

LEGAL DESIGN FOR INFORMED SHARENTING AND CONSENT OF THE CHILD ON SOCIAL NETWORKING SITES

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Abstract: *Children are increasingly active in social life through social networking sites and parents have begun sharing more posts including their children's pictures and other personal data. As a result, children's privacy becomes even more susceptible to the infringement of values within the bounds of right to privacy. The term "sharenting" refers to parents and other relatives sharing personal data of the child. Sharenting may cause significant risks that may affect the child all throughout their life such as "digital kidnapping" and potential future bullying among peers. When parents share posts on social networking sites, they essentially provide consent on behalf of the child. Valid consent from the parents and/or child is an important aspect in the infringement of personality rights. In all instances, the children's best interests should be taken into consideration. To raise awareness about protecting children and to ensure that consent is valid, legal design should be implemented in creating information texts. In this study, a system proposal has been developed for posting children's photos on social media, which involves asking questions and displaying warning messages when children's photos are shared. Within this framework, legal design is utilised in order to form clear and more comprehensible texts for users on social media platforms.*

Key words: *Legal Design; Sharenting; Best Interest of the Child; Personality Rights; Informed Consent*

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1. INTRODUCTION

As in most aspects of our lives, the digital age has also changed the notion of privacy for children as well as adults. Sharing personal information, photos, details about one's life on social media platforms may cause violation of personality rights and right to privacy. People often share children's photos and videos without being fully informed of the immediate and long-term consequences of their online disclosures. This becomes a

more complex problem when the sharing party is parents who share posts about their children. The term "sharenting" is used where parents and other relatives share personal data of the child. Sharenting can cause significant risks that have the potential to impact children throughout their lives and may lead to harmful outcomes such as "digital kidnapping" and bullying among peers. When children or their parents are unaware of the potential risks of sharing online, they fail to manage their social media privacy settings, or consent to terms and conditions without being fully informed.

As gatekeepers of the child's right to data privacy, parents have certain legal responsibilities for their children (Blecher-Prigat, 2018; Wagner and Gasche, 2018; Plunkett, 2019a). However, parents who are gatekeepers also become so-called "narrators of their children's stories". This results in a conflict of interest while parents, who should protect their children's digital privacy and personality rights, also decide to share posts and may be blinded by their personal preferences (Gligorijević, 2019; Steinberg, 2017). Moreover, parents, who should act as gatekeepers, may also not have the adequate knowledge or may not be sufficiently digitally literate or technologically aware (Donovan, 2020).

There have always been discussions about the terminology and scope of the right to privacy and personality rights. When Stig Strömholm wrote 'Rights of privacy and rights of the personality: a comparative survey' in 1967, he suggested that the term "right to privacy" was a predominantly American term, whereas the term "personality rights" were used in the European context. We preferred to use the term "the right to privacy" as one of the aspects of personality rights in this article. On the other hand, where the term "right to privacy" is used in the national and international legislation, we also used this term to stick to legislative terminology.

Raising awareness and promoting accessible legal knowledge and information about the potential risks of using social media to share children's photos and videos may avoid these risks. To raise awareness towards the risks of sharing children's personal information (especially photos and videos of children) on social media platforms, we firstly recommend that a pop-up window with a warning text (informed consent text) should appear when a child's photo or video is shared. And secondly, we recommend that legal design should be implemented in forming these texts. Legal design is a method implementing different design techniques to communicate legal information, especially to certain disadvantaged target groups. Using legal design to produce accessible information to parents and children about the legal scope and potential risks of using social networking sites (hereinafter also referred to as "SNS") would be a very efficient tool that offers *ex ante* protection for children.

In the theoretical background of our article, we delved into the concept of "sharenting," examining the risks involved through providing concrete examples. In methodology part, we subsequently shifted our focus to a comprehensive exploration of the application of legal design in information texts. This involved a detailed analysis of how legal design methodologies enhance clarity, accessibility, and user understanding when conveying information. Through this examination, we aimed to underscore the importance of employing legal design principles in mitigating potential risks associated with sharenting and fostering a more effective and user-friendly communication landscape.

The General Data Protection Regulation (GDPR) is used as the primary reference due to its significant global impact on data privacy legislation and the tendency of social networking sites to align their policies with its provisions. Furthermore, a need for special protection of children's personal data is emphasized in no. 38 of GDPR's recitals, while visualization is also underlined as a probable tool for transparency of information

regarding protection of personal data in no. 58 of GDPR's recitals (Aulino, 2019; Buitelaar, 2018).

2. SHARENTING & ITS RISKS WITH AN EMPHASIS OF CASE LAW

Posts violating children's personality rights are becoming more prevalent, especially on Social Networking Sites-SNS such as Facebook, Instagram or TikTok. These posts are frequently utilised for socialising, commercial purposes, and publicity through exploiting children (Brosch, 2018; Plunkett, 2019b). Usually, it is the children's acquaintances sharing such posts, including their parents, relatives, friends, and teachers. Posts shared by parents constitute the largest proportion of postings (Haley, 2020). This is why the term "sharenting," a mix of the words parenting and sharing, appears in the literature (Haley, 2020; Husi-Stämpfli, 2021; Zorluoğlu Yılmaz, 2021; Steinberg, 2017). However, the term "sharenting" is understood to include cases where personal data and sensitive information is shared, stored, or published by persons other than parents, i.e., grandparents and other relatives, adult caregivers or teachers, and school staff.

Children are social beings, and they begin to have more roles in social life, especially when the nursery/school years begin. As a result, they become even more susceptible to the infringement of values within the bounds of personality rights. Sharenting even affects a child's digital footprint; social life begins in his/her newborn days through the photos, videos, or other digital material shared by the parents on SNS.

Children's public and private lives, among many other personal values, are harmed when their images are carelessly shared on social media. If this image is degrading, it will also interfere with the children's sense of dignity. The harm caused by a post may be considered a violation of bodily integrity. Since bodily integrity includes both physical and mental integrity, the exploitation of children's emotions should also be regarded in this context.

Sharenting is common. Even by 2010, 92 % of children by the age of two was found to have an online presence in the US, while another survey conducted in the US, the UK, Canada, Australia, New Zealand, Japan, France, Germany, and Italy in very same year resulted in 82 % of children under the age two to have a digital footprint (Shepherd, 2018; AVG Digital Diaries, 2011). According to a newer study by Moser et al. (2017), over 90% of new parents upload photos of their children on Facebook.

Potential risks of sharenting may be listed as follows: in addition to pictures, personal and sensitive data of the child, such as residence (or geographic location in general), school, biometric information, age, and birthday may lead to stalking, "digital kidnapping" and potential bullying among peers (Turgut, 2021). Moreover, sensitive photos of children become an attraction for paedophiles, who distribute these photos even further. It may also have an adverse effect on the child's perception of privacy as an individual by affecting the child's understanding of private places like home, school, and playground as public sphere (Plunkett, 2019a). Psychologists underline that "sharenting" may cause harm to the child's psychological and sociological development, as parents are the most trusted individuals of the child (Günüç, 2020). According to Hancock, *"Potentially the greatest threat to a child's privacy can come from their own parents."* (Hancock, 2016, p. 29). Another important type of risk of sharenting is that by creating a digital footprint of the child, parents cause the child's data to be added into the big data world, potentially affecting education, employment, healthcare, and access to financial services of the child in the future continuing throughout his/her life (Gligorijević, 2019; Montgomery et al., 2017).

The fact that these shares leave permanent digital footprints is disregarded (Donovan, 2020). Once the data becomes available online, it becomes an eternally accessible digital footprint (Williams-Ceci et al., 2021). In an incident that took place in Hong-Kong, an adult woman's childhood pictures were posted online by her mother without her consent and made available to public via Facebook (Cheung, 2019). Although the mother made the photos available to friends only after the woman's request, the mother had about 1000 "friends", most of whom she was not acquainted with in real life (Cheung, 2019). It is quite safe to assume that these people would be able to distribute these photos and once a photo becomes online, it could stay online for a long time. So, sharenting's effects is not only limited with childhood.

Legal disputes regarding sharenting rarely reach courtrooms (Blecher-Prigat, 2018). In a court case in Italy, a 16-year-old teenager requested the court to stop his mother from further posting photos of him on Facebook and erase the already posted ones during the parents' divorce case (Smith, 2018). The court decided in favour of the request, and the mother faced a £9,000 fine should she post any more photos of her son without his consent (Smith, 2018). However, this decision is understood to be based on a person's copyright on his/her photos. As understood, court seemed not to acknowledge concept of sharenting and child's right to privacy.

In a recent decision of the Higher Regional Court of Düsseldorf, the parents of two girls were separated and had shared custody of their children (OLG Düsseldorf, 20.7.2021 – 1 UF 74/21). The father was in a relationship with a hairdresser who took photos of girls and published them on the Facebook and Instagram accounts of her salon for publicity. The father was aware of the situation and consented, but when the mother of the children found out about the photos on Facebook and Instagram, she sent an e-mail to the father demanding the removal of all photos featuring their children from all SNS within three days, as well as a signed document agreeing not to share any further photos of the children within seven days. The father's partner continued to share new photos of the children even while the original photos of the children were still online. The mother took the matter to court, and this was the first instance where a court issued an injunction order stating that because parents shared custody, the mother's consent was also required. Therefore, the unauthorised posting of photos on SNS and commercial use of photos breached the mother's custodial rights, and the children's consent could not substitute for the mother's consent. However, the father appealed on the grounds that he was away on vacation when the summons was delivered, so he didn't know about the injunction trial; therefore, he was not present in court and the injunction was given in his absence. He further alleged that the mother was not interested in the well-being of their children and that it was all about a "small war" with him. According to the father, the photos were normal with children getting haircuts and did not harm the children's personality in any way. The injunction order meant that his partner will not be allowed to post any photos of the girls until they are eighteen of age even if the children give their consent, which is not realistic, and does not conform with social media use habits. He stated that this conflict caused a war of loyalty between the children. Moreover, he claimed that the mother and maternal grandmother shared photos of the children without his consent. The Higher Regional Court of Düsseldorf decided that there were not any procedural breaches in the injunction order. The Higher Regional Court's decision is important because it explicitly underlined that sharing of photos on SNS has effects on children's development and privacy and that their personality rights should be protected because photos of their childhood would probably be there forever and will be seen by an unlimited number of people (OLG Düsseldorf, 20.7.2021 – 1 UF 74/21). Based on these grounds, the court affirmed the injunction order pursuant to the German Civil Code par.

1628, which orders taking action in accordance with the best interests of children because shared photos affect the integrity of their personality and privacy. On the other hand, the Higher Regional Court affirmed that the consent of the children would not change the situation as both parents' consents are required for sharing photos as parents have shared custody (OLG Düsseldorf, 20.7.2021 – 1 UF 74/21).

As exemplified in this case, most parents either don't know or are not sufficiently concerned with the potential risks and possible harms of sharenting (Lipu and Siibak, 2019; Special Eurobarometer 2015). This makes it particularly important to raise awareness about the potential risks of sharenting and inform both parents and children about their legal rights and responsibilities.

3. CONSENT AND THE BEST INTEREST OF THE CHILD

In most sharenting cases, parents have given prior consent to transmission, publication or storage of the private and/or sensitive data of the child, as they have already accepted the social networking site's terms and privacy conditions. So, the consent of parents and/or child is an important aspect of the matter. Of course, the consent must be legally valid, and the validity of the consent has specific requirements. The validity of consent is crucial not only to prevent violations of personality rights but also to comply with personal data protection laws. That is because posting photos and sensitive data of children without their consent on social media constitutes unlawful personal data sharing and is punishable by administrative measures.

Consent will only be valid if a person has the capacity of judgement. Those persons will be deemed to be able to decide in the best interest of themselves. If children have the capacity of judgement, their consent must be obtained before sharing posts about them on social media. The parent's consent will be sought if the children lack capacity of judgement. However, when the parents share posts, they essentially give their consent on behalf of the child. This may result in conflicts between the parent's custodial rights and the child's best interests. The child's best interests, not the parents', should be taken into consideration when making a decision in such a case.

In the European Union (EU), there is no universal age for having the capacity of judgement, this varies depending on the specific context and the child's development. Children start using digital media at an early age, and parents usually support this for educational purposes (Nikken and Schols, 2015). It is generally acknowledged that individuals over the age of 13 have the capacity of judgement when it comes to using social media. However, it is impossible to assign a specific age to every social media post as each child develops differently, and each social media platform features different content. In accordance with GDPR Article 8, minors must be at least 16 years old to consent to sharing their personal data, while member states may impose a lower age restriction of no less than 13 years. On the other hand, it is also said that children (such as those who are 7-8 years old) might have the capacity of judgement at younger ages in terms of gaining parental consent while posting photos of them on social media (Husi-Stämpfli, 2021).

If, in the particular case, it is considered that the child has the capacity of judgement, then consent should be sought from the child and not from their parents regarding posts about the child. For instance, even though a high school student aged 15 or 16 does not want their photos to be shared on the school's social media accounts, sharing such information based only on a consent form signed by the child's parents will not make it legal to interfere with that child's personality rights.

However, within the framework of the right to be forgotten, children who have the capacity of judgement also have the right to have the posts they have shared or validly consented to about themselves removed (GDPR 17). The right to be forgotten is underlined in Recital 65 of the GDPR as being particularly significant in erasing online posts when consent was granted while the consenting person was a minor and the risks were not fully anticipated.

The extent of the consent must be clear, and sufficient information must be provided for the child's or parent's consent to be considered valid. Particularly before consent forms are collected by third parties such as schools, nurseries, and test center administrations, the children or their parents must be adequately informed about which data (identification information, photos, etc.) will be shared with whom, on which platforms, and for what purposes. General and ambiguous consent forms will not be considered valid consent.

Although the consent of the parent and/or child (adolescent) is necessary for valid consent, the consent requirement shall not be sufficient protection (Gabriel, 2019). Information about risks, legal provisions, and responsibilities should be given in a manner easily understood by both parents and children. As a human right, children's right to data privacy should be protected without regard to the age of the subject and/or the right of parental control (Gligorijević, 2019). However, the prioritisation of parental consent is criticised as it may cause harm to children's right to (data) privacy in terms of sharenting (Gligorijević, 2019; Takhshid, 2023).

A text including clear and explicit statements written in readable fonts, in a language that can be understood by both the parents and the child who has the capacity of judgement, should be presented during the consent process regarding social media posts. Simple language understandable to children should be used, especially in texts aimed at children, according to the provisions of Article 12 of GDPR.

Following the child's consent, it is important to clarify - using age-appropriate images and symbols - which photos and information will be shared where, with whom, and for how long. Although what really matters is the child's consent, when parents are asked for their consent regarding a child who lacks the capacity to make decisions for themselves, they should consider what is in the child's best interests.

The fundamental tenet at the core of both domestic laws – particularly those pertaining to custody and protection of children – and international treaties governing children is prioritising the best interests of the child. This principle also calls for respecting the child's right to participate and, in this case, obtaining the child's consent or opinion.

The GDPR provisions are compliant with Articles 3 and 18 of the United Nations Convention on the Rights of the Child (Convention), which regulate that the best interests of the child should be taken into consideration in decisions regarding the child and in parents' raising their children, respectively. Article 12 of the Convention states that when a decision is taken in the best interest of the child, their opinion should also be taken into account if the child is in a position to comprehend the consequences of the decision. The child's opinion should be taken on social media posts involving the child to the extent of their puberty, even if it is debatable whether the child has the capacity of judgement and it is determined that the parents can consent on their behalf. This provision, however, cannot be used to justify a choice that is not in the child's best interest. When faced with consequences for behaviour that is contrary to the interests and personality rights of the child, an influencer mother, for instance, who makes money by sharing private photos of a child between the ages of 7-8, cannot justify her actions with the relevant provisions of the Convention, even if she shares the photos after asking her child. On the other hand, it is against the provisions of the Convention for parents to share photos of a child at that

age without the child's consent. The Convention is also an important source for EU law (Japharidze, 2023).

So, it would be fair to state that even the consent of the child is neither an ultimate solution nor does it offer satisfactory protection against the risks of sharenting in some cases. Considering the potential risks that may continue for a lifetime for the child, and that it would be hard for the child to take necessary legal actions before he/she comes of age, it would be much wiser to focus on preventing those risks *ex ante* rather than focusing on *ex post* legal remedies. In this sense, raising awareness about these risks may play an important role. However, it is a well-known fact that the terms and conditions of SNS are long texts, including different policies altogether. Furthermore, there are no differences in form or content for different types of users, i.e., parents, adolescents, and elderly people who are susceptible to greater risk. It is hard for both adults and children to comprehend longer texts (Kohlmeier and Klemola, 2021). Legal design shall be an effective tool for improved accessibility. While the overall length and mere text form of the terms and conditions on which consent relies is one issue, different needs for accessibility for different groups are another issue.

The ability of parents to determine whether information shared about their children on social media is beneficial or harmful to them depends heavily on information texts. The risks of sharing, particularly for children, should be explained in such documents; these explanations should be written in a way that parents can understand. In this regard, the sentences should be brief, straightforward, and accessible; it is crucial to offer remarkable explanations using symbols and visuals.

In sum, it is in the best interest of the child that sufficient *ex ante* precautions against possible risks of sharenting be taken not only by receiving parents' and child's consents but also by giving the necessary information and awareness about different aspects of sharenting with particular emphasis on possible risks. In order to do that, legal design shall be a convenient and powerful tool.

4. METHODOLOGY

This study employs legal design methodologies to develop disclosure and information texts that prioritise clarity, accessibility, and user understanding in the legal domain. By integrating design thinking principles, legal design transcends conventional, complex legal language, making information more user-friendly. This includes thoughtful use of typography, layout, and visual elements to create a visually appealing and easily digestible format. Through the application of legal design, this study aims to empower individuals to make informed decisions by simplifying legal jargon and complex concepts. By bridging the gap between legal requirements and user comprehension, it contributes to a more transparent and equitable legal communication environment.

4.1 The Term Legal Design

Legal design, in simple terms, is a design method that tries to improve the readability of legal texts (Mardin, 2021). It is a movement aiming for the legal system to work better for people through an interdisciplinary approach and a combination of work between human-centered and visual design, civic technology and participatory policymaking (Doherty, 2020).

Visualisation is an essential element of legal design (Botes and Rossi, 2021). Users can establish a holistic perspective that words cannot convey by using bold headers, summaries of lengthy and complex literature, and visualisation tools like tables

and diagrams. While some of the tools used in visualisation can be prepared without any prior design education or expertise, others need the assistance of qualified designers (Berger-Walliser et al., 2017).

Visualisations are used in legal design to make complex terms understandable and to make the uninteresting ones interesting (Doherty, 2020). Although visualisation is frequently used in legal design, other design methods and tools are also employed (Berger-Walliser et al., 2017).¹

4.2 Legal Design in Information Texts

Legal terminology is extremely complicated and difficult to understand, especially for laypeople. Also, considering the length of the documents, users frequently choose not to read these materials, or even if they do, find them difficult to understand. This fact causes users to abandon reading the texts altogether (Rossi et al., 2019). Information texts are another piece of text that people struggle to read or understand. This leads users to give consent to interference with their personality rights based on texts they have not read or understood. It is crucial that the information texts provided before obtaining consent for social media posts regarding children clearly explain the harmful repercussions of sharing. The validity of the consent to be given based on such texts will be impacted by any text that is unclear or insufficient in this regard.

The regulations on the processing of personal data will apply here because the values subject to social media shares are considered personal data in terms of GDPR. The legal design provisions of the GDPR are significant in this regard since they serve as a model for domestic legal design laws.

4.3 Legal Design within the GDPR Framework

The use of standardised symbols is required to implement the principle of transparency in mandatory disclosures regarding the processing of personal data, according to paragraph 7 of Article 12 of the GDPR. The provision states that the information disclosed to the data owners must be readily visible, understandable, and legible. It must also include standardised symbols to provide a meaningful general description of the procedure to be performed. In cases where the symbols are presented electronically, the symbols must be machine/computer-readable (Hamamcıoğlu, 2022).

Pursuant to the GDPR, such symbols may be used in privacy policies, disclosure texts, application permissions and public notifications. It might be particularly helpful to make privacy statements easier to access and understand by using standardised symbols. Users' understanding of the implications of their consent can be strengthened by emphasising the risks associated with the data collection procedure. As a result, communication about data practices can be improved (Rossi and Lenzi, 2020a). The person in question can make conscious decisions and use their rights much more easily (Paal and Pauly, 2021).

Indeed, emoticons, vector graphics and icons have been part of our private and professional lives for some time, i.e. emoticons and emojis used for digital communications. Visualisation provides better comprehensibility and cross-language communication (Kohlmeier and Klemola, 2021). Serving as signs, these symbols are also known as "pictograms". Pictograms were invented to be able to communicate quickly and clearly without using words in order to get the user's attention. Pictograms should

¹ For several sub-types of legal design such as product design, service design, organisational design and system design, apart from visualisation designs, please see Hagan (2022).

be carefully chosen so that their meanings are understood without further explanation. While creating these symbols, broad representations that can be connected to their intended meanings, such as through shared experience, should be employed. The ability of pictograms to be understood in all cultures and languages without using words is also crucial. In contrast to other visual aids like comics, images, and charts, they are not meant to provide explanations of information. In this way, pictograms allow the performance of a desired conduct, the prevention of undesirable behaviour, or the provision of information about a particular situation without attempting to change the recipient's behaviour (Rossi and Lenzini, 2020a).

A sloppy or complicated design, however, can result in a misinterpretation of the necessary information and, as a result, incorrect conclusions. Thus, it is crucial to establish standardisation in pictogram production. This is necessary because symbols are a form of universal communication that successfully gets through obstacles like language, culture, and age. For instance, despite their place of origin, the majority of traffic signs are made to guide cars. To preserve cultural neutrality and prevent misunderstandings along the journey, such a wayfinding system is systematised in specific combinations of symbols, forms, and colours with little usage of writing. Likewise, the public symbol system used to guide pedestrians and passengers in transportation facilities (like airports) is made to communicate complicated messages to individuals of various ages and cultures. Once again, specific ISO criteria govern how safety and public information issues are visually communicated (Rossi and Lenzini, 2020a). Pictograms can also be used to represent ideas in cybersecurity, such as the padlock used in encrypted communication (Rossi and Palmirani, 2020). The standardised requirements of the symbols used in these domains, however, cannot be directly applied within the purview of GDPR. Future data protection symbols must therefore be approached from a broad, interdisciplinary perspective. To communicate research findings on what standardised symbols can be created independently of culture and spoken language in the global arena, we recommend the establishment of a group of experts and institutions. This is because making the symbols visible, accessible, and comprehensible will be made much easier thanks to the research findings from the studies carried out by this group (Rossi and Lenzini, 2020a). We believe that when screen usage is more limited, comprehensible visualisations – particularly in the context of mobile applications—will be even more important (Hamamcioğlu, 2022).²

In conclusion, the potential risks can be mitigated by using pictograms alongside the text rather than entirely replacing them. The symbols must be supported by robust experimental data, which is crucial. Misrepresentation, oversimplification, or placing undue emphasis on one topic over another may cause data owners to make misinformed decisions. As a result, data owners may accidentally permit practices that violate privacy (Rossi and Lenzini, 2020a).

Research seeking to implement the symbols that aim to promote transparency within the purview of GDPR must be followed. Therefore, the "information overload problem" can be overcome by the proper usage of legal design in this domain (Hamamcioğlu, 2022). The application of legal design for personal data protection purposes is not just limited to the creation of standardised pictograms. Standardised symbols are simply one solution for the privacy policies' frequent lack of transparency (Rossi and Palmirani, 2020).

² For similar views, please see Spindler and Schuster (2019).

4.4 Using Legal Design for Protecting Children Against Risks of Sharenting

Main reason behind sharenting is neither ignorance nor neglect by parents, but rather a lack of knowledge of the parents about the rights, responsibilities and the importance of understanding the risks associated with sharenting and the digital identity of a child (Steinberg, 2017; Plunkett, 2019b). Furthermore, scholars advise parents to familiarise themselves and understand the privacy policies of SNSs (Steinberg, 2017). It is also noted that parents nor children can be expected to comprehend the risks under the current scheme of "one-click" agreement to user terms and privacy policies (Jasmontaite and de Hert, 2015). This may also be referred to as "click or abandon" approach, which psychologically nudges parents into agreeing with vague and complex terms and policies (Donovan, 2020). These all lead to an information asymmetry of parents regarding the content of user terms, privacy policies and risks of sharenting. Legal design works as an *ex-ante* or preventive tool, which may be particularly suitable for overcoming risks of information asymmetry experienced by parents when using SNSs and against sharenting (Haapio et al., 2021). People who are aware of their rights and responsibilities may pursue justice and conform to legal norms better, even without the help of a lawyer. So, informing parents about such rules is necessary to protect children against the perils of sharenting; it may even be a tool easier to implement than traditional protective legal provisions because children may be unable to instigate their legal rights in such cases. It should be recognised that different characteristics of target groups require different approaches and different designs in legal design. Younger children perceive personality rights differently from adolescents (Walsler Kessler, 2015; Kohlmeier and Klemola, 2021). Thus, legal design aimed at sharenting should be adapted for parents, younger children, and adolescents respectively.

Another aspect of legal design is human-centered design (McKeever and Royal-Dawson, 2023; Rossi and Lenzi, 2020b). It can prove an efficient tool for reaching out to different target groups. Human-centered design is a design approach that is not limited to legal design; it focuses on developing products product or services from the user's perspective. In other words, human-centered design incorporates the needs and preferences of the user with empathy and interacts with them to reach the desired outcome (McKeever and Royal-Dawson). By application of human-centered design, legal document designers shall use empathy and collaborate with the target group of the legal document to identify potential problems and develop solutions, using interviews, surveys and brainstorming sessions, as well as experimenting with different designs for an optimal document. Therefore, to raise awareness about sharenting and help parents understand the associated risks and responsibilities, it would be very appropriate and useful to implement a human-centered design approach in designing "user" guides for sharenting.

Visualisation of legal rules by using pictograms shall make legal texts easier to comprehend and help reduce the language barrier both in terms of legal terminology and across different languages. In this manner, a shift from legal documents to user guides should be considered (Haapio et al., 2021). Visualisation methods like a clear layout, skimmable headings, numbered steps, companion icons and icon systems are advised (Haapio et al., 2021). Taking into account the multi-sensory aspect of legal design, apps, playbooks, websites and similar interactive solutions shall be really useful and helpful to reach different target groups more effectively. The creation of labels and labelling systems may be considered like icons in GDPR. Plunkett (2019a) proposes that a labelling system, modelled on nutritional labelling, could address the information asymmetry between digital technology providers and parents in the context of sharenting. Recital 58

of the GDPR also requires that the information to all data subjects should be provided with a clear, audience-appropriate language, i.e., usage of icons (Buitelaar, 2018).

In the content of a typical user guide for sharenting, concept of digital identity and its effect throughout a person's life, risks of oversharing in SNS's, scope and importance of consent, a reminder for parents to consider their children views should be included. User terms and privacy policies as long and complex legal texts with vague information and "click or abandon" approach must be changed with application of legal design. Legal design should be implemented in forming shorter, clear, plain, and comprehensible language in terms of user and privacy policies. The scope of risks associated with sharenting and the digital world generally should not be confined to the user agreements of SNS's, but there should be public campaigns aimed at parents, setting a code of conduct in the digital world with an emphasis on privacy and consent matters. Legal design may also be used to design such campaigns and courses.

4.5 Design Proposal: Visual & Interactive Information System for Social Media

Humans acquire visual messages better than text. Rossi and Palmirani (2015) stated that the support of visual elements in legal design helps to alleviate the cognitive load of reading and understanding complex documents such as legal texts. In this part of the study, informative texts were examined, loaded legal texts were analysed in line with reader needs, and the texts were categorised according to the types of information to be conveyed. In establishing the design criteria, careful consideration was given to the visual language and format of social media. Subsequently, the functionality of visual elements and the design of the user experience were developed in alignment with these considerations. A comprehensive review of sources influencing the development of legal design literature led to the identification of specific tools and methods tailored for each type of information.

In this study, a system proposal has been developed for the sharing of child photos on social media. The system operates by prompting users with specific questions and displaying warning messages during the sharing process. Within this framework, the texts that appear progressively according to the answers given when the child's photo is shared include the questions of whether the children or their legal representative consents to the sharing, whether sharing the child's photo is in the child's best interest, whether appropriate privacy settings have been applied, and what legal remedies that the child/legal representative can apply in cases where there is a lack of consent, interest of the child, or appropriate application of privacy settings and/or the risks that the child may face. Prior to designing the interfaces for the Visual & Interactive Information System, a preliminary clarification text (Figure 1) is prepared, including numbered questions and answers that correspond to the steps in the system's process flow.

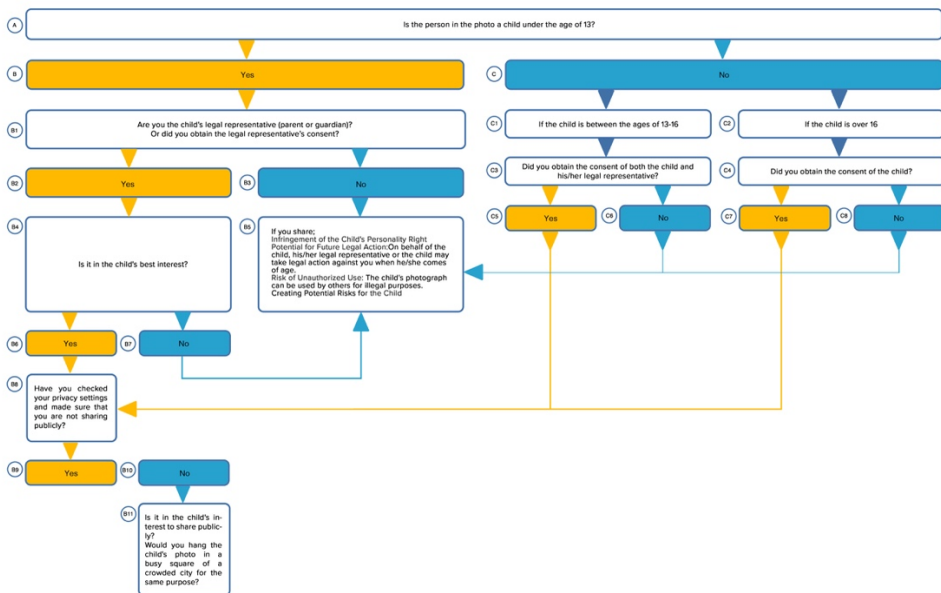


Figure 1: Clarification text draft, steps are numbered³

This system adopts a user-centric approach to achieve comprehensible communication, emphasising the need to consider user characteristics to enable informed decision-making and the exercise of individual rights. In this context, we propose an age-based consent framework: Children aged 16 and over should be able to give consent on their own, while children between 13 and 16 may only give consent together with their parents. For children under 13, only parental consent is required. In any case, parents must make their decision about their consent according to the principle of the child's best interest. In order to effectively convey this information and underscore the potential legal scenarios and associated risks about sharenting, the proposal incorporates legal design principles. In accordance with the suggestions of Rossi and Lenzini (2020b), it adheres to the essential notion of prioritising the holistic user experience, shaping a choice architecture that is not only meaningful and empowering but also caters to users' needs and capacities in a manner that is usable, transparent, and fair.

In an increasingly visual-centric digital world, visual data takes precedence, particularly in the realm of social media usage, shaping user behaviour towards "watching" rather than "reading" (Sroka, 2022). The proposed design aims to inform users with visual warnings in line with their social media usage patterns in situations that may cause legal problems. The design system uses a face & silhouette recognition algorithm

³ Due to its size, Figure 1 is also available in higher resolution online on the website of the Bratislava Law Review: <https://blr.flaw.uniba.sk/index.php/BLR/article/view/967>

based on the analysis of facial features, human gait, or body proportions to distinguish between children and adults (Ge et al., 2013; Taha et al., 2024; Wu and Guo, 2013). When a person attempts to share a photo/video of a child, the face & silhouette-based recognition algorithm detects the child's age and raises an alert (Figure 2). This notification prompts the individual posting the image to provide information regarding the age range of the child depicted. This approach serves a dual purpose: increasing awareness about this matter and pre-emptively mitigating potential issues that may arise.

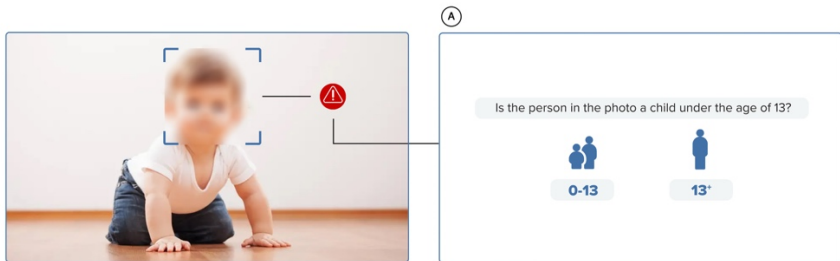


Figure 2: The algorithm identifies the child's face and silhouette, and a visual alert appear⁴

In the first phase, the process flow is shaped by two different factors: child's age and the individual, who is the target user sharing data about the child. Since different age ranges are subject to different legal processes, the user was asked to indicate which of the age ranges the child falls into 0-13 and, 13 and over, as illustrated in Figure 3. Within this context, the target users may be both the legal representative of the child (parent or guardian), or it could be any relative or acquaintance who knows the child. Thus, the warning and information content flow in the design was formed for two different personas.

⁴ Due to its size, Figure 2 is also available in higher resolution online on the website of the Bratislava Law Review: <https://blr.flaw.uniba.sk/index.php/BLR/article/view/967>

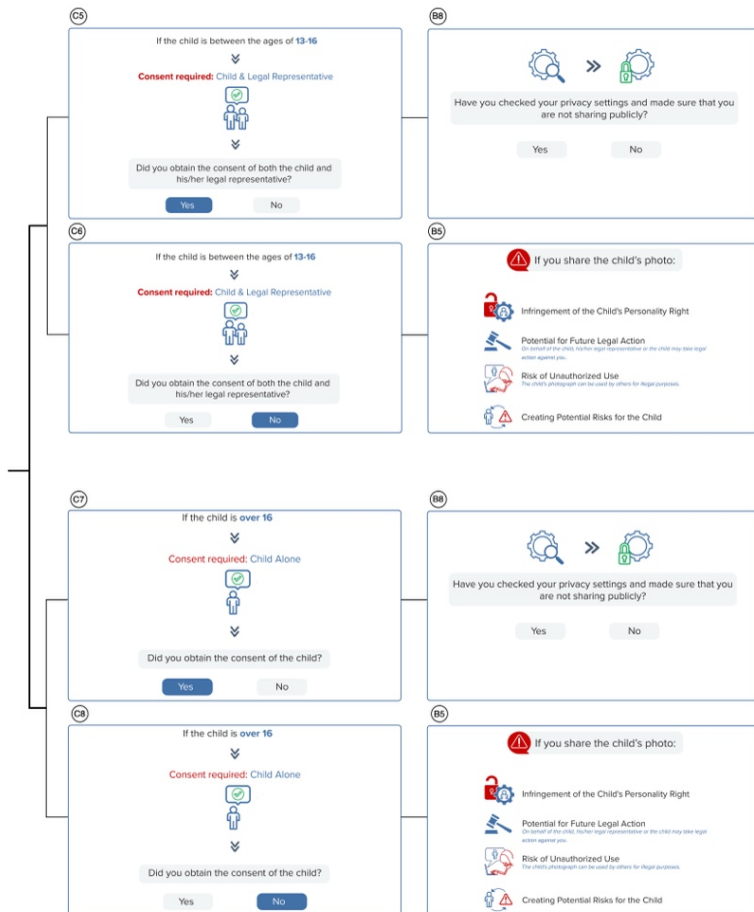


Figure 3: Process flows: If the child whose photo is shared is under/over 13 years old⁵

Texts that contain definitions and explanations on legal and financial issues and enumerated items in the content of the clarification text were defined. In this direction, considering the reader's need for easy follow-up and easy readability of the text, the existing design systems (lines, shapes, arrows, colours, thickness and thinness of lines and icons) were used in accordance with the holistic design language with the focus on the hierarchical distribution of information and ensuring that the loaded text is interesting and memorable. Berger-Walliser et al. (2017) state that the use of such symbols can increase the comprehensibility and effectiveness of the text for the user. This method is

⁵ Due to its size, Figure 3 is also available in higher resolution online on the website of the Bratislava Law Review: <https://blr.flaw.uniba.sk/index.php/BLR/article/view/967>

used to highlight certain aspects of the legal text, pointing out to the reader that words constitute a prohibition or a duty, which can be a good guidance for future behaviour.

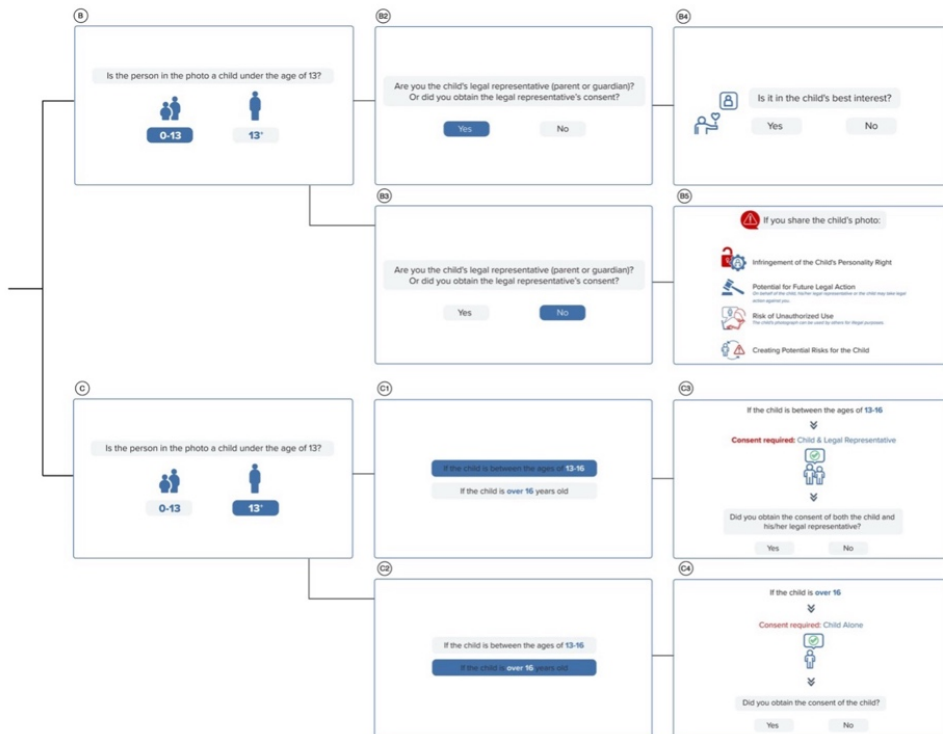


Figure 4: Process flows: If the child whose photo is shared is between 13 – 16 or over 16 years old⁶

As the child's age is one of the main determinants in terms of child's personality rights, the objective is to emphasise the distinctions between the prerequisites for obtaining consent and the potential consequences associated with sharing information about children of varying age ranges (see Figure 4). In this phase, it is important to visualise the process flows to provide participants with a clear roadmap and explain the steps. This format offers users an informative overview of the action's background, guidance on the necessary steps to prevent unfavourable legal consequences, and a clear understanding of the potential issues they might encounter if these precautions are not heeded. In this context the design patterns identified by Rossi et al. (2019) and the general design guidelines, templates and case studies created by the Stanford legal design lab are utilised to create the format and deliver the specified messages.

⁶ Due to its size, Figure 4 is also available in higher resolution online on the website of the Bratislava Law Review: <https://blr.flaw.uniba.sk/index.php/BLR/article/view/967>

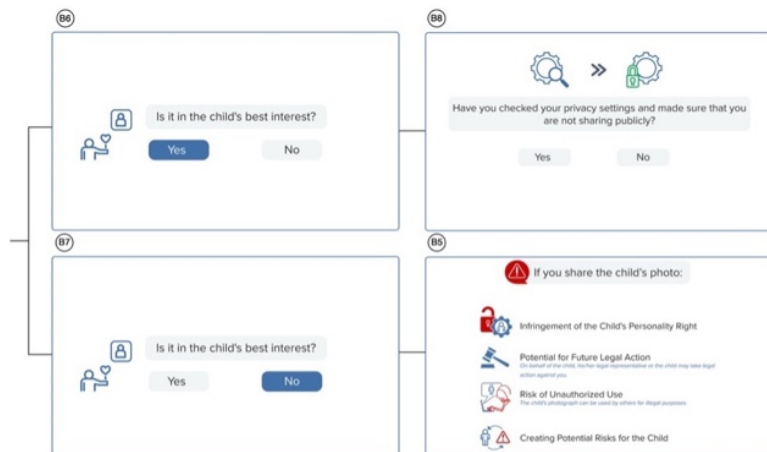


Figure 5: Process flow steps: Directing user to consider the child's best interest⁷

The interactive interface aims to make social media users consider the child's privacy rights, the importance of the age range, consent requirement and the issue of whether sharing is beneficial to the child or not before sharing data about a child. In the process flow shown in Figure 5, B8 and B5 are the most repeated contents. Step number B5 reveals the possible consequences of sharing a photo of a child and includes visual elements demonstrating and matching the written statements.

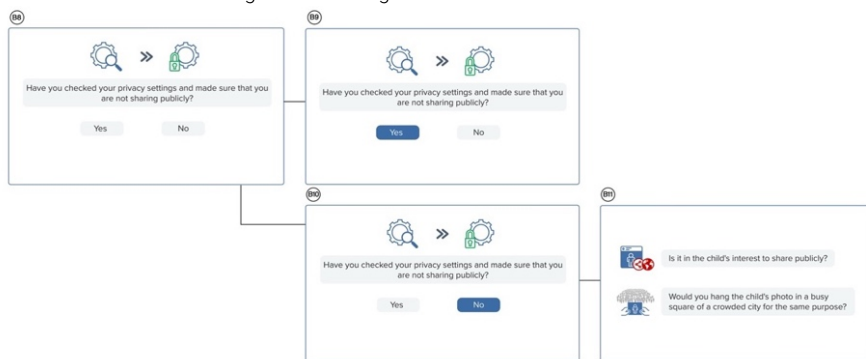


Figure 6: Process flow steps: Directing user to control privacy settings⁸

After informing the user about the consent requirement, the system directs the user to check their privacy settings (Figure 6). Step number B8 includes icons symbolising privacy, setting controls to ensure the content is not shared publicly. The

⁷ Due to its size, Figure 5 is also available in higher resolution online on the website of the Bratislava Law Review: <https://blr.flaw.uniba.sk/index.php/BLR/article/view/967>

⁸ Due to its size, Figure 6 is also available in higher resolution online on the website of the Bratislava Law Review: <https://blr.flaw.uniba.sk/index.php/BLR/article/view/967>

icons and symbols used in the visual interactive information system are selected based on the existing social media visual language in order to look familiar to users. The following step aims to gain insight into this behaviour by having the user imagine an example in daily life that might correspond to publicly sharing data about the child. The first symbol designed in step number B11 consists of red-coloured 'share' and 'world' icons to warn the user about sharing publicly. The second symbol illustrates an imagined scenario and underscores the potency of visualisation in conveying the sensation of an undesirable outcome.

Tredwell (2021), in her study on the careful use of typography in the transmission of legal texts, emphasises the need to use different styles and sizes of fonts to highlight certain elements and guide the readers' eyes more easily throughout the text. In this direction, it is aimed to design the structure of the clarification text (headings, sections, subsections, etc.) in a way to make it more prominent to increase readability and to pay attention to the holistic language and the selection of colours and fonts suitable for the readability target. The colours (blue (light & dark), red, green) used in the visual identity design of the information content were interpreted contextually and applied consistently within the text to convey the same/similar meanings. Created in the 18th century by Goethe (1810/1967), colour theory emphasises the role of colours in human perception and their emotional effects. According to Perry and Wisnom's (2003) study, people react directly to colours and shapes. Therefore, designers use colour attributes to increase the recognisability of brands and strengthen the visual memory of organisations. Colours can contain specific messages and trigger specific reactions between the central nervous system and the cerebral cortex (Chang and Lin, 2010). People experience psychological changes when encountering different colours; colours can stimulate, excite, and create other emotions.

In order to convey the right message to the participants in this study, colours were carefully used in a contextually appropriate manner by evaluating them within the framework of emotions, states and meanings specified in communication and psychology and semantics studies. Research in the fields of colour theory and communication psychology supports that blue increases trust and evokes a sense of calmness (Alberts and van der Geest, 2011; Yüksel, 2009). In this study, blue is preferred to convey this feeling to individual investors while making the complexity of legal knowledge understandable and accessible. Blue is employed in light and dark variations, with user selections indicated by a transition from light blue to dark blue when the user interacts with the buttons. Red is a bright, warm colour that evokes strong emotions and is considered an intense colour that creates a sense of excitement or intensity, which can even be associated with anger (Ren and Chen, 2018). In this study, red was used to emphasise risky, critical issues and situations that require attention in the legal context. Finally, safe, natural, and usual situations and behaviours were emphasised with green (Grimes and Doole, 1998). The specified colour coding was repeated in the same/similar meaningful situations to create a pattern, thus reinforcing the colour and perceived meaning matches.

5. CONCLUSION

Sharenting poses certain risks and dangers to children's welfare. We determined that sharenting, in other words, sharing a child's data via SNS, shall constitute a breach of the child's personality rights if the principle of the child's best interest is disregarded or without the child's consent is not taken into account, in accordance with international law

and national legislations. However, it is crucial to establish *ex ante* precautions to minimise the risks and dangers of sharenting.

Consent of the child is critical; however, the child's age is a key determinant in ensuring the validity of such consent. Although certain legislation, i.e. GDPR, sets an age range for valid consent and major SNS policies seem to abide by such standards, it should be noted that a more generalised approach is necessary given that both parents and children worldwide are engaging with SNSs. We propose the following age classification: children aged 16 and above should be able to provide consent independently, while children between 13 -16 may only give joint consent with their parents (both parental and child consent). For children under 13, only parental consent is required. In any case, parents must make their decision based on the principle of the child's best interest.

Consent may only serve as a protective measure if the individuals providing it are sufficiently informed. Without adequate information, consent becomes merely "blind", and the hazards of sharenting shall not cease. In order to mitigate the potential hazards of sharenting, it is essential that SNS users are adequately informed about the risks of sharenting, both with or without consent. Furthermore, the significance and requirement of consent must be clearly communicated to the SNS users. On the other hand, delivering this information is challenging. Information overload and/or the use of legal or technical terminology that is hard to comprehend are obstacles to comprehension. This study proposes legal design as a tool for overcoming these obstacles and making parents and children much more aware of the risks of sharenting and the importance and necessity of consent.

Legal design aims to transform legal tools and documents to ensure that the law is communicated to all people and that this communication is understandable by those with and without legal education (Murray, 2021). The proposed Visual and Interactive Information System consists of carefully designed interfaces, including schematisation of possible situations using diagrams and roadmaps, and predicting future needs by means of legal tools that provide a clearer understanding of the terms of the legal relationship. This system serves as an explanatory and interactive resource designed to educate individuals who share children's data on social media platforms. Using a combination of visual and interactive features provides a comprehensive explanation that provides a more comprehensive understanding of the relevant legal principles and their implications for protecting children's privacy in the digital space.

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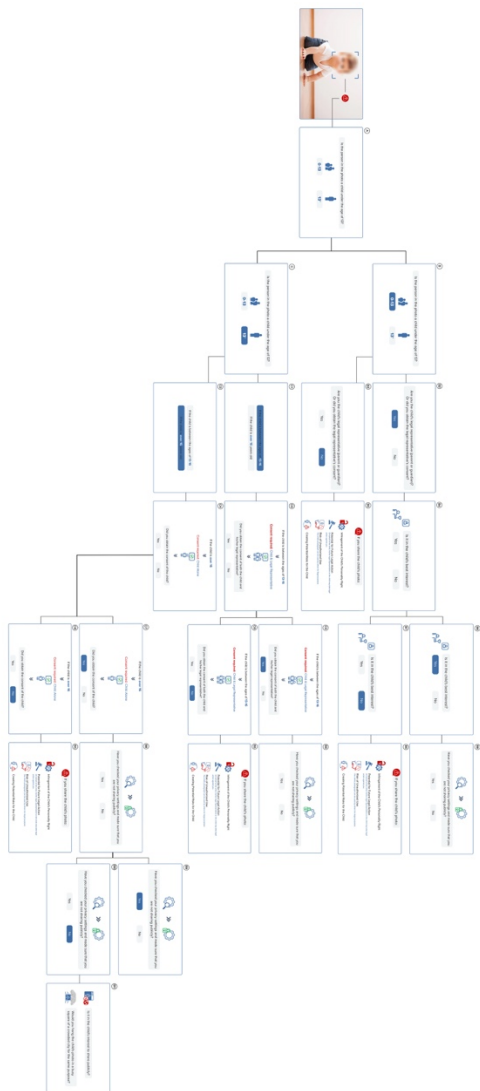
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Appendix A: Process flow of Visual & Interactive Information System⁹



⁹ Due to its size, Appendix A is also available in higher resolution online on the website of the Bratislava Law Review: <https://blr.flaw.uniba.sk/index.php/BLR/article/view/967>

