

Research article

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Children and Internet: Cyber Threats Sorts and Ways of Protection



Rina Venerovna Khisamova

National Research State Civil Engineering University, 26 Yaroslavskoye Shosse,
Moscow 129337, Russia,
rina_khisamova@list.ru



Abstract

Digital transformation of contemporary reality encompasses practically all spheres of human life including children. In the article the author studies the risks that digitalization creates for children, identifies the main types of cyber threats posing a risk to children's normal development, and looks at the legal remedies available today to protect against such risks. The article begins with a study of the specific features of a child's legal personality, the landmarks in the history of recognizing the child as a self-standing legal subject, and the child's legal status characteristics. In particular, the article points to the principle of 'evolving capacities of the child' as the key feature of the child's legal status that implies gradual expansion of the child's legal capacity commensurate with the child's coming of age. The author notes that since this principle has been adopted in other branches of law, it must be likewise implemented in the information law because the Internet space has an enormous influence on children's development that must not remain unaddressed by the legislator or stay outside the regulatory environment. Applying general and special research methods, including the formal logic and the comparative analysis methods, the author gives a brief overview of current government, non-government and private means and methods of protecting children's rights on the Internet, and notes that combination of all the available methods provides the best results. To ensure functioning of the mechanism for the protection of children's rights in the Internet, the author suggests to take into consideration the special aspect of the child's legal status: the child's legal capacity gradually evolves, and the child receives legal capacity to independently exercise rights in the digital environment. The author recommends to seek ways and means to ensure a balance between the public and the private to protect children in conditions of a rapid growth of information and communication technologies.



Keywords

digitalization; children's rights; Internet; protection; cyber threats; information society; risks content; contact risks; digital self-protection; knowledge society.

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Introduction

Today's international law and, consequently, Russian law recognise the child to be a legal subject with a full set of rights [Abramov V.I., 2007: 21] and proceed from the principle that in all actions concerning children, the best interests of the child must be a primary consideration [Korshunova O.N. et al., 2021].

The years 2018 to 2027 have been declared the Decade for Childhood¹ in the Russian Federation. The key objectives of this Decade are to protect every child's rights and to create an efficient system for preventing offences against children — and those committed by children as well [Pavlova L.V., 2022: 19–22].

On the other hand, the strategy for the development of an information society, approved by a Decree of the President of the Russian Federation² for 2017–2030, a period similar to the Decade for Childhood, envisages gradual formation of a knowledge society in Russia, one that prioritises the receipt, preservation, production and dissemination of information as key conditions for the development of the citizens, economy, and State.

In the light of the above, it becomes an especially relevant task to protect children's rights in information space, for the formation of any society, including an information society,³ starts precisely with the promotion of

¹ Presidential Decree No. 240 'On the Institution of a Decade for Childhood in the Russian Federation' 29.05.2017. Available at: URL: //http://static.kremlin.ru/media/acts/files/0001201705290022.pdf (accessed: 20.06.2022)

² Presidential Decree No. 203 'On Strategy for Development of Information Society in the Russian Federation for 2017–2030' 09.05.2017 // Consolidated legislation of the Russian Federation, 2017, No. 20, P. 2901.

³ An information society is henceforth understood to mean one in which information and the levels of its use and availability have a drastic effect on individuals' economic and socio-cultural living conditions. This definition of an information society is suggested in

child development, while children, their undeveloped critical thinking, are especially vulnerable in the times when people's living conditions change.

In response to the challenges of computerisation and digitalisation, modern legal science is now in search for legal ways and methods to protect the rights of children who go online. This is reflected in some legal studies on children's safety in the Internet [Rybakov O.Yu., Rybakova O.S., 2018: 27–31]; [Kobzeva S.V., 2017: 33–39], and on interaction among the actors working to protect children's rights [Pavlova L.V., 2022: 19–22].

The review of this issue is quite relevant scientifically and high on the legal regulation agenda, which reflects most accurately the set of practical tasks faced by the legislator. Just a month ago the Government of the Russian Federation approved a new concept note on children's information security,⁴ which stipulates that, among Russia's current total population of 146.4 million, 30.2 million (20.6 %) are minors, and 27 million (89.4 %) of these are active Internet users.

The article is a fruit of author's attempts to study the threats that Internet poses to children and to outline the legal mechanisms that could protect them.

1. Children as Legal Subjects

The legal subject category is a key concept of the theory of law, for it is 'the principal component (subsystem) and also the centre, or the core, of a legal system [Alexeyev S.S., 2005: 446].

And the essence of this concept may be understood in various ways. Let us agree with S. Ye. Channov's opinion that, conceptually, all the existing interpretations of the 'legal subject' can be divided into three basic approaches: a legal-formal (positivist) approach, an anthropocentric one, and a jus naturalistic one.

The first approach is generally based on the premise that it is a person possessing legal personality under the law that is considered a legal sub-

Para. 4 (r) of the Strategy for the Development of Information Society in the Russian Federation for 2017–2030, approved by Presidential Decree No.203 .

⁴ Executive Order No. 1105-p of the Government of the Russian Federation of 28.04.2023 'On Approving the Concept of the Information Security of Children in the Russian Federation, and on Declaring the Executive Order No. 2471-p of the RF Government of 02.12. 2015 Invalid' // Consolidated legislation of the Russian Federation, 2023, No. 19, P. 3481.

ject [Mitskevich A.V., 1962: 5]. ‘Legal subjects are persons or organisations whom the law grants a special legal property (quality) of legal personality that enables them to enter into various legal relations with other persons and organisations’ [A.I. Abramova A. I., Bogolyubov S.A. et al., 2003: 544]. Proponents of the positivist approach identify only two attributes of a legal subject: legal personality and legal capacity [Ivansky V.P., 2016: 50].

The anthropocentric approach to defining the essence of the legal subject recognises a human being (natural person) to be a legal subject; in addition, legal personality may be attributed to certain groups of people [Channov S. Ye., 2022: 94, 109]. S.Ye. Channov cites the position of S.I. Arkhipov, who regarded the human being as a legal phenomenon that is a common ground for the emergence of all the existing legal subjects and, consequently, suggested that a legal subject should be understood as a set of human legal qualities encased in a special legal form (that of a legal entity or natural person). Within this approach, he identified individual and collective (legal entities, nations and peoples), intra-organisational and complex/composite legal subjects [Arkhipov S.I., 2004: 8–9].

And, thirdly, the jus naturalistic approach consists in identifying special attributes of a legal subject, among which the following are most frequently mentioned: organisational unity, ability to possess rights and bear duties and to enjoy/fulfil them on one’s own; ability to take legally significant decisions; ability to bear legal responsibility for one’s wrongdoings; being separate (organisationally and legally); possibility of legal individualisation; and possession of one’s own will, purposes and interests, etc. [Ponomaryova Ye.V., 2019: 60–83]; [Dolinskaya V.V., 2012: 6–17].

Given that legal personality is not the key topic of the study, the author shall henceforth follow the positivist approach to legal subject and understand one as a natural person only, which is more relevant to the issue of the protection of human rights, including the rights of the child.

On the other hand, though the child’s rights are an inalienable, integral and indivisible part of universal human rights [Zhavzandolgor B., 2004: 3], it is necessary to note children were not always recognised as self-standing legal subjects.

As V.I. Abramov points out, international legal thought realised before the Russian one the importance of the children’s rights issue, and international law was also the first to provide for special protection of the most vulnerable groups, all those deprived of equal opportunities to defend their

own rights. In the aftermath of World War One, the League of Nations founded an International Child Care Association, and a Geneva Declaration of the Rights of the Child was approved in 1924. After World War Two in 1945 the United Nations General Assembly established the UN Children's Fund (UNICEF), and on 20 November 1959 a Declaration on the Rights of the Child (so referred to hereinafter) was proclaimed. And while the 1924 Geneva Declaration of the Rights of the Child regarded children as objects of protection only, in 1959 there was already a trend towards the recognition of the child as a legal subject [Abramov V.I., 2007: 3, 4], which was actually codified as a 'general rule' only in the Convention on the Rights of the Child (hereinafter Convention) adopted by the UN General Assembly on 20 November 1989. According to provisions of the Convention, the child is a full-fledged person with a full set of rights, an independent legal subject, not a 'mini adult with mini rights' [Trigubovich N.V. et al., 2022: 28–38].

International rule-makers thus took more than sixty years to codify, at the first attempt, the contemporary model of treating children as equal law subjects; in so doing, they took the lead and promoted a change in the child's position in the family and society at the level of each individual State, including Russia.

On the other hand, after recognising the child as an independent legal subject, international and then domestic legal regulation came to require states to provide the child with the protection required for his/her well-being. Such dualism, i.e. the recognition of the child as a full-fledged person with a full set of rights, on the one hand, and recognition of the State's duty to protect the child's rights, on the other, is what determines the special nature of children's legal personality, that must be taken into account as we study the legal specifics of the protection of children amid the formation of an information society.

2. Specifics of the Child's Legal Personality

The child's legal personality is closely related to his/her legal status, for legal status is actually the content of legal personality. We henceforth understand legal status to mean a set of rights and duties vested in a specific person—though, to be more precise, we should agree that the child's general legal status is a system of subjective legal rights, freedoms and interests and also the duties and responsibility of a special legal subject, namely the child,

as expressed in the values of natural law and rules of positive law and guaranteed by the society and State [Protsevskiy V.A., Golikova S.V., 2020: 29–31].

As was outlined above, legal theory recognises the child to be a special legal subject who possesses all the inalienable rights of human and citizen but is presumed to be immature and thus unable to exercise them in full on their own until they reach an age established by law. The Convention stipulates that every child by reason of his/her physical and mental immaturity needs special safeguards and care, including appropriate legal protection, before as well as after birth [Kolobayeva N.Ye., Nesmeyanova S.E., 2020: 14–21]. It has a sense to see how this protection is provided in some areas governed by various branches of law.

According to Article 60 of the Russian Federation Constitution, a citizen may exercise his or her rights and duties in full since the age of 18. In civil law, a child's status is determined by his/her legal capacity that is acquired or, more precisely, expands as the child grows up. For example, Article 28 of the Civil Code of the Russian Federation (hereinafter CCRF) defines the scope of the rights of minors, i.e. persons below the age of 14. According to Para 1 of that Article, deals on behalf of minors who have not reached the age of 14 years may only be effected by their parents, adopters or guardians, with the exception of the deals pointed out in Para 2 of that Article. The property responsibility for minor's deals, including those effected by them on their own, shall be borne, as a general rule, by their parents unless they prove that the obligation was not breached through their fault; they are also held responsible for any damage caused by minors.⁵

In turn, minors aged 14 to 18 may effect deals with their parents' written consent (or if they subsequently approve the deals in writing), except the deals they may effect on their own. Minors in the said age group bear property responsibility for the deals they enter into (independently or with their lawful representatives' consent) on their own and are also liable for any damage they may cause (CCRF Article 26. 1-3).

Thus it is admissible to conclude that in the field of civil law, the category of 'children' comprises two main groups: young minors (younger than 14) and minors (aged 14 to 18), either possessing its own scope of civil rights and civil duties.

⁵ Consolidated legislation of the Russian Federation, 1994, No. 32, P. 3301; Para 17 of Resolution No. 25 of the Russian Supreme Court Plenum of 23.06. 2015 // *Rossiyskaya Gazeta*, 2015, No. 140.

In judicial proceedings, e.g. civil ones, children also have a special legal status whose basic provisions are set out in Article 37 of the Civil Procedure Code of the Russian Federation (CPC). Under the general rule in Para 1 of that Article, the capacity to exercise procedural rights, perform procedural duties and to entrust the conduct of legal proceedings to an attorney (civil procedure legal capacity) belongs in full to citizens who have reached the age of 18, and to organisations. By virtue of Para 3 and 5 of that Article, the rights, freedoms and lawful interests of minors, either above or below the age of 14, are protected by their lawful representatives, with the difference that the court will bring the former group of minors (aged 14 to 18) into the proceedings on a mandatory basis, and the latter (children under 14), at the court's own discretion. Pursuant to CPC Article 37.2, a minor may personally exercise his/her procedural rights and perform procedural duties in court after marrying or being recognised fully capable (emancipation); a minor may apply to court for emancipation since the age of 16. Besides, in cases provided for by federal law, in proceedings arising from civil, family, labour, and other legal relations, minors aged 14 to 18 may also personally defend their rights, freedoms, and lawful interests in court (Article 37.4).

Procedural law thus also differentiates a child's status depending on his/her age, taking into account some special legal institutions, such as emancipation.

According to the Russian administrative law, emancipation applies to a person who has reached the age of 16 by the time he/she commits an administrative offence (Article 2.3 of the Code of the Russian Federation on Administrative Offences, hereinafter CoAO). Pursuant to CoAO Article 2.3.2, taking into account the merits of the case and the available information about an offender aged 16 to 18, a Commission for Minors and Protection of their Rights may exempt such a person from administrative liability and prescribe measures provided for by the legislation on the protection of minors' rights.

We can thus observe some peculiarities of the child's legal status (e.g. clemency towards minors) in branches of public law as well.

Given that the above examples contain mentions of not only 'child (ren)' but also 'minors', with the latter term including different age groups of children in different branches of law, we find it necessary to draw a distinction between those concepts at the outset.

Although today's legal science contains some examples of no distinction between the categories of 'children' and 'minors' [Kapitonova Ye. A., 2010:

26], the term ‘child’ seems to be broader in content than the term ‘minor’. The latter is a legal category that is generally branch-specific and related to a certain age to be reached [Amirova D.K., 2022: 40–46], which fully agrees with the positivist approach to understanding the essence of the legal subject and with the focus on natural persons’ legal personality. So it is possible to agree with D.K. Amirova and henceforth consider the concept of ‘child (ren)’ as a single and universal one, and use narrower concepts of ‘(young) minor’, etc., to define separate (branch-specific) forms of legal status.

Having sorted out this intricate terminology, is useful to return to the specifics of the child’s legal status.

All the above-cited examples of the child’s participation in various legal relations permit the conclusion that the child’s legal status is based on the principle of ‘the older, the more’, that has actually been embraced by all the branches of law in the light of the specific social relations they govern. In doctrine this is termed the principle of ‘evolving capacities of the child’ with reference to Article 5 of the Convention on the Rights of the Child [Trigubovich N.V. et al., 2022: 38]. And the UN Committee on the Rights of the Child defines evolving capacities as a ‘law-forming principle that envisages the process of growing up and learning, whereby children gradually acquire professional knowledge and insights and feel increasingly able to assume responsibilities and exercise rights’.

It seems that information law is not and cannot be an exception here, and the child’s legal status as regards information technology should also be defined through the lens of this principle: with age, a child acquires greater freedom of action and greater discretion in the digital field, and it cannot be otherwise.

3. Digitalisation and Children: The Main Risks

Digitalisation, or digital society development, is the process of organising the performance of functions and activities (business processes), previously conducted by persons and organisations without using digital products, in a digital environment. Digitalisation implies the introduction of information technology into each individual aspect of any activity.⁶

⁶ Order No. 428 of the Ministry of Communications and Mass Media of 01.08.2018 ‘On Approving Explanations (Methodological Recommendations) on the Development of Regional Projects under the Federal Projects of the ‘Digital Economy of the Russian Federation’ National Programme // SPS Consultant Plus.

Global and universal digitalisation certainly aims to create additional benefits for society and has a positive effect on people's lives and activities: we can now easily communicate from and to anywhere on the globe, promptly receive a state service, buy goods and services, visit a medical doctor, get additional education and pass our leisure time online.

On the other hand, as rightly noted by some scholars, digitalisation of social relations at the current state of the development of state and society cannot be presented as a new round of development that essentially reproduces something pre-existing at some new level. Virtualisation of legal relations is not similar to the transition from horse-drawn vehicles to motor cars or from oil lamps to electric lighting. The transformation processes in the digital environment are so profound that we should consider serious revision of the existing concept of protecting citizens' rights and freedoms and the means and ways of protecting social relations.

Indeed, the development of modern technology and its adoption in public and social practice are not yet supported by a virtual space infrastructure that might provide legal remedies. Such infrastructure is still existent in the real world only, and the virtual environment lacks the elements of legal protection that we are used to. The state is not equipped to interfere in data processing without the digital community's voluntary consent, for the new relations ecosystem excludes the usual agents to whom the authorities may address their prescriptions; nor can monies be refunded or 'restored' if lost due a technical error; a transaction aborted, a judgement enforced, etc.

The means of rights protection in the virtual world are embryonic now, so an individual is essentially unable to safeguard him/herself against the risks that come with the new technology [Kucherov I.I., Sinitsyn S.A. et al., 2022: 9, 10]. Children are certainly the most vulnerable group in this situation.

As noted by S.V. Kobzeva, Russian children start going online at an average age of six or seven. According to the Internet Development Foundation, children's Internet audience reached its top strength in the last six years: in 2010, 82% of adolescents would use the Net every day, and in 2016, 92%, with some 80% spending an average of three hours a day online, and every seventh, eight hours or more [Kobzeva S.V., 2017: 33].

Of course, children may use the Internet for their own benefit, but we should not be naïve enough to suppose that it is exclusively a benefit that carries no inherent threat to the child's well-being.

4. Types of Internet Threats to Children

Today it is possible to identify the following Internet-based risks that are full-scale threats to all users, including children:

content risks — illicit (pornographic, racist, gambling) and harmful (aggressive, hate speech) content, including harmful advice (suicide) and unwanted advertising;

contact risks — dangerous contacts with persons, including cyber-grooming (drawing a child into actions of a sexual nature), online harassment, cyber-bullying (humiliation or mobbing via mobile phones and other electronic devices), and cyber-stalking (online hounding or persecution);

virtual transaction risks — making unwanted (erroneous or accidental) transactions (purchases, remitting and receiving money, etc.), including online fraud;

Internet privacy and security risks — leaks of children's data and their uncontrolled use by third parties.

The above classification follows the proposals by S.V. Kobzeva, based, in turn, on studies by the Organisation for Economic Co-operation and Development (OECD) [Kobzeva S.V., 2017: 39]; importantly, it is non-exhaustive.

It should note that the same classification, with some variations, is also used by executive authorities as they perform their duties. For example, the website of the Ministry of Digital Development, Digital Policy and Mass Communications of the Chuvash Republic (Central Russia) mentions content, communications, electronic and consumer risks as the Internet risks faced by children,⁷ which is similar in scope to the classification that we suggested above. So, the types of Internet risks have now been identified and cause no controversy; however, it is necessary to remember that, since digitalisation and virtualisation are ongoing processes, Internet threats may emerge and disappear, which necessitates further theoretical research. After the threats have been studied in theory, they are easier to eliminate in practice.

Now it is necessary to consider the legal mechanisms in place to protect Russian children's rights and interests from the above threats, given that the

⁷ Available at: URL: <https://digital.cap.ru/action/activity/telecom/internet-safety/zaschita-detej-ot-negativnoj-informacii/internet-riski> (accessed: 30.05.2023)

Constitutional Court of Russia in a recent resolution pointed to the need to create and provide guarantees of the implementation of children's rights to special care and assistance and to prioritise their interests and well-being in all parts of life.⁸

5. Legal Protection of Children against Content Risks

As for current federal legislation, the content risks posed by some popular sources of information, including Internet, to children of all age groups seem to have been minimised as much as possible. Perhaps this results from the established worldwide approach to the protection of children from negative information and unconditional recognition of the need to provide such protection and, on the other hand, from a relatively straightforward approach that essentially consists in legislative restrictions on access to certain information.

The Russian legislator is now using the concept of 'children's information security' legally rooted in Article 14 of the Law on the Rights of the Child⁹ and in the Law on the Protection of Children from Harmful Information¹⁰ adopted pursuant to that Article.

According to Article 2 of that Law, information security of children means the children's state of being protected that eliminates the risk of any harm that information may inflict on their health and/or physical, mental, spiritual and/or moral development.

Children's information security is ensured irrespective of the information distribution channel in question, by introducing a legislatively established classification of information products (Chapter 2 of the Law on the Protection of Children from Harmful Information), establishing requirements on their circulation (Chapter 3), a procedure for expert testing of information products in certain cases (Chapter 4), and for state and public

⁸ Resolution No. 7-II of the Russian Constitutional Court of 02.03.2023 'On the Case Concerning the Constitutionality of Article 17, Para 2 of the Civil Code of the Russian Federation in Connection with a Complaint by Citizen M.V. Grigoryeva'. Available at: <http://doc.ksrf.ru/decision/KSRFDecision667150.pdf> (accessed: 30.04.2023)

⁹ Federal Law No. 124-FZ 'On the Main Guarantees of the Rights of the Child' of 24.07.1998 // Consolidated legislation of the Russian Federation, 1998, No. 31, P. 3802.

¹⁰ Federal Law No. 436-FZ 'On the Protection of Children from Information that Harms their Health and Development' of 29.12.2010 // Consolidated legislation of the Russian Federation, 2011, No. 1, P. 48.

control and responsibility measures (Articles 5 and 22 of the Law on the Protection of Children from Harmful Information).

In implementing such measures the legislator proceeds from the children's age (under six, six, twelve, sixteen or older) to actually divide information, according to its content, into illicit information and restricted access information (Article 5.2 and 5.3). For comparison: the only restriction on adult citizens' access to open information that does not fall under the special legal regimes of secrecy is a prohibition contained in Article 10 of the Law on Information.¹¹

On the other hand, the information security of children in the Internet is not very well implemented in practice: many websites containing information that must be of limited access for children under the law, particularly based on their age group, contain no special marking (the only 'happy' exception being online liquor shops that deny access to persons under 18 years of age). Content circulators often fail to differentiate content or to adapt it for various categories of persons, which is the direct cause why undesirable and even harmful information still reaches children on the Internet.

Access to prohibited information is much better regulated. Pursuant to Resolution No. 1101 of the Government of the Russian Federation,¹² the Federal Service for Supervision of Communications, Information Technology, and Mass Media (Roskomnadzor) now keeps a Unified Register of Domains and Websites with Illicit Content.¹³ The procedure for including information in that register is sufficiently regulated by Articles 15.1-1–15.9 of the Law on Information, and the parties to those legal relations are well defined, as are their the rights and duties in respect of one another and State authorities, so we can say that the mechanism for restricting access to prohibited information is actually working.

¹¹ Federal Law No. 149-FZ 'On Information, Information Technology and Protection of Information' of 27.07. 2006 // Consolidated legislation of the Russian Federation, 2006, No. 31. P. 3448.

¹² Resolution No. 1101 of the Government of 26.10.2012 (version of 29.04. 2023) 'On the Unified Register of Domain Names and Site Page Locators in the Internet Information and Telecommunication Network, and of Network Addresses that Permit Site Identification in the Internet Information and Telecommunication Network, that Contain Information Whose Dissemination is Prohibited Unified Automated Information System' // Consolidated legislation of the Russian Federation, 2012, No. 44, P. 6044.

¹³ Available at: URL: <https://eais.rkn.gov.ru/> (accessed: 26.12.2022)

It has a sense thus to agree with S.V. Kobzeva's finding that the system for protecting minors from aggressive Internet content is functioning in Russia, but needs improvements [Kobzeva S.V., 2017: 39]. We particularly believe that S.V. Kobzeva is quite right and well-advised as she suggests legislative changes that will obligate Internet providers to: monitor and block the dissemination of illegal Internet content at public Internet outlets; provide new subscribers with the optimal level of filtration and protection from aggressive information, depending on the age and number of minor users; and include the installation and set-up of content filtration software in the list of their services.

6. Legal Protection of Children against Contact Risks

The information security provided for by current Russian law does not exclude or diminish other threats children may face as they go online.

A second category of risks faced by children on the Internet is contact risks, i.e. those arising from improper (dangerous) communication.

The main types of dangerous communications identified by today's legal science include:

cyber-aggression, same as cyber-bullying or trolling–humiliation or mobbing via mobile phones and other electronic devices;

cyber-grooming–drawing a child into actions of a sexual nature;

cyber-stalking–online persecution (shadowing).

Clear-cut legal mechanisms of protection against such threats are virtually non-existent now, but some of those actions on the Internet may be classified as criminal offences.

For example, under some circumstances acts of cyber-aggression may be found to fall under Article 110 of the Criminal Code of the Russian Federation 'Causing a Suicide' (Article 110.2 (d), Article 110.1 'Aiding and Abetting Suicide', or Article 110.2 'Organisation of Activities Aiming to Incite Suicide'. The elements of a crime covered by Article 111 'Wilful Infliction of a Grave Injury to Health that Entailed a Mental Disorder' are more difficult to prove practically, but that is still possible. Notably, commission of such crimes in respect of minors entails stricter penalties than in the ordinary case (where the victim is an adult).

Cyber-grooming is covered by the provisions of Article 133 ‘Compulsion to Commit Actions of a Sexual Nature’ and Article 135 ‘Sexual Misconduct’.

Cyber-stalking is not prosecuted under the current criminal legislation.

A.I. Bastrykin, Chairman of the Investigation Committee of the Russian Federation, has repeatedly referred to the difficulties of investigating such crimes involving the use of the Internet: in his opinion, the virtualisation of society, especially its younger generation, has a number of serious negative consequences that include the emergence and development of information and telecommunication technology crimes [Bastrykin A.I., 2022].

We cannot but agree that protection of the information society’s security is a most pressing issue that arises as the Russian state implements its digital economy policy, for digital crimes become more numerous with every passing year [Shevchenko O.A., Agadzhanian M.A., 2021: 27–33].

On the other hand, it is important to understand and remember that the mere existence of criminal law mechanisms for protection against crimes committed in respect of children cannot redress the harm inflicted on the child. Given the priority nature of children’s interests and facilitating their development, we find it objectively necessary to develop preventive legal measures that might contain the Internet crime.

7. Legal Protection of Children against Virtual Transaction Risks

Virtual transactions and the risks they pose can be seen from two perspectives: those of the child’s property and non-property interests.

The former case is where a child makes undesirable online purchases and transactions not approved by his/her parents, The latter case is where a child buys harmful paid information products (fund-raising subscriptions, lectures, or courses) that are often not adapted to the child’s or adolescent’s age.

The property interests of children and their parents raising minors under Article 80 of the Family Code of the Russian Federation may be protected by invoking general provisions of civil law. For instance, parents may return or refuse an unsuitable item if the online seller provides this feature, or sue for the cancellation of the contract.

However, protection of children’s non-property interests is outside legal regulation. The current law provides for no quick responses to, or safe-

guards against objectionable information products offered online, particularly by online fraudsters and info gypsies.

8. Legal Protection of Children's Privacy and Personal Data

Children's more vulnerable position online than adults' results, in particular, from minors' specific behaviour characteristics (like impulsiveness and emotional volatility) but also from the data owners being informed of the processing of their personal information in language that children cannot understand due to their age, and in some cases, from the fact that children (especially younger ones) cannot even realise that their personal data will be processed, and the resultant threats [Krylova M.S., 2019: 194–199].

Examples of such threats include:

doxing—unauthorised collection of information, particularly in digital file form;

deanon—public dissemination of personal data / other personal information;

faking—dissemination of false information; manipulation of public opinion [Bogatyryov K.M., 2022: 136–142].

No legal safeguards against the above threats have been established, for the legal regulation of children's and adults' personal data is not differentiated. And, while an adult person aware of his/her risks may take the necessary precautions, e.g. ban the use of cookie files, a child will hardly ever do that. The latter is what enables us to discuss, as part of legal discourse, the peculiarities of children's legal status that deserve due attention during the formation of a digital society.

9. Government and Non-Government Initiatives to Protect Children's Rights in the Internet

According to Article 4 of the Law on Children's Rights, the goal of government policy on children is to protect children from things that negatively affect their physical, intellectual, mental, spiritual, and moral development.

Experience of the most developed countries of the world, including Russia, shows that effective measures at the level of the state (i.e., undertaken on its initiative and with its support) are:

Impose a legal ban and restriction on dissemination of information that may be harmful to children;

Introduce a regulatory classification of web-sites;

Raise awareness of children, parents, and teachers on cyber threats and ways to tackle them.

At the same time, legislation *per se*, without an well-functioning enforcement mechanism, is insufficient; only where these elements are combined can one speak of real rather than nominal protection of children's rights.

In the section on content risks we described the mechanism used in the Russian media space to restrict access to prohibited information and, as a result, to effectively block a particular web-site with such information. Today, this is one of the key measures to protect children's rights on the Internet.

Introduction of ombudsperson for children's rights in the Russian Federation, both under the President and at the level of the constituent entities, is another strict measure. According to Article 2 of the Law on ombudspersons for children's rights,¹⁴ the ombudsperson's work complements the existing means of protecting children's rights and legitimate interests, does not override the authority of government agencies to protect and restore children's violated rights and legitimate interests, and does not entail any review of such authority.

Main goals and objectives of ombudsperson are to ensure protection of children's rights and legitimate interests; support formation and effective functioning of a government system for implementation, compliance and protection of children's rights and legitimate interests by government authorities, bodies of local self-government, and government officials; monitor and analyse the performance of the mechanisms for implementation, compliance and protection of children's rights and legitimate interests etc. The areas where the ombudsperson is to solve the aforementioned tasks include children's safety on the Internet.

Furthermore, various special information web-portals and web-sites are established and operated with financial support from federal authorities, e.g., the web-portal *Don't Let It Happen!*¹⁵ created with support from the Ministry of Digital Development, Communications and Mass Media to counter cyberthreats, modern slavery and dangers to children, and the Centre for the Safe Internet in Russia, an online news outlet on safe world-

¹⁴ Consolidated legislation of the Russian Federation, 2018, No. 53 (Part I), P. 8427.

¹⁵ Available at: URL: <https://nedopusti.ru/site/> (accessed: 30.05.2023)

wide-web surfing¹⁶ operating with support from the Federal Agency for Press and Mass Communications.

State remedies are more effective when combined with support for public initiatives because it is society, its sentiments, interests and goals that determine the meaning of state activity and state bodies. Hence, NGOs are now widely encouraged to work towards protecting children's rights on the Internet.

Cyber volunteering, a relatively new phenomenon of social online reality, is a type of volunteering that is done remotely via Internet technologies.

With regard to protecting children's rights against online threats, cyber volunteers can act as a "quick-response protector" to assist a child or young person in resolving a difficult case in the world-wide web.

The Ministry of Science and Higher Education has summarised the working experience of cyber volunteer movements and developed Methodological Recommendations for Educational Institutions of Higher Education on the Formation of Media and Cyber-volunteer Units in the field of countering illegal content. The Recommendations, circulated in Letter of the Ministry of Science and Education No. MN-6/115¹⁷, are intended in particular for the employees of higher education institutions that are in charge of developing volunteer movements, as well as for staff members engaged in implementing the state youth policy on countering terrorist ideology and preventing extremism; however, the Recommendations can be used by any interested persons.

10. Digital Protection (Self-Protection) as a Special Measure

It is common knowledge that, in theory, the right to defence can be exercised either through specially authorised state bodies or through the independent actions of an authorised person. Accordingly, two types of defence are distinguished:

Non-jurisdictional, when the right to defence is implemented through independent actions of the authorised person (self-protection, use of swift enforcement measures, pre-trial dispute settlement, non-enforcement of rules in the implementation of a right);

Jurisdictional, when the right to defence is implemented through government bodies and other bodies authorised by the state to protect rights (arbitration courts, notaries) [Kurbatov A.Yu., 2013].

¹⁶ Available at: URL: <https://www.saferunet.ru/> (accessed: 30.05.2023)

¹⁷ SPS Consultant Plus.

The Family Code of the Russian Federation entrusts primarily the parents or persons in *loco parentis* with the protection of children's rights, so the sphere of parental discretion or responsibility begins where the state legal protection of children's interests on the Internet ends.

Technically, Internet users get access to the world-wide-web by means of devices of various types and through communication services provided under a contract that minors are not entitled to enter into, so only the telecommunications service recipient that owns the device can provide such access to minors. Such recipients include parents, statutory representatives, educational and other organisations, and it is them that the legislator charges with the primary duty to filter content that a child can access.

At present, the main non-jurisdictional measure for protecting children's rights on the Internet is the so-called parental control or, in other words, content filtering on home computers and other electronic devices that children use to access the Internet. Parents can filter content on their own, 'in manual mode', or can purchase special software¹⁸. And, since this protective measure is effected through digital technologies, we believe it would be appropriate to talk of a new remedy, namely digital protection (self-protection). T. Sustina, lawyer at the Moscow Region Bar Association, notes that the issue of digital self-protection for children is now recognised by the world community as an international policy priority [Sustina T., 2022: 8–9].

Conclusion

The current Russian law certainly responds to the challenges of digitalisation and informatisation of modern society by providing specific legal measures to ensure the protection of children's rights on the Internet. As was found and outlined above, from a legal perspective, children's rights in Russia are best protected against content-related risks, much less protected against contact-related risks, and even less against virtual transaction risks and Internet privacy and security risks.

At the same time, the present norms and regulations are only isolated responses intended to protect children's rights that fail to constitute a holistic system. For such a system to form, it is necessary to continue developing legal aspects of children's activities in the information space and virtual interaction on the Internet. In course of this development, regulation of the

¹⁸ Available at: <https://liferhacker.ru/roditelskij-kontrol-na-telefone/> (accessed: 10.05.2023)

information law and the need for a harmony between the public and the private in state protection, non-governmental protection, and self-protection of children's rights must be taken into account.



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Information about the author:

R.V. Khisamova — specialist.

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