



# ICLG

The International Comparative Legal Guide to:

## **Telecoms, Media and Internet Laws and Regulations 2014**

**7th Edition**

A practical cross-border insight into telecoms, media and internet laws and regulations

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# Albania

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## 1 Overview

**1.1 Please describe the: (a) telecoms; (b) audio-visual media distribution; and (c) internet infrastructure sectors in Albania, in particular by reference to each sector's: (i) importance (e.g. measured by annual revenue); (ii) 3-5 most important companies; (iii) whether they have been liberalised and are open to competition; and (iv) whether they are open to foreign investment.**

a) According to the 2012 Annual Report published by the Albanian Electronic and Postal Communications Authority (EPCA), telecoms generated approx. 370 million Euros (i.e. 51.922 million Albanian Lek (ALL)) in 2011. Such market is dominated by Vodafone Albania, AMC, Eagle Mobile and Plus Communication, in the mobile sector, and ALBtelecom in the fixed telecom, representing almost 93% of the general revenues. The biggest players per sector are Vodafone Albania, with 39% of the mobile, and ALBtelecom, with 74% of the fixed line.

Telecoms have experienced a slight decrease in revenues compared to the previous year with a -9% margin, which is mainly due to the reduction of the mobile sector revenues during 2011 from approx. 300 million Euros (i.e. 41.9 billion ALL) to 280 million Euro (i.e. 39.2 billion ALL) – almost -7%. The most significant decrease was experienced by AMC, with -20%, while Eagle Mobile suffered a reduction of 6% and Vodafone Albania registered an increase of 1%.

By the end of 2012, fixed line subscribers suffered a decrease of approximately 8% (311,000 subscribers in total), while the number of broadband access subscribers, which amounts to 215,000, increased by 24% compared to the previous year.

Unlike investments in the mobile networks, during 2011 investments in fixed networks and backbone optical fibres had a significant increase of almost 178%.

The gender ratio of employment in telecoms is 45% women out of a total of 4,166 work positions.

b) When it comes to television broadcasting, the biggest national broadcasting companies are privately owned, namely Top Channel TV and Klan TV.

While national audio and audio-visual broadcasting licences are granted only to joint stock companies, local and regional broadcasting licences are granted either to natural persons or legal entities.

The ongoing process of digitalisation of television broadcasting is expected to be completed by the end of June 2015.

c) The total number of mobile and fixed broadband internet access subscriptions, by the end of 2012, had a significant increase of 24%, by reaching 215,000 subscribers.

Broadband access on fixed network reaches approximately 5.65% of Albanian residents compared with a European average of almost 28%, while broadband access on mobile network reaches approximately 1.96% compared with a European average of almost 8%.

The largest internet service providers, of course, coincide with those companies already mentioned above, namely Vodafone Albania, AMC, Eagle Mobile, Plus Communication and ALBtelecom.

With the exception of national and international fixed line telephony service in urban areas, which was liberalised only on 1 January 2003, the liberalisation of the telecoms sector in Albania was launched in 1998 and was followed up by the privatisation of ALBtelecom. Since then the Albanian telecoms market has become more and more competitive given that new players have entered the market.

There are no regulatory barriers for foreign investment in the telecoms, the audio-visual media distribution or the internet sectors.

**1.2 List the most important legislation which applies to the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Albania.**

a) The most important Albanian regulations governing the telecommunications are:

- Law 9918/2008 “On Electronic Communications in the Republic of Albania”, as amended;
- Law 10 128/2009 “On Electronic Commerce”;
- Decision of Council of Ministers (DCM) 599/2010 “On approval of payments made to the Electronic and Postal Communications Authority” as amended;
- DCM 331/2011 “On approval of technical regulation on fundamental requirements and compliance assessment of radio and terminal telecommunication equipment”;
- 322/2010 “On approval of policy document on electronic communications in the Republic of Albania”; and
- DCM 1252/2008 “On approval of rules regarding the conduction of public tenders, on granting the right of use of frequencies”.

b) The most important Albanian regulations governing audio-visual media are:

- Law 97/2013 “On Audiovisual Media in the Republic of Albania”; and
- Regulation of Audiovisual Media Authority on Procedures and Conditions on Issuance of Authorisations.

- c) The internet sector is subject to the legal frameworks indicated under point (a) above.

### 1.3 List the government ministries, regulators, other agencies and major industry self-regulatory bodies which have a role in the regulation of the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Albania.

The Ministry of Innovation, Information Technology and Communication is the competent authority for, *inter alia*, drafting the National Frequency Plan, policies, laws and regulations in the telecoms sector.

The Electronic and Postal Communications Authority is the national regulatory authority regarding telecoms-related issues, entitled to grant authorisations and supervise the compliance with the applicable law by telecoms-related companies.

The Audiovisual Media Authority (AMA) is the regulatory authority regarding audio-visual media distributions, and is entitled to grant and remove the relevant licences and authorisations, as well as to supervise the compliance with the applicable law and regulation by audio-visual media distributors.

The Competition Authority ensures fair and effective competition in the, *inter alia*, telecoms, audio-visual media distribution and internet markets in accordance with the Law 9121/2003 "On Protection of Competition" and based on three main pillars that set the protection of competition, namely abuse of dominant position, prohibited agreements and mergers or concentrations of companies.

The Personal Data Protection Commissioner is responsible for the enforcement of Law 9887/2008 "On Data Protection" related to all data protection issues in the audio-visual, telecoms and internet sectors.

By virtue of Law 9902/2008 "On the Consumers Protection", the Commission on Consumer Protection is entitled to supervise, *inter alia*, telecommunications, media, and internet companies on the issues related to consumer protection.

### 1.4 Are there any restrictions on foreign ownership or investment in the: (a) telecoms; (b) audio-visual media distribution; and (c) internet, sectors in Albania?

In Albania there are no direct or indirect restrictions on foreign ownership in the telecoms, audio-visual media distribution or internet sectors.

## 2 Telecoms

### General

#### 2.1 Is Albania a member of the World Trade Organisation? Has Albania made commitments under the GATS regarding telecommunications and has Albania adopted and implemented the telecoms reference paper?

Albania has been a member of the World Trade Organisation since 8 September 2000. It has made commitments under the GATS regarding the telecommunications market and has adopted and implemented the telecoms reference paper as well.

#### 2.2 How is the provision of telecoms (or electronic communications) networks or services regulated?

The provision of telecoms and electronic communications networks and services are governed by the Law on Electronic Telecommunications and the regulatory authority is EPCA. EPCA is entitled to, *inter alia*:

- issue the authorisations for telecommunications activities;
- supervise and monitor the activity of telecommunication operators;
- regulate network access and interconnection between telecommunication operators;
- identify and determine those operators having significant market power (SMPO);
- approve the base offer for access, interconnection and open local loop access that should be applied by SMPOs;
- adopt measures in order to prevent non-competitive practices;
- monitor the use of the radio-frequency spectrum in compliance with the National Radio-frequency Plan and Frequencies Usage Plan; and
- resolve disputes arising between subscribers and operators, and between operators.

#### 2.3 Who are the regulatory and competition law authorities in Albania? How are their roles differentiated? Are they independent from the government?

The EPCA is the Albanian national regulatory authority for electronic communications, while the Competition Authority is the regulatory authority regarding the competition.

However, the EPCA is entitled to act, as well, as a competition regulatory authority in the telecoms market. The EPCA analyses the market at least every two years and in the case that SMPOs are identified, the EPCA is entitled to order them to adopt necessary measures in order to have fair competition in such a market.

The EPCA cooperates with the Competition Authority whenever it identifies telecommunications operators abusing their dominant position.

Both authorities are self-regulated bodies and independent from the government.

#### 2.4 Are decisions of the national regulatory authority able to be appealed? If so, to which court or body, and on what basis?

Decisions of the EPCA can be appealed before the Board of Directors of the EPCA on the grounds of non-compliance with the Law on Electronic Communications and relative legislation of the sector, as well as the Code of Administrative Procedures. The decision of the Board of Directors of the EPCA may then be appealed with the Tirana Administrative Court on the same grounds.

### Licences and Authorisations

#### 2.5 What types of general and individual authorisations are used in Albania?

The provision of electronic communications networks and/or services is subject to a general authorisation granted silently by the

EPCA following a notification submitted with the latter by the relevant operator.

The provision of electronic communications networks and/or services requiring the use of limited natural resources (i.e. frequencies and numbers) is subject to both general and individual authorisation by the EPCA, which allocates the frequencies and numbers upon issuing the relevant individual authorisation.

## **2.6 Please summarise the main requirements of Albania's general authorisation.**

Any operator wishing to obtain general authorisation from the EPCA should submit a request in writing with the following information: (a) the identity of the operator, namely name, address, contact details, Unique Identification Number assigned by the National Registration Center, legal representative etc.; and (b) a description of the networks and services to be offered and the expected commencement date.

Provided that all the required information is submitted with the EPCA, the latter should register the operator with the electronic register within seven days from the receipt of the notification.

The general authorisation is subject to the payment of an annual contribution to the EPCA of up to 0.5% of the turnover of the previous financial year, payable no later than 30 April; such fee is determined annually by the Board of Directors of the EPCA before 15 April.

## **2.7 In relation to individual authorisations, please identify their subject matter, duration and ability to be transferred or traded.**

Individual authorisations entitle the holders to provide electronic communications networks and/or services by using limited natural resources (i.e. frequencies and numbers).

Individual authorisations are granted for a duration of no more than 15 years and may be renewed for the same time period.

The individual authorisation may not be transferred to any third party without the prior approval of the EPCA. The latter considers trade of individual authorisations as a transfer, and, therefore, it is subject to the same limitations.

## **Public and Private Works**

### **2.8 Are there specific legal or administrative provisions dealing with access and/or securing or enforcing rights to public and private land in order to install telecommunications infrastructure?**

For the purposes of installing and maintaining electronic communications facilities, operators are automatically granted with an easement on public properties. Should the immovable property be privately owned, then the relevant operator must obtain the right to use such property with an agreement with the respective owner. The installation of telecommunications infrastructure is, however, subject to an infrastructure development permit issued by the relevant municipality. For antennas, such a permit is subject to the prior approval by the relevant scientific authority that there is no impact on public health in the surrounding communities.

In cases of public interest privately owned immovable properties may be expropriated for the purposes of building public electronic communication networks and their respective infrastructure.

## **Access and Interconnection**

### **2.9 How is network-to-network interconnection and access mandated?**

All operators of public communications networks have the right to grant interconnection and access agreements.

The EPCA is entitled to impose to SMPOs the obligation to ensure access and interconnection to other electronic communications operators.

In addition, the EPCA may impose to non-SMPOs the obligation to ensure access and interconnection to other operators in cases when they are entitled to use frequencies, it is necessary to ensure the normal functioning of the network or it is required to fulfil international commitments.

### **2.10 How are interconnection or access disputes resolved?**

Interconnection or access disputes are resolved by the Board of Directors of the EPCA upon the request of the interested parties.

The operator should comply with the decision of the Board of Directors of the EPCA within the determined time limit; otherwise they are subject to a penalty of approx. 360,000 Euros (50,000,000 ALL) to approx. 720,000 Euros (100,000,000 ALL).

The decision of the Board of Directors of the EPCA resolving the dispute may be appealed with the Tirana Administrative Court.

### **2.11 Which operators are required to publish their standard interconnection contracts and/or prices?**

The SMPOs are obliged to publish their standard interconnection contracts and/or prices when requested by the EPCA.

In addition, the EPCA may request the publication of their standard interconnection contracts and/or prices to non-SMPO operators as well in cases when they are entitled to use frequencies, it is necessary to ensure the normal functioning of the network or it is required to fulfil international commitments.

### **2.12 Looking at fixed, mobile and other services, are charges for interconnection (e.g. switched services) and/or network access (e.g. wholesale leased lines) subject to price or cost regulation and, if so, how?**

The template offer for interconnection and access is subject to the prior approval of the EPCA. The EPCA is entitled to regulate on a "cost oriented price" principle the prices applicable by the SMPOs whenever such prices are unreasonably high or low.

### **2.13 Are any operators subject to: (a) accounting separation; (b) functional separation; and/or (c) legal separation?**

If requested by the EPCA, SMPOs should provide detailed information on the cost of each of their activities related to access and interconnection, wholesale fees and intern transfer fees.

The Law on Electronic Commerce does not provide for functional separation and legal separation.

**2.14 Are owners of existing copper local loop access infrastructure required to unbundle their facilities and if so, on what terms and subject to what regulatory controls? Are cable TV operators also so required?**

SMPOs are obliged to provide unbundled access to the local loop, if so requested by the EPCA, under the terms and conditions imposed by the latter.

There are no provisions on the obligation of cable TV operators to provide unbundled access to the local loop.

**2.15 How are existing interconnection and access regulatory conditions to be applied to next generation (IP-based) networks? Are there any regulations or proposals for regulations relating to next-generation access (fibre to the home, or fibre to the cabinet)? Are any 'regulatory holidays' or other incentives to build fibre access networks proposed? Are there any requirements to share passive infrastructure such as ducts or poles?**

The existing interconnection and access regulatory conditions also apply to next-generation (IP-based) networks. On May of this year (2013), the Council of Ministers approved the National Strategy on Broadband, based on which new regulations and amendments as well as incentives are expected to be approved in order to ensure the extension of broadband through next-generation (IP-based) networks.

SMPOs are obliged to share passive infrastructure, if so required by the EPCA.

### Price and Consumer Regulation

**2.16 Are retail price controls imposed on any operator in relation to fixed, mobile, or other services?**

In general, operators of electronic communications networks and services are entitled to freely determine the prices of the services offered.

However, the EPCA is entitled to approve the base offer of SMPOs for services and access. In case of non-competitive practices identified by the EPCA, the latter is entitled to impose retail and wholesale price controls in relation to services provided by universal service providers or SMPOs; this applies for fixed, mobile, value added services etc.

**2.17 Is the provision of electronic communications services to consumers subject to any special rules and if so, in what principal respects?**

The provision of electronic communications services to consumers is subject to specific rules provided by the Law on Electronic Communications. It is mainly concerned with the obligation of a telecom operator to provide transparency in its published information, and to inform the consumer on the prices for each and every service and number, the terms and conditions for access to the services, any change that may limit the access and use of the services at least 30 days in advance, the right to use their personal data or not, etc.

The above mentioned Law provides the rules for subscribers' contracts as well.

### Numbering

**2.18 How are telephone numbers and network identifying codes allocated and by whom?**

The telephone numbers and network identifying codes are allocated by the EPCA in accordance with the National Numbering Plan, within three weeks from the submission of the request by a telecommunication operator.

There are two types of allocation procedures: (i) direct allocation, whenever the EPCA allocates individual numbers to the users i.e. when emergency numbers, information services numbers, dial-up numbers, green numbers, harmonised social services numbers etc., are directly allocated to the providers of the respective services; and (ii) primary and secondary allocation, whenever the EPCA allocates blocks of numbers in the primary allocation process for network operators or public communications services and these operators assign individual numbers in the second allocation or their subscribers.

**2.19 Are there any special rules which govern the use of telephone numbers?**

The Law on Electronic Communications stipulates the conditions for the use of allocated telephone numbers. The holder of the allocated number is *inter alia* obliged to: (i) return the numbers which are not used; (ii) not sublease or transfer the allocated numbers to any third party without the prior authorisation of the EPCA; (iii) pay the relevant fee; and (iv) use the allocated numbers in accordance with the purpose they are allocated and not damage any group of users.

**2.20 Are there any obligations requiring number portability?**

The providers of telecommunications services, fixed or mobile, must ensure number portability and freedom of choice of service provider.

There is a geographical portability of numbering resources and a portability between services providers. Portability between the services (fixed and mobile services) is not allowed.

## 3 Radio Spectrum

**3.1 What authority regulates spectrum use?**

The national authority responsible for regulating spectrum use are the AMA, for spectrums allocated for audio and audio-visual broadcasting purposes, the EPCA, for spectrums outside the frequency band allocated for audio and audio-visual broadcasting purposes, the Ministry of Defence, the Ministry of Interior and the Albanian Information Agency, for spectrums allocated for national defence and protection purposes.

**3.2 How is the use of radio spectrum authorised in Albania? What procedures are used to allocate spectrum between candidates - i.e. spectrum auctions, comparative 'beauty parades', etc.?**

Frequencies are allocated on the basis of the "first come, first served" principle.

In cases where the spectrum available for assignment is lower than the requests for spectrum allocation in a given band, then the EPCA selects the winning candidate by means of a public tender procedure.

### 3.3 Can the use of spectrum be made licence-exempt? If so, under what conditions?

The use of frequencies is subject to the prior authorisation of the EPCA. However there are some frequencies that may be used without authorisation which are stipulated in the National Plan for the Use of Frequencies.

### 3.4 If licence or other authorisation fees are payable for the use of radio frequency spectrum, how are these applied and calculated?

The fees payable for the allocation and use of radio frequency spectrums are approved by means of a Council of Ministers' Decision, following the EPCA's proposal. Such fees are calculated on the basis of the principles of proportionality and transparency, and by minimising the additional administrative fees and taxes.

### 3.5 What happens to spectrum licences if there is a change of control of the licensee?

The EPCA must be notified of any changes regarding the change of control and the compliance with the provisions of competition law.

### 3.6 Are spectrum licences able to be assigned, traded or sub-licensed and if so on what conditions?

The spectrum licence may not be assigned, traded or sub-licensed to any third party without the prior authorisation of the EPCA.

## 4 Cyber-security, Interception, Encryption and Data Retention

### 4.1 Describe the legal framework (including listing relevant legislation) which governs the ability of the state (police, security services, etc.) to obtain access to private communications?

The ability of the state to obtain access to private communications is governed by Law 7905/1995 Code of Criminal Procedures (CCP), Law 9918/2008 "On Electronic Communication on the Republic of Albania", Law 9887/2008 "On Data Protection".

By virtue of the Law on Electronic Communication, the content of electronic communication is confidential and all forms of surveillance, interception, interruption, recording, storage, transfer and diversion of communications and data are prohibited, unless it is necessary for the transmission of messages, faxes, electronic mail, voice mail, short messaging or in cases provided by Law.

By virtue of the CCP any form of surveillance should be ordered by the competent court, indicating as well the condition and time frame of such surveillance, which may not be for more than 15 days. The surveillance of private communications, by means of telephone, fax, computer or any other means of communication may be ordered by the court only in cases of legal proceedings related to: (a) intentional crimes punishable by imprisonment of not less than seven years; and (b) criminal offences of insult and threat performed through telecommunication means.

Such surveillance may be ordered by the court only for (a) person suspected for committing an offence, b) a person who is suspected of receiving or transmitting communications from the suspected person, (c) a person who participates in transactions with the suspected person, and (d) a person whose observations may lead to the discovery of the identity or location of the suspected person.

When there are grounded reasons to believe that the delay may cause serious damages to the investigations, the prosecutor may order the interception by a motivated act and should inform the court immediately, but no later than 24 hours. The court should evaluate the prosecutor's order within 24 hours, otherwise the interception should not continue and its results may not be used as evidence.

The Law on Data Protection provides that any data collector may not transfer any data collected without the approval of the owner of such personal data, or court order.

### 4.2 Summarise the rules which require market participants to maintain call interception (wire-tap) capabilities? Does this cover: (i) traditional telephone calls; (ii) VoIP calls; (iii) emails; and (iv) any other forms of communications?

There are no specific rules requiring a telecommunication operator to maintain call interception capabilities. However, any interception related to any form of communication may be performed by means of equipment installed and authorised by the prosecutor following a court order.

### 4.3 How does the state intercept communications for a particular individual?

Interception must be expressly authorised by means of a court order; such a procedure may be either through a request filed from the relevant prosecutor to intercept the telecommunication of a particular individual or, otherwise, for confirming the order already issued by the prosecutor on such interception, which, however, should be either approved or rejected by the court within 24 hours.

### 4.4 Describe the rules governing the use of encryption and the circumstances when encryption keys need to be provided to the state?

There are no specific rules related to encryption, however, by virtue of The Law on Electronic Communication, telecommunication operators are obliged to take all the necessary measures in order to ensure the security of the networks and/or services, to prevent any unauthorised access in the telecommunication system and data collection system, and, in particular, to protect the privacy, confidentiality and collected data.

The encryption keys, when applicable, may be provided to the state only upon a court order under the circumstances indicated above in question 4.1.

### 4.5 What call data are telecoms or internet infrastructure operators obliged to retain and for how long?

By virtue of The Law on Electronic Communication, telecom or internet infrastructure operators are obliged to retain the information listed herein, for a period of two years.

In cases of voice communication or SMS/MSM the following information should be retained: subscribers' identification, terminal equipment identity used in communications; location, date, time,

duration of communication and of called and dialled number, including data on unanswered calls.

In case of internet communications the following information should be retained: necessary data for tracking and identifying the communication source/origin; and necessary data to identify the destination of the communication, the date, time and duration of the communication.

## 5 Distribution of Audio-Visual Media

### 5.1 How is the distribution of audio-visual media regulated in Albania?

The audio-visual media is governed by The Law on Audio Visual Media and the Regulation of Audiovisual Media Authority (AMA) "On Procedures and Conditions for Issuance of Authorisations", etc.

The AMA is the state entity entitled to grant or remove licences and/or authorisations to companies operating in the media market, as well as to supervise the observance by such companies of the terms and conditions of the licences/authorisations so granted.

The provision of networks for the purposes of audio and/or audio-visual broadcasting, which (networks) require the use of radio and television frequencies, is subject to licensing by the AMA. The following licences are applicable: (a) a licence for audio programme services; (b) a licence for audio-visual programme services; (c) a licence for audio broadcasting, including the right to construct and operate a numeric or analogue network; and (d) a licence for audio-visual broadcasting, including the right to construct and operate a numeric network.

The AMA issues national, regional or local licences whereby: (i) National licences are issued whenever the terrestrial coverage is of no less than 80% of the country's entire territory, (ii) Regional licences are issued whenever the terrestrial coverage is up to four geographically adjacent districts; and (iii) Local licences are issued whenever the terrestrial coverage is of one district.

In addition, the AMA grants the authorisation of audio and audio-visual programme services for: (a) satellite broadcasting whenever the service is provided via satellite system, (b) cable broadcasting whenever the service is provided via cable system; (c) online broadcasting whenever the service is provided via internet; and (d) service provider broadcasting whenever the service is provided via conditional access.

### 5.2 Is there a distinction between the linear and non-linear content and/or content distributed over different platforms?

The Law on Audio Visual Media provides for the distinction between linear and non-linear content (on-demand service), and between content is distributed over different platforms such as satellite, cable and internet.

The provision of linear content is subject to licence by the AMA, while the provision of non-linear content and of audio and audio-visual programme services over satellite, cable and internet is subject to authorisation by the AMA. By virtue of the Law on Audio Visual Media a licence is granted for the use of frequencies administered by the AMA, while an authorisation is granted for the use of frequencies not under AMA administration or for audio/audio-visual broadcasting which do not require the use of frequencies at all.

### 5.3 Describe the different types of licences for the distribution of audio-visual media and their key obligations.

Licences are differentiated on the basis of content [(a) audio programme services, (b) audio-visual programme services, (c) audio broadcasting, (d) audio-visual broadcasting] and coverage [(a) local, (b) regional, or (c) national].

The key obligations that an audio visual media operator should observe are the following: (a) broadcast news programmes in a real, impartial and objective manner; (b) respect dignity and fundamental human rights; (c) respect the rules of ethics and morals and not to broadcast programmes that encourage criminal actions; (d) respect the right to privacy; (e) not to transmit pornographic programmes without ensuring protection of minors through conditional access devices and parental control; (f) comply with copyright law; and (g) ensure the protection of consumer rights.

### 5.4 Are licences assignable? If not, what rules apply? Are there restrictions on change of control of the licensee?

By virtue of the Law on Audio Visual Media the licences are assignable subject to the prior approval of the AMA, which (approval) may be granted by means of issuing a new licence and/or authorisation.

The change of control of the licensee is subject to the following restrictions:

- The shareholders of a company holding a national audio or audio-visual broadcasting licence may be natural persons or legal entities, whether Albanian or foreign, provided, however, that each shareholder may not own more than 40% of the total share capital.
- A shareholder of a company holding a national audio or audio-visual broadcasting licence, may not itself hold an audio or audiovisual broadcasting licence, local or regional, but may own up to 20% of the total share capital of a second company holding a national audio-visual or audio broadcasting licence, as well as up to 10% of a third company holding a national audio or audio-visual broadcasting licence, provided, however, that the licence held by the third company is for analogue broadcasting only.
- A shareholder of a company holding a local or regional audio or audio-visual broadcasting licence may not own more than 40% of the total share capital of a second company holding a local or regional audio or audio-visual broadcasting licence.

## 6 Internet Infrastructure

### 6.1 Are conveyance services over the internet regulated in any different way to other electronic communications services? Which rules, if any, govern access to the internet at a wholesale (i.e. peering or transit) and/or retail (i.e. broadband access) level? Are internet service providers subject to telecommunications regulation?

Internet services, like any other electronic communications services, are governed by the Law on Electronic Communication in the Republic of Albania, and are not regulated in any different way from other electronic communications services.

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**6.2 How have the courts interpreted and applied any defences (e.g. 'mere conduit' or 'common carrier') available to protect telecommunications operators and/or internet service providers from liability for content carried over their networks?**

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Unfortunately, there is no court decision yet on such an issue. However, the Law on Electronic Commerce stipulates that a telecommunication operator is not liable on the transmitted content provided that (a) the transmitted information is not generated by the operator, (b) the operator does not choose or modify the transmitted information, and (c) the operator does not select the receiver of the information.

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**6.3 Are telecommunications operators and/or internet service providers under any obligations (i.e. provide information, inform customers, disconnect customers) to assist content owners whose rights may be infringed by means of file-sharing or other activities?**

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By virtue of the Law on Electronic Commerce, internet service providers are not under obligation to assist content owners whose rights may have been infringed by file-sharing or other activities, unless the service provider is so ordered by a competent court.

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**6.4 Are telecommunications operators and/or internet service providers able to differentially charge and/or block different types of traffic over their networks? Are there any 'net neutrality' requirements?**

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Every telecommunications operator has the right to place their own prices for the services supplied. However, the EPCA is entitled to

revise the prices in case it finds that such fees are abusive and there is no effective competition. There are no provisions on the right of telecommunications operators and/or internet service providers to block different types of traffic over their networks. Furthermore, there are no "net neutrality" requirements.

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**6.5 Are telecommunications operators and/or internet service providers under any obligations to block access to certain sites or content?**

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Telecommunications operators are not obliged to block access to sites or content, unless they are so ordered by a competent court.

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**6.6 How are 'voice over IP' services regulated?**

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The Law on Electronic Communications does not provide for a specific regulation of 'voice over IP' services. The same rules as other telecommunication services apply, therefore the provision of VoIP services is subject to general authorisation of the EPCA.



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**GJIKA & ASSOCIATES**  
ATTORNEYS AT LAW

Gjika & Associates is a dynamic business-oriented law firm established in 2013 as a fruitful joining of highly skilled attorneys with extensive experience in the national and international arena.

Our attorneys possess the right combination of skills, experience and international understanding to help clients achieve their business goals. We identify and manage key commercial and legal risks, cutting through the law and solving business and legal issues sympathetically. The firm possesses a complete understanding of the subtle differences and local approaches, laws and customs, and may thus facilitate with an integrated approach the transaction management obstacles faced by our clients.

We advise on all aspects of domestic and cross-border transactional and general corporate issues, including acquisitions and disposals, corporate governance, mergers and re-organisations, equity capital markets, joint ventures, public and private mergers and strategic alliances, litigation before arbitration panels, and courts of all instances, as well as before the European Courts in Luxembourg and the European Court of Human Rights in Strasbourg.

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