

The Italian Regulatory Framework on Protection of minors in digital environment

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1. The Italian Regulatory Framework

Over the past decade, Italy has profoundly transformed its approach to the protection of minors online. The system has evolved from a predominantly reactive model to a structured framework based on prevention, technological safeguards, and shared responsibility among institutions and digital service providers.

- The first milestone was the **Legge 29 maggio 2017, n. 71**, which introduced a legal definition of cyberbullying and established preventive measures involving schools, families, and public authorities.
- A major turning point came with the **Decreto-Legge 15 settembre 2023, n. 123**, later converted into **Legge 13 novembre 2023, n. 159**. This reform framed digital safety within broader youth protection policies and introduced binding technological obligations for service providers.
- The Italian framework operates within the broader context of the **Regulation (EU) 2016/679 (GDPR)**, which establishes enhanced safeguards for minors' personal data.

In Italy, the GDPR is implemented through **D.Lgs. 10 agosto 2018, n. 101**, which designates the **Garante per la protezione dei dati personali** as the national supervisory authority.

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2. A Multi-Level Governance Model

Italy has adopted a coordinated and multi-stakeholder governance system.

- **Ministero dell'Istruzione e del Merito** plays a central role by coordinating national action plans and promoting awareness campaigns.
- At the regulatory level, **Autorità per le Garanzie nelle Comunicazioni (AGCOM)** acts as Digital Services Coordinator and exercises monitoring and regulatory powers over online platforms.
- At the same time, **Garante per la protezione dei dati personali** has strong emergency powers and may order the removal or blocking of harmful content within 48 hours in cases such as cyberbullying or non-consensual intimate image sharing.

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3. Social Media Access and Digital Consent

Italian law distinguishes between legal capacity and the capacity to consent to data processing.

Under national legislation, minors aged 14 and above may autonomously consent to the processing of their personal data in relation to digital services.

Below this threshold, parental authorization is required.

Importantly, there is no general prohibition on the use of social media under the age of 13. Instead, the system relies on consent rules combined with mandatory protective measures imposed on providers.

The “Decreto Caivano” introduced a significant innovation: **electronic communication providers must ensure that parental control tools are available and directly integrated into their service contracts.**

Furthermore, AGCOM Resolution 9/23/CONS requires that SIM cards registered to minors include, by default, the blocking of inappropriate content.

This marks a shift in responsibility: protection is no longer based solely on parental supervision but increasingly on the technical and regulatory obligations of providers.

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4. Age Verification for Pornographic Content

A stricter regime applies to pornographic websites.

Article 13-bis of the Decreto Caivano imposes an absolute ban on access by minors and requires the adoption of effective age verification systems.

AGCOM Resolution 96/25/CONS introduced a “double blindness” model based on two elements:

- an independent Age Verification Provider, and
- a cryptographic token system.

Under this system, the website does not obtain the user’s identity, and the verification provider does not know which website is being accessed.

This separation of knowledge is designed to ensure compliance with the GDPR while effectively preventing minors from accessing prohibited content.

Sanctions may include fines of up to €250,000 and blocking of the service in Italy.

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5. The Pornhub Case and Future Perspectives

The implementation of this system has already generated legal challenges.

Aylo Freesites Ltd, operator of Pornhub, YouPorn and RedTube, has filed an administrative appeal against AGCOM (R.G. 148/2026)

The court will need to assess:

- whether such obligations are compatible with the EU principle of free movement of services,
- whether the measures are proportionate, and
- whether the system genuinely safeguards user privacy.

In conclusion, Italy is positioning itself as a regulatory laboratory in Europe.

The shift from education-based prevention to technologically enforced provider accountability marks the transition from ineffective self-regulation to structured co-regulation in line with the EU Better Internet for Kids strategy.

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