

LABOUR LAW ASPECTS OF CHILD LABOUR IN THE INFORMATION AGE

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The article analyses the labour law aspects of child labour in the information age. It presents in detail the specific features related to the regulation of child labour and the possibilities of applying labour law legislation particularly to the work of children under the age of 15, pupils and students. Three sections are discussed: the normative regulation of child labour, the specific features of performing light work by children, the special protection provisions that apply to child labour, and the specific features related to digital child labour, which is emerging as a new form of work. The basic hypothesis in the article is that when defining child labour and the emergence of new forms of work, such as the work of information child influencers, it is necessary to regulate this appropriately in a way that takes into account the specific features of the situation of children who perform such work so that such work does not harm their safety, health, morality, education and development.

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1 Introduction

Childhood is a very important period of life, intended for the development of a child. It is a period in which a child's physical and mental development takes place. This is a time that should be dedicated to play, education, upbringing, gaining certain experiences, and learning about interpersonal relationships. Childhood should not be intended for work, obligations, worries about survival and obtaining financial resources. However, if we look at today's media and online platforms, the opposite is added. We see pictures, recordings, and films in which children present individual content to us, market products, and introduce us to life in a cute way. Online networks are full of images of children or children with parents who are trying to attract attention and sell certain products, content or services. At the same time, we do not even think that this is the work of children who are deprived of a normal carefree childhood, that we have new child stars who do not come from the land of dreams and movies, but from their home environment. The emergence of child stars and the emergence of new forms of work raises certain questions, namely, when does children's play become work, what does and does not constitute children's digital work, what is the role of parents in performing such work, and to whom and in what way is this work permitted.

The concept of child labour has changed throughout history and has been linked to individual forms of work. When defining the terms, it should be emphasised that the term child work is not the same as child labour. The following definitions have been given within the framework of UNICEF.¹ Child work is understood as the activities of children who help with various tasks. Therefore, activities that are partly intended to educate and promote responsibility are welcome as part of parental education. This includes forms of help with housework taking care of one's own space, such as cleaning and participating in various activities within the family, sports activities, decorating, and harvesting crops. More demanding forms of child labour occurred in family activities that were intended to earn money, such as agricultural activities within family farms. In accordance with international standards, child labour is defined as work that deprives children of their childhood, which causes children to fail to develop their potential and dignity and can be harmful to physical and mental development. Whether a particular activity is called child work or child

¹ Emezue et al., 2023, p. 40.

labour depends, of course, on several factors, such as the child's age, the type and hours of work performed, and the conditions under which the work is performed.

Article 1 of the Convention on the Rights of the Child² states that a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

In relation to the topic of the paper, the following will discuss child labour, which is not carried out based on an employment contract and covers categories of children up to fifteen years of age who perform non-classical forms of work. When reviewing the specifics of this nature of work, it is necessary to define the labour law aspects of child labour performed in the home environment and under the instructions or supervision of parents. The question also arises as to what the appropriate measures are or how not only to define but also to normatively regulate the implementation of such work so that children are protected. This must be set carefully so as not to interfere with the family environment, but at the same time be strict enough to enable the protection of children's health, prevent their exploitation and not interfere with the education and development of children.

2 Normative Characteristics of Child Labour Regulation

The importance of regulating the protection of children and establishing special protective provisions stems from the existing regulation at the international level, which sets out basic standards for the framework of child labour. Within the framework of the United Nations (hereinafter: UN), the UN General Assembly adopted the Declaration of the Rights of the Child³ on 20 November 1959, which set out in 10 principles the rights and freedoms that all children should enjoy. Because the Declaration was not a legally binding document, the UN adopted the Convention on the Rights of the Child (hereinafter: UNCRC)⁴ thirty-five years ago.

² *Convention on the Rights of the Child* (CRC), adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 entry into force 2 September 1990.

³ Declaration of the Rights of the Child, adopted at the 841st plenary meeting, 20 Nov. 1959 by the UN General Assembly (14th sess. 1959).

⁴ With the Fundamental Constitutional Charter on the Sovereignty and Independence of the Republic of Slovenia and the Act on the Notification of Succession to the UN Convention (Uradni list RS – MP No. 9/1992 (RS 35/1992), which has been in force since 17 July 1992, the Republic of Slovenia has succeeded to the United Nations Convention on the Rights of the Child. Retrieved from: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en (accessed: 28 November 2024).

Based on Article 32, para. 1 of the UNCRC, it is determined that the Contracting States recognize the right of the child to protection from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development. The obligations of the States Parties are particularly important, namely, under Article 32, para. 2 of the UNCRC, they are obliged to ensure the child's right to protection from unsuitable work through legislative, administrative, social and educational measures and to set a minimum age for employment, appropriate regulations on the number of working hours and conditions of employment, and appropriate penalties and other sanctions to ensure the effective enforcement of this article.⁵

Article 10 of the International Covenant on Economic, Social and Cultural Rights⁶ also requires the protection of children and young people from economic and social exploitation, and in particular states that the employment of children in work that is harmful to their morals or health, is dangerous to their life, or is likely to hinder their normal development, shall be considered a criminal offence. States must also set an age limit below which paid child labour is prohibited and punishable by law.

The International Labour Organization (hereinafter: ILO) has adopted several conventions and recommendations on child labour, which all share the common principle that the primary task of growing children is learning or training.⁷ The minimum age for child labour is set by the Convention (No. 138) Concerning Minimum Age for Admission to Employment⁸ and its Recommendation No. 146 on the Minimum Age for Admission to Employment, which obliges member states to eliminate child labour.⁹ ILO conventions set basic standards for the protection of

⁵ The monitoring mechanism that monitors the implementation of the UNCRC is the Committee on the Rights of the Child (hereinafter: CRC), which is a committee of 18 independent experts. It also monitors implementation of the Optional Protocols to the Convention, on involvement of children in armed conflict and on the sale of children, child prostitution and child pornography (more information available at: <https://www.ohchr.org/en/treaty-bodies/crc>). States parties are obliged to submit regular reports on the implementation of rights. States must submit an initial report two years after accession to the UNCRC and then regular reports every five years. The CRC has the power to review reports and address its concerns and make recommendations to the State party in the form of "concluding observations", and it can also consider complaints.

⁶ International Covenant on Economic, Social and Cultural Rights: Uradni list RS, no. 35/92 – MP, no. 9/92.

⁷ Bagari, 2024, p. 1276.

⁸ Convention (No. 138) Concerning Minimum Age for Admission to Employment, Convention (No. 138): Uradni list RS – MP, št. 15/92, 1/97, 17/15.

⁹ Within the framework of the ILO, the following were also adopted: Convention (No. 90) Concerning the Night Work of Young Persons Employed in Industry (Uradni list RS – MP, št. 15/92), Convention (No. 182)

children at work and specific safety provisions related to the prohibition of individual forms of work.

The Member States of the Council of Europe have set out the following commitments for the realisation of the rights of children and young people in Article 7 of the European Social Charter and its Additional Protocol of 1988, namely a minimum age of 15 years for admission to work,¹⁰ which is raised to 18 years in the case of employment in work considered hazardous or unhealthy. The commitments of the member states in regulating child labour are that children who are still in compulsory schooling may not be employed in work which would prevent them from fully benefiting from their education, the working hours of persons under the age of eighteen years shall be limited in accordance with the needs of their development, in particular the needs of their vocational training, young workers and apprentices have the right to a fair wage or other appropriate remuneration, and vocational training of young people during regular working hours with the consent of the employer shall be considered part of the working day. In particular, in order to ensure the safety and health of children, it was stipulated that employed persons under the age of eighteen are entitled to at least four weeks of paid annual leave, that persons under the age of eighteen may not be employed at night, except in those professions for which this is prescribed by national legislation, that regular medical examinations are prescribed for persons under the age of eighteen who are employed in professions specified by national legislation, and that special protection is ensured against the physical and moral dangers to which children and young people are exposed, in particular against those which arise directly or indirectly from their work.

This directive obliges Member States to take appropriate measures to prevent child labour and to ensure that the minimum age for admission to employment or employment is not lower than the minimum age for the completion of compulsory full-time education as determined by national legislation and in no case less than 15 years, that children are protected from economic exploitation and from any work that is likely to harm their safety, health or physical, mental, moral and social development, or to jeopardize their education. This directive, therefore, sets out criteria for the entry into the work of children, just as in international instruments.

Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Uradni list RS – MP, no. 7/01).

¹⁰ The age of 15 is not absolute, but light work that does not harm the health, morals or upbringing of children is permitted.

Still, the special feature of this directive is that it sets out general obligations for employers where children or "young persons"¹¹ participate in the work process, it also determines the sensitivity of young persons. It lists the work where the work of young persons is prohibited.

In the field of child labour, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA¹² and Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA¹³ are also important. These two directives regulate the most serious criminalisation of acts constituting child exploitation and child labour.¹⁴

Slovenia has included children's rights in its legal system at the highest level and has established children's rights as a special constitutional category.¹⁵ The status of children and their rights is regulated by the Constitution of the Republic of Slovenia (hereinafter: URS)¹⁶ in several places, depending on the type of status or right in question.¹⁷ Article 56 of the URS regulates the rights of children, stipulating that children enjoy special protection and care. Children enjoy human rights and fundamental freedoms in accordance with their age and maturity. Children are guaranteed special protection against economic, social, physical, mental or other exploitation and abuse. Such protection is regulated by law. Article 54 determines the rights and duties of parents to maintain, educate and raise their children. This

¹¹ The Directive defines three categories of children entering the work process, namely: "young person" means any person under the age of 18 years and to whom Article 2(1) of the Directive applies, "child" means any young person under the age of 15 years or who is enrolled in compulsory full-time education in accordance with national law, and "adolescent," which means any young person who is at least 15 years of age and not more than 18 years of age and who is no longer enrolled in compulsory full-time education in accordance with national law.

¹² Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (Official Journal of the EU L 335/1).

¹³ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (Official Journal of the EU L 101/1).

¹⁴ Šaloven, 2024.

¹⁵ Šelih, 2014, p. 21.

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

¹⁷ Kaučič & Grad, 2011, p. 151.

right and duty may be taken away from parents or restricted only for reasons specified by law.

The provision of para. 2 of Article 56 of the URS has been implemented in the labour law legislation, namely in the chapter Work of children under 15 years of age, pupils and students. This chapter is special, given that the Employment Relationships Act (hereinafter: ZDR-1)¹⁸ regulates employment relationships concluded with an employment contract. Work performed by children, or pupils and students, is not work performed based on a concluded employment contract; therefore, it is not an employment relationship. The protective provisions relating to children, pupils and students, however, fall within the scope of labour law, and are therefore included.¹⁹ In accordance with Article 211 of the ZDR-1, it is stipulated that the work of children under 15 years of age is prohibited. This prohibition is not absolute and follows international standards for exceptions to the general prohibition of work by children under 15 years of age, related to the field of activity. Children under the age of 15 may, exceptionally, for a fee, participate in the filming of films, the preparation and performance of artistic, scenic and other works in the field of cultural, artistic, sports and advertising activities. Children over the age of 13 may perform light work for a maximum of 30 days in a calendar year during school holidays, also in other activities, in a manner adapted so as not to endanger their safety, health, morals, education and development.²⁰ An implementing act determines the types of light work. In exceptional cases, children may only work with prior permission from the labour inspectorate.

The amendment to the ZDR-1D amended Article 212 to provide even greater protection for children under the age of 15 with special protective provisions regarding the work of children under the age of 15. The reason for the change was the findings of the European Committee of Social Rights, namely: the permissible number of hours of light work that children under the age of 15 can perform during

¹⁸ Employment Act (Slovene *Zakon o delovnih razmerjih* – ZDR-1): Uradni list RS, št. 21/13, 78/13 – popr., 47/15 – ZZSDT, 33/16 – PZ-F, 52/16, v15/17 – odl. US, 22/19 – ZPosS, 81/19, 203/20 – ZIUPOPDVE, 119/21 – ZČmIS-A, 202/21 – odl. US, 15/22, 54/22 – ZUPŠ-1, 114/23, 136/23 – ZIUZDS.

¹⁹ Bagari, 2024, p. 1274.

²⁰ These types of light work that children from the age of 13 can perform are specified in the Rules on the Protection of Health at Work of Children, Adolescents and Young Persons (Uradni list RS, št. 62/15) and are listed by way of example. Light work includes office work, work in restaurants, work in agriculture, forestry and gardening, light printing and sewing work, tasks related to packaging and distribution, work in laundries, photographic work, etc.

school holidays has been reduced from seven to six hours and from 35 to 30 hours per week. An additional obligation has been established that children performing light work during school holidays must be provided with at least two weeks of uninterrupted rest.²¹ The work of pupils and students is also regulated in the Employment and Unemployment Insurance Act (hereinafter: ZZZPB)²² - used for the placement of temporary and occasional work of pupils and students on the basis of the transitional provisions of the Labour Market Regulation Act (hereinafter: ZUTD),²³ the Public Finance Balancing Act (hereinafter: ZUJF)²⁴ and the Vocational and Professional Education Act (hereinafter: ZSPI-1).²⁵

3 Child Labour in the Information Age

With the change in the way of working and the spread of the internet, a new job or profession called influencer²⁶ emerged, that is, an individual who created their own online space through which they could share their interests or beliefs with others without intermediaries. The matter developed into a profession when individual companies realized that the most effective ads were those that were part of the blog content and influencers became a de facto marketing profession.²⁷ The new job description for an influencer is adding stories, creating content, sharing everyday life moments, collaborating with international brands, receiving PR packages, modelling and earning money. What attracts the most viewers, what has the greatest impact on

²¹ Article 212 of the ZDR-1 also prohibits night work and provides for a daily rest period of at least 14 consecutive hours. Likewise, work performed by a child during the school year outside of school hours may not exceed two hours per day and 12 hours per week.

²² Employment and Unemployment Insurance Act (Slovene *Zakon o zavarovanju in zaposlovanju za primer brezposelnosti* – ZZZPB): Uradni list RS, št. 107/06 – official consolidated text, 114/06 – ZUTPG, 59/07 – ZŠtip, 51/10 – Supreme Court decision, 80/10 – ZUTD, 95/14 – ZUJF-C.

²³ Labour Market Regulation Act (Slovene *Zakon o urejanju trga dela* – ZUTD): Uradni list RS, št. 80/10, 40/12 – ZUJF, 21/13, 63/13, 100/13, 32/14 – ZPDZC-1, 47/15 – ZZSDT, 55/17, 75/19, 11/20 – Constitutional Court decision, 189/20 – ZFRO, 54/21, 172/21 – ZODPol-G, 54/22, 59/22 – Constitutional Court decision, 109/23, 62/24 – ZUOPUE.

²⁴ Public Finance Balancing Act (Slovene *Zakon za uravnoteženje javnih finanč*): Uradni list RS, št. 40/12, 96/12 – ZPIZ-2, 104/12 – ZIPRS1314, 105/12, 25/13 – Constitutional Court decision, 46/13 – ZIPRS1314-A, 56/13 – ZŠtip-1, 63/13 – ZOsn-I, 63/13 – ZJAKRS-A, 99/13 – ZUPJS-C, 99/13 – ZSVarPre-C, 101/13 – ZIPRS1415, 101/13 – ZDavNepr, 107/13 – Constitutional Court decision, 85/14, 95/14, 24/15 – Constitutional Court decision, 90/15, 102/15, 63/16 – ZDoh-2R, 77/17 – ZMVN-1, 33/19 – ZMVN-1A, 72/19, 174/20 – ZIPRS2122, 139/22 – ZSPJS-AA.

²⁵ Vocational and Professional Education Act (Slovene *Zakon o poklicnem in strokovnem izobraževanju* – ZSPI-1): Uradni list RS, št. 79/06, 68/17, 46/19, 53/24).

²⁶ In 2019, the word “influencer” was added to the Merriam-Webster dictionary and is defined as “a person who is able to generate interest in something (such as a consumer product) by posting about it on social media.”

According to Forbes, 54 percent of Americans aged 13 to 38 would become an influencer if given the opportunity (Masterson, 2021, p. 6).

²⁷ Schitton, 2018, p. 15.

consumers, and gives the content a certain authenticity and a sense of "family" are children in front of the camera, children in the role of actors, and comments. Today, influencers, who are usually part of upper-class, educated and sophisticated families, are now "sending their children to work" from the comfort of their own homes, turning them into "Kidfluencers"²⁸, which is the term for child internet stars. A child influencer or Kidfluencer is a child who, by posting content online on various social media platforms, creates a large number of viewers and followers and often earns money for sponsored content. This new term is a colloquial term used to refer to a child who is an influencer on social media. With such visibility and followers, children or, through them, parents expect contracts with major brands, and there is also no age limit for such work and appearance for children who participate in the creation of individual content.²⁹

When defining child labour in the digital age, new terms are also emerging for performers of such work or contractors who negotiate for content, namely Sharing - digital parenting (share in parenting) - parental publishing of content about children on social networks.³⁰

Although this social media work is relatively new, it has become a very important part of any brand strategy, and influencers have become important brand ambassadors. With many of these influencers giving their viewers an intimate insight into their private lives in order to gain more views and reach a wider audience, it is not surprising that children are increasingly becoming part of their parents' content on social media – which in turn has led to the development of the Kidfluencer phenomenon. From a labour law perspective, when creating online content, a child is not playing, but working, regardless of the parents' opinion. According to the ILO, child labour is often defined as: "work that deprives children of their childhood, their potential and their dignity and is harmful to their physical and mental development. It refers to work that is: mentally, physically, socially or morally dangerous and harmful to children or interferes with their education."³¹

²⁸ Whaibe, 2021.

²⁹ Feller & Burroughs, 2022, p. 577.

³⁰ There is now a phenomenon where parents start posting content even before their children are born. Siibk & Traks, 2019, p. 116.

³¹ Whaibe, 2021.

Regardless of parents' views and denials that creating content online is play, children are not fully mature physically and cognitively, so parents act as surrogate agents in carrying out the activity. In traditional child labour, children were sent to factories at a very young age to do hard labour in harsh conditions, and even regular workers did not want their children to be exploited in this way. Still, now the emergence and development of digital media have given rise to another form of child labour.³² Most social media platforms, such as Instagram and YouTube, require users to be 13 years or older to create accounts on their sites, meaning that individual restrictions on who and how can create content would not, from this perspective, result in child protection. As a result, most parents of "Kidfluencers" manage their accounts in order to maintain their online presence.³³ The emergence of the child star did not happen with the emergence of kidfluencers, but child actors had already appeared before. However, when comparing the work of a child actor or the digital work of a child, the difference is in the place of work, the pay for the work, the employer, and the working hours.³⁴

Given the above, the question arises whether digital child labour is a new form of work, when can we define the creation and display of digital content by children for work and what defines it. If we proceed from the definition of an employment relationship, which is defined as a relationship between an employee and an employer, in which the employee voluntarily participates in the employer's organized work process and, for payment, personally and continuously performs work according to the employer's instructions and under the employer's supervision. The essential elements of an employment relationship are therefore the employee's voluntary participation in the employer's organized work process, the performance of personal work, the performance of work for payment, the continuous performance of work and the performance of work according to the employer's instructions and under the employer's supervision. When defining digital child labour, the following elements can be highlighted: it is the work of a child in the role of appearing on online networks, it is related to obtaining financial resources and

³² Pan & He, 2023, p. 81.

³³ Masterson, 2021, p. 14.

³⁴ A child actor has a predetermined content of his role, the length of the work process is standardized, the work process takes place outside the home environment and the work is carried out under the guidance of professional directors and screenwriters. The case is different with a kidfluencer, who does not have a predetermined content of work, the length of the working day is not planned, the work process takes place in the home environment, the process of recording and creating content is led by parents. Child influencers have two employers, both the client and payer of the content, and the parents, who perform the contractually agreed content with the child.

promoting a product, which means that the work is performed for payment, the work is related to the frequency of publishing content, and the role of employers is played by parents, who supervise the preparation of content published on online networks.

4 Regulation of Child Labour in the Information Age

The phenomenon of Kidfluencers also raises questions about children's rights to privacy and identity. Many parents upload videos and images without even thinking that they are creating digital footprints that their children are not even aware of, let alone able to consent to. At the same time, it marks them for life. It is important to point out that the act of consent in carrying out such work is not optional. Children should freely agree to digital work, and if parents believe that they are too young to be able to choose, parents should reconsider their decision. The internet is eternal and as their digital identity is somewhat solidified, children may eventually be hindered from discovering and developing their own image. Thus, children should also be allowed to participate online and choose how they want to present themselves. Consent or free choice should be crucial. The reality is that parents usually think that it is normal to make decisions without first asking their child. However, a child should never be seen in the public eye, constantly creating content, without consenting to the action based on their knowledge of what that action involves and what its likely consequences are.³⁵

Below, I highlight new provisions that represent recommendations for regulating children's rights and their protection in the digital world. Thus, at its 86th session, the CRC adopted and on 25 March 2021 adopted General comment No. 25 (2021) on children's rights in relation to the digital environment,³⁶ which emphasizes that the rights of every child must be respected, protected and fulfilled in the digital environment as well. The CRC highlights four principles for determining the measures necessary to ensure the realization of children's rights in the digital environment: non-discrimination, the best interests of the child, the right to life, survival and development, and respect for the views of children. The CRC recommends that states adopt legislative measures and comprehensive policies and strategies, collect data and conduct research, conduct independent monitoring, raise

³⁵ Whaibe, 2021.

³⁶ General comment No. 25, 2021.

awareness and train children, cooperate with civil society, and strengthen access to justice and legal remedies, all to protect children in the digital environment. The protection of children's privacy is also highlighted - any interference with it must be provided for by law, which takes into account the principle of data minimization, be proportionate and designed to take into account the child's best interests and must not conflict with the provisions and objectives of the Convention on the Rights of the Child. Data protection legislation must respect the privacy and personal data of children in the digital environment.

The first country within the European Union to have a specific law aimed at protecting children working in the digital environment was France.³⁷ In 2020, Law No. 2020-1266 of 19 October 2020 regulating the commercial exploitation of images of children under the age of sixteen on online platforms (LOI n° 2020-1266 du 19 octobre 2020 visant à encadrer l'exploitation commerciale de l'image d'enfants de moins de seize ans sur les plateformes en ligne)³⁸ was adopted, which defines the conditions for obtaining a permit to publish digital content with children, the possibility of renewing such permits, the obligations and status of parents in such child labour, and the transfer of money to a special fund managed by a public financial institution until the child reaches the age of majority.³⁹

To protect children working on various online media, various proposals have been made to regulate this area. As a first requirement, it would be necessary to introduce special work permits for "Kidfluencers" at the national level. Individual countries would thus be able to monitor which parents and guardians are generating profit from their children's activities on social networks, which would allow the collection of data to quantify the extent of the "Kidfluencer" problem and allow us to better understand some of the consequences, as well as greater control over the performance of digital work itself. Secondly, it would make sense to include normative bases that would apply and specifically refer to the issue of digital child labour and would follow recent and past cases in France. Among the normative bases, it would be appropriate to include requirements for the establishment of funds

³⁷ Quashie, 2024.

³⁸ LOI n° 2020-1266 du 19 octobre 2020 visant à encadrer l'exploitation commerciale de l'image d'enfants de moins de seize ans sur les plateformes en ligne (Journal officiel électronique authentifié n° 0255 du 20/10/2020).

³⁹ In matrimonial matters, special attention is given to the financial protection of children until they reach adulthood, which means that in France they want to prevent what in America is the Coogan trust model (Masterson, 2021, p. 26).

for "Kidfluencers" who are included in social media profiles that generate profit. This would serve a dual purpose: to ensure that children are not financially exploited and to discourage parents and guardians from activities where they are less likely to reap financial benefits.⁴⁰

Children spend long hours producing financially profitable content under the direction of their parents and guardians. These children lack personal, professional and financial protection. While we must continue to respect the autonomy of parental rights, they must always be exercised in the best interests of the child. As we move into a new digital age, legislators and policymakers must follow suit to protect children and raise awareness of the inherent risks associated with "Kidfluencers" and the proposals outlined above are for consideration in national regulations.⁴¹

5 Regulation of Child Labour in the Information Age in Slovenia

The report of the Labour Inspectorate of the Republic of Slovenia for 2023 shows that in 2023, 755 work permits related to the work of children under the age of 15 were issued. The vast majority of these were for child labour in the filming of commercials, videos and films.⁴² The year before, 659 decisions were issued, i.e. 96 fewer for the same content of work.⁴³ It is also worth noting that the Labour Inspectorate of the Republic of Slovenia fined an influencer who promoted products on Instagram with the help of his children. The fine was issued because the parents did not apply for permission from the labour inspectorate. A permit must be obtained from the inspectorate for the work of children under the age of 15. In this case, the offence was imposed on a family due to the recordings published on online platforms, which show that it was a promotion of a specific product in which children also participated. The family has a website and publishes content on Instagram, Facebook, and YouTube. The recordings published on Instagram are said to be controversial.

⁴⁰ Cezarita Cordeiro, 2021.

⁴¹ Masterson, 2021, p. 26.

⁴² Available at: https://www.gov.si/assets/organi-v-sestavi/IRSD/LETNA-POROCILA-IRSD/Porocilo_o_delu_IRSD_v_2023.pdf, p. 26. (accessed: 8 November 2024).

⁴³ Poročila Inšpektorata Republike Slovenije za delo za leto 2022, p. 29.

The provisions of Article 211 of the ZDR-1, which do not technically define digital work, but do list advertising activities, are now used by analogy to regulate the digital work of children under 15.⁴⁴ The procedure for regulating the digital work of children in Slovenia is now carried out in such a way that it is understood that before the start of the digital work of children, a procedure is carried out in accordance with Article 211 of the ZDR-1 and the procedural provisions of the Rules on the Protection of Health at Work of Children, Adolescents and Young Persons. It is thus envisaged that parents must obtain a permit from the Slovenian Labour Inspectorate before starting to record content, which is valid for a period of one year. The Slovenian Labour Inspectorate has the authority to require the parent to demonstrate that digital work will not endanger the health, development or safety of the child. If it is deemed necessary, the procedure may also involve the Social Work Centre or the School Counselling Service. The obligations that parents have when performing such work include compliance with working time restrictions, protective provisions regarding the prohibition of night work, ensuring appropriate payment for children and ensuring the right to daily and weekly rest.

Given the extensive nature of the phenomenon of digital child labour and the absence of any records of such forms of work, let alone monitoring of this content, it would be necessary to follow the legislation in France, which has adopted a *lex specialis* exclusively for this area, precisely because of the application of the existing provisions of labour legislation by analogy.

6 Conclusion

With the development of information technology and new online platforms, digital child labour has also emerged, a new way of advertising products and services. The reality is that digital child labour is a new form of work. When defining digital child labour, we can highlight the following elements: it is the work of a child in the role of appearing on online networks, it is related to obtaining financial resources and promoting a product, which means that the work is performed for a fee, the work is related to the frequency of publishing content, the role of employers is played by parents who exercise supervision in the preparation of content published on online networks, the work is performed in a home environment and thus there is no sharp

⁴⁴ The Labour Inspectorate of the Republic of Slovenia has already decided that the second paragraph of Article 211 of the ZDR-1 also applies to the above cases (Šaloven, 2024, p. 53).

division between private and professional life, work becomes play and play becomes work. Parents can publish content with their children in a way that includes them on their own social networks or that creates their own profile on social networks for the child. In the context of content preparation, children are presented attractively and are instructed to use pre-prepared sentences that are not very understandable to children when recording content for social networks. Currently, digital child labour is not regulated by any specific document, neither at the international nor at the EU level, although child labour itself is regulated.

Within the framework of ZDR-1D, the provisions of Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work⁴⁵ were implemented in a way that only the number of allowed working hours was reduced. This directive obliges Member States to take appropriate measures to prevent child labour and to ensure that the minimum age for admission to work or employment is not lower than the minimum age for the completion of compulsory full-time education as laid down in national law, but in no case less than 15 years, that children are protected from economic exploitation and from any work that is likely to harm their safety, health or physical, mental, moral and social development, or to jeopardise their education, and that digital child labour is not specifically regulated. The first country within the European Union to have a specific law aimed at protecting children working in the digital environment was France. Due to the laxity of the current provisions in labour law, I believe that it would be necessary to follow the example of the legislation in France and draft legislation in a way that would cover the specifics of such work, as well as how to contractually regulate such work, since the payment for advertising content is actually received by the parent and not the child.

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