

Legal Grounds for Restricting Social Media Access for Users under 16: EU and Croatian Law Perspectives

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Abstract — The widespread use of social media by minors has become a major legal and regulatory concern due to its impact on mental health, privacy, and exposure to harmful content. Recent legislative initiatives proposing age-based restrictions on access to social media platforms have reignited debate within the European Union regarding the limits of permissible regulation. This paper examines whether a general prohibition on social media access for users under the age of 16 can be legally justified under EU law and Croatian law. The analysis focuses on the Digital Services Act, data protection rules applicable to minors, and relevant constitutional principles, particularly proportionality, freedom of expression, and the right to information. Comparative regulatory developments outside the EU are considered to illustrate enforcement challenges related to age verification and platform responsibility. The paper argues that although the protection of minors represents a legitimate public interest objective, blanket age-based bans raise serious concerns regarding fundamental rights and legal certainty. It concludes that a regulatory model centered on enhanced platform obligations, parental involvement, and targeted protective measures provides a more proportionate and legally sustainable approach within the EU legal order.

Keywords — *social media, minors, age restrictions, Digital Services Act, fundamental rights, platform regulation*

I. INTRODUCTION

Social media has become an indispensable and structurally significant element of contemporary communication and everyday social interaction, particularly among children and adolescents. Their widespread availability and accessibility enable young users to gain instant access to large amounts of information, participate in public and political debates, and establish, maintain, and shape social relationships beyond the traditional frameworks of family and educational institutions. In this sense, social media function not only as communication tools but also as spaces of socialization that significantly influence the development of identity, value orientations, and behavioral patterns of children and adolescents [1].

At the same time, extensive scientific research and analyses conducted by public authorities warn of a number of serious risks associated with the use of social media by children and adolescents as confirmed by a growing body

of empirical research [2]–[5]. These risks include, inter alia, negative effects on mental health—such as increased prevalence of anxiety and depression—the widespread phenomenon of cyberbullying, exposure to harmful or illegal content, and the intensive processing of minors’ personal data without their genuine ability to provide informed consent or exercise effective control [6]–[10].

Such concerns have prompted legislators worldwide to consider stricter regulatory approaches in the field of digital platforms. The immediate impetus for this paper is a recent legislative reform in Australia, which introduced a general ban on access to social media for individuals under the age of 16 [11]. This ban was enacted through the *Online Safety Amendment (Social Media Minimum Age) Act 2024*, an amendment to Australia’s *Online Safety Act 2021*, imposing an obligation on social media service providers to take reasonable steps to prevent children below the prescribed age from creating and using user accounts [12]. Responsibility for enforcement is thus placed on the platforms themselves, with significant financial penalties in cases of non-compliance [13].

The Australian legislation has triggered intense international debate and raised the question of whether a general age-based ban on access to social media can be considered a legitimate and proportionate means of protecting children in the digital environment. Within the European Union, such measures must be assessed within a complex legal framework that requires balancing the objective of child protection with guarantees of fundamental rights, including freedom of expression, the right to privacy, and the right of access to information. An additional layer of analysis is provided by national constitutional law, which may contain specific limitations regarding the permissibility of general and preventive bans.

Accordingly, this paper addresses the following key legal question: can a general ban on access to social media for users under the age of 16 be justified under European Union law and Croatian constitutional law, particularly in light of the proportionality test and existing regulatory alternatives.

II. PROTECTION OF MINORS AS A LEGITIMATE REGULATORY OBJECTIVE

The protection of minors constitutes a well-established and widely accepted objective in international, European, and national human rights law. Within these legal frameworks, children are recognized as a particularly vulnerable social group whose physical, psychological, and moral development requires enhanced and specific legal protection. This approach stems from the recognition that, due to their age and stage of development, children do not possess the same capacity for risk assessment or level of autonomy as adults, making them more susceptible to various forms of harm. This fundamental principle is particularly emphasized in the European legal order and is clearly reflected in the *Charter of Fundamental Rights of the European Union*, which provides that in all actions relating to children, whether undertaken by public authorities or private institutions, the best interests of the child must be a primary goal [14].

In the digital environment, the need for enhanced protection of minors is further amplified by the specific risks arising from the functioning of modern digital platforms. Minors are particularly exposed to the effects of algorithmic content curation, which may systematically favor sensationalist, polarizing, or emotionally intense content. Furthermore, social media platforms frequently employ so-called persuasive design techniques—such as infinite scrolling, real-time notifications, and reward systems—which encourage prolonged and frequent use. In addition, the mass collection and processing of children’s personal data occur in a context where minors generally lack sufficient understanding of the consequences of such processing. Business models of social media platforms, which are largely based on maximizing user engagement, may thereby indirectly encourage the dissemination of harmful content or the development of excessive usage patterns, with potentially negative consequences for children’s mental health and well-being [15]. In this regard, regulatory intervention aimed at protecting minors from these risks unquestionably constitutes a legitimate public interest. Empirical evidence further suggests that the relationship between digital media use and well-being is complex and context-dependent, rather than uniformly harmful, which is relevant when assessing the necessity of restrictive measures [7], [8].

However, the mere existence of a legitimate objective does not automatically render every regulatory measure aimed at achieving it legally permissible. Under European Union law, any restriction that interferes with fundamental rights and freedoms must comply with the principle of proportionality, one of the core principles of the European constitutional order. This principle requires a three-step analysis: an assessment of the suitability of the measure to achieve the intended objective, an evaluation of its necessity in relation to less restrictive alternative measures, and finally, a balancing of interests—that is, an assessment of whether the negative effects on individuals’ fundamental rights are proportionate to the benefits sought. Accordingly, any measure, including general age-based bans on access to social media, must be individually and carefully assessed in light of these criteria.

III. THE EU LEGAL FRAMEWORK

A. *The Digital Services Act*

The relevance of the *Digital Services Act* (DSA) [16] for the present analysis does not lie merely in its regulatory scope but in the type of regulatory approach it embodies. Unlike categorical access restrictions, the DSA operationalizes a risk-based model that places obligations on platforms rather than excluding users. However, the empirical literature does not establish a clear causal relationship between social media use and harm but rather identifies small and context-dependent effects [8], which limits the strength of the suitability argument.

The DSA introduces a risk-based regulatory model, requiring platforms to systematically identify, assess, and mitigate potential harms arising from their services. Recent academic commentary further emphasizes that the DSA represents a shift from reactive content moderation toward systemic platform accountability, particularly regarding risks affecting minors and vulnerable users [17]–[20]. Croatian authors additionally note that the DSA strengthens obligations concerning transparency, platform governance, and protection against harmful online content, thereby reinforcing the preventive and risk-based regulatory approach adopted within the EU digital framework [21]. Particular emphasis is placed on systemic risks affecting minors, including harmful content, cyber-harassment, and manipulative advertising.

Rather than introducing categorical age-based access bans, the DSA focuses on preventive and corrective measures that platforms must adopt to protect users. These include obligations to assess systemic risks, regularly audit internal content moderation policies, ensure transparency of recommendation systems and algorithms shaping user experience, and prohibit targeted advertising based on profiling of minors. Recommendation systems for minors must not encourage harmful or excessive use. This approach reflects the EU legislature’s preference for regulating platform behavior rather than excluding minors entirely from digital spaces, thereby simultaneously protecting their right of access to information and participation in digital society.

B. *Data Protection and Minors*

The General Data Protection Regulation (GDPR) provides a specific legal framework governing the processing of minors’ personal data and imposes clear obligations on digital service providers. Article 8 GDPR establishes special conditions for consent in relation to information society services, allowing Member States to set the age of valid consent between 13 and 16 years [22]. This means that minors’ access to digital services is not absolutely restricted; instead, a controlled access model is introduced, based on the child’s ability to understand the risks and benefits of digital platforms [23].

This provision reflects a nuanced regulatory approach that recognizes the developmental capacities of minors and varies according to context and age. The European Data Protection Board (EDPB) has recently stressed that age-assurance mechanisms implemented by online platforms must comply with the principles of data minimization,

proportionality, and privacy by design [24]. The EDPB further emphasizes that age verification measures should not result in excessive collection of minors' personal data or create disproportionate barriers to access digital services [24]. EU law does not impose a uniform access ban but instead enables parental involvement and the implementation of additional protective measures, such as user-friendly content control tools or restrictions on interaction with unknown users.

This differentiated consent regime directly undermines the justification for a blanket ban. If EU law explicitly allows Member States to enable access to information society services below the age of 16 under certain safeguards, a general prohibition would represent a significantly more restrictive measure. Consequently, its necessity would be difficult to establish unless it could be demonstrated that the GDPR model is manifestly ineffective in protecting minors. Studies indicate that moderated and supervised use of digital technologies may have neutral or even positive effects on social connectedness and well-being [7], [25], suggesting that less restrictive alternatives may be equally effective.

C. Implications for Fundamental Rights

Restrictions on access to social media directly affect several fundamental rights protected by the *Charter of Fundamental Rights of the European Union*, including freedom of expression, the right to receive information, the right to privacy, and the protection of personal data [14]. These rights also apply to minors, although they may be subject to certain limitations justified by the user's age, maturity, and developmental capacity. In practice, this means that a minor's right to freedom of expression may be restricted only to the extent necessary to protect the child from harmful content or abuse, but not to the extent of completely eliminating their right to participate in digital communication.

A general ban on access to social media for users under 16 would constitute a serious and far-reaching restriction of these rights. According to established case law of the Court of Justice of the European Union, such restrictions must be strictly necessary, proportionate, and clearly justified in relation to the pursued objective [26]. This would require the legislator to demonstrate that no less restrictive alternatives exist that could achieve the same level of protection, such as education, parental controls, adapted algorithms, or warning systems. Where such alternatives are available, general bans are unlikely to be justified and would fail to meet the proportionality standard, potentially leading to legal challenges.

The implications for fundamental rights are multifaceted: beyond limiting freedom of expression and access to information, such bans may also affect the development of social skills, digital literacy, and participation in social and educational activities.

IV. COMPARATIVE REGULATORY EXAMPLES

Recent regulatory initiatives outside the European Union increasingly demonstrate an interventionist

approach to the protection of minors on the internet and digital platforms. In certain jurisdictions, legislators have opted for strict measures that include the introduction of explicit, categorical age limits for access to social media. Such initiatives are often formally justified by concerns for the well-being of children and young people, particularly in relation to mental health, developmental risks, and exposure to harmful content.

One of the most prominent examples of this approach is Australia's *Online Safety Amendment (Social Media Minimum Age) Act 2024*, which amended the existing online safety framework to formally introduce age restrictions for access to social media [12]. The Act requires social media service providers to implement age-verification systems and prevent users under the age of 16 from creating or maintaining accounts. Its primary purpose is to protect children's mental health, prevent exposure to inappropriate content, cyber-harassment, and manipulative advertising, and reduce the risks associated with early digital engagement without adequate parental oversight [12], [13].

However, the introduction of such categorical age limits gives rise to significant practical and legal challenges. Effective age verification remains technologically complex and may require intrusive data collection, thereby increasing privacy risks. These procedures, although aimed at protecting minors, may themselves pose risks to user privacy and data security [13].

Beyond technological challenges, the enforcement of such measures depends on cooperation from global platform providers, further complicating implementation. Australian law requires multinational platforms to identify users located in Australia and deny access to those who do not meet the minimum age requirement, involving the use of geolocation tools and sophisticated account-detection algorithms [13].

The Australian experience also demonstrates that statutory age limits and platform obligations may represent only one component of a comprehensive strategy. Despite clear legal boundaries, children may use adult accounts, falsify their age, or migrate to less regulated platforms, a phenomenon documented in empirical studies on digital behavior and risk displacement [7], [8], [25]. This reduces the real-world effectiveness of age-based bans and raises questions as to the extent to which such legal measures genuinely protect minors [13].

Comparative experience, including the Australian approach, clearly highlights the difficulties of enforcing absolute age bans in the digital environment. While minimum age regulation may be formally clear in legislative texts, its practical implementation requires a combination of technology, international cooperation, and continuous oversight to achieve meaningful protection of minors. Evidence suggests that flexible and adaptive solutions—combining age restrictions with educational programs, parental control tools, and mental health support systems—are often indispensable components of a

comprehensive child protection strategy in the digital sphere [12], [13].

Empirical studies further suggest that strict age-based restrictions do not necessarily reduce overall exposure to online risks but rather shift user behavior toward less regulated environments. This raises concerns regarding the effectiveness of absolute bans as a protective measure.

V. THE PERSPECTIVE OF CROATIAN LAW

The Constitution of the Republic of Croatia guarantees freedom of expression and access to information while simultaneously recognizing the special protection of children and the role of parents in their upbringing [27]. Pursuant to Article 38 of the Croatian Constitution, freedom of expression includes freedom of thought and public expression of opinions, as well as the right of access to information held by public authorities; any restriction of these rights must be proportionate, necessary, and prescribed by law [27]. Article 64 further emphasizes the obligation of parents to raise and ensure the full development of the child's personality, as well as the duty of the State to afford special care to minors and children without parental care [27].

The existing Croatian legal framework, in addition to the Constitution, includes the *Family Act* (*Official Gazette* No. 103/15, as amended), which regulates parental rights and duties, guardianship, supervision, and child upbringing in detail. Under Article 93 of the *Family Act*, parents are obliged and responsible for protecting and caring for the child, attending to the child's needs, and safeguarding the child from degrading treatment and corporal punishment by others [28]. Parents therefore have both the right and the duty to supervise children's digital activities [28]. These provisions indicate that the Croatian system emphasizes a combination of parental responsibility and targeted protective measures, rather than general bans on access to digital services.

At both the EU and national levels, the protection of minors' personal data is governed by the GDPR, which recognizes children as a vulnerable group and, in Croatia, requires parental or guardian consent for the processing of personal data of children under the age of 16 [22]. Croatian legal scholarship notes that this framework aligns with national interests and the principle of proportionality [29]. Furthermore, the *Criminal Code* and regulations on child protection online explicitly prohibit harmful conduct such as child sexual exploitation and online grooming, thereby addressing specific forms of digital risk [30].

Croatian legal doctrine emphasizes that rights guaranteed by the Constitution and the *Family Act* must be applied proportionately and with regard to the child's age, maturity, and circumstances [29]. The Constitutional Court of the Republic of Croatia has repeatedly affirmed that restrictions on access to information and freedom of expression must be proportionate and justified by legitimate aims, including the protection of children.

Empirical studies, such as *Kids Online Croatia 2025*, indicate significant risks of digital harassment and exposure to harmful content among children, with

approximately 25% of children reporting having received sexual messages online [31]. These findings confirm the need for parental supervision, child education, platform-based targeted protections, and responsible state policy, but do not necessarily justify a general ban on access to social media.

Any statutory ban on access to social media for users under 16 in Croatia would therefore represent a significant departure from the existing regulatory approach. Such a measure would need to be grounded in the Croatian Constitution, the *Family Act*, the GDPR, and relevant case law, particularly in light of the principle of proportionality and the application of EU law [22], [27], [29]. Any prohibition would have to be necessary, appropriate, and applied only where less restrictive measures—such as education, parental supervision, and targeted protective mechanisms—prove insufficient [30].

In conclusion, the combination of constitutional rights, family law, national and EU regulations, and judicial practice ensures the protection of children's rights in the digital environment, while general bans on access to social media must remain a measure of last resort, proportionate to the actual risk faced by the child [27]–[31].

VI. LEGAL ASSESSMENT AND POLICY IMPLICATIONS

The legality of a general ban on access to social media for users under the age of 16 must be assessed through the three-step proportionality test developed in the case law of the Court of Justice of the European Union.

A general ban may be considered suitable insofar as it reduces exposure to harmful content and limits engagement with potentially addictive platform features. Empirical studies indicate correlations between intensive social media use and negative mental health outcomes among adolescents, including anxiety and depressive symptoms [2], [3]. However, suitability remains limited, as such measures do not eliminate exposure to digital risks entirely due to circumvention practices. The empirical literature does not establish a clear causal relationship between social media use and harm but rather identifies small and context-dependent effects [8], which limits the strength of the suitability argument.

The necessity requirement poses a significant challenge. Recent legal scholarship also suggests that platform-centered regulation under the DSA may provide more proportionate safeguards than categorical age-based prohibitions, particularly where algorithmic transparency, risk assessments, and child-specific protective mechanisms are effectively implemented [17], [32]. Less restrictive alternatives exist within the EU regulatory framework, including platform-based risk mitigation (DSA), parental consent mechanisms (GDPR), and digital literacy measures. Evidence suggests that targeted interventions—such as content moderation, parental controls, and algorithmic adjustments—can reduce harm without fully excluding minors from digital participation [4], [5]. Therefore, a general ban would likely fail this step unless these alternatives are proven ineffective. Studies indicate

that moderated and supervised use of digital technologies may have neutral or even positive effects on social connectedness and well-being [7], [25], suggesting that less restrictive alternatives may be equally effective.

A balancing of interests reveals that the negative impact on minors' fundamental rights—particularly freedom of expression and access to information—would be substantial [1], [19]. Given that digital environments play a central role in education, socialization, and civic participation, a blanket exclusion risks disproportionate interference with these rights. The benefits of protection must therefore clearly outweigh these costs, which current evidence does not conclusively demonstrate. International organizations further emphasize that children's participation in digital environments is essential for education, socialization, and the exercise of fundamental rights, which must be taken into account when balancing competing interests [25].

From the perspective of the principle of proportionality, a general ban on access to social media for users under the age of 16 is difficult to justify in the modern digital environment. While the protection of minors is a legitimate and critically important objective of child protection legislation and policy, regulatory practice and available studies demonstrate that less restrictive measures exist that may achieve comparable—or even superior—outcomes without imposing an absolute prohibition. Existing mechanisms include child-appropriate safety settings, privacy controls, and restrictions on harmful interactions.

In addition, digital platforms can implement parental control tools, including activity monitoring, content filtering, and time-use limitations. These tools enable parents to play an active role in protecting and guiding children in the online environment, in line with the Croatian Constitution and *Family Act*, which recognize parental responsibility for child upbringing and protection. Digital literacy initiatives additionally support safer online participation.

A regulatory focus that places responsibility on platforms is more consistent with existing EU legislation and fundamental rights standards, including the GDPR and the DSA. These frameworks require platforms to mitigate systemic risks affecting minors. This approach—combining technical safeguards, education, and provider accountability—constitutes a proportionate and necessary limitation of rights in a democratic society, as it is selective and targeted rather than absolute and general.

Available research indicates that restrictive approaches may lead to displacement effects, including the use of false accounts and reduced parental oversight [33]. Children may resort to falsified information or adult accounts to circumvent restrictions, thereby increasing their exposure to unsafe or unmonitored online interactions. By contrast, systems that combine enhanced safety settings, parental supervision, and education provide a more realistic and effective means of protecting children while still enabling participation in digital society and

access to relevant information without unnecessary infringement of fundamental rights.

Ultimately, when assessed through the lens of proportionality, a regulatory focus on platform accountability and targeted protective measures strikes an appropriate balance between minors' rights and the necessity of protection from digital risks.

VII. CONCLUSION

Regulating access to social media for users under the age of 16 requires a balanced assessment of different legal systems, regulatory approaches, and fundamental rights. The analysis of Australian, European Union, and Croatian frameworks demonstrates that, while the protection of minors is an undisputed and legitimate objective, the methods of achieving it differ significantly. The Australian model illustrates both the potential and the limitations of strict age-based regulation.

In contrast, the European Union framework is based on a more flexible and differentiated approach grounded in the principle of proportionality and the protection of fundamental rights. Through instruments such as the GDPR and the DSA, the EU promotes a model that does not exclude minors from digital environments but instead seeks to manage risks through platform accountability, transparency requirements, and limitations on harmful practices. This approach enables the protection of minors while preserving their rights to freedom of expression, access to information, and participation in digital society.

The Croatian legal framework further reinforces this paradigm through a combination of constitutional guarantees, parental responsibility, and targeted protective mechanisms. The Constitution and family law emphasize the role of parents in supervising and protecting children, while criminal and regulatory provisions address specific forms of harmful online conduct.

Comparative analysis shows that blanket bans, although normatively clear and politically appealing, are often ineffective in practice and may lead to unintended consequences such as circumvention, the use of false identities, and reduced parental oversight. Recent empirical and regulatory analyses additionally indicate that strict age-verification systems may create new privacy and data protection concerns, especially where verification mechanisms require biometric identification or extensive processing of personal data [20], [23], [24], [34]. Empirical evidence does not support the assumption that complete exclusion from digital environments is the most effective means of protecting minors but rather points toward the importance of guided and structured engagement [7], [8], [25]. These findings further weaken the argument that general bans are necessary under the proportionality test.

Ultimately, the analysis indicates that a general age-based prohibition is unlikely to meet the proportionality requirements under EU law and Croatian constitutional standards. A more sustainable model combines platform accountability, parental involvement, and targeted safeguards. Such an approach enables effective risk

management while preserving minors' fundamental rights and ensuring their meaningful participation in the digital environment.

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