, Domenico (eds.), *Information Systems: People, Organizations, Institutions, and Technologies*, Springer Physica-Verlag HD, Heidelberg, 2010, p. 339.

⁷⁷ http://www.regione.veneto.it/NR/rdonlyres/B58BFB11-5F64-4F9C-BA3F-79002F6158D8/0/internet_minori_tipografia.pdf.

⁷⁸ http://www.laboratorioprivacysviluppo.it/index.asp?id_menuorizzontale=12.

Association. The Institute involves and is a network for the best Italian specialists in Privacy Law, but also for significant representatives of the public and private spheres, who often deal with personal data and sensitive information on a daily basis.

Working as a think tank, the IIP has consolidated itself as a point of reference for Italian “new law” experts, and for several of the players of high technology content markets. As its principal working tool, the Institute uses the internet site (in the role of “electronic magazine”), to which its fellow partners and other researchers may contribute with publications, and a semi-monthly informative newsletter, which gives major news and analysis on the evolution of privacy issues in Italy and the world.

Quarterly conferences that are open to the public are organized frequently, as are closed-door seminar workshops, in partnerships with, when possible, Italian national and European scenarios. This is done to favour training for professionals and to heighten the awareness of unauthorized personnel, whether those operating in the market or in public institutions. These meetings are always broadcast on web-tv and web-radio, through the Institute’s portal, and are rendered available to download or to visualize in streaming mode.

Digital World Foundation

Since 2001 the city of Rome promoted the *Digital Youth Consortium* (Consorzio Gioventù Digitale), a non-profit organisation bringing together schools, training institutes, local public administration and ICT companies⁷⁹. In 2006, together with the six major ICT companies, it became *Digital World Foundation* (Fondazione Mondo Digitale) which works for an inclusive knowledge society by blending innovation, education, inclusion and fundamental values. The benefits that comes out from knowledge, new technologies and innovation should be an advantage of all people without any kind of discrimination⁸⁰. The activities of the Fondation centre on innovation, education, inclusion and fundamental values. It has launched activities in various areas concerning digital inclusion via various projects that are in different stages of development: design, pilot actions, implementation or completed. This is the result of a flexible and evolving approach to the creation of resources.

Furthermore FMD addresses to students, teachers, families and whoever is interested in improving relations between young people and computers, with obvious benefits in the field of didactics, work and productivity. It promotes experimental projects which begin with computer literacy, to the development of programs and content which utilise the Internet and new technologies as pedagogical-educational tools. **These activities contribute to strength awareness among young people about a safe and responsible usage of the Internet.**

The Global Junior Challenge

The Global Junior Challenge is a global award promoted by the *Digital Youth Consortium* (Consorzio Gioventù Digitale)⁸¹. The aim of the award, addressed to young people and to schools, is to identify and reward best practices on the usage of new technologies in education and training of young people in many countries. In particular, **this programme promotes a digital culture between teachers and youngsters**. The Global Junior Challenge is dedicated to all young people, from school children to teenagers and youth taking their first steps on the job market. It concerns cities, institutions, local authorities, businesses, NGOs, communities and individual citizens. The Global Junior Challenge concerns all those who are interested or involved in child and youth

⁷⁹ ENISA (2007), *Security awareness. Local government and Internet service providers*; URL: <http://www.enisa.europa.eu/act/ar/deliverables/2007/loc-gov/en>.

⁸⁰ <http://www.mondodigitale.org/who-we-are>.

⁸¹ ENISA (2007), *Security awareness. Local government and Internet service providers*; URL: <http://www.enisa.europa>.

education and training, and, more broadly, in helping in the construction of a more inclusive society.

The spirit of the challenge “is to facilitate the knowledge of different cultures and the use of new technologies among people all over the world. Thus, participants in the Global Junior Challenge, pursuing this philosophy, can be the protagonists of this process, building a network of partner projects and creating precious cooperation for further developments”⁸².

EASY

Working within the Safer Internet programme and co-funded by the European Commission, since 2004, *Adiconsum* (an Italian consumer protection association) and *Save the Children – Italy* promoted **EASY** (see below), a national awareness-raising campaign on safe and responsible internet and mobile phone use among young people. Since the 1st of January 2007, EASY has become the **Italian Awareness Centre**⁸³ with the objectives:

- **To promote safe and responsible use of New Media by children and adolescents;**
- **to promote a culture based on a respect for children using the most diffused technologies, in accordance with the principles sanctioned by the UN Convention on the Rights of the Child.**

The centre addresses **pre-adolescents, parents and teachers**, but its public awareness-raising task is actually much wider in scope, extending also to dealings with institutions, the media and the ICT industry, so that it comprises all the spheres that directly or indirectly impact young people’s appropriate use of technological tools, reminding each of them of their specific responsibilities in this area. A strong network of national stakeholders supports the awareness centre and ensures the dissemination of surveys, educational materials, information and advice. In order to reach and learn from the specific target groups the awareness centre promotes:

- **Awareness-raising weeks:** with a travelling tour that stops at Italian schools and town squares thanks to the mobility provided by the EASY-Bus. The various stops in different Italian towns are accompanied by specifically organised local press conferences and seminars for youngsters, teachers, social workers and parents held in schools.
- **www.easy4.it** an awareness-raising platform for the safe and positive use of New Media, which supplies useful information for youngsters and teaching resources for teachers and parents.
- **Help desk** which is run on a national level, answering questions from the public and promoting awareness-raising activities on a local level.

EAST

Since the 1st of January 2007, the complementary nature of the Awareness Centre and the Hotline has taken on a concrete form in a combined node: the **Italian Safer Internet Centre (EAST)**⁸⁴, co-financed by the European Commission, in which their activities have become integrated in an increasingly synergetic manner. It aims at **guaranteeing a relevant increase of Internet safety for minors**, both on the side of supporting the fight against illegal/harmful content and online crime (namely child pornography), and **promoting a more responsible, positive and large use of the Web and the new ICT by minors**, thus involving all relevant stakeholders and strengthening synergies within national and EU policies/initiatives.

The objectives are:

⁸² ENISA (2007), *Security awareness. Local government and Internet service providers*, p. 61; URL: <http://www.enisa.europa>.

⁸³ http://www.saferinternet.org/web/guest/centre/-/centre/italy?p_p_lifecycle=1&p_r_p_1607082367_country=Italy&p_centreWebContent_WAR_insafeportlet.

⁸⁴ http://ec.europa.eu/information_society/apps/projects/factsheet/index.cfm?project_ref=SIP-2007-CN-141703.

- To ensure the project's continued visibility through an ongoing extensive dissemination campaign based on mass media and multiplayer actors involvement;
- To continue developing high quality and well-targeted awareness tools and strategies, by ensuring the participation of target groups (**children and parents**) in the creation and dissemination of activities and results. Recent best practices at EU level will be taken into consideration in the creation of new strategies and tools;
- To increase Italian stakeholders' cooperation and involvement mainly by encouraging Advisory Board members to take a more active role in designing strategies, planning initiatives, increasing dissemination, negotiation and lobbying channels. Advisory Board should become the national referral point in Italy on themes relating to the safer use of new media among young people. This will be assisted by the participation of young people on the Board itself guarantee a better informed decision making processes;
- To work in close cooperation with LEA and other key actors (social services, magistrates, ICT industries) in setting up effective measures **to combat the production and dissemination of child abuse images** and continuing to work towards the creation of a national Referral System on the identification of victims;
- Act as a mentor for the **new Safer Internet Centre in Romania**. *Save the Children – Romania branch* would depend on us for advice on activities related to their awareness node;
- To effectively contribute to the European networks: **Inhope**⁸⁵ and **Insafe**⁸⁶, through the further development of best practice guidelines, tools for quality control, and the creation of occasions for the exchange of expertise and experiences.

Postal Police

Among institutional initiatives we should also mention the **Postal Police investigations and research**. We will not discuss these in detail, but it can be useful to underline the approach embodied, which is very close to the traditional investigational setting, deepening the nodes related to the analyses of the situation and the possible actions to prevent online crimes, such as child pornography. Although the Postal Police research cannot be defined as pedagogical or educational, because it does not involve a pedagogical approach and educational attention to young people and their emotional and social needs, it may be very useful in creating a framework for public attention, for involving educational bodies and, obviously, in preventing crime.

Are you connected?

In 2007 The Ministry of Communication together with *Save the Children – Italy* launched the website *Ti sei connesso?* (Are you connected?)⁸⁷. **The aim of the website is to inform and teach minors about a safer usage of the Internet**. The language of the website is very simple with a large utilized of comics and images inspired by cartons. Furthermore, the website has two sections for parents and teachers in order to support them in their information activities with children.

STOP-IT

STOP-IT⁸⁸ is the Italian node of INHOPE – the International Associations of Hotlines⁸⁹ – and is run by Save the Children Italy since November 2002. Stop-it has a website through which it is

⁸⁵ <https://www.inhope.org/>.

⁸⁶ <http://www.saferinternet.org/web/guest/home;jsessionid=6307C6CC5CD9D11B3D42D8166FC0B960>.

⁸⁷ <http://www.tiseiconnesso.it/>

⁸⁸ <http://www.stop-it.org/>.

⁸⁹ www.inhope.org.

possible for the public to report child pornography on the Internet. The reports are then screened and then possibly forwarded to the Italian LEAs or to other INHOPE hotlines. The Italian Association of Internet Providers (AIIP) is part of the Consultative Committee of Stop-it and formally endorses the initiative⁹⁰. During these years it has received thousands of reports.

Security on the Net

In 2009, the website *Sicurezza in Rete* (**Security on the Net**)⁹¹, with the support of Italian Government and the Ministry of Economic Development, was launched for the “National week for security on the Net”. This website (still online) offers a lot of information and suggestions to protect privacy especially on Social networking websites. The site has sections specifically dedicated to: citizens in general, **teenagers and tweens, family and school**, small enterprises. The website hosts a lot of tutorial videos with young people for young people in order to aware about the Internet’s risks.

The section for **teenagers and tweens** face:

- Chat safely;
- EASY4 Social Networking safely (prevention and information campaign);
- Knowing and using Internet forum;
- How to self-protect from virtual pornography;
- Security and children;
- Cyberbullying.

As for **family and school** section:

- How to protect children at home;
- Online security at school;
- School starts again navigating;
- Postal Police on the Net.

The three key words of the website are: Protection, Responsibility and Ethics.

EASY Weeks

In 2009 **Italian Awareness Centre (EASY)** launched the campaign “EASY Weeks”⁹². These were a **10-week** tour that **will cover 11 Italian regions, as jointly organised by Adiconsum and Save the Children**. Meetings and laboratory activities were held with students in schools, as well as meeting with their parents, and well-targeted training sessions for the teaching staff of participating schools.

All this were supported by a teaching manual for teachers, and an educational guide for parents, which were handed out to participants during training sessions. The tour, which covered Italy from North to South, taken place in a bus: the **EASY bus** which were equipped with videogames and stopped over in front of schools and in the squares of the towns covered by the tour. The bus, equipped in cooperation with AESVI (*Italian Association of Edutainment software publishers*),

⁹⁰ Save the Children (2004), *Child Pornography on the Internet: Legislation, policies and practice in six selected countries*; URL: http://www.savethechildren.net/alliance/europegroup/europegrp_pubs.html.

⁹¹ www.sicurezzainrete7x24.org.

⁹² http://www.saferinternet.org/web/guest/blog?p_p_id=homeBlog_WAR_insafeportlet&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_count=2&_homeBlog_WAR_insafeportlet_action=detail&_homeBlog_WAR_insafeportlet_articleId=23704&#p_homeBlog_WAR_insafeportlet.

gave the opportunity to the visiting boys and girls of undergoing another game experience, owing to the fact that it was part and parcel of an educational activity.

In classrooms, instead, laboratory awareness-raising initiatives was held, aimed at launching a pathway of media education to be introduced in schools. By means of role-plays and simulations of what might happen when using the PC, the mobile or videogames (i.e. reproducing a chat, simulating blog and social network activities, and so on), pupils had the opportunity of thinking about the meaning of “safety on the web”, and the importance of their online behaviour.

The tour was part and parcel of the raising awareness campaign that **Adiconsum and Save the Children** have been promoting for years by now, with a view to activating appropriate practices for the dissemination among young people of a proper and aware use of new technologies. Furthermore the awareness-raising campaign, however, was also addressed to all the players who directly and/or indirectly had an impact on the proper use of new technologies by youths, with a view to not only involving all the major stakeholders – like **institutions, the media and the ICT industry** – but also to reminding them of their specific responsibility.

Unicef Infobus

On January 2010 the Social Network website for teenagers *Habbo.com* and *Unicef – Italy branch* launched a **prevention campaign to inform young people about security on the Social Network websites**. The campaign scheduled meetings on *Habbo.com* in a virtual bus of Unicef⁹³.

One click for you

On March 2010 Italian Police organized in Rome a concert entitled “1 click... x te. C'è più sicurezza insieme” (**One click for you. There's more safety together**), addressed to 3.000 teenage pupils from 61 schools from all over the country. The aim of the event was to promote an aware and responsible use of Internet, chat-rooms and Social Networking websites. During the concerts several Italian famous singers and comedians performed. Furthermore a lot of artists and celebrities shot videos to promote the concert.

Safer Internet Day

On February 2010 the 7th edition of the national campaign “Safer Internet Day”⁹⁴, organised by *Adiconsum* and *Save the Children – Italy*, was launched. This event was dedicated **to promote a safe and responsible usage of the Internet and new technologies by younger users** and, in particular, to raise awareness on data management and personal online images. The aim was to encourage children's reflection about their own and others' privacy and the possible consequences of certain behaviours.

The Italian slogan for the 2010 edition was “Posta con la testa” (Let's post with the head) and for the first time, more than 19 organisations (institutions, public bodies, social networking websites, companies) joined together in a education campaign. In fact, at different levels and with different functions, the partnership included all the main actors dealing with Internet and new media, with specific focus on child protection: *Equal Opportunities Minister, Ministry for Economic Development, International Telecommunication Union (ITU), Data Protection Commissioner, National Centre for Fighting Child Pornography on the Internet* (Under the Postal Police), *Observatory for the fight against paedophilia and child pornography, Save the Children, Adiconsum, Italian Association of Internet Providers (AIIP), Italian Association of Edutainment*

⁹³ <http://www.habbo.it/groups/infobusunicef>.

⁹⁴ <http://www.sicurinrete.it/italia.html>.

software publishers (AESVI), Telecom Italia, H3G, Vodafone, Facebook, MySpace, Netlog, Virgilio (Internet provider), Google/YouTube, Windows live Microsoft, Skuola.net, La7 (Italian television network).

The event scheduled double action: the Safer Internet Day on the Web and special **daily events** organised in several cities and towns of Italy. During the press conference, a **cartoon** was also presented. It was disseminated through a “viral” web campaign. By using a language similar to the youth’s jargon, and shaped like a commercial, it was intended to launch a clear and straightforward message: i.e. certain behaviours, as borrowed by the media (namely the mobile, in this case), might be dangerous for the others and for themselves. The cartoon commercial is a follow-up to the campaign called “Think before you Post”, and launches a new slogan: **“When you turn the video camera on, don’t switch your brain off”**.