



Research article

UDC 34:004:342.727:004.5

EDN: <https://elibrary.ru/gbfhor>

DOI: <https://doi.org/10.21202/jdtl.2024.20>

Social and Legal Risks of Sharenting when Forming a Child's Digital Identity in Social Networks

Francisco José Aranda Serna

Catholic University of Murcia, Murcia, Spain

Keywords

children's rights,
digital identity,
digital privacy,
digital technologies,
law,
personal data,
privacy,
sharenting,
social networks,
web platforms

Abstract

Objective: to determine the legal consequences of sharenting as an activity that threatens the fundamental rights of minors, putting their privacy at risk.

Methods: the study is based primarily on the analysis of European and American experience of legislative regulation, which is presented in a comparative-legal aspect, using doctrinal approaches and concepts reflected in scientific publications on the topic. This contributed, among other things, to the critical understanding of the identified risks and helped to describe the existing legal approaches and formulate proposals aimed at protecting the minors' privacy in social networks.

Results: the impact of social networks on the rights of minors was studied, in terms of their negative influence, possible risks and the spread of social conflicts. The main provisions of the legislation of Spain, France and the USA were analyzed in order to identify the key points regarding the activities of minors in social networks and the Internet, the need for them to express their consent to the publication of personal information. The most common conflicts caused by sharenting were described, as well as possible flexible legislative solutions to disputes concerning family relations and social networking activities. Suggestions were formulated for resolving conflict situations and digital identity issues arising in abusive sharenting.

Scientific novelty: the study summarizes various scientific opinions and legal approaches to sharenting as a new phenomenon, which is rapidly developing due to the wide popularity of social networks and Internet activity of children and their parents, generating socio-legal conflicts.

© Aranda Serna F. J., 2024

This is an Open Access article, distributed under the terms of the Creative Commons Attribution licence (CC BY 4.0) (<https://creativecommons.org/licenses/by/4.0>), which permits unrestricted re-use, distribution and reproduction, provided the original article is properly cited.

Practical significance: the research shows that minors are particularly vulnerable in the information and telecommunication environment. In many cases, excessive disclosure of their personal data occurs not only because of their own actions, but also because of the actions of their family members, usually parents. A comparative legal study of the adopted legislative measures and their interpretations in the legal doctrine allows characterizing the current legal situation with regard to minors in the digital space as fragmentary and proposing legislative approaches and solutions to avoid or minimize possible conflict situations and risks, such as digital harassment or privacy violation, which may arise in the process of further technological development and the spread of sharenting.

For citation

Aranda Serna, F. J. (2024). Social and Legal Risks of Sharenting when Forming a Child's Digital Identity in Social Networks. *Journal of Digital Technologies and Law*, 2(2), 394–407. <https://doi.org/10.21202/jdtl.2024.20>

Contents

Introduction

1. Notion of sharenting and its causes
2. Social networks as a cause of sharenting
3. The legal approaches and measures to protect minors in social networks
4. The problem of digital identity transposition: abusive sharenting

Conclusions

References

Introduction

Minors participate in social networks because they see them as potential tools to fulfill a series of interests, whether personal or social. Unlike adults, social networks have a vital consideration in that they are a confirmation of one's own existence; non-participation in this virtual space means marginalization in social relations. However, the Internet is a relatively hostile environment, and although it is also a space for building and consolidating social relationships, it is a place where many socio-legal conflicts arise, such as digital harassment or the violation of the right to privacy (Marcelino Mercedes, 2015; Memedovich et al., 2024; Ahmed et al., 2023; Mola et al., 2023).

One of the keys to these conflicts is that when an Internet user makes his or her image or any relevant personal data public, he or she automatically loses control over it, since it enables other users to access this information, download it later and share it. In many cases, parents themselves ignore the risks of inappropriate use by their children, as all the content that is posted on the network can be turned against them (Durán Alonso, 2022).

To this complexity is added the growing phenomenon of minor «influencers», those who, in addition to uploading content on social networks, receive financial compensation for doing so. This figure has undergone a professionalization in recent years and considers social networks as commercial and advertising platforms, so the content generated is predisposed to attract followers and also commercial brands ([Jiménez-Iglesias et al., 2022](#)).

Special attention deserves the issue of «sharenting», this booming phenomenon refers to the exposure on social networks of all kinds of information (especially images and videos) of a minor, but by their parents, who act as digital managers of the former ([Ferrara et al., 2023](#); [Kopecky et al., 2020](#)). As in the case of «influencers», by sharing content about their children, the parents receive a financial compensation ([García García, 2021](#)).

1. Notion of sharenting and its causes

Sharenting is the activity of disseminating images, videos and comments on social networks that include every day or intimate moments in the lives of underage children by their parents or other close relatives. This phenomenon is linked to the expansion of social networks and, although it apparently offers many benefits to parents such as obtaining validation (through comments or a «like»), this can be a potential danger by transmitting information constantly and excessively, information that should remain in the sphere of privacy ([Ordoñez Pineda & Calva Jiménez, 2020](#); [Aydogdu et al., 2023](#)).

The reasons why a parent shows all this content on the network can be very different: Sometimes the goal is simply to make an album of photos and videos to share with family contacts; Given the nature of social networks, one of the motives may be to give a good image as parents or to generate collaborative synergies with other families; In other cases, the objective is economic, since in exchange for the dissemination of content, parents receive monetary or in-kind compensation (in the form of sponsorships, gifts, etc.) ([Azurmendi et al., 2021](#)).

This last reason is the one that most concerns the law, since «sharenting», from a psychological point of view, behaves as a digital representation of the concerns and frustrated successes of parents through their children. This behavior is even more pronounced when the content is monetized, because in this case the image of the children is transposed with the professional development of the parents, and even more so when these activities are the only economic source of the family ([Ranzini et al., 2020](#)).

Parents on behalf of the family and as co-responsible for the digital identity of their children have the duty to protect these rights, therefore the motivation is quite relevant, firstly, because it will involve a dissemination in a different medium. Thus, it is not the same the dissemination of photographs in a family WhatsApp group than in a digital platform such as Instagram* or YouTube**. It is also not the same that the information is

published in private mode, allowing access to a restricted group (the family) than in public mode, allowing indiscriminate access (Montoro López, 2022).

The dissemination of videos and photos can have serious negative consequences on a child's personal development (Yiseul Choi & Lewallen, 2017).

2. Social networks as a cause of sharenting

Social networks are the most important technological phenomenon of the last twenty years. However, the concept of social networking is not as modern as you might think, although it is true that today it refers to web platforms where users connect with each other, in other times this concept simply referred to communities that were connected in some way, for example, through friendship, work or other values (Oliva Marañón, 2012; Yang et al., 2022; Verswijvel, et al., 2019).

Among all the social networks that exist, a simple classification can be made in terms of their objectives:

- Social networks of a personal nature, such as Facebook*** and Twitter****.
- Professional social networks, such as LinkedIn*****.
- Thematic social networks, such as YouTube and Instagram*.

A priori, one could point to the former as the main networks that have a greater «family» presence and act as a way of propagating «sharenting», however, this classification, although simple in its premise, is complicated because the boundaries in terms of objectives between one social network and another are very blurred.

Thus, YouTube** is a platform that collects channels according to a series of themes (cinema, photography, etc.), but it can also collect «family» channels that include videos of minors in their daily lives, some of which may even be monetized.

The impact that YouTube** has among minors is very high, so many brands and advertising agencies are interested in channels that have a minor in front of the channel. This is for several reasons, one of them because family channels and with minors generate greater confidence in their products, which in turn causes users who are minors tend to consume them if they are displayed on these channels (Durán Alonso 2022).

The same is true for Instagram*, an application that emerged in 2010 with the sole purpose of sharing professional photographs, however, in 2018 it is consolidating as a social network to use because of its features (stories, «hashtags», better circulation of content). It is currently ranked in active profiles above other social networks, especially among young people (Bard Wigdor & Magallanes Udovicih, 2021).

These social networks cannot be viewed as watertight compartments; content is often multi-platform, and it is much more common for users to use two or more social networks at the same time than for them to limit themselves to a single social network. In this area, minors are the most vulnerable group and establishing a balance between technology and privacy is the great challenge that exists.

3. The legal approaches and measures to protect minors in social networks

The protection of fundamental rights is more pronounced in the case of minors, the general rule being that for there to be an intrusion on the right to honor, privacy or self-image there must be validly given consent.

However in Spain, in the case of minors, since they have a limited capacity to act, the Organic Law 1/1996 on the Legal Protection of Minors establishes that this capacity is interpreted restrictively and always in the best interest of the minor. It also differentiates the criterion of sufficient maturity (established at fourteen years of age), by which, if obtained, the minor could exercise his/her rights by him/herself ([Durán Alonso, 2022](#)).

The problem lies in the fact that there is no uniform regime in the case of minors, the Organic Law on Data Protection follows a chronological criterion regarding the processing of data, while the Civil Code gives more importance to contractual consent. For example, in the case of minors of sufficient maturity, consent must be given by the minors themselves; however, as we shall see, most cases of «sharenting» take place at a very early age ([Toral Lara, 2020](#)).

However, some legal currents understand that regardless of whether or not minors have sufficient maturity, parents, when exercising parental authority, must always protect the personality assets of the minor. The Public Prosecutor's Office may act ex officio if it is considered that their privacy has been exposed and their rights have been violated ([De Lama Aymá, 2006](#)).

The United States was the pioneer in the protection of children under thirteen years of age with the 1998 Children's Online Privacy Protection Act (COPPA Act), which established methods for digital platforms to ensure the consent of minors. Thus, with the COPPA Act, the YouTube platform already classifies and identifies content that is directed at minors, and therefore does not collect personal data directed at this audience either. ([Durán Alonso, 2022](#)).

The case of France is also a good example aimed at establishing protective laws, in 2020 with Law 2020/1266, on the commercial exploitation of the image of minors under sixteen years of age, establishing limitations in terms of schedules, compatibility with school hours and recording time, and also the regulation of the right to be forgotten, including measures regulating the right to be forgotten of minors, whereby social networks could remove the content of the minor if requested by the latter even against the authorization of their parents ([Cremades García, 2021](#)).

In the case of Spain, the publication of images must be consented to by the minor if he/she is over fourteen years of age; if he/she is under fourteen years of age, the consent of both parents must be required. In the case of opening an account in a social network, it will always be a requirement that the minor is over 14 years old, since creating an account implies the formalization of a contract and authorize the processing of data that may interfere with the honor, privacy and self-image ([Santos Morón, 2011](#)).

Consent must always be specific and informed, the purpose sought and the actual use of the data must also be assessed. Parents may not interfere with their children's social networks, except in the case of legitimate interference to protect the best interests of the child. In this regard, consent must be obtained, and judicial authorization will only be necessary if it is a serious interference with their fundamental rights (Toral Lara, 2020).

4. The problem of digital identity transposition: abusive sharenting

More and more parents are «sharenting» with a purpose that goes beyond sharing information with a family or friendship circle. The large virtual platforms have made it easier for them to exist and to do business with family-type content, partly because they are more suitable and convenient for advertising sponsors, and also because they allow those who generate such content to make economic profit (García García, 2023).

This form of «sharenting», which is defined by some researchers as «abusive sharenting», involves minors participating as protagonists or co-protagonists with their parents in videos of varying content. Consent in this case is not in doubt in principle, since the vast majority appear under the direction of one of the parents (Azurmendi et al., 2021).

Obtaining business in this modality has a series of objectives that can be varied:

- The monetization of a blog, account on a social network or family YouTube channel.
- The payment for the inclusion of advertising, obtaining sponsorship or sending gifts from advertisers.
- Also, the professional dedication to the only Internet activity (such as a YouTube channel) (Azurmendi et al., 2021).

Unlike other virtual activities in which only adults are involved, a parent's digital identity has an implicit meaning of inescapable connection with that of their children. Therefore, through these activities some parents seek to individualize and transpose their own digital identity through their children, while others adopt the notion of a kind of relational identity in which the parent's and the child's identities converge (Holiday et al., 2020).

When a user participates actively and constantly in social networks, one of the objectives is the search for personal significance and validation by other users, this is no different in the case of parents, however, the problem when using children is that this digital identity is altered. In fact, several examples can be verified in which the personal brand of the parents is imprinted, whether the motivation is economic or not. This happens because even unconsciously parents self-represent themselves through their children on social networks.

This type of activity is detrimental to the children, as it shapes them as if they were an object to obtain validation or simply an extension of the «digital self» of the parents. This self-representation, moreover, does not end with social networks and the digital world, but continues outside the digital world (Blum-Ross & Livingstone, 2017).

In these cases, the children would act as a simple means to achieve the parents' aspirations, recognition and quest for success. This type of harmful behavior can be identified when parents provide information related to children's health, or other personal data such as location, intimate information, or directly acts of promotion and advertising that can be directly qualified as exploitation. (Moser et al., 2017).

Some authors have shown that in cases of overexposure of minors a number of factors come into play that increase or decrease sharenting itself:

- First- and second-degree family unit members, who may act as critical voices to the parents themselves for the commodification of minors, or increase sharenting beyond the parents' involvement, as is the case with other close family members (Jiménez-Iglesias et al., 2022).

- The comments of consumers of this type of content, who are often critical of the commercialization of minors.

The extension over time of «abusive sharenting» suggests that it will have an important influence on the formation of the digital identity of minors, especially when they are protagonists of these family platforms from a very early age.

Currently, even when a minor consents to participate in these videos and is satisfied with the realization of these videos, he/she has no real ability to discern what the long-term consequences are. In fact, the modality of «monetized sharenting» is precisely the one that is generating the most judicial conflicts (Azurmendi et al., 2021).

Even isolated conflicts have value in illustrating the extent to which «abusive sharenting» can be harmful, the current reality is that many parents are in the habit of sharing all kinds of photos and videos almost compulsively, which can negatively affect the parent-child relationship and also the formation of the child's digital identity. In cases where there is monetization for this content, the feeling that is transmitted is an absolute lack of respect for the rights of the child (Azurmendi et al., 2021).

Conclusions

Internet and social networks have been one of the great advances in the development of modern society, however, they also pose one of the greatest dangers with respect to the protection of personal data and some fundamental rights such as privacy. This danger is even more extreme with respect to data protection and digital privacy in the case of minors, as to manage in the digital environment requires a certain maturity and knowledge to treat privacy correctly.

This study has shown that minors are vulnerable to the social networks available to them, and that in many cases the overexposure of their personal data comes not only from their own actions, but also due to the actions of members of their own family, usually their parents.

The current legal situation is somewhat scattered regarding the treatment of minors on the Internet, there are some specific issues that can be deduced from the study of the legal framework. For example, there are two categories: a minor with sufficient maturity and a minor without sufficient maturity. A sufficiently mature minor can manage

his or her own social network and generally has more mechanisms to be heard in a case of abusive sharenting.

The key to solving these conflicts is the need to provide adequate training not only to minors, but also to their parents and guardians, and even to their educators, because in many cases their actions are based on a lack of knowledge of the possible consequences of the indiscriminate uploading of content to the Internet. It is important that both minors and adults are adequately trained and aware of the risks involved in order to be able to use the Internet responsibly and safely.

It is necessary that the legal framework indicates the way forward, first of all in an international manner, which also limits the activities that are considered dangerous and that exceed social uses, especially in cases in which an economic consideration is received and the minor can be instrumentalized.

The laws must incorporate all the protective measures that social agents are advising, and also some that are already present in other legal systems such as the United States, thus establishing a legal regime that provides suitable and sufficient protection for such a vulnerable group as minors.

* The social network belongs to Meta, which is recognized as an extremist organization, its functioning is prohibited in the territory of the Russian Federation.

** The foreign person owning the YouTube informational resource violates the legislation of the Russian Federation.

*** The social network belongs to Meta, which is recognized as an extremist organization, its functioning is prohibited in the territory of the Russian Federation.

**** The social network blocked in the territory of the Russian Federation for disseminating unlawful information.

***** The social network blocked in the territory of the Russian Federation.

References

- Ahmed, H., Ekman, L., & Lind, N. (2023). Planned Behavior, Social Networks, and Perceived Risks: Understanding Farmers' Behavior toward Precision Dairy Technologies. *Journal of Dairy Science*. <https://doi.org/10.3168/jds.2023-23861>
- Memedovich, A., Orr, T., Hollis, A., Salmon, C., Hu, J., Zinszer, K., Williamson, T., & Beall, R. F. (2024). Social network risk factors and COVID-19 vaccination: A cross-sectional survey study. *Vaccine*, 42(4), 891–911. <https://doi.org/10.1016/j.vaccine.2024.01.012>
- Aydoğdu, F., Güngör, B. Ş., & Öz, T. A. (2023). Does sharing bring happiness? Understanding the sharenting phenomenon. *Children and Youth Services Review*, 154, 107122. <https://doi.org/10.1016/j.childyouth.2023.107122>
- Azurmendi, A., Etayo, C. & Torrell, A. (2021). Sharenting y derechos digitales de los niños y adolescentes. *El profesional de la información*, 30(4), 1–10. (In Spanish). <https://doi.org/10.3145/epi.2021.jul.07>
- Bard Widgor, G. & Magallanes Udovicich, M. L. (2021). Instagram*: La búsqueda de la felicidad desde la autopromoción de la imagen. *Culturales*, 9, 1–29. (In Spanish). <https://doi.org/10.22234/recu.20210901.e519>
- Blum-Ross, A. & Livingstone, S. (2017). “Sharenting”, parent blogging, and the boundaries of the digital self. *Popular Communication*, 15(2), 110–125. <https://doi.org/10.1080/15405702.2016.1223300>
- Cremades García, P. (2021). Futuro profesional de los menores y ejercicio de la patria potestad. *Revista Boliviana de Derecho*, 32, 252–277. (In Spanish).
- De Lama Aymá, A. (2006). *La protección de los derechos de la personalidad del menor de edad*. Valencia: Tirant lo Blanch. (In Spanish)
- Durán Alonso, S. (2022). “Mom, I Want to Be a Youtuber”: an Unregulated Reality. *VISUAL REVIEW. International Visual Culture Review Revista Internacional De Cultura Visual*, 10(3), 1–14. (In Spanish). <https://doi.org/10.37467/revvisual.v9.3601>

- Ferrara, P., Cammisa, L., Corsello, G., Giardino, I., Vural, M., Pop, T. L., Pettoello-Mantovani, C., Indrio, F., & Pettoello-Mantovani, M. (2023). Online “Sharenting”: The Dangers of Posting Sensitive Information About Children on Social Media. *The Journal of Pediatrics*, 257. <https://doi.org/10.1016/j.jpeds.2023.01.002>
- García García, A. (2021). La protección digital del menor: el fenómeno del sharenting a examen. *Revista de derecho UNED*, 27, 455–492. (In Spanish). <https://doi.org/10.5944/rduned.27.2021.31094>
- García García, R. (2023). La responsabilidad social corporativa como herramienta para la consecución de la igualdad de género en cadenas globales de valor. *Temas Laborales: Revista andaluza de trabajo y bienestar social*, 167, 209–246. (In Spanish).
- Holiday, S., Norman, M. S., & Densley, R. L. (2022). Sharenting and the extended self: Self-representation in parents’ Instagram* presentations of their children. *Popular Communication*, 20(1), 1–15. <https://doi.org/10.1080/15405702.2020.1744610>
- Jiménez Iglesias, E., Elorriaga Illera, A., Monge Benito, S. & Olabarri Fernández, E. (2022). Exposición de menores en Instagram*: instamadres, presencia de marcas y vacío legal. *Revista Mediterránea de Comunicación*, 13(1), 51–63. (In Spanish). <https://doi.org/10.14198/medcom.20767>
- Kopecky, K., Szotkowski, R., Aznar-Díaz, I., & Romero-Rodríguez, J.-M. (2020). The phenomenon of sharenting and its risks in the online environment. Experiences from Czech Republic and Spain. *Children and Youth Services Review*, 110, 104812. <https://doi.org/10.1016/j.childyouth.2020.104812>
- Marcelino Mercedes, G. V. (2015). Migración de los jóvenes españoles en redes sociales, de Tuenti a Facebook** y de Facebook** a Instagram*. La segunda migración. *Revista de Comunicación y Tecnologías Emergentes*, 13(2), 48–78. (In Spanish). <https://doi.org/10.7195/ri14.v13i2.821>
- Mola, L., Kaminska, R., Richebé, N., & Carugati, A. (2023). Social strategies for information technology adoption: Social regulation process of mandated enterprise social network systems. *Technological Forecasting and Social Change*, 192, 122570. (In Spanish). <https://doi.org/10.1016/j.techfore.2023.122570>
- Montoro López, A. (2022). Alcance de la fiscalidad como herramienta de la Política Ambiental de la Unión Europea: Los impuestos ambientales y su eficacia como instrumento de protección ambiental. *Human Review. International Humanities Review*, 2(14), 1–15. (In Spanish). <https://doi.org/10.37467/revhuman.v11.4105>
- Moser, C., Chen, T., & Schoenebeck, S. Y. (2017). Parents’ and children’s preferences about parents sharing about children on social media. *Proceedings of the 2017 CHI Conference on Human Factors in Computing Systems*, 5221–5225. <https://doi.org/10.1145/3025453.3025587>
- Oliva Maraño, C. (2012). Redes sociales y jóvenes: una intimidad cuestionada en Internet. *Aposta: Revista de ciencias sociales*, 54, 1–16. (In Spanish).
- Ordoñez Pineda, L. & Calva Jimenez, S. (2020). Amenazas a la privacidad de los menores de edad a partir del Sharenting. *Revista Chilena de Derecho y Tecnología*, 9(2), 105–130. (In Spanish). <https://doi.org/10.5354/0719-2584.2020.55333>
- Ranzini, G., Newlands, G. & Lutz, C. (2020). Sharenting, Peer Influence, and Privacy Concerns, A Study of Instagram-Sharing Behaviors of Parents in the United Kingdom. *Social Media + Society*, 6(4), 1–13. <https://doi.org/10.1177/2056305120978376>
- Santos Morón, M. (2011). Menores y derechos de la personalidad. La autonomía del menor. *AFDUAM: Anuario de La Facultad de Derecho de la Universidad Autónoma de Madrid*, 15, 63–93. (In Spanish). <http://hdl.handle.net/10486/662984>
- Toral Lara, E. (2020). Menores y redes sociales: consentimiento protección y autonomía. *Derecho Privado y Constitución*, 36, 179–218. (In Spanish). <https://doi.org/10.18042/cepc/dpc.36.05>
- Verswijvel, K., Walrave, M., Hardies, K., & Heirman, W. (2019). Sharenting, is it a good or a bad thing? Understanding how adolescents think and feel about sharenting on social network sites. *Children and Youth Services Review*, 104, 104401. <https://doi.org/10.1016/j.childyouth.2019.104401>
- Yang, M., Chen, H., Long, R., & Yang, J. (2022). The impact of different regulation policies on promoting green consumption behavior based on social network modeling. *Sustainable Production and Consumption*, 32, 468–478. <https://doi.org/10.1016/j.spc.2022.05.007>
- Yiseul Choi, G. & Lewallen, J. (2017). Say Instagram*, Kids!: examining Sharenting and Children Digital Representations on Instagram. *Howard Journal of Communications*, 29(2), 144–164. <https://doi.org/10.1080/10646175.2017.1327380>

* The social network belongs to Meta, which is recognized as an extremist organization, its functioning is prohibited in the territory of the Russian Federation.

** The social network belongs to Meta, which is recognized as an extremist organization, its functioning is prohibited in the territory of the Russian Federation.

Author information



Francisco José Aranda Serna – PhD (Law), Associate Professor, Department of Law, Catholic University of Murcia

Address: Av. de los Jerónimos, 135, 30107 Guadalupe de Maciascoque, Murcia, Spain

E-mail: fjaranda@ucam.edu

ORCID ID: <https://orcid.org/0000-0002-5768-2773>

ScopusAuthorID: <https://www.scopus.com/authid/detail.uri?authorId=58097085200>

Google Scholar ID: <https://scholar.google.com/citations?user=zrndQAwAAAAJ>

Conflict of interest

The author declares no conflict of interest.

Financial disclosure

The research had no sponsorship.

Thematic rubrics

OECD: 5.05 / Law

PASJC: 3308 / Law

WoS: OM / Law

Article history

Date of receipt – October 29, 2023

Date of approval – November 25, 2023

Date of acceptance – June 25, 2024

Date of online placement – June 30, 2024



Научная статья

УДК 34:004:342.727:004.5

EDN: <https://elibrary.ru/gbfhor>

DOI: <https://doi.org/10.21202/jdtl.2024.20>

Социально-правовые риски шерентинга в процессе формирования цифровой идентичности ребенка в социальных сетях

Франциско Хосэ Аранда Серна

Католический университет Мурсии, Мурсия, Испания

Ключевые слова

веб-платформы,
неприкосновенность
частной жизни,
персональные данные,
права ребенка,
право,
социальные сети,
цифровая идентичность,
цифровая
конфиденциальность,
цифровые технологии,
шерентинг

Аннотация

Цель: определить правовые последствия шерентинга как деятельности, которая ставит под угрозу основные права несовершеннолетних, подвергая риску их частную жизнь.

Методы: проведенное исследование строится прежде всего на анализе европейского и американского опыта законодательного регулирования, который излагается в сравнительно-правовом аспекте с применением доктринальных подходов и концепций, получивших отражение в научных публикациях по данной теме. Это способствовало в том числе критическому осмыслению выявленных рисков, а также представлению существующих правовых подходов и формулированию предложений, направленных на защиту неприкосновенности частной жизни несовершеннолетних в социальных сетях.

Результаты: изучено влияние социальных сетей на права несовершеннолетних в части негативного их воздействия, возможных рисков и распространения социальных конфликтов. Осуществлен анализ основных положений законодательства Испании, Франции и США с целью выявления ключевых моментов относительно деятельности несовершеннолетних в социальных сетях и сети Интернет, необходимости выражения ими согласия на опубликование личной информации. Описаны наиболее распространенные конфликты, обусловленные шерентингом, и возможные гибкие законодательные решения споров, касающихся семейных отношений и связанных с деятельностью в социальных сетях. Сформулированы предложения по разрешению конфликтных ситуаций и проблемы цифровой идентичности, возникающих в процессе шерентинга в случае злоупотребления.

Научная новизна: представленное исследование обобщает различные научные точки зрения и правовые подходы к шерентингу как новому феномену, который быстро развивается в связи с широкой популярностью социальных сетей и интернет-активностью детей и их родителей, порождая социально-правовые конфликты.

© Аранда Серна Ф. Х., 2024

Статья находится в открытом доступе и распространяется в соответствии с лицензией Creative Commons «Attribution» («Атрибуция») 4.0 Всемирная (CC BY 4.0) (<https://creativecommons.org/licenses/by/4.0/deed.ru>), позволяющей неограниченно использовать, распространять и воспроизводить материал при условии, что оригинальная работа упомянута с соблюдением правил цитирования.

Практическая значимость: представленное исследование показывает, что несовершеннолетние особенно уязвимы в информационно-телекоммуникационном пространстве. Во многих случаях чрезмерное раскрытие их личных данных происходит не только из-за их собственных действий, но и из-за действий членов их семей, как правило, родителей. Сравнительно-правовое исследование принятых законодательных мер и их интерпретаций в правовой доктрине позволяет охарактеризовать современную правовую ситуацию в отношении несовершеннолетних в цифровом пространстве как фрагментарную и предложить законодательные подходы и решения, позволяющие избежать или минимизировать возможные конфликтные ситуации и риски, такие как цифровое преследование или нарушение права на неприкосновенность частной жизни, которые могут возникать в процессе дальнейшего развития технологий и распространения шерентинга.

Для цитирования

Аранда Серна, Ф. Х. (2024). Социально-правовые риски шерентинга в процессе формирования цифровой идентичности ребенка в социальных сетях. *Journal of Digital Technologies and Law*, 2(2), 394–407. <https://doi.org/10.21202/jdtl.2024.20>

Список литературы

- Ahmed, H., Ekman, L., & Lind, N. (2023). Planned Behavior, Social Networks, and Perceived Risks: Understanding Farmers' Behavior toward Precision Dairy Technologies. *Journal of Dairy Science*. <https://doi.org/10.3168/jds.2023-23861>
- Memedovich, A., Orr, T., Hollis, A., Salmon, C., Hu, J., Zinszer, K., Williamson, T., & Beall, R. F. (2024). Social network risk factors and COVID-19 vaccination: A cross-sectional survey study. *Vaccine*, 42(4), 891–911. <https://doi.org/10.1016/j.vaccine.2024.01.012>
- Aydoğdu, F., Güngör, B. Ş., & Öz, T. A. (2023). Does sharing bring happiness? Understanding the sharenting phenomenon. *Children and Youth Services Review*, 154, 107122. <https://doi.org/10.1016/j.childyouth.2023.107122>
- Azurmendi, A., Etayo, C. & Torrell, A. (2021). Sharenting y derechos digitales de los niños y adolescentes. *El profesional de la información*, 30(4), 1–10. <https://doi.org/10.3145/epi.2021.jul.07>
- Bard Widgor, G. & Magallanes Udovicich, M. L. (2021). Instagram*: La búsqueda de la felicidad desde la autopromoción de la imagen. *Culturales*, 9, 1–29. <https://doi.org/10.22234/recu.20210901.e519>
- Blum-Ross, A. & Livingstone, S. (2017). “Sharenting”, parent blogging, and the boundaries of the digital self. *Popular Communication*, 15(2), 110–125. <https://doi.org/10.1080/15405702.2016.1223300>
- Cremades García, P. (2021). Futuro profesional de los menores y ejercicio de la patria potestad. *Revista Boliviana de Derecho*, 32, 252–277.
- De Lama Aymá, A. (2006). *La protección de los derechos de la personalidad del menor de edad*. Valencia: Tirant lo Blanch.
- Durán Alonso, S. (2022). “Mom, I Want to Be a Youtuber”: an Unregulated Reality. *VISUAL REVIEW. International Visual Culture Review Revista Internacional De Cultura Visual*, 10(3), 1–14. <https://doi.org/10.37467/revvisual.v9.3601>
- Ferrara, P., Cammisa, L., Corsello, G., Giardino, I., Vural, M., Pop, T. L., Pettoello-Mantovani, C., Indrio, F., & Pettoello-Mantovani, M. (2023). Online “Sharenting”: The Dangers of Posting Sensitive Information About Children on Social Media. *The Journal of Pediatrics*, 257. <https://doi.org/10.1016/j.jpeds.2023.01.002>
- García García, A. (2021). La protección digital del menor: el fenómeno del sharenting a examen. *Revista de derecho UNED*, 27, 455–492. <https://doi.org/10.5944/rduned.27.2021.31094>
- García García, R. (2023). La responsabilidad social corporativa como herramienta para la consecución de la igualdad de género en cadenas globales de valor. *Temas Laborales: Revista andaluza de trabajo y bienestar social*, 167, 209–246.

- Holiday, S., Norman, M. S., & Densley, R. L. (2022). Sharenting and the extended self: Self-representation in parents' Instagram* presentations of their children. *Popular Communication*, 20(1), 1–15. <https://doi.org/10.1080/15405702.2020.1744610>
- Jiménez Iglesias, E., Elorriaga Illera, A., Monge Benito, S. & Olabarri Fernández, E. (2022). Exposición de menores en Instagram*: instamadres, presencia de marcas y vacío legal. *Revista Mediterránea de Comunicación*, 13(1), 51–63. <https://doi.org/10.14198/medcom.20767>
- Kopecky, K., Szotkowski, R., Aznar-Díaz, I., & Romero-Rodríguez, J.-M. (2020). The phenomenon of sharenting and its risks in the online environment. Experiences from Czech Republic and Spain. *Children and Youth Services Review*, 110, 104812. <https://doi.org/10.1016/j.childyouth.2020.104812>
- Marcelino Mercedes, G. V. (2015). Migración de los jóvenes españoles en redes sociales, de Tuenti a Facebook** y de Facebook** a Instagram*. La segunda migración. *Revista de Comunicación y Tecnologías Emergentes*, 13(2), 48–78. <https://doi.org/10.7195/ri14.v13i2.821>
- Mola, L., Kaminska, R., Richebé, N., & Carugati, A. (2023). Social strategies for information technology adoption: Social regulation process of mandated enterprise social network systems. *Technological Forecasting and Social Change*, 192, 122570. <https://doi.org/10.1016/j.techfore.2023.122570>
- Montoro López, A. (2022). Alcance de la fiscalidad como herramienta de la Política Ambiental de la Unión Europea: Los impuestos ambientales y su eficacia como instrumento de protección ambiental. *Human Review. International Humanities Review*, 2(14), 1–15. <https://doi.org/10.37467/revhuman.v11.4105>
- Moser, C., Chen, T., & Schoenebeck, S. Y. (2017). Parents' and children's preferences about parents sharing about children on social media. *Proceedings of the 2017 CHI Conference on Human Factors in Computing Systems*, 5221–5225. <https://doi.org/10.1145/3025453.3025587>
- Oliva Marañón, C. (2012). Redes sociales y jóvenes: una intimidad cuestionada en Internet. *Aposta: Revista de ciencias sociales*, 54, 1–16.
- Ordoñez Pineda, L. & Calva Jimenez, S. (2020). Amenazas a la privacidad de los menores de edad a partir del Sharenting. *Revista Chilena de Derecho y Tecnología*, 9(2), 105–130. <https://doi.org/10.5354/0719-2584.2020.55333>
- Ranzini, G., Newlands, G. & Lutz, C. (2020). Sharenting, Peer Influence, and Privacy Concerns, A Study of Instagram-Sharing Behaviors of Parents in the United Kingdom. *Social Media + Society*, 6(4), 1–13. <https://doi.org/10.1177/2056305120978376>
- Santos Morón, M. (2011). Menores y derechos de la personalidad. La autonomía del menor. *AFDUAM: Anuario de La Facultad de Derecho de la Universidad Autónoma de Madrid*, 15, 63–93. <http://hdl.handle.net/10486/662984>
- Toral Lara, E. (2020). Menores y redes sociales: consentimiento protección y autonomía. *Derecho Privado y Constitución*, 36, 179–218. <https://doi.org/10.18042/cepc/dpc.36.05>
- Verswijvel, K., Walrave, M., Hardies, K., & Heirman, W. (2019). Sharenting, is it a good or a bad thing? Understanding how adolescents think and feel about sharenting on social network sites. *Children and Youth Services Review*, 104, 104401. <https://doi.org/10.1016/j.childyouth.2019.104401>
- Yang, M., Chen, H., Long, R., & Yang, J. (2022). The impact of different regulation policies on promoting green consumption behavior based on social network modeling. *Sustainable Production and Consumption*, 32, 468–478. <https://doi.org/10.1016/j.spc.2022.05.007>
- Yiseul Choi, G. & Lewallen, J. (2017). Say Instagram*, Kids!: examining Sharenting and Children Digital Representations on Instagram. *Howard Journal of Communications*, 29(2), 144–164. <https://doi.org/10.1080/10646175.2017.1327380>

* Социальная сеть принадлежит Meta, признанной экстремистской организацией, ее деятельность запрещена на территории Российской Федерации.

** Социальная сеть принадлежит Meta, признанной экстремистской организацией, ее деятельность запрещена на территории Российской Федерации.

Сведения об авторе



Аранда Серна Франциско Хосе – PhD в области юриспруденции, доцент, факультет права, Католический университет Мурсии

Адрес: 30107, Испания, Мурсия, Гваделупа-де-Макиаскок, авеню де лос Херонимос, 135

E-mail: fjaranda@ucam.edu

ORCID ID: <https://orcid.org/0000-0002-5768-2773>

ScopusAuthorID: <https://www.scopus.com/authid/detail.uri?authorId=58097085200>

Google Scholar ID: <https://scholar.google.com/citations?user=zrndQAwAAAAJ>

Конфликт интересов

Автор сообщает об отсутствии конфликта интересов.

Финансирование

Исследование не имело спонсорской поддержки.

Тематические рубрики

Рубрика OECD: 5.05 / Law

Рубрика ASJC: 3308 / Law

Рубрика WoS: OM / Law

Рубрика ГРНТИ: 10.91 / Государство и право отдельных стран

Специальность ВАК: 5.1.2 / Публично-правовые (государственно-правовые) науки

История статьи

Дата поступления – 29 октября 2023 г.

Дата одобрения после рецензирования – 25 ноября 2023 г.

Дата принятия к опубликованию – 25 июня 2024 г.

Дата онлайн-размещения – 30 июня 2024 г.