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# HARMONIZING ALBANIAN ELECTRONIC COMMUNICATIONS LAW: A COMPREHENSIVE ANALYSIS OF EUROPEAN ELECTRONIC COMMUNICATIONS CODE IMPACT

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## Abstract

The Albanian legislation on electronic communications has undergone a series of changes and adaptations over the years, primarily driven by the evolution of platforms and technologies through which these services are provided. According to the 2022 Albania Report by the European Commission, specifically in Chapter 10 titled "Digital Transformation and Media," it is emphasized that the EU supports the seamless functioning of the internal market for electronic communications. Furthermore, EU regulations are in place to safeguard consumer rights and promote the universal availability of modern services. However, the report notes that Albania is moderately prepared in the field of digital transformation, particularly regarding the adoption of legislation that aligns with the new European Electronic Communications Code.

The European Electronic Communications Code (EECC) has envisioned significant changes aimed at consolidating the legislative framework, adapting it to technological advancements, and accommodating the growing array of electronic communication products and services accessible to end consumers. The revisions introduced by the EECC serve not only to enrich and update the existing legislation in this domain but also to align it fully with the transformations resulting from innovation and technology. Moreover, these changes necessitate a new structuring of the legal framework governing services provided to end users, considering the emergence of new Over-The-Top (OTT) services.

The EECC also serves the purpose of further augmenting the secondary regulatory and legal framework. This augmentation is

achieved through various directives and regulations, not only in pursuit of a unified electronic market but also to introduce new rules ensuring network security and protecting electronic communications privacy.

The objective of this article is to analyze the Albanian legal framework for electronic communications by examining and interpreting the changes brought about by the EECC. It aims to identify areas in the Albanian legislation that require adjustment to align with the provisions of the new European Electronic Communications Code.

***Keywords:*** *European Electronic Communications Code, national legislation, networks, products/services, regulatory, consumer, Albania.*

## 1. Introduction

The first Albanian telecommunications law after 1990 was enacted in 1995, replaced by a new improved version in 2000. The law of 2000 was replaced by the Electronic Communications Law of 2008, which, with some amendments, remains in force to this day. In the field of electronic communications, Law No. 9918, dated May 19, 2008, "On Electronic Communications in the Republic of Albania," as amended, serves as the foundational law for regulating activities in the electronic communications sector and establishing specific regulations for telecommunications services and networks in accordance with the European Union *acquis*. This law has transposed the package of EU Directives on electronic communications from 2002, as amended in 2009. National legislation in the field of electronic communications includes a number of subordinate acts, decisions of the Council of Ministers, and regulations approved by AKEP (the Electronic and Postal Communications Authority), which establish specific regulations related to the electronic communications/telecommunications sector. These regulations were primarily in harmony with and supported by the European Union *acquis* and best practices in this field.

According to Article 70 of the Stabilization and Association Agreement (SAA), that paved the way for Albania's application for candidate status in the European Union, (a status that was granted in 2014), Albania commits to gradually align its legislation with the *acquis communautaire* during the transitional period specified in the agrement. Article 103 of the SAA pertains to cooperation in the field of information society and article 104 covers cooperation that is centered on electronic communication networks and services. In line with the Directives of the European Union, the Albanian electronic communications market, in sequence, has closely aligned itself with sectoral policy as a significant

objective within the field of electronic communications, within the comprehensive framework of administrative actions serving the process of full liberalization of communication markets. According to the Albania Report 2022, of European Commission, Chapter 10, Digital Transformation and Media, as it is underlined that the EU supports the smooth functioning of the internal market for electronic communications, and that the EU rules protect consumers and support the universal availability of modern services. Albania is considered moderately prepared in the field of digital transformation and should in particular adopt relevant legislation in line with the new European Electronic Communications Code (EECC). As part of the process of aligning legislation with that of the EU, the cross-sectoral document addressing the electronic communication policies is the National European Integration Plan 2022-2024. Based in this document, it is a priority to transpose Directive 2018/1972/EU, the European Electronic Communications Code of the EU, through the revision of the law "On Electronic Communications in the Republic of Albania."

## 2. The European Electronic Communication Code and its Regulatory Purposes

In December 2018, a new set of electronic communications rules called the European Electronic Communications Code (EECC) was published and entered into force. EU countries were obliged to transpose this EU directive into national law by the end of 2020. Moreover, it can serve as a valuable recommendation for countries aspiring to join the EU. The primary objective of the EECC is to harmonize national legislation with EU directives and recommendations pertaining to electronic communications. Notably, it places significant emphasis on ensuring network and service security for the protection of consumers, as well as on providing affordable roaming services to consumers, all in accordance with standardized rules and regulations. In its entirety, the EECC is dedicated to the revision and enhancement of the legal framework to adapt to evolving circumstances, while upholding the core principles originally established by the five foundational directives dating back to 2002:

1. Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive);

2. Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorization of electronic communications networks and services (Authorization Directive);

3. Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive);

4. Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive);

5. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).

The EECC not only preserves the core principles of these Directives but also integrates subsequent revisions, supplements, and enhancements, with a specific focus on electronic communications networks, services, and products. Furthermore, it incorporates additional Directives and Recommendations from the EU designed to bolster the regulatory framework for electronic communications in Europe. This consolidation of directives into the European Electronic Communications Code (EECC), coupled with the codification of European standards within a unified document, establishes it as a benchmark for Albania's national legislation. It serves as a guide for the examination and analysis of the current legislation in this field, facilitating potential interventions and improvements that are in alignment with the national context and the evolution of electronic communications.

The European Electronic Communications Code is developed in alignment with the Digital Strategy for the European Market (DSM), both by extending and complementing existing EU laws in certain areas and by offering opportunities to enhance the regulatory and legal framework in non-EU countries. New predictions are shaping the evolution of sector policies, particularly in spectrum management, fostering the conditions for a unified market, and encouraging investments in high-speed networks.

In accordance with the stipulations of Directive 2014/61/EU and involving primarily local authorities, the EECC aims to guide them towards establishing suitable coordination procedures in collaboration with national regulatory authorities. These procedures pertain to public infrastructure and other relevant facilities that impact the physical infrastructure supporting the provision of electronic communication services and products. Three key areas are expected to undergo significant changes within the EECC (CERRE, 2019):

a. The communications infrastructure has undergone profound transformations, primarily due to the rapid expansion of new digital messaging platforms. This growth has raised concerns regarding whether consumers receive consistent and adequate regulatory protection when utilizing these emerging services. To tackle these concerns and to ensure that the legislative framework remains responsive to evolving consumption patterns and market dynamics, the EECC incorporates several provisions.

b. The European Commission envisions that by 2025, Europe will have made substantial progress toward becoming a Gigabit Society. This ambitious goal necessitates the extensive deployment of high-capacity fixed communications infrastructure and the widespread availability of fifth-generation mobile technologies. A significant portion of the investment required to achieve the Gigabit Society targets is expected to come from private investors.

To facilitate this endeavor, the EECC mandates that the Commission, Member States, and national regulatory authorities actively promote, for the first time, access to and adoption of very high-capacity (VHC) networks. The EECC introduces several novel tools and concepts aimed at aiding these entities in their efforts and providing investors and operators with the necessary incentives to make these critical investments.

c. The EECC has grappled with the challenge of designing an institutional framework to effectively oversee the implementation of legislative changes in the communications markets. One critical aspect pertains to the degree to which detailed rules should be integrated directly into the legislation or delegated to another body, such as BEREC (Body of European Regulators for Electronic Communications).

The EECC significantly augments BEREC's responsibilities and workload, particularly as the regulatory environment becomes progressively intricate. This results in national regulatory authorities being increasingly bound by comprehensive guidelines, which they collaboratively help shape but must strictly adhere to.

The related aspect concerns the oversight of proposals made by national regulatory authorities. The EECC introduces innovative institutional arrangements, such as the “conjoint veto” (Article 33(3)) and “peer review” (Article 35). Additionally, BEREC is mandated to provide its opinion, which the Commission must consider to be compelling(Article 38). The effectiveness of these institutional mechanisms in practice is poised to exert a considerable influence on the EECC's implementation and the achievement of its objectives, especially in the context of aspirations for greater regulatory harmonization across Europe.

The EECC is designed to foster the convergence of the telecommunications, media, and information technology sectors. This convergence necessitates the formulation of a unified electronic communications code through a single directive, encompassing all electronic communications networks. This code is established with the exception of issues that are addressed by directly applicable rules defined in the regulations.

The EECC seeks to provide greater flexibility for national regulatory authorities in EU Member Countries. This flexibility allows for tailored regulation to address specific situations in electronic communications at the national or local level. This flexibility is not particular to Albanian legislation, as any potential

legal changes or adjustments made by countries aspiring to obtain full EU membership should be considered in accordance with their unique national circumstances.

Regarding market regulation, the objectives of the EECC are firmly grounded in the principles of EU competition law, aligning closely with the existing regulatory framework. EU regulators and operators express ongoing concerns that, despite nearly two decades of efforts, competition in the telecommunications sector remains fragile, and consumers continue to lack sufficient protection. With each review, the European Commission faces the challenging task of striking a balance between opposing forces that have shown little change over the past two decades. This lack of consensus or shared understanding in Europe about the optimal functioning of communication markets is evident (CERRE, 2019).

The regulatory innovations introduced by the EECC aim to create opportunities for market restructuring and to foster greater economic freedom while safeguarding investments in the development of broadband markets. Furthermore, the EECC's objectives take into account the need to create favorable conditions for private investments and optimize the allocation of public funds where they are most needed.

The EECC places a specific emphasis on addressing predictions related to access regulation. It recognizes national regulatory authorities as the competent entities responsible for addressing market failures in alignment with national sector policies. Moreover, it introduces additional mechanisms to facilitate solutions concerning access to high-capacity networks. These objectives aim to establish mechanisms that govern institutional interactions, taking into account the varying degrees of responsibility among entities that manage physical infrastructure for access.

Within the EECC, access to high-capacity networks is closely intertwined with the broader objectives of promoting competition, fostering a single market, and safeguarding the interests of end-users. The conditions for access regulation, as outlined in amendments to the EECC in Articles 61 and 65, seek to harmonize best practices while refining the focus on access regulation. They also emphasize geographical distinctions where necessary, ensuring that access obligations are imposed only when and where needed to address shortcomings in the retail market and ensure optimal outcomes for users.

The EECC, in Article 61 through Chapter II, proposes strengthening and enhancing the access regime for providers with considerable power in the market. This aims to further stimulate competition in infrastructure and support the development of high-speed networks. Additionally, Article 70 of the EECC upholds a commitment to promote infrastructure competition, guaranteeing access to civil infrastructure such as ducts and poles.

What constitutes a notable innovation in the legislation of the EECC is the explicit involvement of market-dominant enterprises in regulating access prices for networks, while adhering to the prevailing "cost-oriented" standard of wholesale markets. This approach requires proactive intervention (ex-ante) and simultaneous evaluation of conditions pertaining to the unattained effects arising from the application of competition law.

Depending on the specific national context, the EECC aims to direct regulatory efforts toward service convergence. It also considers the mounting pressure and expansion of retail markets, influenced by the broad array of Over-the-Top (OTT) services. These services have the potential to challenge traditional networks due to their significant market presence, accentuated by the regulatory framework associated with access and interconnection obligations for traditional networks.

The EECC envisions that ex-ante regulation at the wholesale level, which is generally more acceptable than regulating retail sales, should be deemed adequate in addressing potential competition issues in related markets. This approach, intended to enhance the effectiveness of competition, brings about significant improvements to the regulatory framework for electronic communications, as it moves toward comprehensive deregulation of retail markets (OECD, 2022).

Regarding the rules governing the use of ex-ante measures for enterprises with substantial market power, the aim is to streamline and enhance their predictability where feasible. The EECC anticipates that extending the maximum allowable period for market analysis to five years, provided that market changes during the intervention period do not necessitate a new analysis, promotes greater stability and predictability in regulatory measures.

The EECC envisions that when examining the regulatory obligations imposed on operators designated as having considerable market power through market analysis, national regulatory authorities should take into account the impact of new developments. This includes voluntary agreements between operators and co-investment agreements, with the goal of ensuring flexibility, especially concerning access to physical infrastructure.

To safeguard the interests of end-users, the EECC aims to supplement existing legislation in order to protect consumers and the novel products and services enabled by advanced technological platforms. This approach recognizes the importance of addressing not only consumer protection but also facilitating consumer engagement with the innovations offered by these services.

The protection of end-users under the EECC involves enhancing the legal framework encompassing requirements for network security, internet service data privacy, and the safety of Over-the-Top (OTT) service users (ENISA, 2020). OTT service providers operate outside the sphere of influence and regulations of traditional electronic communications service providers.

The EECC seeks to protect users by ensuring that the full array of packets and services accessible through internet access services are safeguarded. It maintains the existing approach of benefiting end-users, including services such as active landline and cellular porting, or other universal category services that grant specific rights to certain user groups. This approach is not only crucial for ensuring access to basic services but also for the importance of service presence, coverage, and the broader landscape of broadband electronic communications.

The management of national frequency spectrum demands particular attention, given the evolving consumer demand and the approach to innovations. This includes the need to encourage investments in high-capacity networks, optical fibers, and 5G technology. In this context, the objectives of the EECC hold significant merit as they provide a fresh perspective on spectrum management. They aim to support the rollout of 5G technology while coordinating it with the protection of investments in existing networks (Briglauer, Cambini, Fetzer, Huschelrath, 2017).

Several other crucial aspects outlined in the EECC concern the duration of licenses for wireless broadband radio spectrum. Extending these licenses provides legal certainty and increases interest in long-term investments. Moreover, the EECC introduces more rigorous technical criteria for determining and renewing spectrum licenses, taking into account their taxation to ensure that it favors investments and is not perceived as an economic barrier (DigitalEurope, 2022).

Another novelty within the EECC is the promotion of networks, technologies, innovations, and co-investments, with a specific focus on high-capacity networks. Co-investment concepts encompass various aspects of physical infrastructure, whether active or passive. This includes co-ownership, risk categorization, and consideration of diverse co-financing methods, all underpinning agreements with associated rights and obligations.

The EECC's goal is to guide co-investors toward ensuring security and conducting preliminary assessments to guarantee that co-investment offers are fair, reasonable, and non-discriminatory. This aligns with a fundamental set of principles to ensure the sustainability of investments and enhance the prospects of benefiting from the invested network. In every provision of the EECC, the objective is to preserve essential rules that maintain competition integrity, even within the category of co-investment networks, ensuring full compliance with competition laws.

## 3. Critical Analysis of Current Albanian Legislation on Electronic Communications

In the context of Albania's obligation to align its legislation with electronic communications, particularly adopting the EECC, a critical analysis of the current legislation is essential. Amending the law to align with the EECC is undoubtedly a broad and complex undertaking. However, below, we list the key aspects that, in fact, encapsulate the goals of the EECC:

### *3.1. Legal Gaps in Addressing the Regulatory Framework for Emerging Global Electronic Communication Services*

In the wake of the post-pandemic era, the significance and ubiquity of electronic communication services have grown exponentially. Governments and their associated entities are increasingly investing in digitalization and innovation to offer citizens digital services. Simultaneously, end-users, seen as the future of the economy, market, and employment, demand adaptability and legal enhancements in the framework of electronic communication services. This includes incorporating into legal definitions and regulations the services of Over-The-Top (OTT) operators, as they are widely recognized and massively utilized by end-users. Failure to predict the legal implications of these services creates a void and regulatory ambiguity.

The necessity for novel legal concepts that encompass and broaden the scope of electronic communication services is affected by emerging technological advancements and shifts in the electronic communication services market landscape, driven by consumer demand. In this context, considerations for amendments and augmentations may involve a clear definition of OTT providers and their services, encompassing communication services, applications, video conferencing, messaging, and similar services. These new legal definitions should also account for content regulation, with the objective of safeguarding and protecting user data. Legal amendments may encompass new rules regarding privacy and data security for OTT service users, stipulating compliance with security standards and personal data protection. Regarding the responsibilities of OTT service providers, it is essential for the law to address payment methods and taxation of OTT services by defining applicable regulations and tariffs for service operators, among other aspects. Equally important is the consideration of establishing clear procedures for user complaints, their handling, and protection against breaches of regulations by OTT service providers.

### *3.2. Expanding the regulated field of Electronic Communications and its effects, as well as Consumer Protection Law*

The extensive use of electronic communication services and developments in the market and information technology have *de facto* expanded the scope of activities subject to the effects of the relevant legislation. Currently, OTT services are being used and are extending their activities in the market, hence

the *de jure* observation of a lack of the reach of the law's effects on these market players. Therefore, it is necessary to define in law and regulate clearly the effects of the field's legislation.

To determine if there is a need for legal provisions in this direction, it is important to consider factors related to the possibility of market development, depending on the dynamism of the electronic communications sector while taking into account changes in technology, including new technologies such as artificial intelligence, the internet of things (IoT), and others, which necessitate an expansion of the legal scope of influence.

Their usability is another important aspect that directly affects service consumers and influences consumer protection law. In this context, the need for improvements and expansion of the field of consumer protection law should also be considered, as changes in this market pose significant risks to consumers and expose them to legal vulnerabilities due to the absence of legal coverage resulting from the lack of updates to the law regarding the new service delivery methods, benefits, and usage by consumers.

What should be carefully considered by policy-makers is the determination of the field's objectives to ensure that the changes are effective and in line with current developments in the market and information technology.

*3.3. The Violation of Privacy and Personal Data through the Use of Electronic Communication Services.*

In the forefront of the development of electronic communication services and the increased interest of consumers in them, there is also a growing risk to the vulnerability of communication security, which affects privacy and personal data. The general authorization envisaged by current law and interpersonal communication services have not provided conditions to guarantee the protection of personal data and communication security, even though these interpersonal communication services have a significant impact on users' privacy and personal data security.

The conditions and principles of general authorization and interpersonal communication within the framework of normative improvements must be clear and suitable for the current context and the benefits of users.

Assessing the need to consider legal changes in the definitions of general authorization for interpersonal communication services in the definition of electronic communication services is an essential process to consider current developments and ensure that the law is appropriate and effective in addressing these challenges.

Some elements to consider when evaluating this aspect are related to compliance with international definitions, technological changes, and new ways

of interpersonal communication, including messaging applications and similar services that are not reflected in current legislation.

*3.4. Efficient Use of Networks and Services*

The review of legal obligations regarding access, interconnection, and access to the physical, passive, and active infrastructure of networks and electronic communication services is crucial to ensure adequate expansion of network capacity and radio spectrum. This may require changes to existing regulations and the inclusion of new provisions in the law. Some aspects of legal obligation changes may include the regulation of passive infrastructure related to construction, maintenance, and sharing of passive network infrastructure, including fiber optic cables and other communication networks as well as other elements of infrastructure that enable fair access for electronic communication operators. This should also include the regulation of radio spectrum usage for various services, including fixed, mobile, and wireless networks. From this perspective, it appears that the law has not defined rules and obligations for interconnection between different electronic communication operators, including the regulation of commercial and technical interconnection terms related to network capacity, investment levels, which may include obligations for investment in new infrastructure and new technologies to ensure high-capacity services. The lack of specific determination of these aspects in the law needs to be addressed through specific additions and improvements to the legislation in a codified manner, perhaps within a comprehensive set of rules under the name of an Electronic Communications Code of Albania, defining the obligations and responsibilities of various market entities and regulatory authorities for monitoring and enforcing the rules.

*3.5. Limited regulatory authority competence, a premise for hindering new investments.*

Expanding regulatory competencies to create a favorable regulatory environment for investments and co-investments in high-capacity networks may involve changes to existing provisions in the field of electronic communications. However, the current competencies of the regulatory authority related to the licensing and authorization of high-capacity electronic communication operators are somewhat limited since the law does not include obligations for the regulatory authority to assist and stimulate investments in new infrastructure and technologies to increase network capacity. Such incentives may include the use of various financial mechanisms, such as subsidies, tax incentives, or other trade-related incentives to promote investments. Current legislation does not provide competencies for coordinating the regulatory authority with other entities experienced in infrastructure investments, including local government, infrastructure authorities, and international organizations, which can consider network capacity planning mechanisms to protect consumer interests in high-capacity network services, including transparency, service quality, and reasonable

tariffs. Current legislation can be improved in this regard, including expanded competencies to monitor and oversee the activities of operators in the field of high-capacity networks to ensure the implementation of appropriate rules and standards. This may include mechanisms for conflict resolution through arbitration or other legal alternative routes and the return of investments in cases of potential disputes between operators and the regulatory authority, aimed at making the law clear and consistent with current developments in electronic communication technology and their markets.

*3.6. Limited Autonomy of the Regulatory Authority.*

To ensure the regulatory independence of the authority established by legislation, it is important to follow and maintain certain practices of independent regulation and address specific issues that may limit the autonomy of the regulatory authority. If the current autonomy is not functional as envisaged in legislation, it is essential to examine specific provisions of the law that have contributed to limiting the independence of the regulatory authority. Several key aspects in the current legislation's provisions produce or leave room for the erosion of autonomy or significant reduction in its functionality.

Specific provisions that prescribe competent bodies in the field of Electronic Communications (EC), the operation of the Regulatory Authority of Electronic and Postal Communications (AKEP), its governing body's status, and AKEP's financing and budgeting that confuse the roles of stakeholders in the field and compromise regulatory autonomy or significantly reduce its functioning.

To reduce these constraints and make the administrative regulatory power autonomous and functional, consideration should be given to fulfilling the law's criteria clearly and independently for the appointment of the regulatory authority's director. This process should minimize government influence, as the legal provision does not ensure that the director has autonomy in the implementation of regulatory rights and obligations. Another aspect relates to the fact that the law does not provide independent financial resources for the regulatory authority, which are not affected by government interventions. The salaries of the authority's staff should be competitive and guaranteed by the authority's own financial resources. Equally important in this aspect is the fact that the law should ensure that the regulatory authority is independent of the direct influence of the line minister for all aspects of its activities. The line ministry can have a coordinating role but should not have direct control over the authority's decisions and activities.

*3.7. The periodicity of market analysis, risks to regulatory measures*

Law no. 9918 "On Electronic Communications in the Republic of Albania" assigns a crucial role to the regulatory authority, which involves market analysis and regulatory measure determination. Currently, the law provides a time frame for conducting this analysis every two years, a frequency that creates the

impression of being too short to consider important market indicators, the mature implementation of innovations, and their effects on competition, services, the market, and consumers for regulation or deregulation purposes. The law needs to reflect the new timeframes set by the EECC, which consist of a maximum period of five years for conducting market analysis.

This will help improve the suitability of market analysis and regulatory measures with current developments in the market. The law should emphasize the importance of regulatory measures related to access to physical infrastructure, including fiber optic network infrastructure and others. This access is essential to encourage competition and investment in the electronic communications market. The articulation of these specific changes in legislation should clearly define the procedures and standards for implementing new rules and ensure compliance with EECC recommendations and requirements.

Additionally, it is important to involve various consultations with experts and market operators to ensure that improvements in legislation for this aspect are effective and suitable for the current climate of the electronic communications market in Albania. The current two-year deadline for conducting market analyses significantly affects the effectiveness of regulatory measures because such a rapid frequency of analysis does not allow for proper measurement of regulatory measures and the analysis of their consequences on competition to conclude whether they were appropriate, rational, and proportionate and, above all, whether they achieved the intended effects for which they were designated.

*3.8. Discrimination in the market by Dominant Players, undermining effective competition.*

The current legal framework does not guarantee that companies with considerable market power will contribute to improving electronic communication infrastructure and increasing competition in the market to encourage co-investment in networks and ensure access to physical infrastructure built through civil engineering works. To ensure these obligations with the aim of increasing effective competition, specific changes in the law can be included to impose a new obligation on companies with significant market power to grant access to other electronic communication operators to the physical infrastructure built by these companies, covering both active and passive infrastructure.

*3.9. Consolidation of Means for Ex-Ante and Ex-Post Interventions and Their Impact on Competition*

To improve effective competition in the electronic communications markets, it is important to consolidate and enrich legal instruments that assist in both ex-ante and ex-post interventions. Currently, the legislation in this field does not grant sufficient powers to the regulator for preventing interventions even in the minority markets, competences that are currently attributed to the competition

authority in the possibility of ex-post regulations. The law does not impose the obligation on major operators to offer new services in new electronic communications markets to promote the offering of services.

Another critical aspect in the analysis of the current legislation is that the law does not specify the obligation for major operators to conclude wholesale agreements with other operators when they have a dominant position in their market. These tools and provisions can be included in the current legislation and applied to help ensure effective competition in electronic communications markets. It is important that the legislation is clear and enforceable and that it includes robust mechanisms for implementation and oversight. Additionally, following best practices of other electronic communications regulators and continuous consultations with stakeholders are essential for refining legal instruments and their effective implementation (Gjika, 2016).

### *3.10. Universal Service*

Current legal provisions for universal service only cover fixed-location voice communication services, while with new developments in the market, internet access services are also included. The obligations of universal service aim to ensure that consumers have affordable access to efficient internet access services with wide coverage, as well as basic voice communication services, taking into account quality indicators that maintain the efficiency of the service for the end user (Gjika, 2016).

### *3.11. Protection of the End User*

To strengthen the framework of end user rights and address unfavorable factors for the weaker party in electronic communications contracts, changes and expansions in current legislation may be considered. Some of the tools and mechanisms that could have been envisaged in the law to achieve this goal are related to expanding the possibilities for alternative dispute resolution before going to court. This could include the use of mediation/arbitration and other alternative dispute resolution mechanisms that are efficient and cost-effective for consumers. With a focus on qualitative and prompt protection of consumer rights, the law could establish permanent independent bodies for handling complaints and resolving disputes in a manner that is efficient and impartial. The current law does not limit operators' ability to change contract terms without the consumer's consent or terminate the contract without additional costs to the consumer, while these limitations are necessary since they constitute some of the legal tools and regulatory mechanisms that can help strengthen the framework of end user rights in the electronic communications market and ensure efficient and prompt dispute resolution without financially burdening consumers.

*3.12. Violation of Number Portability Rights and the Damage Caused*

In a free market economy, consumer behavior is primarily influenced by the prices and tariffs of services. This situation is reflected in electronic communications services, where consumers are increasingly demanding number portability depending on the choice of prices or favorable packages for the services they receive. Number porting does not result in a well-executed process and on time by operators, most of which respond with refusals, violating their users' rights. The current legal deadlines for handling number porting requests are three days in domestic legislation, while according to the provisions of the EECC, the deadline for enabling this service is one day. The lack of quality and timely execution of this service has also resulted in financial damage to the end user, an element that the EECC has considered by providing the legal means of compensation for the violation of the right to port. In the spirit of the EECC, legal improvements are needed in the regulatory act for number portability to reduce the three-day timeframe and provide real options for choosing the network.

*3.13. Investments in 5G and Effective Competition*

Albania has taken limited steps towards investments in 5G technology, as in general, the implementation and development of 5G networks are influenced by many other factors, including the availability of frequency spectrum, existing infrastructure, and agreements with electronic communications operators. Some steps and developments that can be mentioned are mainly related to the allocation of frequency spectrum, a key step in implementing 5G networks. Currently, Albania has taken the first step by developing licensing processes for the allocation of spectrum used for 5G technology. However, beyond these specific steps taken, Albania is still in the early stages of 5G implementation compared to some more developed countries. Meanwhile, there are challenges and obstacles that may include the availability of frequency spectrum, infrastructure, and investments by operators. The road to a complete and rapid 5G network is a long challenge and will continue to require considerable efforts from all interested parties, just as regulatory attention should be focused on regulating and protecting competition, AKEP and the Competition Authority in achieving the goal of 5G investment, to anticipate the development of effective competition in the electronic communications sector. Their role is complex and closely related to ensuring a healthy competitive environment and encouraging investments in 5G.

The role of sectoral policy carries great weight in encouraging investments in 5G technology and ensuring the development of effective competition in the electronic communications sector. Sectoral policy and regulatory agencies must take several important actions and measures, as highlighted in the conclusions of this article. The role of sectoral policy and regulatory agencies should be significant in terms of the benefits to end users (consumers/subscribers) from these investments. In this way, these structures can and should include tax and

financial incentives for investments in 5G by the private and public sectors, aiming to create a suitable framework for the development of 5G technology, with a particular focus on increasing and maximizing the benefits to users.

## 4. Conclusions

Several possible recommendations aiming for full alignment with the provisions of the European Electronic Communications Code (EECC) could serve to bring necessary changes to the current Albanian legislation, specifically:

Possible amendments are needed in the current legal definitions of electronic communication services to broaden this definition, including the inclusion of communication services offered by Over-The-Top (OTT) operators. According to the EECC, electronic communication services encompass a wider spectrum, encompassing internet access services, interpersonal communication services, and services primarily involving signal transmissions, such as machine-to-machine services and data transmission services.

The legal provisions for the scope of applicability need to be expanded.

A restructuring of entities and agencies responsible for regulation, cybersecurity, network and electronic communication service certification is necessary.

Consideration should be given to whether the legal provisions regulating General Authorization and interpersonal communication services should be included as part of the expanded definition of electronic communication services.

A review of legal obligations related to access and interconnection is needed, as well as access to physical, passive, and active infrastructure. This would enable the effective regulation of electronic communication networks and services for efficient and coordinated use of radio spectrum and the deployment of high-capacity networks, including fixed, mobile, and wireless networks.

Regulatory competencies should be expanded to create a favorable regulatory environment for investments and co-investments in high-capacity networks.

A clearer division of duties and roles between the government and the regulatory authority is needed, along with the effective establishment of regulatory independence in all dimensions. While such independence is anticipated in current legislation, it appears not to have functioned effectively in daily practice, as true independence in all dimensions.

Amendments to existing legislation concerning market analysis provisions should be made in harmony with the timeframes outlined by the EECC, in

which the maximum time period for market analysis is extended to five years, as well as the criteria for identifying significant market power. Changes are also needed regarding the modalities for imposing regulatory measures and the options for their removal, depending on the dynamics of the analyzed markets and the identification of significant market power in these markets, with an emphasis on regulatory measures related to access to physical infrastructure.

Legal means for companies with significant market power to stimulate co-investments in networks should be reviewed. The current legal means should be retained, but new obligations may be imposed on specific undertakings with significant market power or undertakings with preferential status or exclusivities in infrastructure construction related to civil engineering works, requiring access to built physical infrastructure, including both active and passive infrastructure.

There is a need for the consolidation or enrichment of legal means that can be imposed at both wholesale and retail levels for the purpose of enhancing effective competition. These legal means should expand the scope of ex-ante intervention, in contrast to current provisions. Therefore, a more careful legal approach to the use of ex-ante and ex-post legal means is necessary.

The definition of universal service needs to be updated according to the EECC provisions, taking into account aspects such as technological development, market evolution, and user demand for connectivity and access services.

The framework of end-users' rights needs to be reviewed and expanded, with the aim of strengthening the legal framework for the protection of end-users. This should include mechanisms that mitigate factors disadvantaging the weaker party in a contract dispute resolution context. These mechanisms should offer efficient solutions without imposing financial or time burdens on the end consumer. The focus of amendments should be to ensure that the end consumer resorts to judicial remedies only in exceptional cases, as the last resort for dispute resolution. This implies saving end-consumers time and financial resources.

Legal amendments are needed to enhance the efficiency of number portability services and legal provisions that protect the rights of consumers and provide them with a solution within a reasonable timeframe that does not compromise their interest in number portability or network selection for end-user service provision.

To encourage investments in 5G technology and ensure the development of effective competition, the policy sector and regulatory agencies should take significant measures and actions, including: ensuring the availability of sufficient and appropriate frequency spectrum for 5G networks; allocating and regulating frequency spectrum use for 5G technology; streamlining licensing and permitting procedures for 5G network operators. This will help reduce market entry barriers and encourage competition, which is closely linked to

promoting both public and private investments in 5G infrastructure. Such investments may include network and 5G-related infrastructure development; Raising consumer awareness about the benefits and risks of 5G technology. This will help boost demand and usage of 5G services in all aspects, in collaboration with international and national organizations that have implemented 5G, aiming to share best practices and encourage investments in 5G.

In conclusion, it can be asserted that the Albanian legislation in the field of electronic communications, aiming to fully align with the European Electronic Communications Code (EECC), necessitates comprehensive revisions in all the aforementioned aspects. This imperative arises not only as a fulfillment of Albania's obligations for the alignment of its legislation on the path to European integration but also to respond promptly to rapid technological developments in the Albanian market. Often, the legal addressing of issues is delayed and inefficient, highlighting the need for swift attention and response to these developments, both technologically and legally, by Albanian institutions, particularly the Regulatory Authority for Electronic Communications and Postal Services (AKEP) and the Parliament. This is crucial for the timely regulation of the market, protection of data, and safeguarding of consumer rights in the digital environment.

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