



A Review of Online Content Regulation in Albania: Challenges and Recommendations

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Abstract: *The introduction of the Digital Services Act marks a turning point in online content regulation, with many countries now adopting a more proactive approach to preventing illegal and harmful content on online platforms. Reports of illegal and harmful content increase each year. This highlights the insufficiency of online platforms' efforts in addressing these issues and underscores the need to shift from a self-regulation model to stricter government intervention. Naturally, each country develops its own approach to regulating online content, focusing on and prioritizing specific types of harmful content. In Albania, despite the growing use of the internet, progress in online safety remains slow, and the regulation of online content is still in its early stages. This paper provides a comprehensive analysis of the current situation in Albania regarding online content regulation, highlighting key challenges and proposing recommendations to advance regulatory efforts.*

1. INTRODUCTION

Online content regulation has currently become one of the most critical issues of internet governance. At a time when many international organizations show an increase in concerns and reports that users encounter online about illegal and harmful content, governments are becoming more doubtful about the effectiveness of self-regulatory initiatives as a mechanism to regulate the activities of online platforms (Vermeulen, 2019).

The Digital Services Act, which has recently been enacted, constitutes one of the most fundamental acts of cyberspace regulation, establishing clear and stricter rules and obligations for online platforms to protect the basic rights of users, particularly the protection against illegal and harmful online content. Additionally, various countries have implemented their regulatory frameworks, such as Germany's Network Enforcement Act, the UK's Online Safety Bill, and France's Avia Law. These key regulatory acts demonstrate that both the EU as a whole and individual member states are shifting their policies to exercise greater control over online content. This represents a shift from the concept of free access towards a more public order-focused approach to content regulation (Flonk et al., 2024).

Since cyberspace transcends borders, Albanian users inevitably encounter illegal and harmful online content. Albania is one of the countries that have extensive use of the Internet every year. According to the Institute of Statistics (INSTAT, 2023), 82.6% of the population (age group 16-74) uses the Internet, of which 91.6% use it every day. Also, based on the annual report by the Electronic and Postal Communications Authority (AKEP, 2023), the volume of data transmitted on mobile networks has seen an increase of 18.57% during 2022, while the average monthly consumption of internet from mobile phones has increased by approximately 14%. Although Albania

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has experienced rapid growth in internet coverage and usage, progress in online safety has been relatively slow.

The main objective of this paper is to present a thorough analysis of the current state of online content regulation in Albania. It conducts a detailed review of the country's regulatory framework by identifying key authorities and assessing existing problems and challenges. The paper concludes by offering recommendations and potential suggestions to improve online content regulation in Albania.

2. METHODOLOGY

The methodological approach of this paper was conducted through using primary and secondary data analysis.

The primary data for this research was collected and analyzed by the authors. This involved the authors' own elaboration on the processes, challenges, and mechanisms of online content regulation in Albania. The primary data focused on the current practices of internet service providers (ISPs), governmental entities, and other stakeholders in managing illegal and harmful online content.

Secondary data consisted of an extensive review of legal frameworks relevant to online content regulation in Albania. This included analysis of laws, policies, and regulations governing the blocking and removal of illegal and harmful content. In the context of Albania, the research focused on national laws such as Law No. 9918/2008 "On Electronic Communications" and Law No. 25/2024 "On Cyber Security," along with reports and guidelines from agencies like the Electronic and Postal Communications Authority (AKEP) and the National Authority for Electronic Certification and Cyber Security (AKCESK). These legal texts provided the main basis for assessing the effectiveness and gaps in Albania's current regulatory regime.

The integration of primary and secondary data enabled the identification of key challenges within the current system and the provision of recommendations for improving content regulation.

3. REGULATORY MODELS FOR ONLINE CONTENT REGULATION

Tackling illegal or harmful internet content should be a shared responsibility between the government, ISPs, users, IT industry and civil society. Each actor must do its part to identify, report and then block or remove this content.

There are several regulatory options to consider regarding online content regulation. It is up to each country, depending on its specific situation and problems with illegal and harmful internet content, to determine which regulatory model it will follow in order to achieve its objectives.

The first regulatory model requires the broad involvement of end-users and ISPs. This method is a decentralized, somewhat self-regulated model, which consists of several bottom-up measures. In this context, the Internet service provider can apply user-level protection by setting rules in the firewall and by using filtering software in order to prevent the end-user from accessing illegal or harmful Internet content (Parti & Marin, 2013). Filtering based on pre-selected keywords is a very efficient solution. However, end-user awareness to identify and report illegal or harmful internet content is a prerequisite. In Albania, in recent years some ISPs offer special packages of

filtered internet and parental control that can be useful, especially for protecting children online. For example, Vodafone has developed an application called Vodafone Secure Net used by more than 100,000 clients. Although these solutions may be productive, efforts to inform parents of the existence of these packages remain limited and fragmented (Sulstarova et al., 2019).

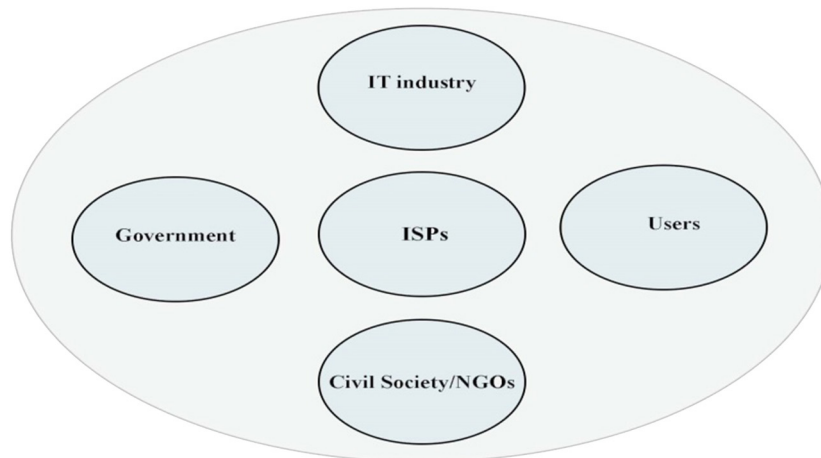


Figure 1. Tackling illegal and harmful internet content, a shared responsibility

Source: Own processing

This regulatory model requires end-user's consent and approval to be implemented. If the ISP applies the filtering of content to all its users without their consent, this can be interpreted as a possible violation of net neutrality and transparency. Although each internet service provider should value the offering of secure internet as a competitive advantage, it may result into a potential loss of its own end-users that may seek to have internet access from other ISPs, which do not apply these filtering mechanisms.

So, another regulatory model is the cooperation of ISPs with each other in order to have a common, mutual approach to illegal or harmful internet content. Application of shared filter systems designed by several service providers jointly can be achieved through codes of conduct, memoranda of cooperation or understanding and any other kinds of agreement (Parti & Marin, 2013). ISPs can cooperate promptly to remove or block access whenever they know illegal or harmful internet content or activity. This is also a decentralized, self-regulated model. According to Ofcom, since 2004, the UK's mobile operators have provided filters that restrict children's access to inappropriate internet content based on the British Board of Film Classification (BBFC) framework. Also in 2013, BT, Sky, Talk Talk and Virgin Media agreed to offer 'family-friendly' filtering to screen out content unsuitable for children.

Another regulatory model for tackling illegal or harmful internet content is the intervention of public administrative authorities with the power to issue orders for blocking and removal of this content. This is a centralized, top-down model where ISPs are obliged to take the appropriate measures in order to block or remove illegal or harmful content. This option is acknowledged as potentially the most invasive regulatory option, so its impact on individual freedoms has to be considered (Parti & Marin, 2013).

In this context, there is a wide-ranging, global debate about whether and how illegal or harmful internet content should be addressed through regulation (Ofcom, 2018). Each model has its strengths and weaknesses. Decentralized regulation conforms to the Internet's openness but it is not unified.

Users need to play an active role in tackling illegal or harmful internet content. Even so, the level of experience and perception of each user regarding what is legal and illegal, what is harmful and not, is different. This is the reason why applying shared filters by ISPs is a pretty good and unified solution. Although internet self-regulation regarding technical protocols and functionalities exists, online content regulation has raised most public debate and concern (Price & Verhulst, 2000).

Reality shows that a hybrid model can be followed, which combines government intervention with self-regulation. In particular, determining whether content is legal or illegal is the responsibility of public administrative authorities. On the other hand, due to the diverse nature of harmful content and the fact that this content can become very disturbing for a user or some users, agreements between ISPs with each other but also with NGOs, IT industry companies, etc. are very important to block and remove this content within a short time. However, this does not mean that government regulation should not exist. Tackling online child sexual exploitation and abuse has shown to be more effective when cooperation between government bodies, ISPs, NGOs for children's rights, private helplines, and hotline services exist. In Albania, UNICEF in cooperation with the Municipality of Tirana and internet service providers has established the introduction of Friendly WiFi Spots. In some public areas in Tirana, free internet access is filtered from online child exploitation and abuse material (UNICEF, 2020).

4. ONLINE CONTENT REGULATION IN ALBANIA

4.1. Relevant Administrative Entities

At the moment in Albania, there is no specific law that deals with and regulates blocking, filtering and take-down or removal of illegal or harmful internet content. This means that there are a number of public institutions and authorities, in the organic laws of which, there are special provisions that regulate certain types of illegal and harmful internet content.

First of all, it is important to define the administrative authorities, which have the liability of managing, administering and supervising the filtering, blocking and removal procedures.

AKEP is the **Electronic and Postal Communications Authority**, which operates under the Law no.9918/2008 "On Electronic Communications". Based on this law, any new operator or entrepreneur that intends to offer electronic communications networks and services is obliged to apply for general authorisation in order to be licensed by AKEP. This authorization is subject to many conditions and requirements, which are mandatory to be followed by electronic communications operators. One of these obligations is to respect the restrictions regarding illegal or harmful internet content, defined by Article 15, paragraph 1(e). In this context, whenever AKEP receives a request or decision from competent bodies, it sends or forwards the request to internet service providers in order to take appropriate measures to block access or remove illegal or harmful content immediately. At this point, it is necessary to specify that Law no. 9918/2008 "On Electronic Communications" does not apply to the content of the services provided by electronic communication networks (Article 2, paragraph 1). This means that AKEP, under no circumstances, can send an order to ISPs without explicit decision or request by the administrative authorities. Moreover, it can never become a decision-making institution regarding illegal and harmful internet content, but is its responsibility to supervise and guarantee that blocking and removal measures are done by all internet service providers in Albania. According to AKEP (2024), 6395 requests to block illegal and harmful content have been sent to the ISPs so far.

Another important institution regarding managing and administering filtering, blocking and removal procedures of illegal internet content is AKCESK, which is the **National Cyber Security Authority**. AKCESK operates and is responsible for overseeing enforcement of the Law no.25/2024 “On Cyber Security” and the Decision of the Council of Ministers no.141/2017 “For the organisation and functioning of AKCESK”. Specifically, the Decision of the Council of Ministers (point 4.21) defines that AKCESK sets up, administers and maintains a unique online system for publishing illegal internet content sites that need to be blocked. This system was established in 2020 and now public entities can upload lists of websites that they have decided to block and internet service providers are automatically notified of any new decisions or orders in real time. AKEP has also access to this system to monitor the implementation of blocking and removal measures by ISPs. AKCESK has published a guideline about the administration of the online portal to support public bodies and ISPs in using the system. It is also worth mentioning that AKCESK can neither evaluate nor decide whether certain content is illegal or not. Although on their official website, there is a specific form to report illegal or harmful internet content, AKCESK just forwards these reports to the competent authorities. Similarly to AKEP, it is not a decision-making entity.

So far, we have mentioned the institutions that hold the task of managing, administering and supervising the filtering, blocking and removal procedures of illegal and/or harmful internet content.

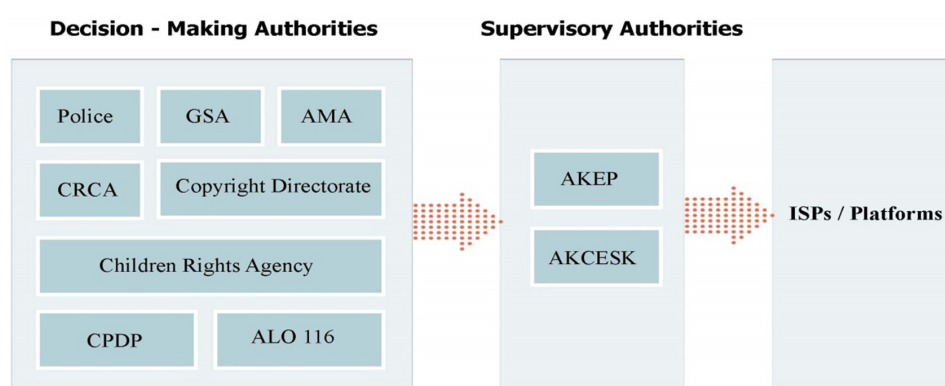


Figure 2. Relevant administrative authorities in Albania

Source: Own research

Important components in this system are also public institutions and authorities that can decide, request, or order the removal of illegal and harmful internet content, based and mandated by law. Competent entities that have and can exercise these legal rights are listed below.

Judicial and Law enforcement agencies may decide and request the blocking and removal of illegal and harmful content based on the legal provisions set out in the criminal code. This includes relevant articles regarding:

- computer distribution and internet dissemination of materials in favor of genocide or crimes against humanity,
- threats with racist and xenophobic motives through the internet,
- distribution of racist or xenophobic materials over the internet,
- insults due to racist or xenophobic motives over the internet,
- incitement, public calling and propaganda for committing acts with terrorist intent.

Law no. 155/2015 “On Gambling in the Republic of Albania” gives to **Gambling Supervisory Authority (GSA)** the right to request blocking and removal of internet sites that offer illegal and unlicensed gambling.

Audio-visual Media Authority (AMA) operates and is responsible to oversight enforcement of the Law no.97/2013 “On audio-visual Media in the Republic of Albania”. Following this law, the main responsibility of AMA is the licensing of audio-visual media. Thus AMA has the right to request blocking and removal of unlicensed audio-visual media and illegal internet content consisting on piracy of copyrighted audio-visual content. At the end of August 2024, AMA announced the start of cooperation with the TikTok platform to remove videos with harmful content. So far, about 232 complaints have been sent by citizens and reported to the TikTok platform (AMA, 2024).

The **Copyright Directorate**, which operates under the Law no.35/2016 “On Copyright and Related Rights”, has the right to request blocking and removal of illegal internet content that consists of copyright infringement or piracy.

According to Law no. 9887/2008 “On Personal Data Protection”, Article 30 paragraph 1/b, the **Commissioner for Personal Data Protection (CPDP)** has the right to order the blocking, removal, destruction or suspension of the unlawful processing of personal data.

The **State Agency for the Protection of Children Rights** is mandated by the Law no.18/2017 “On the Rights and Protection of the Child” and the Decision of the Council of Ministers no.465/2019 “On Measures to Protect Children from Access to Illegal and/or Harmful Internet Content”, to request blocking and removal of illegal and harmful Internet content for children.

The **Albanian National Child Helpline ALO 116 111**, which was founded in 2009, is the only fully toll-free telephone line that functions both as a helpline in order to provide immediate psychological support to victims and as a hotline in order to refer to the responsible government agencies all the cases of violation of children’s rights and more specifically cases regarding online child sexual exploitation and abuse.

The **Children’s Human Rights Centre of Albania – CRCA** is a non-governmental and non-profit organisation for the rights of children and youth in Albania. CRCA administers isigurt.al portal that is a web-based platform established in 2016 for reporting online child exploitation and abuse material. All the cases reported to this platform are passed to ALO 116 and after a preliminary evaluation, they are referred to the responsible authorities, specifically to the State Agency for the Protection of Children Rights and State Police.

Based on the data reported on the platform www.isigurt.al, more than 300 complaints have been filed, of which only 240 have been cases that have been proven to constitute illegal or harmful internet content for children (Pulaha & Hazizaj, 2020).

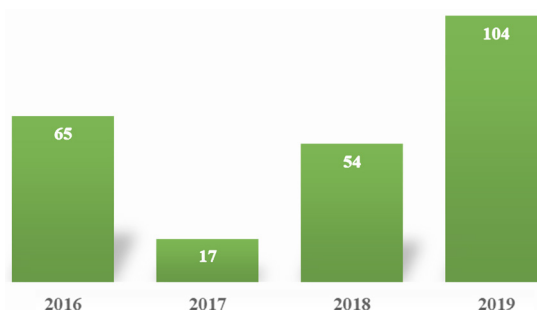


Figure 3. Cases managed by the platform isigurt.al during 2016-2019

Source: Pulaha and Hazizaj (2020)

4.2. Problems and Challenges

So, there are many entities, that have well-defined roles and responsibilities for identifying illegal and/or harmful internet content, ordering blocking and removal of this content, and managing and supervising measures taken by ISPs to comply with these restrictions. The above institutions also have signed memorandums of cooperation and understanding with each other in order to be more effective and efficient in performing functions and responsibilities regarding blocking and removal of illegal internet content. However, there are problems and challenges in the functioning of this model that are interrelated.

The main problem is that **this system does not operate according to a unified practice**. In this aspect, although AKCESK is the responsible institution mandated by Government Decision no.141/2017, a significant amount of blocking and removal requests or orders by the relevant entities are reported directly to AKEP. These requests or orders should normally be notified and uploaded to the online system set up by AKCESK. This means that there is no single standard to be used for notifying blocking and removal orders and then for taking the appropriate measures to block or take down this content by ISPs. In this regard, it is important to mention that this problem derives from the fact that often the legal definitions are ambiguous and sometimes in conflict with each other, resulting in institutions not being clear about their legal powers, responsibilities and capabilities to act. Particularly, the requirement for ISPs to be registered in the online system for blocking and removal of illegal internet content is not included in the Law no.9918/2008 “On electronic communications” and Regulation no.47/2017 “On the implementation of General Authorization Regime” published by AKEP, although these important documents clearly define the legal obligation of ISPs to respect the restrictions regarding illegal or harmful internet content. According to its official website, in 2020 AKEP has published for public consultation a document regarding some additions and amendments to Annex E, of Regulation no. 47/2017 “On the implementation of General Authorization Regime”. In this document, it is proposed that ISPs must register in the online portal administered by AKCESK, in order to be notified of any order, to confirm the implementation of measures and to follow and continuously implement the obligations imposed by AKCESK regarding blocking and removal of illegal internet content. Although the public consultation period is over since 2020, AKEP has not approved this document for unknown reasons. As a result of this, even though AKCESK has requested several times from ISPs to register in the system, at the moment not all Internet Service Providers are registered in it. At this point, despite these institutions’ cooperation with each other, government intervention through possible legal changes is more than important to clarify the competencies and responsibilities of each institution for blocking and removal of illegal internet content.

Also, there is **no institution to assess the legality of the orders or decisions** taken by public authorities. As a result, decisions are not always in complete accordance with their legal provisions and are perceived as a violation of freedom of expression. A problem that is related to the above one is that **ISPs do not show an explanatory message** about the reason every time they block or remove content. This makes the process less transparent.

Another problem is that **this fragmented four-tier system causes significant delays**, especially in particular cases e.g. child sexual exploitation and abuse where blocking and removal of illegal and harmful internet content is essential to be performed as quickly as possible to prevent mass distribution of this content. An important factor that slows down the response is the fact that requests or orders issued by relevant public bodies are submitted physically in hard copy to AKEP.

From a legal point of view, the study by the **Swiss Institute of Comparative Law (2015)** stated that the Criminal Code contains many provisions that penalize criminal offences performed through the Internet, however, **it does not provide legal regulations for the blocking or filtering of illegal or harmful Internet content**. Also according to **Sulstarova et al. (2019)**, the broad definition of harmful material or content is a problem. Different laws state the need for blocking and removal of illegal or harmful internet content, but the definition of harmful content is too general, making it difficult to identify what it encompasses and leaves space for individual discretion. A specific definition of the cases and conditions when the content will be categorized as harmful is needed.

Another important problem is **the clarification of legal time frames within which ISPs are obliged to conduct blocking and removal procedures**. In Annex E, point 9.4 of Regulation no.47/2017 “On the implementation of General Authorization Regime” published by AKEP, it is defined that internet service providers have to act immediately to block or remove illegal or harmful internet content upon receipt of the request from AKEP. Meanwhile, Article 8, point 1 of the guideline issued by AKCESK regarding the administration of the online portal for blocking and removal of illegal internet content, states that ISPs should access the online system and conduct blocking and removal procedures within 3 (three) calendar days. Whereas point 3 of the same article, defines that in emergency cases they should block and remove illegal internet content immediately upon receipt of the notice. The definition of the term “immediately” is meaningless and nonspecific because it does not refer to a specific time frame. So, it is crucial to determine what is meant by immediately. Also, it is necessary to define what constitutes an emergency case.

A technical problem is that **often the requests or orders taken by administrative authorities are domain-based and as a result, the blocking measures applied by ISPs make the whole domain or platform inaccessible and not just the illegal or harmful internet content**. In April 2020, for example, a request by the Audio-visual Media Authority to block a pirated copy of a film by an Albanian comedian hosted on the popular online platform medium.com, led to the temporary block of the entire platform by some ISPs.

4.3. Recommendations for Enhancing Online Content Regulation in Albania

Based on the problems and challenges identified above, the authors propose some recommendations that can be undertaken in order to improve online content regulation and create a safer digital space in Albania:

- **Establish a Unified Legal Framework for Online Content Regulation**
It is recommended that a unified legal framework be introduced, refining the responsibilities of regulatory bodies such as AKEP, AMA and AKCESK. This law should address the gaps in current legislation and ensure that a single, standardized process is followed for content removal and blocking requests across all public institutions with clear legal definitions and timeframes.
- **Designate a Regulatory Body as a Digital Services Coordinator**
One of the key requirements of the Digital Services Act is that each member state must designate a competent authority as its Digital Services Coordinator. The coordinator is responsible for all matters relating to online content regulation and for ensuring coordination at the national level. Accordingly, the Albanian government needs to appoint an administrative authority to serve as the Digital Services Coordinator. Given that many EU member states have designated their electronic communications authorities for this role, AKEP could potentially fulfill this responsibility in Albania.

- **Digitalization of Online Content Moderation Processes**

To ensure that notification, blocking, and removal procedures for illegal and harmful content occur swiftly, thereby preventing mass distribution online, transitioning to a fully digitalized system is necessary and would allow for faster action. The existing online portal of AKCESK should be fully utilized, and ISPs should be required to register and comply with its processes.

- **Improve Transparency in Content Blocking and Removal**

To ensure greater accountability, ISPs should be required to display explanatory messages when content is blocked or removed, outlining the legal basis for the action. This will increase transparency and help address public concerns about violations of freedom of expression.

- **Increase Public Awareness and End-User Participation**

Public education and awareness campaigns should be launched to inform users about tools for filtering harmful content, such as parental control features offered by ISPs, and to promote reporting of illegal and harmful content encountered online.

5. CONCLUSION

Online content regulation has become a significant issue in Albania, reflecting both global and local concerns over the rise of illegal and harmful content on the internet.

Although Albania has the appropriate public institutions and each of them has a regulatory legal framework, there is still no law or regulatory act that regulates all the processes and procedures related to the regulation of online content. During the detailed analysis that the authors developed, a series of problems and challenges were identified in the current online content regulation system, including a fragmented legal framework, non-standardized and non-unified processes, significant delays, and limited transparency in procedures. Even though Albania has made great progress in the digitization of public services, the regulation of online content is still in the early stages of development.

Moving forward, Albania needs to establish a unified and clear legal structure that clearly defines the roles and responsibilities of key regulatory bodies, such as AKEP and AKCESK. In this direction, Albania can use as a guide the main regulatory acts such as the EU Digital Services Act, Germany's Network Enforcement Act, the UK's Online Safety Bill, and France's Avia Law.

Appointing a regulatory body as a digital services coordinator and digitalizing content moderation processes are crucial steps in improving the efficiency and transparency of harmful content removal. Additionally, increasing public awareness and engagement through educational campaigns will empower citizens to play an active role in reporting and mitigating harmful content, ultimately leading to a safer online environment for all.

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