



# WebFactor



**Assessment of the Legal  
Framework and  
Institutional Readiness to  
address Child Sexual  
Exploitation and  
Abuse online in Albania**



May 2019





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# Acknowledgments

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The authors of this assessment would like to acknowledge the valuable contribution of the officials of the Albanian government, prosecution, judiciary and local governments, as well as representatives of industry and civil society. Without their inputs, information and insights this assessment would not have been possible.

We are grateful to the Head and staff of the National Authority for Electronic Certification and Cyber Security who supported and facilitated the communication of the assessment team with all relevant actors.

We appreciate the contributions of the Deputy Ministers of Public Order, Health and Social Protection, Industry and Infrastructure, with their inputs and information shared.

We are grateful to the General Prosecutor Office not only for sharing its inputs with the team of consultants but also for facilitating the contacts with the prosecution offices of Durres, Fier and Lushnje.

We acknowledge the contribution and technical expertise of the representatives of the Ministries of Justice, Infrastructure and Energy, Interior, Health and Social Protection, and Education, Sport and Youth, the National Authority for Electronic Certification and Cyber Security, Cybercrime Unit of the General Directorate of Police, the Authority of Electronic and Postal Communications, National Agency of the Information Society, Institute for Education Development, State Agency for the Protection of Children's Rights, the Audio-visual Media Authority, State Social Service, INSTAT, Prosecutors of Durres, Fier and Lushnje, Child Protection Units of Tirana, Lushnje and Fier, and Tirana Court.

We also appreciate the contribution and technical expertise of ALO 116 111 and Isigurt.al, as well as the representatives of ISP who provided information and perspectives through interviews and consultations.

A special thank you to all participants of the two workshops organised in the frame of this assessment, for their valuable contribution, especially in the development of the key conclusions.

We would like to thank the UNICEF Albania team of David Gvineria, Ina Verzivolli, Mersila Ballo and Elda Hallkaj for guiding the entire process.

This publication has been prepared in the framework of the project **"Safer and Better Internet for Children in Albania"**, supported by the Fund to End Violence against Children.

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The recommended citation for the publication is:  
Bisha, E., Sulstarova, A., Shapo, Zh. and Ymeri, H., *WebFactor: Assessment of the Legal Framework and Institutional Readiness to address Child Sexual Exploitation and Abuse online in Albania*, UNICEF in Albania/ Shapo Consulting, Tirane, 2019.

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## FOREWORD



**Dr. Roberto de Bernardi,  
Representative, UNICEF Albania**

Rapidly growing information and communications technologies (ICT), including the Internet, have brought many positive changes in our lives, and those of our children and young people, unfolding a large number of new opportunities for communication, education and development. However, the same technological advancements have created a whole new range of risks and actual harm for children, including through online sexual exploitation and abuse, online grooming, live streaming of child abuse, cyberbullying, online identity theft, hate speech propaganda and radicalization, to name a few.

UNICEF Albania has always engaged very actively in addressing risks to children with the ultimate aim of safeguarding their rights to justice and protection from violence, abuse, exploitation and neglect, both online and offline.

The WebFactor report, the result of a comprehensive national assessment commissioned by UNICEF Albania, aims to provide deep analytical evidence of how the Albanian child protection system is or is not addressing the challenges for 21<sup>st</sup> century child protection. I expect all responsible institutions and stakeholders in the country to review and discuss very seriously the findings.

This critical publication coincides with the 30th anniversary of the UN Convention on the Rights of the Child, and acts as a reminder that a brighter future for our children requires us all to *Walk the talk!*

A handwritten signature in blue ink, likely belonging to Dr. Roberto de Bernardi.

# ACRONYMS AND ABBREVIATIONS

<b>AEPC</b>	Authority of Electronic and Postal Communications
<b>AMA</b>	Audio-Visual Media Authority
<b>Budapest Convention</b>	Council of Europe Convention on Cybercrime
<b>CJCC</b>	Criminal Justice Code for Children
<b>CoE</b>	Council of Europe
<b>CO</b>	Country Office
<b>CPC</b>	Criminal Procedure Code
<b>CPU</b>	Child Protection Unit
<b>CPW</b>	Child Protection Worker
<b>(UN)CRC</b>	United Nations Convention on the Rights of the Child
<b>CSEA</b>	Child Sexual Exploitation and Abuse
<b>CSEAM</b>	Child Sexual Exploitation and Abuse Materials
<b>CSO</b>	Civil Society Organisation
<b>DCM</b>	Decision of the Council of Ministers
<b>EU</b>	European Union
<b>FG</b>	Focus Group
<b>GDP</b>	Gross Domestic Product
<b>ICT</b>	Information and Communication Technology
<b>IED</b>	Institute for Education Development
<b>INSTAT</b>	National Institute for Statistics
<b>IP</b>	Internet Protocol
<b>ISP</b>	Intermediary Service Provider and /or internet Service Provider
<b>KII</b>	Key Informant Interview
<b>Lanzarote Convention</b>	Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse (Council of Europe; entered into force in 2010)
<b>MESY</b>	Ministry of Education, Sports and Youth
<b>MHSP</b>	Ministry of Health and Social Protection
<b>MNR</b>	Model National Response
<b>NACR</b>	National Agenda for Children's Rights
<b>NAECCS</b>	National Authority for Electronic Certification and Cyber Security
<b>NAECCSCC</b>	Criminal Code
<b>NCRPC</b>	National Council for the Rights and Protection of Children
<b>NCMEC</b>	National Centre for Missing & Exploited Children
<b>NGO</b>	Non-Governmental Organisation
<b>OPSC</b>	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
<b>SAA</b>	Stabilisation and Association Agreement between Albania and the European Commission
<b>SARPC</b>	State Agency for the Rights and Protection of the Child
<b>UNICEF</b>	United Nations Children's Fund
<b>VAC</b>	Violence against Children



# TERMINOLOGY

<b>Child</b>	The definition adopted by the present report is that first provided by the Convention on the Rights of the Child and, later, by other international conventions on child protection, under which a child is every human being below the age of eighteen years unless, under the national law, the age of majority is attained earlier.
<b>CSEAM</b>	Under the agreement of the international community, child sexual abuse and child sexual exploitation materials refers to child pornography materials as a term considered less stigmatising for the victim.
<b>CSEA offences</b>	Several types of child sexual exploitation and abuse subject to substantive criminal law provisions.
<b>Grooming</b>	Activity of establishing or building a relationship with a child, either in person or through the use of the internet or other digital technologies, to facilitate either online or offline sexual contact with that person.
<b>Live online child sexual abuse</b>	A variety of CSEA offences committed through ICT, including child pornography, child pornographic performances and sexual abuse, among others.
<b>Sexting</b>	Refers to the act of exchanging sexual messages or images or creating, sharing and forwarding sexually suggestive nude or nearly nude images through mobile phones and the internet between children and adults. It does not include the acts of consensual sexting between peers.
<b>S-extortion</b>	The act of extorting a child for sexual purposes under the threat of distributing to friends and family sexualised self-generated images of the child, or under any other threat.



# 1 EXECUTIVE SUMMARY

Information and communication technologies (ICT) are an important tool in the lives of children, for learning, socialising, expression and fulfilment of their rights and fundamental freedoms. The Internet provides a great number of opportunities for the growth, development and education of children, but at the same time it generates risks from evolving forms of violence and facilitates criminal activities against children.

One such risk is the facilitation of child sexual exploitation and abuse taking place in cyberspace (online CSEA), which provides abusers with the possibility to gain access to a large number of children and also the means to keep their own identity anonymous. For example, a 2018 study by WeProtect Global Alliance found that a single offender had been able to approach some 9,000 children through Internet.<sup>1</sup> In addition, Interpol has held that “many millions of child sexual abuse images are currently in online circulation.”<sup>2</sup>

The present *Assessment of the Legal Framework and Institutional Readiness to address Child Sexual Exploitation and Abuse online in Albania* is part of the initiative that UNICEF Albania has been undertaking since 2017, with the support of the Global Partnership to End Violence Against Children, to further support reforms in the child protection system, with particular focus on the prevention and protection from online violence, abuse and exploitation of children.

The purpose of the present report is to provide comprehensive analysis on the prevention and response mechanisms to online CSEA in Albania, through the assessment of the legal, institutional and human resources available to tackle the issue. The framework of the assessment is a combination of the #WeProtect Global Alliance Model National Response (MNR) and the international legal standards deriving from the international conventions ratified by Albania, as well as the European Union (EU) legislation governing aspects of online CSEA. The methodology of the assessment combines secondary (desk review) and primary data analysis (key informant interviews and focus groups).

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1 WeProtect Global Alliance – Global Threat Assessment 2018, pg. 15.

[https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5a83272c8165f5d2a348426d/1518544686414/6.4159\\_WeProtect+GA+report.pdf](https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5a83272c8165f5d2a348426d/1518544686414/6.4159_WeProtect+GA+report.pdf)

2 INTERPOL, ECPAT, Towards a Global Indicator on Unidentified Victims in Child Sexual Exploitation Material, Technical report, 2018 pg. 20.

<https://www.ecpat.org/wp-content/uploads/2018/02/Technical-Report-TOWARDS-A-GLOBAL-INDICATOR-ON-UNIDENTIFIED-VICTIMS-IN-CHILD-SEXUAL-EXPLOITATION-MATERIAL.pdf>







## KEY FINDINGS

### LEGAL RESPONSE TO CSEA

In this assessment, the Albanian legislation was subject to a comparative review against international standards, an exercise that found that Albanian legislation regulating several areas of CSEA does not always conform to international standards. Specific findings are summarised below.

#### Criminal Justice

Several dispositions of the Albanian Criminal Code (CC) address CSEA offences. However, some do not conform fully to international standards, while others do so by extending the scope of application of those standards. More specifically:

-  **Sexual Abuse of Children** is regulated by the CC through several provisions in a fragmented way. It covers almost all constitutive elements of international standards with the exception of sexual abuse with coercion or threats. The fragmentation creates confusion. A systematic approach through a unique disposition on child sexual abuse, as provided in international standards, is preferable.
-  **Corruption of Children** is regulated by the CC and fully reflects the elements of international standards.
-  **Solicitation of Children for Sexual Purposes** is regulated by the CC, which conforms fully to international standards and even extends the ambit of its application.
-  **Child Prostitution<sup>3</sup>** is addressed by the CC but not properly regulated. The Code does not conform to international standards due to the lack of definition of child prostitution and of a specific offence of child prostitution containing all the constitutive elements of international standards. In addition, the CC criminalises children of 14–18 years of age exercising prostitution, even though they are the victims.
-  **Child Pornography** is regulated by the CC. However, it does not conform to international standards due to the lack of definition of child pornography. In addition, some elements of the offence provided for in the international standards, such as the sale and procurement of child pornography, are not included in the Albanian provision.
-  **Child Pornographic Performances** is regulated by the CC. It covers all elements of the offence identified by international standards and thus conforms to the latter. However, lack of definition of pornographic performances, together with the lack of definition of child pornography, might limit the application of the article.

3 UNICEF is not in favour of the use of terms such as child prostitution and child pornography. However, because the national and international legal terminology cannot be substituted without specific amendments, the present report uses the terminology as in the standing legal framework.

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The **lack of definition** of the concepts of child prostitution and child pornography is a major problem that impairs the applicability of the criminal law dispositions and constitutes an inconsistency between international standards and the Albanian criminal legislation. In addition, the lack of the definition of child pornography also impairs the application of other legal provisions, such as Article 27 of the Law on the Rights and Protection of the Child, and Article 15 (e) of the Electronic Communications Law.

Another fundamental question is the **setting of age of sexual consent**, which is left by the conventions to a state's discretion. Sexual consent age in Albania is set in general at 14 years, considered low according to the United Nations Convention on the Rights of the Child (CRC) Committee recommendation.



In terms of **criminal procedure provisions** Albania mostly conforms to international standards with some relevant exceptions. More specifically:

- 🔸 The country has transposed almost all of the Budapest Convention provisions on the collection of online evidence, with the exception of Article 20, related to real-time collection of traffic data, and Article 21, related to interception of electronic communications.
- 🔸 Albania allows in its Criminal Procedure Code (CPC) the possibility for judicial police officers to conduct simulated actions and infiltration of criminal groups.
- 🔸 The country is aligned to international standards in terms of criminal reporting obligation.
- 🔸 Albania provides that all CSEA offences except one are initiated *ex officio*. The excluded offence is Article 106 CC on sexual or homosexual activity with consanguine persons and persons under care. Consequently, since 2015, Albania has been called by the Lanzarote Committee to address this situation by the inclusion of Article 106 under the offences initiated *ex officio*.
- 🔸 The country does not conform to international standard in terms of statute of limitation. The international standard requires that statute of limitation be sufficiently long to permit victims to file a criminal complaint once they have reached the age of majority. In Albania, the statute of limitation in the majority of cases ranges from five to ten years.

In terms of **child friendly justice**, the Albanian legislation has taken important steps forward. In 2017, Albania approved the Criminal Justice Code for Children (CJCC), including thus adoption into the national legislation of all the international principles and standards for child-friendly justice. However, the implementation of a child-friendly criminal justice system requires several interventions in terms of structures and human resources that have not yet been finalised, such as establishing special child sections in each district court, use of ICT tools during trial testimony, and having child-friendly environments in place during child interviews on the premises of the police or prosecution.

## Victim and Societal-related Legislation

Albanian legislation providing for prevention, protection and assistance measures to victims of abuse and violence does mainly conform to international legislation. More specifically:

-  The Albanian legislation on **prevention measures** such as awareness raising, education, training and recruitment conforms to the international standard set by the Lanzarote Convention.
-  The Albanian legislation on **protection measures** is quite complete and conforms to international standards. The legally designed protection measures include the integrated and multi-sectoral child protection system; the individualised protection plan for child victims; social care services; legal and psychological aid; child helplines; reporting and referral obligations; and protection from harmful or illegal online materials. However, implementation of all these mechanisms requires the adoption of sub-legal acts and internal procedures, a process not yet completed.

It is important to note that the principle of protection from harmful and illegal materials online is hampered by two factors. First, the definition of harmful material is too general, making it difficult to identify what it encompasses, leaving a large space to individual discretion. Second, the above-mentioned gap of absence of definition of child pornography makes it difficult to identify illegal materials with regard to CSEA.

In terms of **remedies, complaints and arrangements for CSEA victims** it is to be noted that, in Albania, there is no preferential channel for CSEA victims to receive compensatory damages. However, there is a preferential channel for them to obtain free legal aid, also during civil procedures for damages, and to be exempt from court fees and costs. Such a system of remedies has due regard for child rights, enabling it to conform to the international principle.

## Industry-related Legislation

The Albanian legislation regulating the online industry was designed upon the EU e-Commerce Directive, which has been transposed into the Albanian legislation through the Electronic Trade Law.<sup>4</sup> This law, as does the e-Commerce Directive, adopts the limited liability regime for Intermediary Service Providers (ISPs). **However, differently from the EU legislation, which provides some guidelines on notice and take down procedures, such acts are missing in Albania, leaving the area unregulated.** Also, legislation regarding the competence of administrative authorities to order the take down or blocking of illegal materials is vague.

<sup>4</sup> Law no. 10128, dated 11.5.2009 'On electronic trade'.

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More specifically, in terms of **liability of ISPs**, the following applies:

- 🟡 **Mere Conduit** ISPs are held liable only if it is demonstrated that they control the content of information by initiating its transmission, selecting the recipient of the information or selecting or modifying the information during transmission.
- 🟡 **Caching ISPs** are held liable only if it is demonstrated that they control the content of information by modifying or interfering with it, not removing information removed at source, or not removing information following an order from the competent authority.
- 🟡 **Hosting ISPs** will be held liable only if it is demonstrated that they have knowledge on the illegal content of the information and do not remove it or disable access to it.

In terms of **notice, take down and blocking procedures**, the following applies:

- 🟡 There are **no binding norms** or self-regulatory norms addressing notice procedures in Albania.
- 🟡 Take down and blocking procedures are **still developing**, both internationally and nationally.
- 🟡 The Albanian legislation dealing with ISPs is **vague** in terms of vesting administrative authorities with blocking or removing competences. This prevents such authorities from clearly understanding their roles and functions and from having the mechanisms to exercise them. **Clear legislation in terms of exact competences and procedures for administrative authorities in this area is needed.**
- 🟡 As the legislation currently stands the Albanian competent authorities for requesting blocking or removal of CSEAM from ISPs are the **Court or Prosecution**, acting according to the CPC.
- 🟡 Article 27 of the Law on the Rights and Protection of the Child has introduced the principle of blocking access to harmful or illegal materials. **However, the disposition specifies neither the blocking procedure nor the competent authority to perform it.**

In terms of **reporting obligations**, the following applies:

- 🟡 Albania conforms to the EU policy of the 'no general obligation to monitor' but obliges ISPs to **promptly notify the responsible authorities** of the presence of illegal information.
- 🟡 ISPs in Albania are also **obliged** to submit to the competent organs, upon their request, all information enabling **identification of the receiver of their services**. Because the specific law does not define a responsible or competent authority, pursuant to the CPC, such authority is the police or prosecution.

### Media and Communication-related Legislation

The protection of children's privacy is a well-established principle in Albanian legislation. Several laws protect the privacy of the child in Albania, including the Law on the Rights and Protection of the Child,<sup>5</sup> the CJCC<sup>6</sup> and the Law on Audio and Audio-Visual Media Services.<sup>7</sup> In addition, the Audio-Visual Transmission Code provides detailed rules on ethical media reporting regarding children. Hence, in terms of legislation, Albania conforms to the international principles on ethical media reporting and communication.

### INSTITUTIONAL RESPONSE TO CSEA

In Albania, the institutional systems, the established procedural mechanisms and available human resources are not fully able to implement the child protection policy and legal framework relevant to online CSEA. There are a number of public institutions, as well as non-public actors, exercising roles and responsibilities in preventing and addressing online CSEA. **However, the system response is not unified.**

#### Leadership

The institution with leadership role around CSEA is the Ministry of Health and Social Protection (MHSP), which coordinates protection of child rights and is vested with clear and comprehensive functions and competences. The minister reports directly to the prime minister, as also required under the international standard.

The National Council for the Rights and Protection of the Child (NCRPC) is an advisory body that also coordinates state policies on matters related to child protection and wellbeing. In practice, however, there is a lack of clear leadership, as neither MHSP nor NCRPC exercise a specific coordinating role for issues of online child safety. NCRPC has the right to set up Technical Advisory Committees on specific issues, but in practice no such committee on CSEA issues has been established. Even though foreseen in the National Action Plan for Online Safety, a coordinating technical committee under NCRPC has not yet been set up.

#### Research, Analysis and Monitoring

There are no specific data on online CSEA currently collected and consequently published. To date, there have been no established discussion forums or agreement among relevant actors on how to measure and report on CSEA risks and responses. This is a new emerging field of child protection, and the scarcity of national technical expertise in this area, especially in statistics and research, hampers progress in this regard.

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<sup>5</sup> Law no. 18/2017 'On child rights and protection'.

<sup>6</sup> Law no. 37/2017 'Criminal justice code for children'.

<sup>7</sup> Law no. 97/2013 'On Audio and Audio-Visual Media services in the Republic of Albania'.



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Overall, child monitoring systems and mechanisms and capacities are weak in Albania, even when it comes to measuring and reporting on other child protection components. As a result, it has been impossible to trace any relevant research, analysis or monitoring activity undertaken by the state institutions.

### Law Enforcement and Prosecution

Increasing the effectiveness of investigations into, and the fight against, cybercrime is part of the strategic objectives of both the State Police and the Prosecution Office. **The police have set up and operate a cybercrime unit specialised in investigating cases of online CSEA, but a deficiency is identified in the coordination of this unit with other parts of the child protection system, possibly depriving the victim from receiving other services to which they are entitled.** The unit does not have procedures for ensuring the inclusion of child protection professionals in the investigation.

The Cybersecurity unit has undertaken several, mostly donor-supported, capacity building programmes on investigation of cases of online CSEA but **there is a lack of an in-house system for passing on specialised skills in this area.** Prosecutors also report the need for training in IT-related skills, as well as for investigation and prosecution techniques for cases of online CSEA.

Neither the police nor prosecution are fully equipped with proper infrastructure to effectively investigate CSEA cases. The Cybersecurity unit reports a lack of possibility to perform website surveillance, hampering their ability to start *ex officio* and proactive investigations. Afraid that covert operations might be considered as involving an agent provocateur<sup>8</sup> the police do not undertake them. This barrier should be addressed through adequate training, standard procedures and technical tools. **Lack of rapid response by the ISPs to the prosecution's requests, as well as difficulties in identifying the IP addresses of alleged offenders, affects the quality of investigation and, consequently, the possibility to hold perpetrators accountable.**

Appropriate facilities for juveniles on the premises of the Prosecution have not yet been made available. Meanwhile, an image database, containing the identity of convicted CSEA offenders, and DNA databases are not required by the Albanian legislation.

### Child-focused Judiciary

Although the CJCC is considered an advanced piece of legislation, its implementation needs the approval of several sub-legal acts, making it difficult to apply the measures provided for in the Code. Implementation of the CJCC requires additional measures, including human and financial resources. Juvenile sections should be established in seven large courts. Improvements to the physical infrastructure, enabling compliance with CJCC requirements for child-friendly criminal justice standards, are needed. **A list**

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8 For the concept of agent provocateur please refer to section Criminal Justice, on Investigation Techniques.

**of professionals competent in dealing with child cases is prepared only by the police and the Order of Psychologists.** There is an understanding that the victims need to be protected from any negative or long-term emotional or psychological damage from the judicial process, and thus the role of the psychologist is well defined in the CJCC. However, better training and preparation of psychologists and free legal aid providers is identified as a need to be filled.

### End-to-end Support

The Law ‘On the rights and protection of the child’ provides for a system that is coordinated at the national and local levels. However, the multi-sectoral case management requires strengthening. **At the local level, not all institutions actively participate in the Inter-Sectoral Technical Group meetings and nor are they involved in the management of cases of children in need of protection.** Child protection workers (CPWs) face challenges due to lack of knowledge of child online safety, the work environment does not satisfy the needs of the child, and there is a lack of base funding required for case management. The limited number of CPWs and their uneven distribution across the country makes their work even more challenging.

No specialised rehabilitation services for victims of sexual abuse and exploitation were identified during the assessment, nor procedures for emotional and psychological support for child victims and witnesses. It is also noted that there is a lack of a support system for the management and rehabilitation of perpetrators, including those operating through the Internet, in order to prevent repeat violations.

The newly adopted by-laws of the Law ‘On the rights and protection of the child,’ and the Law ‘On social care services,’ create a good opportunity for the gaps identified to be addressed.

### Child Helpline and Reporting platforms

The Albanian National Child helpline ALO 116 111 is the only fully dedicated toll-free telephone line which functions both as a helpline—in terms of immediate psychological support to victims—and as a hotline, for referring to the responsible government agencies of cases of violation of children’s rights, including cases of online CSEA. ALO 116 111 has initiated requests for blocking illegal pages and harmful content on the web to networks established outside of the country. Child Helpline is a legally guaranteed service as per new Law on the Rights and Protection of the Child.

In terms of other available reporting mechanisms, the web-based platform for reporting of (potential) child abuse materials found online is [isigurt.al](http://isigurt.al). This platform was established as a result of a UNICEF-supported project in 2016 and is still functional and operated by the local civil society organisation CRCA Albania. Currently, all reports captured in this platform are shared with ALO 116 111 for the follow-up.

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A financial fragility has been identified as a major risk and vulnerability for the CSEA reporting mechanisms.

### Educational Programmes and Child Participation

Educating children and raising awareness among parents, caregivers and practitioners on online CSEA is not only a preventive measure, but also a need for them to be informed and have access to proper reporting mechanisms to inform law enforcement bodies when criminal activity against a child is suspected or has been committed.

The revised ICT curricula in public schools has introduced online safety to schoolchildren from grades 4–9, and efforts have been made to involve teachers and students in awareness-raising activities. However, these activities currently fail to target parents, caregivers, guardians and other practitioners. In particular, it is noted that **none of the Child Protection Units reached through the present assessment have been part of the awareness-raising activities.**

Teachers note that children are more eager to obtain information from their peers. Peer-to-peer education on online safety is the latest programme for children and adolescents in Albania undertaken by NAECCS and the Ministry of Education, Sports and Youth, supported by UNICEF. This programme creates a good opportunity to raise awareness among children, parents and caregivers, while the digital platform developed by the Institute for Education Development (IED) also creates a good opportunity in terms of informing children and parents on how and where to report cases and seek support.

### Internet Industry

The Internet industry itself plays a vital role in addressing online CSEA through website take down procedures and CSEA reporting, as well as in provision of innovative solutions.

The limited liability regime of intermediary service providers, along with the unregulated area of notice and take down procedures, is reflected in the fact that there are no clear procedures on how the various institutions inter-operate around the take down procedure of illegal or inappropriate material from online space.

**The removal of such material from the ISPs remains a challenge.** In addition, the lack of ability to identify the end-user who uploads such material onto the Internet leaves the door open for the material to be uploaded anew, even following removal.

The legal obligation of the ISPs to adapt tools such as parental control or similar to devices used by children to access the Internet is currently implemented only by some providers, but efforts to inform parents of the existence of such tools remain limited and fragmented. No procedures are reported by the ISPs that would enable immediate decommissioning or removal of child sexual abuse material the moment the company confirms

its presence in their network. **Reporting online CSEA to authorities has not been identified.** Meanwhile, no special unit dealing with the issues of online CSEA and no specific training on this matter were reported by the ISP that was interviewed.

### Media and Communication

Even though the overall system established by the Audio-Visual Media Authority (AMA) does not specifically focus on online CSEA, in essence it creates the conditions to encourage audio-visual media to provide professional reporting on CSEA. The broadcasting code has clearly defined the rules on privacy protection, including of the identity and of images, and on the prevention of public dissemination of information that could lead to the identification of child victims in general, including, therefore, CSEA victims.

AMA has established a monitoring system for the audio-visual media. Twice a year, it undertakes thematic monitoring of child-related issues. However, the fines imposed by the Authority on broadcasting that violates children's rights speak of the need for recognising and enforcing rules on respect among journalists for child rights. AMA's practice of supporting the training of journalists provides a good opportunity for the inclusion of online child safety issues in the broader skills development scheme.

## 2 INTRODUCTION

### 2.1 BACKGROUND

Violence against children (VAC) is a comprehensive term used to describe *all forms of violence, physical or mental, including sexual abuse*.<sup>9</sup> VAC of all forms has been under the scrutiny of international bodies focused on the protection of human rights in general and children rights in particular and providing important data on the matter. In 2016, one study estimated that “more than three-quarters of the world’s children had experienced moderate or severe physical, sexual and/or emotional abuse... affecting nearly 1.5 billion boys and girls aged 2–17.”<sup>10</sup> There is a clear consensus that VAC is harmful to the individual and to society at large. For the victim it may have serious consequences upon their physical and mental health in both the immediate and long term, such as through physical injury, depression, suicidal thoughts, or even death in the most severe cases.<sup>11</sup> Such consequences are translated into long-term economic costs for society.<sup>12</sup>

One of the most heinous forms of VAC is child sexual exploitation and abuse (CSEA). The phenomenon of CSEA manifests itself through a variety of sexual behaviours directed against children, including various forms of sexual abuse, child prostitution, child pornography, and child trafficking for the above purposes, among others. CSEA is a global phenomenon. In a 2015 study on the subject the United Nations Children’s Fund (UNICEF) estimated that *120 million girls globally under the age of 20 (about 1 in 10) have experienced forced sexual intercourse or other forced sexual acts*.<sup>13</sup> In addition, it was held that the global costs of CSEA comprise 3–8 percent of the global gross domestic product (GDP).<sup>14</sup>

With the rapid developments in ICT and digitalisation over the last decade, child sexual abuse and exploitation taking place online has become a serious global issue. Online CSEA is not a distinct form of sexual abuse and exploitation, but rather a manifestation of the classic forms of abuse through new ICT tools. Consequently, each form of offline CSEA, such as

9 Article 19 (1), Convention on the Rights of the Child (CRC).

10 UNICEF, Child Protection Section Programme, Division 3, United Nations, New York, 2017, p. 8. [https://www.unicef.org/protection/files/UNICEF\\_VAC\\_ToC\\_WEB\\_271117\(2\).pdf](https://www.unicef.org/protection/files/UNICEF_VAC_ToC_WEB_271117(2).pdf)

11 Ibid.

12 Ibid, p. 12.

13 Lorraine Radford, Debra Allnock and Patricia Hynes, *Promising programmes to prevent and respond to child sexual abuse and exploitation*, Child Protection Section Programme Division, UNICEF headquarters, 2015, p. 1.

14 Ibid.

sexual abuse, child prostitution, child pornography, child pornographic performances, etc., might also occur online in the form of online sexual abuse, online pornographic performances, online dissemination of child sexual exploitation and abuse materials (CSEAM).

For the victims of online sexual abuse, it means constant re-victimisation, which occurs each time CSEAM is disseminated and shared online. To the online CSEA offender, it means unprecedented new scope and scale to, new capabilities and increased confidence of remaining undetected.<sup>15</sup> A 2018 study by the WeProtect Global Alliance, dedicated to online CSEA, brought a case where a single offender had been able to approach some 9,000 children.<sup>16</sup> Meanwhile, a technical report of Interpol (2018) on the same subject holds that “many millions of child sexual abuse images are currently in online circulation.”<sup>17</sup> This conclusion was based upon the data provided by the National Centre for Missing & Exploited Children (NCMEC),<sup>18</sup> a US non-profit organisation that deals with, among other things, online CSEA and reported having reviewed more than 200 million CSEAM images and videos since its establishment in 2002.<sup>19</sup>

## 2.2 ALBANIAN COUNTRY CONTEXT

Violence against children is well known in Albania. Data collected and presented on the mission in 2016 of the Commissioner of Human Rights of the Council of Europe (CoE) found that “70% of surveyed children aged 8 to 11 reported having been subject to physical violence in the preceding year; 58% of the surveyed children aged 10–14 reported being a victim of or witnessing domestic violence; and one in five children reported that they were subject to bullying in school.”<sup>20</sup>

Few reports and relevant data exist on CSEA in Albania. In 2006, UNICEF supported a study on “Violence against children in Albania”, which found that 13.3 percent<sup>21</sup> of the subjects reported themselves to be victims of CSEA by strangers, and also by persons in their circles of trust: family members and other people related to the child. Data on the sexual abuse of children collected from a sample of 1,437 students were provided by a Community Survey on the Prevalence of Adverse Childhood Experiences in Albania (ACE

15 WeProtect Global Alliance, GlobalThreat Assessment 2018, *Working together to end the sexual exploitation of children online*, p. 5. <https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5a83272c8165f5d2a348426d/1518544686414/6.4159WeProtect+GA+report.pdf>

16 WeProtect Global Alliance, GlobalThreat Assessment 2018, *Working together to end the sexual exploitation of children online*, p. 15. <https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5a83272c8165f5d2a348426d/1518544686414/6.4159WeProtect+GA+report.pdf>

17 Interpol and Ecpat International, Co-funded by the Internal Security Fund of the EU Technical report, , 2018, p. 20.

18 <http://www.missingkids.com/home>

19 Ibid.

20 Report by Dunja Mijatović, Commissioner for Human Rights of the Council of Europe following her visit to Albania from 21 to 25 May 2018, Strasbourg, September 2018, par. 15, p. 6. <https://rm.coe.int/report-on-the-visit-to-albania-from-21-to-25-may-2018-by-dunja-mijatov/16808d2e22>

21 Terres des Homes, , December 2015, p. 17. [https://childhub.org/en/system/tdf/library/attachments/raporti\\_csa\\_alb\\_mail\\_2015-15-24.pdf?file=1&type=node&id=13542](https://childhub.org/en/system/tdf/library/attachments/raporti_csa_alb_mail_2015-15-24.pdf?file=1&type=node&id=13542)

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survey 2012). Asked about CSEA experiences, six percent<sup>22</sup> reported having been victims.

With regard to the online environment a survey conducted by the Information and Data Protection Commissioner in 2016<sup>23</sup> found that as many as 66 percent of children of age 15–18 years who were interviewed, reported such problems when using the internet. Nevertheless, there are no specific studies or official data on online CSEA in Albania. For these reasons, UNICEF has supported an extensive survey to be published in 2019 on ‘Children’s experience of internet use in Albania’, through the collection of data on, among other things, online sexual experiences of Albanian children.

The recent Mapping and Analysis exercise of Albania’s Child Protection System (2016)<sup>24</sup> revealed several notable achievements and challenges pertaining to the legal and institutional framework, coordination, services, case-management and public finances in the area of child protection. However, the exercise did not explore the responses of the system to online CSEA. It is noteworthy that, even in 2012, the Convention on the Rights of the Child (CRC) Committee<sup>25</sup> had expressed its concern over the lack of an efficient system to protect children from harmful images and information related to violence, racism and pornography in Albania.

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22 Ibid. p. 18.

23 Arapi I., et al., *Privatësia dhe siguria e të dhënave personale gjatë përdorimit të rrjeteve sociale*, Commissioner for Data Protection and the Right to Information, Tirana 2016.

24 Cabran M., et al., *Child Protection System Mapping and Assessment in Albania*, 2016, MaestralMaestra, UNICEF in Albania, <https://www.unicef.org/albania/CPS-report2015.pdf>

25 Concluding observations.

### 3 PURPOSE AND OBJECTIVES

#### PURPOSE

The purpose of this assessment is to generate comprehensive understanding as to how the existing child protection framework in Albania is or is not addressing the risks and cases of child sexual abuse and exploitation online. More specifically, the assessment analyses: (i) legislative and policy framework relevant to online CSEA; (ii) Institutional and administrative framework responsible for cross-sectoral prevention and response online CSEA; and (iii) Capacities of professionals mandated to address cases of online CSEA.

#### OBJECTIVES

The assessment has three specific objectives, to:

- i. Identify and analyse the international and Albanian legal framework establishing and regulating an integrated system for the prevention and protection from CSEA and assistance to victims, to understand how the Albanian legal and policy framework complies with international standards.
- ii. Identify the existing institutions and procedures in Albania for the prevention and protection from CSEA and assistance to victims, to understand the extent to which the child protection policy and legal framework are implemented.
- iii. Identify the available human resources responsible for the implementation of the policies and legal provisions to understand their capacity gaps.



## 4 METHODOLOGY

The assessment framework is a combination of the #WePROTECT Global Alliance Model National Response (MNR) and the international legal standards deriving from the relevant conventions ratified by Albania, as well as the EU legislation, governing the issue of CSEA.

The MNR is an assessment tool, which comprises six main pillars of intervention: Policy and Governance; Criminal Justice; Victim; Societal; Industry; and Media and Communication. Detailed information on the MNR and the international legal standards are contained in Annexes 1, 4 and 5 of the assessment.

The methodological approach of the assessment was conducted using secondary and primary data analysis. The secondary data analysis included the analysis of the international and national legal framework on the protection of children from online CSEA and the mapping out of the roles and responsibilities of key stakeholders dealing with issues related to CSEA online. Primary data were collected through a combination of techniques, including key informant interviews and focus group (FG) discussions, applying a qualitative approach, enabling the capturing of the opinions of a wide range of stakeholders engaged in the assessment.

Detailed information on methodology are provided in Annex 2, Annex 3 and Annex 7 of the assessment.

### ETHICAL CONSIDERATION

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The procedures for the interviews and focus groups was explained to the interviewees and participants beforehand. They were assured that the data collection was for the purpose of assessment and no personal data would be used. Interviewees were not named but coded for confidentiality purposes. Any recorded contribution, on tape, or in written form, including the notes taken by the interviewer, was done with the consent of both parties. The participants were informed of the voluntary nature of their participation. Their decision to participate or not was respected. Participants were informed that consent was negotiable, and that they could withdraw at any point.

The confidential participant information and data collected from the interviews and focus groups were securely stored, protected and disposed of. The security includes limited access to raw identifying data through password protection of electronic data, physical locks and limiting the staff who could access the data.

## 5 LIMITATIONS OF THE ASSESMENT

Limits were set to both the subject of the assessment and the method of assessment through interactive and data collection tools.

Online CSEA is a new phenomenon in both the international and national arena. Therefore, the identification of specific data and international and national standards in some of the areas covered by online CSEA during the desk research might not have been successful. Also, the novelty of the issue might also result in a lack of knowledge, or superficial knowledge, of the phenomenon by the interviewed stakeholders, preventing the collection of relevant information.

Secondly, the extent of the assessment is considerable, covering a great variety of sectors (criminal justice, administrative, social services, etc.), each of which presents its own specificities, issues and assessment needs that need to be collected, analysed and processed during a limited timeframe.

One other important limitation deriving from the data collection tools was the use of primary data that is not representative. Finally, a major limitation during the interview process was access to interviews with judges who were difficult to reach, despite the continuous efforts of the consultant team, due to the re-organisation of the judiciary under the present justice reform process.

## 6 FINDINGS

This chapter covers three main areas, legislation, institutions and human resources, addressing the specific objectives of the assessment. Section 6.1. provides the findings on the legal response to online CSEA, and Section 6.2. those on the institutional and human capacity responses to online CSEA. The latter topics were jointly addressed due to their strong connectivity. Each section is structured by the MNR pillars of intervention, as laid out below.

Section 6.1., on the legal response to online CSEA, provides the key findings on the international and Albanian legal framework regulating and establishing the integrated system for the prevention, protection, assistance and support to victims of CSEA and online CSEA. This section follows the sub-divisions of the MNR and addresses the following pillars: Criminal Justice; Victim; Societal; Industry; and Media and Communication.

Section 6.2. on institutional and human capabilities response to CSEA online provides the key findings on the institutions and mechanisms in place as well as human resources available to implement the child protection policy and legal framework on to CSEA online. It also follows the sub-divisions of the MNR and addresses the following pillars: Policy and Governance; Criminal Justice; Victim; Societal; Industry; Media and Communication.

### 6.1 LEGAL RESPONSE TO CSEA

Analysis of the international legislation covered all the conventions on child protection adopted over the years in designing an integrated system for the prevention, protection, assistance and support to CSEA victims and ratified<sup>26</sup> by Albania to become part of its legal system. The legislation includes the CRC, the OPSC, the Budapest Convention and the Lanzarote Convention. In addition, some EU legal acts relevant to the subject matter of the present assessment were also analysed and used to identify international standards in the areas not addressed by the above-mentioned conventions, particularly on the Industry Legislation Pillar. These include Directive 2000/31/

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26 Albania ratified the CRC through Law no. 7531, dated 11.12.1991 'On the ratification of the Convention on the Rights of the Child'. It also ratified OPSC through Law no. 9834, dated 22.11.2007, 'On the accession of the Republic of Albania to the Optional Protocol of the UN Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography. The country ratified the Budapest Convention through Law no. 8888, dated 25.4.2002, 'On the ratification of the convention on cybercrime, and the Lanzarote Convention through Law no. 10 071, dated 9.2.2009, 'On the ratification of the European Council on the protection of children from sexual abuse and exploitation'.

EC<sup>27</sup> (e-Commerce Directive), Directive 2011/92/EU<sup>28</sup> and Commission Recommendation (EU) 2018/334,<sup>29</sup> a soft law instrument. EU legal acts are relevant not only due to the standard-setting force of EU Law, but also due to specific obligations of Albania in the context of the EU integration process.<sup>30</sup>

With regard to the Albanian legislation all those laws that establish and regulate the different components of the integrated system for the prevention, protection, assistance and support to CSEA victims were analysed.<sup>31</sup>

The section follows the sub-division in the pillars indicated by the MNR with slight differences. More specifically, it begins with a review of the Criminal Justice Pillar, instead of Policy and Governance, which is addressed under the institutional response section. It goes on with the Victim and Societal pillars, which for the purpose of the legal findings are addressed jointly, followed by the Industry Pillar and concluded with the Media and Communication Pillar. Under each pillar the elements of the MNR are merged with the elements of international standards.

### 6.1.1 CRIMINAL JUSTICE

*Under the Criminal Justice Pillar the MNR addresses dedicated law enforcement, child-focused judiciary and prosecution, and existence of image databases. For the purpose of the present report other elements are also analysed, extending the scope of the MNR, including the existence of criminal law offences and procedural law tools for investigation and prosecution. In this section, the Albanian criminal justice legislation is analysed and compared to international standards in order to identify gaps and inconsistencies.*

This section on Criminal Justice addresses the following issues: offline CSEA offences, as established by international substantive criminal law provisions and the Albanian criminal code, the applicability of such offences to online CSEA, the fundamental issue of age in sexual offences against children, in particular the age of sexual consent, criminal procedural issues related to the collection of evidence, investigation techniques, criminal reporting, initiation of proceedings and statute of limitation, all of which are fundamental for the prosecution of perpetrators, the existing gaps in the definition and terminology of the criminal justice legislation, and the new system of child-friendly justice.

27 Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 'On certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.

28 Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 'On combating the sexual abuse and sexual exploitation of children and child pornography and replacing Council Framework Decision 2004/68/JHA'.

29 Commission Recommendation (EU) 2018/334 of 1 March 2018, 'On measures to effectively tackle illegal content online'.

30 Albania is a Candidate country and thus not yet obliged to transpose EU directives within the established terms and to directly apply EU legislation (regulations, etc.), unlike member states. Nevertheless, due to its commitment stemming from Article 70 of the SAA, Albania is under the obligation to progressively approximate its legislation to the EU.

31 Law no. 18/2017, dated 23.02.2017, 'On the rights and protection of children'; Law no. 121/2016, 'On social care services in the Republic of Albania'; Law no. 69/2012 'On pre-university education system in the Republic of Albania'; Law no. 9918, dated 19.05.2008, 'On electronic communications in the Republic of Albania'; Law no. 10128, dated 11.5.2009, 'On electronic trade'; Law no. 2/2017 'On cyber security'; Law no 9887 dated 10.03.2008, 'On protection of personal data'; Law no. 7895, dated 27.1.1995, 'Criminal Code of the Republic of Albania'; Law no. 7905, dated 21.03.1995, 'Code of Criminal Procedure of the Republic of Albania'; Law no. 37/2017, 'Criminal Justice Code for Children'.

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The legislation analysed for extrapolating the findings on this pillar includes the following: the four main international conventions relevant to the issue- CRC, OPSC, Budapest Convention and Lanzarote Convention—the Albanian Criminal Code (CC), the Albanian Criminal Procedure Code (CPC), and the Albanian Criminal Justice Code for Children (CJCC).

## CSEA OFFENCES

### KEY FINDINGS

- ☛ The crime of Sexual Abuse of Children is regulated by the Albanian legislation through several dispositions, but in a fragmented way. It covers almost all constitutive elements of international standards with the exception of sexual abuse with coercion or threats. This fragmentation creates confusion. A systematic approach through a unique disposition on child sexual abuse, as provided in international standards, is preferable.
- ☛ Corruption of Children is regulated by Article 108 (3) of the CC, which fully reflects the elements of international standards.
- ☛ Solicitation of Children for Sexual Purposes is regulated by Article 108 (4) of CC, which conforms fully to international standards even by extending the ambit of its application.
- ☛ Child Prostitution is not properly regulated in Albania and does not conform to international standards due to the lack of definition of child prostitution and of a specific offence of child prostitution containing all the constitutive elements of the international standards. In addition, the CC criminalizes children of 14–18 years old who exercise prostitution, despite that they are in fact the victims of prostitution.
- ☛ Child Pornography is regulated by Article 117 (2) of CC. This article does not conform to international standards due to the lack of definition of child pornography. In addition, some elements of the offence provided for in the international standards are not included, such as the sale and procurement of child pornography. Most importantly, the lack of a definition also impairs the application of other legal provisions, such as Article 27 of the Law on the rights and protection of the child and Article 15 (e) of the Electronic Communications Law.
- ☛ Child Pornographic Performances is regulated under Article 117 (3) of CC. It covers all elements of the offence identified by international standards and thus conforms to the latter. However, lack of definition of pornographic performances, together with the lack of definition of child pornography, might limit the application of the article.

The offences of child sexual exploitation and abuse consist of a variety of harmful sexual behaviours against children that have been identified as criminal offences by international and national legislation. These criminal offences are principally sexual abuse, child prostitution, child pornography, participation of children in pornographic performances, corruption of children, solicitation of children for sexual purposes, sexual harassment, and similar offences. The international legislation regulating CSEA offences is explored below, along with the respective Albanian legislation.

### CSEA Offences in International Legislation

The CRC, OPSC, Budapest Convention and Lanzarote Convention address several CSEA offences, initially with limited and simple provisions, and later on with more complete and comprehensive substantive criminal law provisions. The first CSEA offences addressed by international conventions included child pornography and prostitution. These were followed by new CSEA offences introduced for the first time in the Lanzarote Convention.

The evolution of CSEA offences, internationally, in the conventions is summarised as follows:

- i. **CRC** does not provide a classic, substantive, criminal law provision but is the first to mention the need to protect children from all forms of CSEA, particularly from sexual abuse and exploitation, child prostitution and child pornographic performances. However, it does not define these terms and does not provide detail on the elements of the offences.
- ii. **OPSC** provides substantive criminal law provisions regulating two forms of CSEA: child prostitution and child pornography. Its added value is that it provides for the definitions of both child prostitution<sup>32</sup> and child pornography<sup>33</sup> and for the elements of the offences.<sup>34</sup> It is the first international convention attempting to fully regulate these two types of CSEA offences.
- iii. **Budapest Convention** addresses cybercrimes and regulates a variety of criminal offences committed through the use of ICT, including child pornography. Unfortunately, it does not refer to other forms of online CSEA. However, the procedural criminal law provisions established by the Budapest Convention are in general applicable to all criminal offences committed through ICT tools, including other online CSEA offences not specifically mentioned by the convention.
- iv. **Lanzarote Convention**, for the first time, regulates in detail CSEA offences, and provides new substantive criminal law provisions. It regulates the following CSEA offences: sexual abuse,<sup>35</sup> child prostitution,<sup>36</sup> child pornography,<sup>37</sup> participation of a child in pornographic performances,<sup>38</sup> corruption of children,<sup>39</sup> and solicitation of children for sexual purposes.<sup>40</sup>

32 Article 2 (b) OPSC.

33 Ibid.

34 Article 3 OPSC.

35 Article 18, Lanzarote Convention.

36 Article 19, Lanzarote Convention.

37 Article 20, Lanzarote Convention.

38 Article 21, Lanzarote Convention.

39 Article 22, Lanzarote Convention.

40 Article 23, Lanzarote Convention.



Each article of the above-mentioned conventions constitutes the international standard related to the criminal offence it addresses. However, due to the fact that conventions have been gradually evolving, there are sometimes differences among them when defining or when establishing the constitutive elements of the same offence.<sup>41</sup> Because Albania has ratified all these conventions it is under obligation to conform to all definitions and elements of the offences provided in each convention article. This is why it was necessary to conduct the comparative review of all convention articles dealing with the same CSEA offence and come up with the international standard for Albania containing the full definition and all constitutive elements of the offence provided in each convention article. The exercise is presented in Annex 5, which contains the final international standard for each CSEA offence that will be used below to assess whether the Albanian criminal offences on CSEA conform to the international standards.

## CSEA Offences in Albanian Legislation

The Albanian Criminal Code provides for several CSEA offences. The issue is whether these offences do conform to the international standard identified in Annex 5. Below there is a summary of the key findings in this regard:

### i. Sexual Abuse

*Sexual abuse was broadly defined under Article 18 of the Lanzarote Convention, which is the identified international standard for this CSEA offence.* There is no such broad provision of sexual abuse contained in one single article of the Albanian CC. Instead, various elements of sexual abuse are addressed under several provisions of the CC in a fragmented manner, specifically the following:

-  **Article 100 CC<sup>42</sup>** criminalises engaging in *sexual or homosexual activities* with children who have not reached the age of fourteen years or with a minor female who has not reached sexual maturity.<sup>43</sup> This article *reflects fully* Article 18 (a) of the Lanzarote Convention. It is to be noted that Article 100 contains discriminatory language due to its distinction between sexual and homosexual activities, and discriminatory treatment between male and female with regard to reaching sexual maturity.
-  **Article 101 CC<sup>44</sup>** criminalises engaging in *sexual or homosexual activities* with violence with minors of 14–18 years of age who have reached sexual maturity.<sup>45</sup> It partially reflects Article 18 (b) of the Lanzarote Convention, mentioning *only one* of its elements: specifically, sexual abuse *with force* with children above the age of sexual consent. It might be held that this article conforms with the international standard only with regard to the element of force. This article also contains *discriminatory language* due to the distinction between sexual and homosexual activities.

41 For example: Child Pornography is defined differently by the OPSC, Budapest Convention and Lanzarote Convention. See Annex 5 of the present report.

42 Article 100 CC: Sexual or homosexual activities with minors.

43 Article 100, par. 1, CC.

44 Article 101 CC: Sexual or homosexual activities with violence with minors aged 14–18 years.

45 Article 101, par. 1, CC.



- Article 103 CC<sup>46</sup> criminalises *sexual or homosexual activities* by “exploiting the physical or mental disability of a person or causing unconsciousness.” This article does not specifically address children, though it might apply to cases of sexual abuse of children with mental or physical disabilities. Thus, Article 103 CC reflects one element of Article 18 paragraph (b) of the Lanzarote Convention, and specifically: ‘abuse made of ... mental or physical disability’. However, the existence of a specific article related to sexual abuse of a child with disability would better reflect the international standard. The discriminatory language providing for a distinction between sexual and homosexual activities persists.
- Article 105 CC<sup>47</sup> criminalises the performance of sexual or homosexual activities by abuse of duty or of the relations of dependency. The wording of the article allows to cover, under the concept of duty, several elements of Article 18 (b) of the Lanzarote Convention, such as abuse of the position of trust, authority or influence over the child outside of the family circle. It also covers another element of Article 18 (b) of the Lanzarote Convention, specifically the abuse of a situation of dependency. However, the child is not specifically mentioned, and neither is mentioned as an aggravating circumstance under this article. *The existence of a specific article related to children would better reflect the international standard.* The discriminatory language persists.
- Article 106 CC<sup>48</sup> criminalises engaging in sexual or homosexual activities among parents and children, brothers and sisters, other related persons or with persons under custody or adopted. The article is worded in such a way that it focuses on incest rather than mere sexual abuse of children within the circle of trust. However, it reflects one of the elements of Article 18 paragraph (b) of the Lanzarote Convention: sexual abuse made by a ‘recognised position of trust, authority or influence over the child, including within the family’. It also contains discrimination due to differentiation between sexual and homosexual activities.
- Article 107/a CC<sup>49</sup> criminalises sexual violence by performing actions of a sexual nature on the body of another person through the use of objects....<sup>50</sup> Aggravating circumstances include directing this offence at children of fourteen to eighteen years of age<sup>51</sup> and at children younger than fourteen years or who have not reached sexual maturity, even if not performed by violence<sup>52</sup>. Despite being regulated as a separate criminal offence this article is just another reflection of sexual abuse addressed under Article 18 (a, b) of the Lanzarote Convention.

46 Article 103 CC: Sexual or homosexual activities with persons unable to defend themselves.

47 Article 105 CC: Sexual or homosexual activities with abuse of duty.

48 Article 106 CC: Sexual or homosexual activities with persons related or under custody.

49 Article 107/a CC: Sexual Violence.

50 Article 107/a, par. 1, CC.

51 Article 107/a, par. 2, CC.

52 Article 107/a, par. 3, CC.



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## ii. Corruption of Children

The international standard regulating Corruption of Children is Article 22 of the Lanzarote Convention. This article is covered by Article 108 (3) CC on indecent acts which criminalises 'indecent acts with minors under the age of fourteen' and the 'intentional involvement as a witness of a minor of less than fourteen years or of a minor who has not reached sexual maturity, in activities of a sexual nature ...'.<sup>53</sup> Article 108 (3) fully reflects the requirement of the international standard on corruption of children.

## iii. Solicitation of Children for Sexual Purposes

The international standard regulating 'Solicitation of Children for Sexual purposes' is Article 23 of the Lanzarote Convention. This offence is covered under Article 108 paragraph 4 of the CC criminalising of indecent acts. This article criminalises 'The proposal made by an adult by any means or form, to meet with a minor who has not reached the age of fourteen or a minor who is not sexually mature yet,' with the aim of committing CSEA offences, and thus reflects and extends the international standard. It punishes online and offline solicitation. In addition, it excludes from its text the restrictive condition provided for in Article 23 of the Lanzarote Convention, requiring that a proposal is followed by material acts leading to a meeting. **As a result, the mere proposal of an adult meeting a child with the intent of committing sexual offences done through means of ICT is punishable.**

## iv. Child Prostitution

The international standard on the definition of child prostitution is the Lanzarote Convention while the international standard for the elements of the offence of child prostitution is a mix of the OPSC and of the Lanzarote Convention.<sup>54</sup>

Prostitution is a criminal offence in Albania punishable by Article 113 of the CC. **Strikingly this article presents two major flaws. On the one hand it does not contain a definition of prostitution thus creating legal uncertainty, which impairs the applicability of the criminal law dispositions.** On the other hand, it does not exclude children from the ambit of its application. **As a result, it might well occur that an Albanian child who has reached the age of criminal responsibility (14 years) and who has been a victim of child prostitution might be prosecuted under Article 113 of the CC.** Both these issues had been already raised in 2012 by the CRC Committee's concluding observations on Albania, which recommended the necessary amendments to the CC.<sup>55</sup> However, it is to be noted that with the entry into force of the CJCC, criminal law penalties of minors up to 18 years have been drastically reduced and, in the above-mentioned instance, the child would not be subject to imprisonment but to other measures.<sup>56</sup>

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<sup>53</sup> Article 108, par. 3, CC.

<sup>54</sup> Please see Annex 5 of the present report.

<sup>55</sup> CRC Committee, Optional Protocol on the sale of children, child prostitution and child pornography, Concluding Observations on the initial report of Albania, adopted by the Committee at its sixty-first session, (CRC/C/OPSC/ALB/CO/1), 17 September–5 October 2012, par. 28, p. 7.

<sup>56</sup> Article 97 CJCC.

Moreover, there is no specific article of the Albanian criminal code elaborating on child prostitution. In fact, child prostitution is an aggravating circumstance of Article 114 on the general offence of exploitation of prostitution criminalising the *Encouragement, mediation, or receipt of compensation for exercising prostitution*. Child prostitution is also addressed by Article 128/b of the CC, which deals with trafficking of minors criminalising the *Recruitment, sale, transport, transfer, hiding or reception of minors with the purpose of exploitation for prostitution or other forms of sexual exploitation....* However, it is not sufficient to fill the identified gaps. Consequently, **both CC articles regulating prostitution do not conform with the international standard on child prostitution.**

#### v. Child Pornography

The international standard on the definition of child pornography and the constitutive elements of the offence is a mix of the OPSC, Budapest Convention and Lanzarote Convention.<sup>57</sup> Article 117 of the CC criminalises two types of behaviour related to pornography: 'the exposure of children to pornographic materials,' criminalised by Article 117 (1) CC, and the 'Production, import, offering, making available, distribution, transmission, use, or possession of child pornography, as well as the conscious creation of access to it, by any means or form,' criminalised by Article 117 (2) CC. The latter is the child pornography offence punishable under the identified international standard.

**The first big issue is that there is no definition of child pornography given in the CC.** This is a major impairment for the interpretation and application of the criminal offence, and even more so when the ratified international conventions leave to the state's discretion the criminalisation of certain pornographic materials. For instance, Article 20 (2) of the Lanzarote Convention provides the right of the state not to criminalise the production and possession of pornographic material *consisting exclusively of simulated representations or realistic images of a non-existent child*. Due to the lack of definition of child pornography by the CC Albania has not made such a criminal policy choice. In addition, **lack of definition of child pornography materials also impairs the applicability of other Albanian legislation that refers to illegal materials such as Article 27 of the Law on the rights and protection of the child (see section Victim and Societal, on Protection and Assistance Measures) and Article 15 (e) of the Electronic Communication Law (see section Industry, on Mere Conduit ISPs).**

**The lack of definition of child pornography by the Albanian CC also results in the lack of decriminalisation of the self-generated sexual images of children possessed by the latter with their consent and solely for their own private use.** A missed opportunity which is provided by Article 20 (3) of the Lanzarote Convention.

<sup>57</sup> Please see Annex 5 of the present report.

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With regard to the elements of the offence it can be stated that Article 117 (2) covers almost all elements of the international standard with the exclusion of selling and procuring child pornography. Lack of inclusion of the sale of child pornography is striking. Such an element is included under Article 117 (1) of the CC, though that article does not deal with child pornography per se but with pornography sold in child-inhabited environments.

It is important to note that Article 117 (2) CC has introduced as an element of the offence 'knowingly obtaining access through every means or form' to child pornography. This inclusion is important since it not only receives the international standard but also extends its ambit of application by including access obtained through every means, not only ICT tools.

#### vi. Child Pornographic Performances

The international standard on child pornography is Article 21 of the Lanzarote Convention.<sup>58</sup> In Albania, child pornographic performances are addressed under Article 117 (3) CC, which covers all of the criminalised behaviours identified by the international standards. However, the term **child pornographic performances is not defined, which, together with the lack of definition of child pornography, might limit the application of the article.**

## USING CSEA OFFENCES TO SANCTION ONLINE CSEA

### KEY FINDINGS

- ☛ Online child pornography is covered by Articles 117 (2) and 117 (3) of the CC.
- ☛ Live online child sexual abuse is covered by Article 117 (2) CC. When the viewer is actively participating in the abuse he / she might also be punished as a co-conspirator of sexual abuse.
- ☛ Online Child Prostitution occurring especially in the new form of 'webcam centres' is hardly covered in its entirety by existing provisions. Due to lack of definition of 'child prostitution' it is uncertain whether Article 114 CC applies to such a phenomenon. Article 117 (3) on child pornographic performances might apply but it provides for lower terms of imprisonment.
- ☛ Online solicitation of children for sexual purposes / grooming is covered by Article 108 (4) of the CC. The article does not require that the proposal to meet is followed by material acts leading to such a meeting, thus extending the scope of application of the international standard. However, it does not criminalize the exchange of sexualized conversation between the adult and the child.

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58 Please see Annex 5 of the present report.

- ☁ Online corruption of children / sexting is not specifically regulated by the CC. Article 108 (3) CC, which sanctions the involvement of a child as witness of sexual acts, might apply to cases of adults exchanging sexual images with children if the term 'witness' is interpreted as including viewing of sexual videos and images. The exchange of sexualized conversations between an adult and a child remains again uncovered by Article 108 (3) or any other criminal provision.
- ☁ Online extortion of children for sexual purposes or S-extortion it is not specifically regulated by international legislation, but it might be covered by domestic criminal law provisions punishing extortion. In Albania S-extortion is not regulated specifically but it is covered under Article 121/a CC on stalking.

So far, both international conventions and the domestic legislation have focused on regulating the classic forms of CSEA, the so-called contact abuse offences, including various form of sexual abuse, child prostitution, among others. However, some forms of non-contact abuse, such as sexual harassment<sup>59</sup> and corruption of children, have also been recognised and regulated through legislation.

With the intensification of the use of ICT, several CSEA offences are now taking place online, increasing the number of non-contact abuse offences. International awareness of these new forms of CSEA, and the necessity to address them, is also increasing,<sup>60</sup> resulting in identifying online CSEA as a specific phenomenon with own characteristics and challenges. Online CSEA has been defined as 'any form of sexual abuse of children... which has a link to the online environment'.<sup>61</sup> It can take the form of 'sexual molestation and/or harassment through social media or other online channels',<sup>62</sup> and can manifest itself through online uploading and sharing of child sexual abuse acts that are 'photographed or video-audio-recorded'.<sup>63</sup> However, online CSEA is not 'in and by itself, a new and distinct form of sexual abuse'.<sup>64</sup> It is rather just a manifestation of all forms of CSEA using ICT. Online CSEA has also been defined as 'online-facilitated child sexual abuse'.<sup>65</sup> As a result classic CSEA offences might be used to prosecute forms of online CSEA. However, they might need some specific amendments to cover the particularity of the online element.

As found by the Interpol study into the phenomenon '*Online media may be used at any stage of the process of exploitation and abuse*'.<sup>66</sup> In fact,

59 Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Inter-Agency Working Group, Luxembourg, January 2016, par. C.3, p. 19.

60 Ibid.

61 Ibid, par. C.4 (vi), p. 22.

62 Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Inter-Agency Working Group, Luxembourg, January 2016, par. C.4 (vi), p. 22.

63 Ibid.

64 Ibid, p. 23.

65 Ibid.

66 Interpol and Ecpat International, Co-funded by the Internal Security Fund of the European Union Technical report, , 2018, p. 11.

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paedophiles and other sex offenders use the internet to predate on children and engage with them, to access CSEA, and to create and share CSEA of offline sexual abuses.<sup>67</sup>

The typical manifestations of online CSEA can be summarised as follows:

**i. Online child pornography**

The cyberspace allows easy access, distribution and multiplication of child pornography materials. It offers the additional benefit of anonymity and difficulty in tracing. For these reasons child pornography mostly happens online with millions of child pornography materials floating in online space. Online child pornography takes a range of different forms, from the simple accessing and sharing of CSEA materials of pictures and videos to the accessing of live, online pornographic performances of children. As the legislation currently stands such online manifestation of the offence of child pornography is covered by existing substantive criminal law provisions.

At the international level such an offence is covered under all the above-mentioned conventions. Moreover, the Lanzarote Convention introduced a specific element of the child pornography offence criminalising *knowingly obtaining access, through information and communication technologies, to child pornography* (Article 20 (1) (f)). In addition, online live child pornography is also covered by the offence of the participation of children in pornographic performances provided for in Article 21 of the Convention.

In Albania this phenomenon is covered by two articles of the CC. Firstly, Article 117 (2) on child pornography also provides for the criminalisation of *knowingly obtaining access through every means or form to child pornography*, fully covering cases of online child pornography. Secondly, online child pornographic performances are addressed under Article 117 (3). However, the issues with these articles identified in section 'using CSEA offences to sanction CSEA online', (v) child pornography and (vi) child pornographic performances above, limit their applicability.

**ii. Live online child sexual abuse<sup>68</sup>**

Whereas child sexual abuse is the classic form of contact offence it might still occur online through the recent form of live online sexual abuse or streaming of sexual abuse of children. Its particularity is that the sexual abuse occurring offline is transmitted through ICT in real time, enabling viewers who have commissioned the sexual abuse to provide specific indications on how it is to be conducted with live requests (child sexual abuse to order).<sup>69</sup> For these reasons, live sexual abuse of children consists of dual abuse: the actual abuse taking place and the transmission of it through ICT for a specific participating public. Such practice is also convenient for the offenders because streaming—unless it is recorded—leaves no trace due to lack of

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<sup>67</sup> Ibid.

<sup>68</sup> Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Adopted by the Inter-agency Working Group, Luxembourg, January 2016, par. G.2, p. 46.

<sup>70</sup> Ibid. par. G.2–G.3, p. 46–47.

downloads. As a result, it is hard to identify the abusers, increasing their chances of impunity.<sup>70</sup>

While the offline abuser might be criminalised based upon classic child abuse offences, the online viewer of such material might be prosecuted based on the child pornography offence. In this latter case the relevant international disposition would be the above-mentioned Article 20 (1) (f) of the Lanzarote Convention criminalising *knowingly obtaining access, through information and communication technologies, to child pornography*.

The Albanian CC does not regulate specifically Live online child sexual abuse. However, the disposition applicable to the online viewer of the sexual abuse is Article 117 (2) CC on child pornography, which criminalises *knowingly obtaining access through every means or form* to child pornography. Also considering that the viewer is not totally inactive but participates by ordering the abuser to perform certain acts, the viewer might also be punished as a co-conspirator of sexual abuse.

### iii. Online child prostitution

New forms of online child prostitution have been emerging. These come as a combination of two more 'traditional' offences: child pornographic performances and exploitation of child prostitution. The Interpol study referring to a report of the UN Office of Drugs and Crimes mentions the existence of *child sex webcam centres*, which are distributed in such a way as to have raised the number of trafficked children for the purpose of exploitation in such webcam centres.<sup>71</sup>

Such a form of exploitation of children might be covered under the child prostitution offence if the term 'using a child for sexual activities' is interpreted to include online pornographic performances. However, in the absence of such definition in international conventions the issue is to be settled by national legislation.

**The disposition covering child prostitution in Albania is rather problematic since it does not define child prostitution at all.** Thus, it remains uncertain whether the concept of prostitution mentioned in the CC and designed long before online prostitution appeared, might be interpreted in such a way as to include online prostitution under Article 114 CC. However, Article 117 (3) on child pornographic performances might apply but this article provides for lower terms of imprisonment.

**Consequently, due to the new elements of online prostitution, specific criminal dispositions sanctioning it, would be better placed to face the phenomenon.**

<sup>70</sup> Ibid. par. G.3, p. 47.

<sup>71</sup> Interpol and Ecpat International, Co-funded by the Internal Security Fund of the European Union Technical report, *Towards a global indicator on unidentified victims in child sexual exploitation material*, 2018, p. 14.



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#### iv. Online solicitation of children for sexual purposes / or Grooming<sup>72</sup>

The solicitation of children for sexual purposes is not a new phenomenon. Traditionally it has occurred offline, but nowadays is extensively occurring online. Online solicitation or grooming has been defined as the activity of *establishing/building a relationship with a child either in person or through the use of the internet or other digital technologies to facilitate either online or offline sexual contact with that person*.<sup>73</sup> The first step towards online solicitation or grooming is pursuing children online and establishing contact with them through a variety of online platforms.<sup>74</sup> Following the contact, the abuser tries to build a relationship of trust with the child in order to obtain sexual benefits, which might vary from exchange of sexual images to live performances, or requests for offline meetings, etc.

Grooming is specifically regulated by Article 23 of the Lanzarote Convention under the term *solicitation of children for sexual purposes*. The introduction of this article is a useful novelty. However, it presents some problems as it contains elements restricting the ambit of its application by requiring **the ‘proposal’ of the adult to meet the child and the proposal to be followed by ‘material acts leading to such a meeting’**. Clearly, the article intervenes at a very advanced stage of grooming, leaving uncovered the whole period of development of an online relationship that might have occurred between the child and the adult from the first moment of contact to the date of meeting.<sup>75</sup> During this period the adult and the child might have exchanged both sexual materials such as videos and other picture or engage in sexual conversations. While the exchange of sexual videos, images, and similar medium might be covered by the offence of corruption of children, **sexualised conversations remain de-criminalised** (*please also see paragraph (v) below*). In Albania, grooming is covered by Article 108 (4) of the CC. The article covers both online and offline grooming, and it does not require that the proposal to meet is followed by material acts leading to such a meeting, thus extending the scope of application of the offence established in Article 23 of the Lanzarote Convention. **However, the challenge of the impossibility to criminalize the exchange of sexualized conversations between a child and an adult remains.**

#### v. Online corruption of children / or sexting<sup>76</sup>

Corruption of children has currently spread online through the phenomenon known as sexting, which is defined as the act of *exchanging sexual messages or images and the creating, sharing and forwarding of sexually suggestive nude or nearly nude images through mobile phones and/or the internet*.<sup>77</sup> It is a very widespread phenomenon and consists of a variety of self-generated sexually explicit content ranging from conversation to audio messages and images.

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72 Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Inter-agency Working Group, Luxembourg, January 2016, par. H.4. (i), p. 51.

73 Ibid.

74 Such as social media, game chat rooms, forums or other similar websites.

75 This is why the Lanzarote Committee, through its ‘Opinion on Article 23 of the Lanzarote Convention and its explanatory note’ adopted on 17 June 2015, has extended the interpretation of Article 23 by providing in its par. 17 that: “The solicitation of children through information and communication technologies does not necessarily result in a meeting in person. It may remain online and nonetheless cause serious harm to the child”

76 Ibid, par. F.4 (v), p. 44.

77 In this assessment we refer to sexting between adults and children. The concept does not include consensual sexting among peers.

Sexting is not criminalised by specific international criminal law provisions. Nevertheless, it falls under Article 22 of the Lanzarote Convention on the 'Corruption of children', when, for example, adults send sexual images or videos to children. Albania does not criminalise sexting also. However, Article 108 (3) CC, criminalising the *intentional involvement of a child as a witness of acts of a sexual nature*, might apply to cases when adults sending sexual images or videos to children if the term 'witness' is interpreted by judicial doctrine as including viewing of videos and images. **However, exchange of sexualised conversation between adults and children remain not covered by Article 108 (3) or any other criminal provision.**

#### vi. Online extortion of children for sexual purposes or S-extortion<sup>78</sup>

S-extortion is the online extortion of children for sexual purposes. In general, the s-extorter uses previously obtained self-generated images of the child in his or her possession. The extortion is directed at obtaining various benefits, mainly sexual favours such as sexual performances or images, physical sexual meetings, among others. The extorter usually threatens the victim with the distribution or dissemination of their sexual images online or to friends and family if the victim does not satisfy the requests.

S-extortion it is not specifically regulated by international legislation. Nevertheless, being a form of extortion, it might be easily covered by domestic criminal law provisions punishing extortion. The international conventions analysed herewith do not regulate extortion of children. S-extortion is also not regulated by specific dispositions of the Albanian CC. The general offence of extortion is only provided as one of the elements of the offence of 'stalking' regulated under Article 121/a of the CC.<sup>79</sup> This article is construed in such terms to cover all instances where a person constantly threatens a child through ICT in order to obtain sexual services from the child.

## SETTING OF CHILDHOOD AGE



### KEY FINDINGS



Albania has settled sexual consent age at 14, which is considered to be low according to CRC Committee recommendation.

One fundamental issue common to all CSEA offences (online and offline) is the setting of the legal age of childhood which involves determining the following: childhood age, sexual consent age, the age for enforcement of child prostitution and child pornography offences. The most important and controversial issue is the sexual consent age, which is addressed differently

<sup>78</sup> Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Adopted by the Inter-agency Working Group, Luxembourg, January 2016, par. H.4 (iii), p. 52.

<sup>79</sup> Article 121/a CC criminalizes the "Threat or harassment of a person through repetitive actions, with the intent to cause a state of constant and severe anxiety or fear for personal safety, of a relative or person with whom that person has a spiritual connection, or to force him or her to change his or her way of living."



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by the international conventions and national legislation of states. Its determination is of utmost importance since the lower the sexual consent age the weaker the protection of the child from CSEA.

**CRC and OPSC**, by reference to the CRC, define the 'child' as a person under 18 years of age, unless the state decides a lower age. Also, the age for sexual consent; child prostitution and child pornography remain under the discretion of the state without the indication of any lower limit. In this regard the CRC Committee has indicated that sexual consent age set at twelve years is 'manifestly too low' and at fourteen years is 'rather low' and concerning.<sup>80</sup> However, the CRC Committee's recommendations are not binding on states.

The **Budapest Convention** takes a positive step forward in this regard by establishing that for the purpose of defining child pornography a child will be considered a person between sixteen and eighteen years of age. However, this Convention does not deal with other CSEA offences for example sexual abuse of child, child prostitution etc.

The **Lanzarote Convention** addresses differently the definition of a child, related to the sexual consent age, and the age for the offence of child prostitution and child pornography. The difference lies with the fact that in some cases the state has discretion in setting the childhood age while in other cases the discretion is limited or there is no discretion at all. For example a 'child' is considered any person under 18 years of age with no discretion left for states while the age of sexual consent is left open for the states to establish with full discretion in their domestic law.

Under the **Albanian legislation** child age is set at below eighteen years in both the Law on the rights and protection of the child and the Code of Criminal Justice for Children (CCJC).

*Age of sexual consent is regulated by Article 100 of the CC, where it is set at the (low) age of fourteen and for which it has been criticised by the CRC Committee. Nevertheless, the CC prohibits engaging in sexual ... activities ... with a minor female who has not reached sexual maturity....<sup>81</sup> Thus, the article increases the sexual consent age for females who at fourteen years have not reached sexual maturity, which is a discretionary evaluation on a case by case basis.<sup>82</sup> Such provision has been subject to recommendations for change both by the Committee on the Rights of the Child and the Lanzarote Committee, on the grounds that it is discriminatory.*

*The exploitation of child prostitution criminalised under Article 114 of the CC does not define the age limit for the applicability of this article. Therefore, the general age limit below 18, as set under the Law on the rights and protection of the child and the CJCC, applies.*

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80 Implementation Handbook for the Convention on the Rights of the child, Fully revised third Edition, prepared for UNICEF by Rachel Hodgkin and Peter Newell.,Pg. 523.

81 Article 100, par (1), CC.

82 As indicated above differentiating between males and females is discriminatory and Albania has been urged to address this by the CRC Committee and the Lanzarote Committee.

Similarly, *child pornography* criminalised under Article 117 (2) of the CC does not define a specific age for the applicability of this article. Here also the general age limit below 18, as set under the Law on the rights and protection of the child and the CJCC, applies.<sup>83</sup>

A comparison between international and Albanian legislation regulating CSEA age setting is reported in Table 1.

**Table 1: CSEA Age setting in the International and Albanian Legislation and their comparative review**

	CRC	OPSC	Budapest Convention	Lanzarote Convention	Albanian Law
<b>Child / Minor</b>	<b>Article 1</b> <i>"every human below the age of 18 years unless under the law applicable ... majority is attained earlier."</i>  *Full Discretion of States	Silent on the matter. CRC provisions apply.  *Full Discretion of States	<b>Article 9 (3)</b> <i>"all persons under 18 years of age... or lower age which shall not be less than 16."</i>  *Limited Discretion of States	<b>Article 3 (a)</b> <i>"Any person under the age of 18"</i>  * No Discretion of states	<b>Article 3 (4) CCJC /Article 3 (4) Law on the rights and protection of the child</b>  <b>Any person under 18</b>  <b>* Albanian legislation applies the highest standard</b>
<b>Sexual Consent Age</b>	N/A	N/A	N/A	<b>Article 18 (2)</b> <i>"each party shall decide the age below which it is prohibited to engage in sexual activities with a child"</i> <b>*Full Discretion of States</b>	<b>Article 100 CC</b>  <b>Sexual consent age at 14 years</b>  <b>* Albanian legislation applies the low standard</b>
<b>Age for Child Prostitution</b>	General definition of child: below 18  *Full Discretion of States	General definition of child: below 18  *Full Discretion of States	N/A	General definition of child: below 18  * No Discretion of states	<b>Article 114 CC</b>  <b>Under 18</b> <b>* Albanian legislation applies the highest standard</b>
<b>Age for Child Pornography</b>	General definition of child: below 18  *Full Discretion of States	General definition of child: below 18  *Full Discretion of States	<i>"all persons under 18 years of age... or lower age which shall not be less than 16."</i> *Limited Discretion of States	General definition of child: below 18  * No Discretion of states	<b>Article 117 CC</b>  <b>Under 18</b> <b>* Albanian legislation applies the highest standard</b>

<sup>83</sup> There is no decriminalisation for cases where self-generated CSEAM is exchanged among adolescents despite the recommendation of the Lanzarote Committee. Generally speaking, with regard to concerns of age, the Albanian legislation makes no distinction between sexual relations among peers under 18 years of age and sexual relations between an adult and a child, as recommended by the Lanzarote Committee.

## CRIMINAL PROCEDURE PROVISIONS



### KEY FINDINGS

- ☛ The CPC has transposed almost all of the Budapest Convention provisions on the collection of online evidence, with the exception of Article 20 related to the real-time collection of traffic data and Article 21 of the convention related to the interception of electronic communications.
- ☛ Article 30 (5) of the Lanzarote Convention calls for the establishment of covert operations and other investigation techniques enabling investigators to access child pornography. Albania conforms to such a standard allowing simulated actions with Article 294/a CPC and infiltration of investigators in criminal groups with Article 294/b CPC.
- ☛ Articles 281 and 282 CPC, which regulate criminal reporting obligations, do not provide for any reporting exemption thus are aligned to the international standard.
- ☛ Article 32 of the Lanzarote Convention provides that the initiation of criminal investigation for CSEA offences shall begin *ex officio*. Article 284 of the CPC regulates initiation of proceedings in Albania. All CSEA offences except for one are initiated *ex officio* in the country. The excluded offence is Article 106 CC on sexual or homosexual activity with consanguine persons and persons in a position of trust. Since 2015, Albania has been called by the Lanzarote Committee to amend this situation.
- ☛ Article 33 of the Lanzarote Convention regulates the Statute of Limitation, establishing the length of time within which it is possible to prosecute a criminal offence. Statute of limitation in Albania in the majority of cases varies from five to ten years. This is a short period that does not comply with the international standard which requires that statute of limitation be sufficiently long to permit victims to file a criminal complaint once they have reached the age of majority.

Two conventions are particularly important in respect to criminal procedure provisions: the CoE Convention on Cybercrime (Budapest Convention), and the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). Through a series of detailed dispositions these conventions regulate important procedural issues, such as the collection of evidence, investigation techniques and reporting obligations. These aspects are also regulated by several dispositions of the Albanian Criminal Procedures Code (CPC). The CPC dispositions have been the subject of a thorough comparative review against international standards, the results of which are summarised below.

## Collection of Evidence

Collecting evidence during the investigation of cybercrimes is a major challenge due to the ephemeral nature of cybercrime evidence. Specific investigative procedures are thoroughly regulated by the Budapest Convention, which sets international standards in the area of cybercrime. Through several articles this Convention regulates specific technical matters and also provides for definitions of new terms such as computer data, computer system, traffic data, data storage medium, and similar. These are very useful for transposition into domestic legislation, especially for those states yet to adapt their national legislation to the new technological developments. Below is a summary of these procedural law provisions.

- i. **Article 16** - Expedited preservation of stored computer data
- ii. **Article 17** - Expedited preservation and partial disclosure of traffic data
- iii. **Article 18** - Production order
- iv. **Article 19** - Search and seizure of computer data
- v. **Article 20** - Real-time collection of traffic data
- vi. **Article 21** - Interception of content data.

Some of the dispositions of the Budapest Convention on collection of evidence have been introduced in the Albanian CPC with full or partial transposition. Others are not yet introduced. The current situation in the Albanian legislation is as follows:

- i. **Article 299/a CPC** regulates the expedited preservation of stored computer data. **It faithfully reproduces all elements of Article 16 of the Budapest Convention.** The Albanian authority competent to request the expeditious preservation of stored computer data is the Prosecutor.
- ii. **Article 299/b CPC** regulates expedited preservation and partial disclosure of traffic data. It conforms to Article 17 of the Budapest Convention. The Albanian authority competent to request expedited preservation and partial disclosure of traffic data is the Prosecutor or the judicial police officer<sup>84</sup> authorised by the Prosecutor.
- iii. **Article 191/a CPC** regulates the obligation to submit computer data (production of computer data). **This article conforms to Article 18 of the Budapest Convention and transposes all of its elements.** The Albanian competent authority to issue the Production Order is the Court upon the request of the Prosecutor. In urgent cases the Prosecutor is competent to issue a Production Order at its own initiative. In such cases, the production order issued by the Prosecutor shall be validated by the court within 48 hours from notification of its issuance.

<sup>84</sup> Pursuant to Article 32 of the CPC judicial police officers include police officers of the state police, military police officers, and other police officers recognised as such by specific laws.

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- iv. **Article 208/a CPC** regulates the search and seizure of computer data. It contains the main elements of Article 19 of the Budapest Convention. **The difference is that, while the Budapest Convention mentions the search and seizure of a computer system and also of a computer data storage medium, the Albanian article does not include the latter, limiting the scope of the article.** Along with seizure of computer data competent authorities might also render inaccessible or remove computer data in the accessed computer system which corresponds to the blocking and removing procedures. The Albanian competent authority for the issuance of the search and seizure order and blocking and removing procedures is the Court upon request of the Prosecutor. It should be noted in regard to the taking down or removing procedures that there is another international document containing clear wording on this issue. Specifically, Directive 2011/92/EU, which provides in Article 25 the competence of states to *promptly remove web pages containing or disseminating child pornography hosted in their territory*. **Article 208/a is not worded in such clear terms. Transposition of this clear wording would be an asset.**
  - v. **Articles 221 and 223 CPC** regulate the procedures for the interception of communications including those made by computer. **These articles do not transpose the specific clause provided in Article 21 of the Budapest Convention and a difference in wording is noticeable. Therefore, Albania should comply with its obligation and proceed with the transposition of Article 21 of the Budapest Convention.** The competent authority for ordering the interception is the Court upon request of the Prosecutor.
  - vi. **Budapest Convention in Article 20** also provides for the real-time collection of traffic data. However, there is no such specific provision in the Albanian Criminal Procedure Code. Such an article would constitute a useful tool when actively investigating online abusers in order to collect data in real time on their online activity. **Albania should comply with its obligations and proceed with the transposition of Article 20 of the Budapest Convention and provide such a tool to the Albanian law enforcement agencies.**

### Investigation techniques

Investigation techniques are fundamental to identifying perpetrators and collecting legal evidence that is both relevant and accepted in court. In order to do so, investigation techniques should be clearly regulated by law, indicating specific techniques and procedures permitting investigators to act as perpetrators or children where necessary in order to identify and prosecute paedophile networks. If the legislation does not allow for such techniques, investigators will not take the risk of operating within a grey area because of criminal sanctions or that the evidence collected might be invalid in court.

The Lanzarote Convention provides some indications in terms of investigation techniques. Article 30 (5) calls for the establishment of covert operations and other techniques enabling investigators to access child pornography in order to identify victims and perpetrators.

The provision of the Convention on investigation techniques are covered in Albania by Article 294/a CPC, which allows for simulated actions. Pursuant to this article a judicial police officer or a person authorised by, and under the supervision of, the competent Prosecutor may simulate the purchase of illegal items or carry out other simulated acts, in order to detect and collect evidence on persons suspected of committing a crime. When doing so, the police officers or the authorised persons should avoid becoming the agent *provocateur*. This internationally recognized condition, requires from the simulating officer to conduct the operation in such a way as not to provoke a criminal act. In the Albanian legislation provocation is defined in Article 294/a (3) CPC as the situation where the simulating agent pushes a person to commit a crime, which would not have been committed had the simulating agent not intervene. This article establishes that when provocation is proven, the collected evidence cannot be used. However, establishing whether provocation has occurred is a matter for the court to decide on a case by case basis.

In principle article 294/a CPC, is construed in broad terms and it allows Albanian investigators to conduct covert operations on online CSEA offences such as accessing or buying CSEAM or participating in chat rooms with paedophiles and similar covert operations. In addition, Article 294/b CPC also allows infiltration of investigators in criminal groups which might be used when investigating paedophile networks. **As a result, it can be held that the Albanian legislation on investigation techniques is conform to international standards.**

### Reporting criminal offences

Reporting criminal offences is fundamental for putting prosecution authorities into motion. Specific procedural issues have an impact on the effectiveness of reporting crime. These include rules on the initiation of criminal proceedings and on the statute of limitation. The Lanzarote Convention addresses such issues and, specifically, the following:

- i. **Criminal Reporting** is covered under Article 12 of the Convention. It does not exclusively refer to criminal reporting but broadly to reporting obligations of specific professionals and of the general public. Article 12 (1) establishes that states should ensure that professionals working in contact with children are not prevented by confidentiality requirements from reporting sexual exploitation or abuse of children where they have reasonable grounds to believe that a child is the victim of CSEA. Article 12 (2) requires states to 'encourage' any person to report CSEA that they know of, or suspect, in good faith.



- ii. **Initiation of Proceedings** is regulated by Article 32 of the Convention. It provides that the initiation of criminal investigation and prosecution shall not be dependent upon the complaint of the victim but shall start *ex officio*. This disposition is very important for an area such as CSEA offences for which victims often fail to file criminal complaints.
- i. **Statute of Limitation** is regulated by Article 33 of the Convention. It establishes that the statute of limitation shall be sufficiently long to permit victims to file a criminal complaint after the victim has reached the age of majority. This article is fundamental given that short statute of limitation for CSEA offences prevents victims coming forward when they have reached sufficient maturity and psychological strength to deal with the abuse.

The system of reporting criminal offences in Albania is designed by the CC and the CPC and consists of the following:

- i. **Criminal Reporting** is regulated by several articles of the CPC. Article 281 provides criminal reporting obligations of public officials, Article 282 the criminal reporting obligations of the medical personnel within 48 hours, and Article 283 the criminal reporting obligation of citizens who become aware of a criminal offence that is prosecuted *ex officio*. **These articles do not provide for any exemption of responsibility conceded to specific professions and thus they conform to the international standards.**
- ii. **Initiation of Proceedings** is regulated by Article 284 of the CPC, which lists the criminal offences that cannot be prosecuted *ex officio*<sup>85</sup> (at own initiative), implying that all the others are prosecuted *ex officio*. **Only one of the CSEA offences is excluded by the *ex officio* rule. This is Article 106 CC, on 'Sexual or homosexual activity with consanguine persons and persons in the position of trust'.** The Lanzarote Committee had, in 2015, already urged Albania to undertake the initiation of proceedings *ex officio* for all CSEA offences in the circle of trust.<sup>86</sup>
- iii. **Statute of Limitation** is regulated by Article 66 of the CC. It provides that criminal prosecution cannot start when a specific period of time has elapsed from the commitment of the criminal offence to the declaration of a person as an accused. The time period of the statute of limitation is strictly related to the terms of imprisonment provided for criminal offences. Table 2 reports the statute of limitation that applies to CSEA offences derived through the combined interpretation of Article 66 CC and each CSEA offence.

85 Initiation of proceedings *ex officio* means that the prosecutor can initiate criminal investigation without the need of a criminal complaint filed by the victim or any other authorization by a third party or body.

86 CoE, the Lanzarote Committee, 1<sup>st</sup> implementation report, *Protection of children against sexual abuse in the circle of trust*, 4 December 2015, p. 41.  
<https://rm.coe.int/1st-implementation-report-protection-of-children-against-sexual-abuse-/16808ae53f>

**Table 2.** Statute of Limitation for different CSEA offences under Albanian law

Article of CC: Offence	Statute of Limitation (years)
100 (1): Sexual or homosexual activities with minors	10
101 (1): Sexual or homosexual activities with violence with minors aged 14–18 years	10
103 (1): Sexual or homosexual activities with persons unable to defend themselves	10
105: Sexual or homosexual activities with the abuse of duty	3
106: Sexual or homosexual activities with persons related or under custody	5
107/a (2): Sexual violence against children of 14–18 years	10
107/a (3): Sexual violence against children of less than 14 years	20
108 (1): Indecent acts with minors of less than 14 years	5
108 (2): Indecent acts with minors of less than 14 years who are a family member	10
108 (3): Indecent acts / corruption of children	5
108 (4): Indecent acts / solicitation of children for sexual purposes	5
108/a (2): Sexual harassment of children	5
114 (2): Exploitation of prostitution aggravating circumstances	10
117 (2): Child pornography	*5 or 10 <sup>87</sup>
117 (3): Participation of children in pornographic performances	10
128/b: Exploitation of child prostitution in the context of child trafficking	20

**It is obvious that in the majority of cases the statute of limitation is too short and does not correspond to the international standard that, as mentioned above, requires that the statute of limitation shall be sufficiently long to permit victims to file a criminal complaint once they have reached the age of majority.**

## DEFINITIONS AND TERMINOLOGY IN CRIMINAL JUSTICE



### KEY FINDINGS

- There are significant definition and terminology gaps in the Albanian criminal legislation impairing the applicability of the criminal offences and of dispositions of other legal provisions related to illegal materials. More specifically:
  - A definition of child prostitution is missing
  - A definition of child pornography is missing
  - A definition of child pornographic performances is missing

Definitions and terminology are fundamental in order to comprehensively regulate a specific area of law, and even more so with regards to substantive

<sup>87</sup>\* Unclear due to inconsistencies of the article with the calculation methodology of the statute of limitation



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criminal law provisions that allow for no analogical interpretation. For this reason, the CRC, the OPSC, the Lanzarote Convention and the Budapest Convention have a real merit in introducing substantive and procedural criminal law provisions which help states develop their domestic legislation and support the harmonization of the legal terminology thus facilitating international cooperation among ratifying states.

Albania, as a ratifying state, has the obligation to conform to all dispositions of the above-mentioned conventions. However, some of these conventions address the same offence through different legal provisions. For example, child pornography is addressed by the OPSC, the Budapest Convention and the Lanzarote Convention, with legal provisions containing different elements of the offence making the provision more or less extensive. In all of these cases, Albania, as a state ratifying all of these conventions, should first conduct the comparative review of the provisions of these conventions dealing with the same offence, and identify which is the legal provision including the elements of all the conventions. Following such an exercise, if need be, the Albanian criminal code provision should be changed accordingly. The comparative review has been conducted for the purpose of this study, and it is reflected in Annex 5 of this assessment.

In addition, as mentioned above, conventions might include definitions or elements of the criminal offence leaving to the states the discretion to introduce them within their national legislation, thus making a precise choice on the national criminal policy. This is the case of article 20 (3) of the Lanzarote Convention on the definition of the term ‘child pornography’. This article allows states to decide not to consider as child pornography virtual images of children. In such cases, ratifying the text of international conventions through a domestic law it is not sufficient. A precise choice on this regard should be made by amending the domestic criminal law provision accordingly.

**Thorough analysis of the Albanian legislation has shown that Albania has not performed either the comparative review nor the criminal policy choices mentioned above. Both the Albanian CC and CPC present gaps with regard to definitions and terminology in CSEA offences. Such gaps limit the applicability of, especially, the criminal law provisions<sup>88</sup> identified under the international standards.** They are also cause for legal uncertainty in criminal law, contrary to the principles of the rule of law. Table 3 reports more specifically the gaps identified.

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<sup>88</sup> Substantive criminal law provisions should be sanctioned by national legislation, to establish legal certainty in criminal law, and guarantee citizens that they will not be subject to criminal sanctions for crimes not regulated under the national law. Differently from other areas of law that allow for analogical or extensive interpretation, criminal law provisions might not be derived from international conventions that have not been expressly transposed into domestic legislation. For instance, the definition of child pornography, missing in the CC, cannot be directly transposed from the international conventions ratified by Albania. An additional fact supporting this argument is that such a definition is provided differently under each convention.

**Table 3.** *Definition Gaps in the Criminal Code and the Criminal Procedure Code*

CRIMINAL CODE	CRIMINAL PROCEDURE CODE
Articles 100, 101, 103, 105 and 106 provide no definition of 'sexual activity' that is a constitutive element of the offence.	Articles 191/a and 208/a provide no definition of 'computer data' and no definition of 'computer system'. The definition of the Budapest Convention might be used due to its ratification by Albania.
Articles 107/a, 108 (3) and 108/a provide no definition of 'actions of a sexual nature' that in all occasions is a constitutive element of the offence.	Articles 299/a and 299/b provide no definition of 'traffic data'. This definition is provided under several articles of the Electronic Communications Law, which may be referred to, while the definition under the Budapest Convention might be used due to its ratification by Albania.
Article 108 (1) provides no definition of 'indecent acts' that is a constitutive element of the offence.	
Articles 113 and 114 provide no definition of either 'prostitution' in general, that is the constitutive element of the offence, or of 'child prostitution' in particular that is an aggravating circumstance of the offence.	
Article 117 (2) provides no definition of 'child pornography' that is the constitutive element of the criminal offence. In addition, lack of definition of 'child pornography materials' also impairs the applicability of other Albanian legislation that refers to illegal materials, such as Article 27 of the Law on the rights and protection of the child (see section Victim and Societal, on Protection Measures), and Article 15 (e) of the Electronic Communication Law (see section Industry, on Mere Conduit ISPs).	
Article 117 (3) provides no definition of the term 'child pornographic performances' that is the constitutive element of the criminal offence. This, together with the lack of definition of child pornography, as explained above, might limit the application of this article.	

## CHILD-FRIENDLY JUSTICE



### KEY FINDINGS

- In 2017, Albania adopted the Criminal Justice Code for Children (CJCC), including all the international principles and standards for child-friendly justice into the national legislation.
- The implementation of a child-friendly criminal justice system requires several interventions in terms of structures and human resources that have not yet been finalised, such as:
  - establishing special child sections in each district court
  - use of ICT tools during trial testimony
  - child-friendly environments during child interviews.

The phenomenon of traumatisation and re-victimisation of sexual abuse victims during criminal proceedings is well known and is particularly sensitive for child victims or witnesses of CSEA. Thus, the principles and standards of child-friendly justice were first set in Article 8 of the OPSC.

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However, it is the Lanzarote Convention that has the merit of detailing, extending and collecting these principles and standards in an organised manner.

The main principles and provisions of the Lanzarote Convention on child-friendly justice and their reception into the Albanian Criminal Justice Code for Children (CJCC) are summarised below.

### **Child rights during criminal proceedings**

Several articles of the Lanzarote Convention provide child-sensitive procedures and standards throughout the investigation and judicial proceedings. Both the general principles and the specific measures have been transposed into the Albanian legislation by the CJCC, as summarised below:

- i. **Right to prompt and priority review**<sup>89</sup> of cases requires ensuring that CSEA offences are investigated and prosecuted with priority and that unjustified delay is avoided. **This principle is fully addressed under Article 17 of the CJCC, in line with the international standard.**
- ii. **Right to be informed**<sup>90</sup> provides the obligation that children are provided throughout the criminal proceedings with information on all their rights, adapted to the maturity of the child and in an understandable language.<sup>91</sup> All the elements of the right to be informed provided by the Lanzarote Convention are enclosed in Article 34 of the CJCC. **This article is not only in line with the international standards but goes beyond those by regulating even more specific aspects of the right to information within the criminal proceedings, including information on complaints and appeal mechanisms, and on damages, among others.**
- iii. **Right to be heard**<sup>92</sup> establishes the right of child victims to present their views, needs and concerns in a chosen manner, whether directly or through an intermediary, the right to have these views taken into consideration, and the right to supply evidence. This right is provided in Article 16 of the CJCC, which establishes the right of the minor to participate in the process. It includes all the rights provided for in the Lanzarote Convention except for the right to provide evidence, regulated by Article 58 of the CPC, which establishes the general right of the victim of the offence to request the acquisition of evidence. **Consequently the Albanian legislation in this regard conforms to international standards.**

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89 Article 30 (3) of the Lanzarote Convention.

90 This right is regulated by several articles of the Lanzarote Convention. The information includes information on the existing available services; information on the status and progress of the proceedings and the outcome of their case; information on the release of the perpetrator; information on their right to access to other judicial and administrative proceedings.

91 Including information on the existing available services, on the status and progress of proceedings, and the outcome of cases, on the release of the perpetrator, and on their right to access other judicial and administrative proceedings.

92 Article 31 (1) (c) of the Lanzarote Convention.

- iv. **Right to support services**<sup>93</sup> refers to those services needed for the protection of the child, such as legal, psychological and any other type of necessary support. This right is extensively regulated under several articles of the CJCC, including Articles 18 and 20 on the participation of the psychologist in support of the child throughout the criminal proceedings, and Article 23 on the general right of children to obtain support services free of charge. **Consequently the Albanian legislation in this regard conforms to international standards.**
- v. **Right to privacy**<sup>94</sup> requires the protection of the identity and image of the child victim and having in place measures to prevent dissemination of any information that could lead to their being identified. This right is addressed by Articles 21 and 43 of the CJCC on the protection of the private life of the minor in all phases of the criminal prosecution, the prohibition of publication of all information that may lead to identification of the child victim and specific measures to ensure such principles. **Consequently the Albanian legislation in this regard conforms to international standards.**
- vi. **Right to safety**<sup>95</sup> includes a variety of safety measures for the child victim and their families to prevent intimidation, retaliation and re-victimisation. These are: measures to avoid contact between the child victim and the perpetrator within court and law enforcement premises; the obligation to have closed hearings without public presence; and the possibility to hear the child without their being present in the court, through ICT tools. All these measures are enclosed in Article 37 of the CJCC, which provides protection measures for victim or child witnesses during each phase of the criminal process. This article covers all the elements of the international standards and also mentions specific protection measures, such as restriction orders, security measures, etc. Article 39 specifically regulates safety measures necessary to avoid contact of the child with the perpetrator within the court, including in closed hearings, hearing the child without their physical presence, hearing the child through ICT, or other tools. **Consequently the Albanian legislation in this regard conforms to international standards.**



### Rules on child interviews

Particular attention is paid to the process of interviewing CSEA victims because such actions might further traumatise the child if not performed in a sensitive and professional manner. The Lanzarote Convention, for the first time, introduced specific rules on child interviews in Article 35 (1) (a)–(f). This article provides that interviews of a child victim of sexual abuse or exploitation take place without unjustified delay once the facts have been

<sup>93</sup> Article 31 (1) (d) of the Lanzarote Convention.

<sup>94</sup> Article 31 (1) (e) of the Lanzarote Convention.

<sup>95</sup> Article 31 (1) (f) and (g), Article 36 (1) and Article 36 (2) (a) of the Lanzarote Convention.

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reported; that interviews take place on child-friendly premises, are carried out by trained professionals and by the same person, and the number of interviews is limited to that strictly necessary; the child is accompanied by a legal representative, or when appropriate, an adult of choice; all interviews with a child are video-taped and that the recordings are accepted as evidence in the criminal proceedings. Such international standards have been extensively regulated by the CJCC, which contains a series of articles on child interviews. More specifically, Articles 39–42 extensively cover child interview rules, transposing all of the above-mentioned international standards and translating them into specific interview procedures. It is interesting to note that the CJCC establishes both general interview rules for children and specific interview rules for children younger than fourteen years, those of age 14–18, and child victims of sexual abuse and exploitation. **Consequently the Albania’s legislation on child interviews fully conforms to international standards.**

### **Trainings and recruitment of criminal proceeding officials**

Rules and procedures of child-friendly criminal justice may only be implemented when all the actors in the criminal justice system dealing with children are appropriately trained. For this reason, the Lanzarote Convention specifically mentions in two articles the need for such training. Article 34 (1) requires that persons, units or services in charge of investigation are specialised and trained in CSEA, and Article 36 (1) requires training in CSEA and child rights issues for all professionals involved in the criminal proceedings, particularly judges, prosecutors and lawyers. **These training requirements are embraced fully by the CJCC in several articles.** Specifically, Articles 25, 29, 30, 31 and 32 provide detailed requirements on training and specialisation of competent authorities dealing with children—prosecutors, judicial police officers, state police officers, lawyers, psychologists, child protection unit employees, among others—while Article 27 provides that each district court will have a special child section composed of specially trained judges.

Meanwhile, Article 25 also introduced employment restrictions for actors operating within the system. It provides that persons who have been convicted with a final decision on an intentional criminal offence against children or family violence are prohibited from working with children. In doing so, **this reflects another standard of the Lanzarote Convention established in Article 5 (3), on recruitment of professionals who are dealing with children.**

### **6.1.2 VICTIM AND SOCIETAL**

*Under the Victim and Societal Pillars, the MNR addresses issues such as end-to-end support for victims, child protection workforce, helplines for victim reporting and support, reporting hotlines, education programmes, and compensation, remedies, complaints and arrangements. Under this section, the relevant Albanian legislation is analysed and compared to international standards in order to identify gaps and inconsistencies. These pillars are addressed jointly because they are regulated by the same legislation.*

This section on Victim and Societal pillars addresses specifically the following issues: (i) Prevention measures, consisting of awareness raising, education and training activities, as well as (ii) Selection criteria for the recruitment of the child care workforce; (iii) Protection and assistance measures, consisting of various measures, such as the overall child protection system, the individual protection plan, social care services, online protection measures, referral measures and helplines; and (iv) Remedies, complaints and arrangements, consisting of the procedures in place to provide children access to judicial remedies.

All these elements were first addressed by the CRC and later on regulated in a comprehensive manner by the Lanzarote Convention, which, for the first time, regulates in detail all the elements that should be incorporated into an integrated child protection system. Such elements have been enclosed and regulated in several Albanian sectoral laws and specifically the Laws on the Rights and Protection of the Child, Social Care Services,<sup>96</sup> and Pre-University Education System,<sup>97</sup> as well as the legislation on access to remedies in Albania. There follows below a summary of the analysis of international standards on the integrated child protection system and the Albanian conformity to such standards. For the sake of a systematic approach, analysis of the several measures have been categorised into two main groups: prevention measures, and protection and assistance measures.

## PREVENTION MEASURES



### KEY FINDINGS



The Albanian legislation conforms to the international standard set by the Lanzarote Convention regarding prevention measures such as awareness-raising activities, and education, training and recruitment.

The prevention measures addressed herewith—different from substantive criminal law measures—are regulated under Chapter II of the Lanzarote Convention. These measures are qualified as preventive measures because it is considered that their existence is of significant help in preventing the occurrence and the perpetration of CSEA offences. Such measures are directed at children, professionals dealing with children and society at large. The prevention measures are elaborated below.



### Awareness Raising

Awareness raising on certain phenomena has a fundamental role in combating those phenomena. This is especially true for online CSEA, a relatively recent phenomenon only lately coming to the attention of the

<sup>96</sup> Law no. 121/2016 “On social care services in the Republic of Albania”

<sup>97</sup> Law no. 69/2012 “On Pre-University Education System in the Republic of Albania”



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general public. The necessity of awareness raising is addressed under the Lanzarote Convention. Article 5 (1) establishes the necessity to conduct awareness-raising activities on child rights and the protection of child rights among persons from a range of different sectors who have regular contact with children, particularly in the spheres of education, health, social protection, judicial and law enforcement, sport, culture and leisure activities. Article 8 targets the general public and requires the use of awareness-raising campaigns addressed to the general public to provide information on the phenomenon of CSEA and the preventive measures in place.

The Albanian legislation also provides for awareness-raising activities in relation to children. It does so through the Law on the Rights and Protection of the Child, which provides the competence to the State Agency for the Rights and Protection of the Child (SARPC) to conduct awareness-raising activities on child protection related matters among citizens, the public administration and justice system employees.<sup>98</sup> Similarly, the CJCC provides, in Article 25 (1), the general obligation for competent authorities to ensure that persons working with children have the highest professional awareness of the protection of their rights of children. Since the CJCC mentions professionals from several fields—psychologists, lawyers, law enforcement officials, prosecutors and judges—it is implied that the supervisory bodies of all these professionals have the obligation to provide such awareness-raising activities. The Pre-University Education Law also mentions that special promotion of children's rights is provided in the pre-university education system.<sup>99</sup>

### Education and Trainings

Article 5 (2) of the Lanzarote Convention determines the necessity to provide adequate knowledge of the phenomenon of CSEA and the means to identify it, and of the existing reporting procedures for professionals working in contact with children. Meanwhile Article 6 establishes the need to include in education programmes for children specific subjects providing information on the risks of CSEA and the existing protection mechanisms and tools. Several Albanian laws regulate training obligations of professionals in contact with children. For instance, the Law on the Rights and Protection of the Child provides for the existence of trainings and education campaigns on the protection of children from abuse addressed to persons working with children, to public administration officials and citizens.<sup>100</sup> In addition, a whole chapter of the CJCC deals with the necessary trainings for public officials and professional staff dealing with children under the criminal justice system for minors. It is required under the CJCC that professionals working with children have the necessary knowledge of the protection of children's rights and are specifically trained in this regard.<sup>101</sup> However, there is no legislation establishing education programs for children on CSEA.

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98 Article 43 (2), The Law on the rights and protection of the child.

99 Article 6 (2), Law on Pre-University Education System in the Republic of Albania.

100 Article 43 (2), Law on the rights and protection of the child.

101 Article 25 (1) and (4), CJCC.

## Recruitment




Article 5 of the Lanzarote Convention is dedicated to the workforce dealing with sexually abused and exploited children and addresses the recruitment of the workforce working with children. It requires the existence of restrictive measures ensuring proper screening and recruitment of such professionals. It establishes that persons who have been convicted of CSEA offences are not to be recruited for job positions involving regular contact with children. These standards are reflected in the Albanian legislation through two important laws. The Law on the Rights and Protection of the Child provides employment restrictions consisting of the prohibition from working in contact with children for persons convicted of crimes against persons, or against whom a protection order in family violence cases has been issued by a court.<sup>102</sup> This law also provides for suspension when a criminal investigation related to child violence is initiated against persons working with children.<sup>103</sup>

As explained above, the same standard is enclosed in the CJCC,<sup>104</sup> which requires that persons who have been finally convicted of a criminal offence against children or of family violence offences are prohibited from working with, and offering services to, children. In order to implement such a standard, the CJCC vests with responsibility the competent organs and NGOs offering services to children to undertake all measures to ensure that such persons do not have any contact with children.

## PROTECTION AND ASSISTANCE MEASURES



### KEY FINDINGS

-  The Albanian legislation regarding protection measures is quite complete and conforms to international standards. Several protection measures have been legally designed, including the following:
  - an integrated and multi-sectoral child protection system
  - individualised protection plan for child victims
  - social care services
  - legal and psychological aid
  - protection from harmful or illegal online materials
  - reporting and referral obligations
  - child helplines.
-  However, implementation of all these mechanisms requires the adoption of sub-legal acts and internal procedures, a process not yet completed.
-  The principle of protection from harmful and illegal materials online is hampered by two factors:

<sup>102</sup> Article 45 (1), Law on the rights and protection of the child.

<sup>103</sup> Article 45 (2), Law on the rights and protection of the child.

<sup>104</sup> Article 25 (2) and (3) CJCC.



- the fact that the definition of harmful material is too general, making it difficult to identify what it encompasses and leaving large space to individual discretion.
- the above-mentioned gap in the definition of child pornography which makes it difficult to identify what illegal materials are in terms of CSEA.

Protection and assistance measures are comprehensively regulated by Chapter IV of the Lanzarote Convention. These include social and other measures of administrative or civil law, different from criminal law prosecution measures. Several Albanian laws also provide for protection and assistance measures to child victims as indicated below.

## **Protection and Assistance Measures**

Article 4 of the Lanzarote Convention establishes the general obligation of states to prevent and protect children from CSEA. Article 11 requires the existence of effective social programmes and multi-disciplinary structures providing the necessary support to victims, their relatives and caregivers. Article 14 (1) requires long- and short-term assistance aiming at the physical and psycho-social recovery of the victim.

Albania regulates protection and assistance measures through several laws. The Law on the Rights and Protection of the Child is the organic law establishing the 'integrated protection system' for children in Albania. In its Article 23 it provides for the protection of children from all forms of violence, including CSEA, and for the obligation to provide physical, psychological and emotional rehabilitation and social integration of child victim of violence. In several other articles it provides for a series of detailed protection and assistance measures for abused children. More specifically:

### **i. Protection System**

The Law on the Rights and Protection of the Child puts in place a system for protection of children from VAC,<sup>105</sup> including CSEA. The law determines responsible authorities, interventions and procedures to address the case of a child victim of abuse. These include identification, assessment and management of reported cases, enforcement of protection measures in cooperation with other local structures, multi-sectoral interventions and specialised services based on the individual needs of each case.

### **ii. Individual Protection Plan<sup>106</sup>**

An individual protection plan is a measure tailor-made for each child, and includes all the necessary interventions and services, such as specific protection measures and support and assistance services, legal, medical and

<sup>105</sup> Article 62, The Law on the Rights and Protection of the Child.

<sup>106</sup> Article 62, The Law on the Rights and Protection of the Child. <sup>106</sup> Article 54, The Law on the Rights and Protection of the Child.

psychological aid, education and learning activities, support programmes and assistance to parents and, where necessary, measures for investigation and immediate intervention. The plan is prepared by the Child Protection Worker, in cooperation with the Needs Assessment and Referral Units and the inter-sectoral technical group. **This measure reflects all international standards regarding the existence of an integrated system of protection providing assistance and support to child victims through cross-sectoral cooperation.**

### iii. Social Care Services

The Law on Social Care Services<sup>107</sup> provides for the following: a) pre-social services consisting of information and counselling, services within the family, psycho-social support and early intervention services,<sup>108</sup> b) services in community centres, c) services in residential centres including shelters, d) social services in emergency situations, e) alternative care services for children lacking parental care, f) specialised services, and g) phone and on-line counselling services. However, their functioning depends upon the approval of specific sub-legal acts and assignment of the necessary financial and human resources, a process not yet concluded.

### iv. Legal and Psychological aid

Article 29 of the Law on the Rights and Protection of the Child provides for the right to legal aid and psychological assistance during administrative or judicial proceedings. **This article goes beyond international standards, establishing the obligation of legal and psychological support not only during criminal proceedings, but also during administrative proceedings.** Meanwhile, Article 20 of the Law on Pre-University Education System requires the establishment within education institutions of psycho-social services for children.

### v. Protection from harmful and illegal materials online

Article 27 of the Law on the Rights and Protection of the Child provides for the protection of children from access to materials of harmful or illegal content on the internet. This article is extremely important as it establishes a duty of care for parents, legal guardians and any other persons in contact with children to protect them from access to harmful or illegal content online. It also provides for the obligation of entities providing online access to take protection measures to prevent children's access to such materials. This is important because for the first time it vests such obligations with the different actors of the online industry. However, there is difficulty in enforcing this article due to gaps in definitions. First, **the definition of harmful material is too general, making it difficult to identify what it encompasses and leaves space for individual discretion. Second, and most important, the above-mentioned gap in the definition of child pornography makes it difficult to identify what illegal materials are. As stated above definition gaps prevent effective enforcement of the legislation.** Nevertheless, the inclusion of such an article in the Albanian legislation for the first time is a positive step and

<sup>107</sup> Law no. 121/2016, 'On Social Care Services in the Republic of Albania'.

<sup>108</sup> Ibid., Article 10.

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demonstrates a will to tackle this issue. Having established the principle, legal amendments filling in the identified gaps ought easily to follow.

### **Reporting / Referral**

Referral of CSEA cases among child protection and other social services institutions is fundamental to promptly intervening and providing the necessary protection, assistance and support to the victims. As mentioned above, the Lanzarote Convention established in its Article 12 reporting obligations for all professionals working in contact with children and for the general public. The Albanian Law on the rights and protection of the child regulates reporting obligations of professionals and persons. Reporting referred to herein is different from the criminal reporting obligations covered under the specific section of the present report.

Article 67 of the Law on the Rights and Protection of the Child establishes the duty to report on the following categories:

- i. Natural or legal persons possessing information on child abuse and exploitation have a duty to report to central institutions or local structures of child protection.
- ii. Public officials and private sector employees in contact with children have a duty to report to local structures of child protection.
- iii. Teachers and psycho-social service providers in schools have a duty to report to local education units or child protection structures.
- iv. Local education units have a duty to report to child protection structures.
- v. Health and child-care employees and officials have a duty to report to the director of the institution and child protection structures.



### **Helplines**

The Lanzarote Convention was the first international convention to introduce a disposition on helplines through Article 13, which provides that states should ‘encourage and support’ the setting up of information services for children, including through telephone and internet helplines providing advice to callers under the condition of confidentiality and anonymity. It should be noted that the CRC Committee has already recommended Albania on the availability of such lines 24/7. The Law on the Rights and Protection of the Child reflects this recommendation and, through its Article 68, establishes the obligation of making available a toll-free telephone line for children with a number widely publicised. This Hotline is required to verify and refer reported cases to the child protection institutions. Differently from the recommendation of the CRC Committee it is not established in the law that this number should be available 24/7. Nevertheless, the fact that the law requires its establishment makes Albania conform to international requirements on this issue.

## REMEDIES, COMPLAINTS AND ARRANGEMENTS



### KEY FINDINGS

-  There is no preferential channel for CSEA victims in Albania to receive compensatory damages. However, there is a preferential channel for them to obtain free legal aid, also during civil procedures for damages, and to be exempt from court fees and costs. Such a system of remedies has due regard for children rights to make it conform to the international principle.
-  Requests for civil damages raised within the criminal proceedings are mainly rejected by the criminal courts. This practice is still under-developed in Albania and there is no preferential channel for CSEA victims.

There are no particular standards under the international legislation on specific remedies, complaints and arrangements for CSEA victims. The only international convention that briefly mentions remedies is the OPSC with its Article 9 (4), providing the general principle that child victims should have access to adequate procedures to seek compensation for damages. Several laws regulate the general system of remedies and complaints in Albania providing specific treatment for children within the general regime.



### Remedies

As with other victims, CSEA victims are entitled to civil damage remedies. The action for damages might be raised in two ways: by filing a civil lawsuit for damages in a civil court, and by filing a civil lawsuit for damages during criminal proceedings in a criminal court.<sup>109</sup> However, civil damage requests in criminal proceedings have been mainly rejected, and, therefore, this practice is still under-developed in Albania. There is no preferential channel for CSEA victims in this regard. The only specific provision related to damages is Article 45 of the CJCC, which provides that child victims of criminal offences and their representatives shall be informed of their right to compensation for damages.



### Access to justice

Another issue for victims of crime is access to justice. It might be impaired due to judicial expenses which are twofold: lawyer fees and court fees. The Legal Aid Law<sup>110</sup> provides some mechanisms in order to facilitate access to justice. Secondary legal aid<sup>111</sup> consisting of free legal assistance during court proceedings: civil, criminal, and administrative and exemption from court

<sup>109</sup> Pursuant to Article 61 of the Criminal Procedure Code.

<sup>110</sup> Law no. 111/2017 "On legal aid guaranteed by the state".

<sup>111</sup> Ibid., Article 3 (c).

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fees and costs,<sup>112</sup> that include the lawsuit tax,<sup>113</sup> expert costs, execution orders fees, etc. These fees and costs might be very relevant, especially in damages claims, preventing citizens with limited financial means to file damages lawsuits. Pursuant to Articles 11 and 25, both children and sexual abuse victims fall within the special categories of the beneficiaries of the law who do not need to demonstrate lack of financial capability in order to benefit from the above legal aid services.

### 6.1.3 INTERNET INDUSTRY

*Several issues are covered by the MNR under the Industry Pillar. These include notice and take down procedures, CSEA reporting obligations, competences of authorities over the ICT industry, and liability of ISPs. In this section, the Albanian legislation on the online industry is analysed and compared to international standards in order to identify gaps and inconsistencies.*

The Internet Industry section specifically addresses the following: the liability regime of ISPs (mere conduits, and caching and hosting) for CSEAM circulating in their networks, the notice and take down procedures of online CSEAM, and the reporting obligations of ISPs for CSEAM circulating in their networks.

The CRC, the OPSC, the Lanzarote Convention and the Budapest Convention, due to their scope, do not address ISPs. In fact, the first three are child protection conventions and the last regulates cybercrime and the collection of evidence, not ISPs. For these reasons, the identification of credible international standards on such issues was made possible through EU legislation and, specifically, EU Directive 2001/31/EC (e-Commerce Directive) and Commission Recommendation (EU) 2018/334.<sup>114</sup> All these issues are partially addressed in Albania through the laws on Electronic Communication<sup>115</sup> and Electronic Trade.<sup>116</sup> The following provides an analysis of the current international standards and the conformity to them of the Albanian legislation.

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112 Law no. 111/2017 “On legal aid guaranteed by the state”, Article 3 (h), (j) and (k).

113 The lawsuit tax is a percentage of the required monetary amount to be paid to the court administration when depositing the lawsuit. This tax was set at 1% of the required amount. With Law 98/2017 on judicial tariffs the lawsuit tax is expected to change but the sub-legal acts that will set the new percentage are not yet approved. Thus, uncertainty remains.

114 The lawsuit tax is a percentage of the required monetary amount to be paid to the court administration when depositing the lawsuit. This tax was set at 1% of the required amount. With Law 98/2017 on judicial tariffs the lawsuit tax is expected to change but the sub-legal acts that will set the new percentage are not yet approved. Thus, uncertainty remains. 114 Commission Recommendation (EU) 2018/334 of 1 March 2018 ‘On measures to effectively tackle illegal content online’ (Recommendation 2018/334).



115 Commission Recommendation (EU) 2018/334 of 1 March 2018 ‘On measures to effectively tackle illegal content online’ (Recommendation 2018/334). 115 Law no. 9918, dated 19.05.2008 “On electronic communications in the Republic of Albania”

116 Law no. 10128, dated 11.5.2009 “On electronic trade”.

## LIABILITY REGIME OF INTERMEDIARY SERVICE PROVIDERS



### KEY FINDINGS

-  Pursuant to the e-Commerce Directive ISPs are under a limited liability regime. More specifically:
  - Mere Conduit ISPs will be held liable only if it is demonstrated that they control the content of information by initiating its transmission, selecting the recipient of the information or selecting or modifying the information during transmission.
  - Caching ISPs will be held liable only if it is demonstrated that they control the content of information by modifying the information, interfering with the information, not removing information removed at the source or not removing information following the competent authority's order.
  - Hosting ISPs will be held liable only if it is demonstrated that they have knowledge on the illegal content of the information and do not remove it or disable access to it.
-  Having transposed the e-Commerce Directive through the Electronic Trade Law, Albania fully complies with this limited liability regime of ISPs.

The concept of service providers is defined under Article 1 (c) of the Budapest Convention as '*any public or private entity that provides its service users with the ability to communicate by means of a computer system, and any other entity that processes or stores computer data on behalf of such communication service or users of such service*'. This definition is rather broad and technical and includes a variety of operators exercising their activity in the ICT sector. Moreover, the Budapest Convention does not further elaborate upon service providers and does not directly address their liability in terms of online CSEA offences. No other disposition of the above-mentioned conventions deals with liability, criminal or other, of service providers.

For the above reasons, reference to the e-Commerce Directive is compulsory. This directive was born out of the necessity raised by the European Commission<sup>117</sup> to regulate the Information Society and the legal uncertainty within EU Member States regarding the liability regimes of information society service providers when they act as 'intermediaries' (i.e. the ISPs).<sup>118</sup>

In Albania, the Electronic Trade Law, approximated with the e-Commerce Directive, regulates the liability of ISPs. There are three types of ISPs

<sup>117</sup> DLA Piper, , November 2009, p. 6.

<sup>118</sup> Commission Proposal for a European Parliament and Council Directive on certain legal aspects of electronic commerce in the internal market, COM (1998) 586 final, 18 November 1998, p. 12.

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regulated under the e-Commerce Directive and the Electronic Trade Law: 1) mere conduit, 2) caching, and 3) hosting. Each of these operators have their own particularity and are subject to the liability regime laid out below.

### Mere Conduit ISPs

Article 12 of the e-Commerce Directive regulates ISPs offering the following services: transmission of information provided by another person (service recipient) in a communication network or access to a communication network. A limited liability regime applies to 'mere conduit' operators pursuant to Article 12 of the e-Commerce Directive. 'Mere conduit' ISPs are not liable for the information transmitted when:

- i. The transmission is not initiated by the ISP.
- ii. The recipient of the transmission is not selected by the ISP.
- iii. The information contained in the transmission is not selected or modified during the transmission.

Article 15 of the Albanian Electronic Trade Law also regulates 'mere conduit' service providers. **It basically transposes the exact text of Article 12 of the e-Commerce Directive in terms of defining the operator and the liability regime applicable to mere conduit ISPs.**

### Caching ISPs

Article 13 of the e-Commerce Directive regulates ISPs offering the service of 'temporarily and automatically storing data' in order to make the onward transmission of the information more efficient.<sup>119</sup> The typical 'caching' ISP is the 'proxy server'.<sup>120</sup> Pursuant to Article 13 of the e-Commerce Directive 'caching' ISPs will not be held liable when they:

- i. do not modify the information;
- ii. comply with conditions on access to information;
- iii. comply with rules related to information updating;
- iv. do not interfere with the lawful use of technology;
- v. act expeditiously to remove or to disable access to the stored information when information at the source has been removed or disabled;
- vi. act expeditiously to remove or to disable access to the stored information when a court or administrative authority has ordered removal or disablement.

Article 16 of the Albanian Electronic Trade Law also regulates 'caching', or the temporary preservation of information. **It transposes the exact text of Article 13 of the e-Commerce Directive**, except for its paragraph 2, related to reporting obligations, which is treated in a separate article common for all ISPs.

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<sup>119</sup> DLA Piper, *EU study on the Legal analysis of a Single Market for the Information Society, Liability of Intermediaries*, November 2009, p. 7.

<sup>120</sup> Ibid.



## Hosting ISPs

Article 14 of the e-Commerce Directive regulates ISPs offering the service of storage of the information generated by a recipient of the service. The storage of 'hosting' ISPs is not limited in time. Regulation of 'hosting' ISPs is very important because they include some social media platforms that might be used in online CSEA offences. Some famous examples of 'hosting' ISPs include social media pages (Facebook, MySpace, Instagram, etc.), search engines (Google, Yahoo, Wikipedia, etc.), video-sharing platforms (e.g. YouTube), and website hosting platforms and similar arrangements in the online space.

In terms of liability, Article 14 of the e-Commerce Directive establishes the standard that hosting ISPs will not be liable for the content stored by service recipients on their platforms when they:

- i. do not have actual knowledge of illegal activity or information;
- ii. are not aware of the facts or circumstances from which illegal activity is apparent; and
- iii. act expeditiously upon obtaining the knowledge or awareness to remove or to disable access to the information.




Article 17 of the Albanian Electronic Trade Law regulates 'hosting' ISPs. **It basically transposes the limited liability regime provided for in Article 14 of the e-Commerce Directive.**

However, the Electronic Trade Law, specifically its Article 18, introduces a provision not found in the e-Commerce directive. It deals with what seems as another type of ISP identified as a provider that uses electronic means to create access to information for third parties. This service provider is also exempted from liability when it does not have, or could not have, knowledge of the illegal activity, or it removes or disables access to the information upon obtaining knowledge of the fact of illegal activity, or of such data.

## NOTICE AND TAKE DOWN AND BLOCKING PROCEDURES



### KEY FINDINGS

-  In Albania there are no binding norms or self-regulatory norms addressing notice procedures.
-  Take down and blocking procedures are important for the removal of CSEA and for prevention of online CSEA offences. However, the area is still developing, both internationally and nationally.
-  The Albanian competent authorities that request blocking or removal of CSEAM from ISPs are the Court or Prosecution, acting according to the CPC.



- ☁ The legislation dealing with ISPs is vague in terms of vesting administrative authorities with blocking or removing competences. This prevents such authorities from clearly understanding their role and functions and from having the mechanisms to exercise them. Clear legislation in terms of exact competences and procedures of administrative authorities in this area is needed.
- ☁ Article 27 of the Law on the Rights and Protection of the Child has introduced the principle of blocking access to harmful or illegal materials. However, the disposition does not specify neither the blocking procedure nor the competent authority to perform it.

### ☀ Notice procedures

Notice procedures are specific procedures for the notification by ISPs of illegal materials and activities performed with their services. Having in place official notice procedures might help engage the liability of ISPs and their obligation to promptly remove or disable the illegal materials and activities. Notice procedures are important for online CSEA activities and can be used as a tool for the prompt removal or disabling of online CSEA materials.

Unfortunately, notice and take down procedures are not regulated under conventions or binding EU legislation. The EU Commission Recommendation 2018/334 provides detailed guidelines on notice procedures that could be adopted by states and ISPs interested in addressing the matter. However, this recommendation, being a soft law instrument is not binding.

EU Commission Recommendation 2018/334 provides for the following standards in terms of notice procedures:

- Notice submission mechanisms** should be easy to access, user-friendly and allow submission by electronic means.
- Cooperation between hosting ISPs and States** should take place through designated points of contact and fast-track procedures for processing notices.<sup>121</sup>
- Trusted flaggers** with the necessary expertise and selected pursuant to objective criteria should be identified and cooperate with hosting ISPs to submit notices of illegal content online through fast-track procedures.<sup>122</sup>
- Cooperation between hosting ISPs** should exist and take place by sharing experiences, ICT solutions and best practices, development of code of conducts and entering into MoUs and other voluntary arrangements.<sup>123</sup>

<sup>121</sup> Commission Recommendation (EU) 2018/334 of 1 March 2018 'On measures to effectively tackle illegal content online', Chapter II, par. 22, 23.

<sup>122</sup> Ibid., par. 25.

<sup>123</sup> Ibid., par. 28.

It is noteworthy that in the priority area of terrorism there are some additional and specific notice procedures that provide for more accurate and faster mechanisms. These are mentioned in the EU Commission Recommendation 2018/334 and consist of the following:

- i. **Identification of terrorist content** through sufficient resources to State authorities to detect and identify terrorist content and submit referrals to the hosting ISPs, fast-track procedures for processing referrals, and remove or disable content within one hour by hosting ISPs.<sup>124</sup>
- ii. **Proactive measures** by hosting ISPs, including automated means to detect, identify and expeditiously remove or disable access to terrorist content and prevent re-submission of such content.<sup>125</sup>
- iii. **Cooperation** among hosting ISPs through sharing and optimisation of effective ICT tools, including tools for automated detection and for capturing all formats of dissemination of terrorist content.

Considering that online CSEA is becoming an emergency issue, similarly to terrorism, it might be wise to apply terrorism notice procedures for tackling also online CSEA. However, **there are no notice procedures to be found in the Albanian legislation in other regulatory acts or code of conducts of ISPs. As a result, this whole area remains uncovered by specific legal dispositions.**

### Take down procedures

Take down procedures enable ISPs to take down illegal material from their networks and platforms. However, the international legislation on these procedures is still vague and general. No clear and technical procedures are included in the above-mentioned international conventions, EU legislation and soft law instruments. Nevertheless, some of these acts do provide general standards on take down procedures:

- i. **Budapest Convention** regulates, through its Article 19 (3), seizure of stored computer data. It provides that state authorities should be competent to make inaccessible or remove computer data from an accessed computer system. This specific requirement might be included under the notion of take down procedures.
- ii. **e-Commerce Directive** establishes, through its Article 14 regulating the liability of hosting ISPs, that States can adopt procedures governing the removal or disabling of access to information. It does not elaborate further on the characteristics of such removal measures and does not provide any specific procedures.
- iii. **Directive 2011/92/EU** addresses CSEA offences. It also establishes for the first time in clear terms the obligation to take down or remove illegal materials through its Article 25 providing for measures against websites containing or disseminating child pornography. It vests

124 Ibid., par. 32–35.

125 Ibid., par. 36, 37.

authorities with the competence to: (a) ensure prompt removal of web pages containing or disseminating child pornography hosted in their territory; (b) try to obtain the removal of such pages hosted outside of their territory; (c) block access to web pages containing or disseminating child pornography to internet users within their territory. It does not provide more details on the nature of such measures and procedures. However, the article is important since it is the first time take down procedures are namely regulated.

Take down procedures are not expressly regulated by the Albanian legislation but the obligation to take down illegal materials might be indirectly derived from the dispositions on the liability of ISPs contained in the Electronic Trade Law. More specifically, in order to be exempted from liability:

- i. **Caching** ISPs should act expeditiously to remove or disable access to information when there is a court or an administrative authority order on such removal or disablement. So far, there is no administrative authority vested by the law has the competence to order such a removal in Albania. The competent authority to do so is the Court which issues an order upon request of the prosecutor.
- ii. **Hosting** ISPs should act expeditiously, on their own motion, to remove or disable access to information upon obtaining intelligence on illegal activity or illegal content. The same obligation stands on another type of service provider defined in Article 18 of the Electronic Communication Law. So far, there is no administrative authority vested by law with the competence to order such a removal in Albania. The competent authority to do so is the Court which issues an order upon request of the prosecutor.
- iii. **Mere conduit** ISPs are obliged to terminate or prevent an infringement if this is required by the court or competent authorities. Mere conduit ISPs are the electronic communication networks. Pursuant to Article 15 (e) of the Electronic Communications Law when exercising their activities *mere conduit ISPs are obliged to respect limitations related to illegal or harmful materials*. **The legal disposition is vague in terms of defining what these limitations are. It is also impaired by the existing gaps in definitions of harmful and illegal materials in Albania. A clearer legal disposition determining the obligations of mere conduit ISPs with regard to CSEAM and the clear competences of Authority of Electronic and Postal Communications (AEPC) is needed.**



### Block access to CSEAM

The opportunity to request the blocking of access to materials with harmful or illegal content is provided for in Article 27 of the Law on the Rights and Protection of the Child, but the disposition is vague in terms of establishing

**the blocking procedure and the administrative authority competent to perform such blocking.** The SARPC, however has the power to request the blocking from a competent authority, recalling the law on cybersecurity, but the competent authority is not well defined.

The Law on Cybersecurity does not provide to the regulatory authority—National Authority for Electronic Certification and Cyber Security (NAECCS)—the competence in terms of take down procedures. However, through Decision of the Council of Ministers (DCM) no. 141, dated 22.2.2017—a sub-legal act establishing the authority—NAECCS is assigned the duty to *establish, administer and maintain the unique online system for the publication of web pages with illegal content*. These web pages are to be identified by public authorities, without specifying which ones, and officially sent to NAECCS, which will enable these authorities to access the ‘Unique System’ and publish the web pages with the aim of shutting them down. **The DCM does not identify the authority responsible for effectively blocking access to these web pages.** Nevertheless, establishing such a system is a positive step forward and will result in a useful tool. **This is the reason that clarification of the system in legal terms is most important. It can identify the competent authority for technically performing such a blocking procedure, which might naturally be NAECCS, the institution already vested with the competence of administering the ‘Unique System’.**

## REPORTING OBLIGATIONS



### KEY FINDINGS

- ☁ Albania conforms to the EU policy of the ‘no general obligation to monitor’ but obliges ISPs to promptly notify the responsible authorities of the presence of illegal information.
- ☁ In addition to reporting obligation, ISPs in Albania are also obliged to submit to the competent organs, upon their request, all information enabling identification of the receiver of their services. Because the article does not define a responsible or competent authority, as the legal situation currently stands, such authority is the police / prosecution.

The Lanzarote Convention deals with the general reporting obligations of some professionals working in sectors dealing with children. The online industry is not expressly included under that article. However, reporting obligations of the general public<sup>126</sup> are also applicable to officials of the online industry. Nevertheless, this obligation is too vague and does not address the specificity of the online industry. In fact, this industry should have in place specifically designed reporting obligations conforming to the nature of their activity.

<sup>126</sup> Article 12/2 of the Lanzarote Convention.

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So far, the only disposition regulating reporting obligations of the service providers is Article 15 of the e-Commerce Directive which provides the following standards:

- i. **No general obligation to monitor:** States are prohibited from imposing on ISPs a general obligation to monitor or actively seek (investigate) facts or circumstances indicating illegal activity in the data transmitted or stored by them. This is due to the fact that data monitoring is such a delicate issue with implications for constitutional rights such as the principles of right to privacy, freedom of speech and the rule of law.
- ii. **Promptly inform and report:** It is allowed for States to oblige service providers to promptly inform competent authorities of alleged illegal activities or information.

With regard to Albania, Article 20 of the Electronic Trade Law also introduces the 'no general obligation to monitor' of ISPs as provided for in Article 15 of the e-Commerce Directive. **It basically reproduces the wording of the directive.**

Meanwhile, Article 20 (2) of the Electronic Trade Law establishes the obligation of the ISPs to promptly notify the responsible authorities if there is reasonable suspicion that service users are conducting illegal activities or have submitted illegal information. **Therefore, Albania conforms to the full extension of the international standard. Article 20 is the first in the Albanian legislation introducing an obligation to report for the ISPs.**

**Article 20 (3) establishes that, in addition to reporting obligation, ISPs also are obliged to submit to the competent organs, upon their request, all information enabling identification of the receiver of the services. These articles lack the indication of the responsible or competent authority, which as the situation currently stands is the police/prosecution.**

#### 6.1.4 MEDIA AND COMMUNICATION

*The MNR includes under the Media and Communication Pillar ethical media reporting, consisting of the obligation to protect privacy when reporting on CSEA issues and to protect children from traumatic reporting. Under this section, the Albanian legislation on media reporting is analysed and compared to the international standards in order to identify gaps and inconsistencies.*



## KEY FINDINGS



Several laws protect the privacy of the child in Albania, including The Law on the Rights and Protection of the Child, the CJCC and the Law on Audio-Visual Media. In addition, the Code for the Audio-Visual media provides detailed rules on ethical media reporting regarding children. Hence, in terms of legislation, Albania conforms to the international principles on ethical media reporting.

Protection of child privacy is of significant importance and is highlighted under several provisions of the above-mentioned international conventions. Article 17 (e) of the CRC requires the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being. Article 9 (3) of the Lanzarote Convention provides that media should be encouraged to provide appropriate information concerning all aspects of CSEA. Meanwhile, Article 31 (1) (e) of the Lanzarote Convention, dedicated to the protection of victims during criminal proceedings, establishes that necessary legislative and other measures should be in place to protect the privacy, identity and image of CSEA victims and to prevent public dissemination of any information that could lead to their identification.

Ethical media and protection of privacy are addressed by the Albanian legislation. The Law on Audio-Visual Media<sup>127</sup> is the only law regulating media in Albania. The law on press<sup>128</sup> comprises a single Article 1 establishing that *the press is free, and freedom of the press is protected by law*.

The Law on Audio and Audio-Visual Media Services, does not apply to either the written press or hosting ISPs such as video-sharing platforms (YouTube, IG video, etc.), and does not extensively address children's rights. A detailed regulation of ethical media regarding children is provided in the Transmission Code for the Audio-Visual media, which is binding for the audio-visual media operators and has some important dispositions regarding the protection of children. The principle of the best interests of the child applies and very detailed reporting rules in order to protect the privacy of children are enclosed in a specific section of the code, in Section 5.

In this regard, Article 17 of the Law on the Rights and Protection of the Child might be complementary due to the provision of its paragraph 7, according to which *Audio-visual broadcasters shall be held responsible in the cases of infringement of the freedoms and rights of the child during the broadcasting of their programmes....* In addition, the CJCC<sup>129</sup> establishes the protection of the privacy of the child at any stage of the criminal proceedings and expressly prohibits the publishing of information that may disclose the identity of the child and the identification or publication, in any form, of personal data on the child. This disposition reinforces the already existing disposition of the Law on Audio-Visual Media.

127 Law No. 97/2013 "On audio-visual media in the Republic of Albania".

128 Law no. 7756, dated 11.10.1993, 'On the Press'.

129 Article 21 of CJCC.

## 6.2 INSTITUTIONAL RESPONSE TO CSEA AND HUMAN RESOURCES

The aim of this part of the assessment is to assess the extent to which the institutional systems, the established procedural mechanisms and available human resources are able to implement the child protection policy and legal framework relevant to online CSEA.

In the following findings, for each of the evaluated components of the system, the responsible institutions are first presented along with the roles and functions provided for in the Albanian legislation followed by the institutional response and the human capacities identified in practice. The detailed assessment of the institutional response is visually summarized in Annex 6 which contains the institutional response graphic.

### 6.2.1 POLICY AND GOVERNANCE

The #WePROTECT Model National Response addresses under the Policy and Governance Pillar two main issues: Leadership, and Research, Analysis and Monitoring.

#### LEADERSHIP<sup>130</sup>

*Under the Leadership Pillar, international standards<sup>131</sup> call for the creation of a special unit at the senior governmental level, reporting directly to the prime minister, the president or a cabinet committee on children. This special unit should be vested with the competences of developing a comprehensive child strategy, monitoring its implementation and ensuring coordination at all levels. In addition, the establishment of an independent national or local institution for promotion and protection of children rights with specific resources and competences is required.*



## KEY FINDINGS

- Albanian legislation and policies have defined the institutions that should exercise the leadership functions. These include the Ministry of Health and Social Protection, in charge of coordination of child protection issues, and the National Council on the Rights and Protection of the Child, a consultative body in charge of coordinating policies that require multi-sectorial intervention.
- However, there is a lack of clear leadership. In practice, neither the ministry nor the national council exercise a specific coordinating role for online child safety issues.

<sup>130</sup> With regard to leadership, the MNR suggests the establishment of a national body that could comprise senior level representation from: relevant government departments (such as in ministries of Interior, Justice, Education, Health, Telecommunications, and Social Welfare, e.g. Children's Services); law enforcement; judiciary, non-governmental organisations; technology (ICT industry) and other relevant industry sectors (such as tourism); faith-based organisations; and other specialised agencies working on CSEA and VAC. The body could be responsible for mobilising and coordinating the national response to CSEA, and for identifying and promoting actions to address identified gaps.

<sup>131</sup> Provided in Annex 4 of the present report.



- ☁ There is no acting cross-sector national body for bringing together and coordinating the activities of all those with the responsibility to protect children from online violence, abuse and exploitation. Even though foreseen in the National Action Plan for Online Safety, a coordinating technical committee under the national council has not yet been set up.
- ☁ Based on the interviews, institutions do not clearly understand each other's roles and functions. Generally they recognise the roles and functions of a few institutions with which they interact more.

### ☁ Responsible institutions in the context of the Albanian legislation

In the context of the Albanian legislation, as determined by the Law on the Rights and Protection of the Child, a few institutions are vested with exercising the following functions: (1) The Minister of Health and Social Protection in coordinating the protection of children's rights, is the lead authority on child protection issues. The minister has important policy-making, monitoring and coordination functions on children's rights. (2) Other ministers, within their fields of competence, have policy functions related to children's rights. (3) The National Council for the Rights and Protection of Children (NCRPC) is designed as a consultative body whose main functions are to provide consultancy, coordinate state policies for children's rights and provide support to the minister coordinating the protection of children's rights.

### ☁ Leadership in practice

The National Agenda for Children's Rights 2017–2020 (NACR) includes the objective of protecting children in the electronic and digital environment within the strategic priority of eliminating all forms of violence against children. It is important that NACR establishes an integrated and effective child protection system through a significantly improved legal and institutional framework, which will also assist the current response to online child safety. The National Agenda essentially expresses the priorities of state institutions in the field of children's rights, and, at the same time, has unified the monitoring of the progress of the government towards a respect for children's rights in all relevant sectors. The agenda provides a very good opportunity for coordinating the efforts of various institutions on child safety issues through concrete measures. Clearly, it has combined the response (action) with other strategic documents, including the 2015–2020 Digital Agenda. The latter, as part of objective 6, Safe Information Networks and Systems, has envisaged: awareness-raising campaigns on the danger of cybercrime; establishment of an awareness portal focusing on computer safety, children on the internet, business, computer security issues and articles; and awareness-raising campaigns in ICT departments of universities in the form of open lectures and workshops.

The experiences from the formulation and implementation of legislation and policies suggest that MNR requires a national coordinating body. In practice, no acting multi-sector national body for bringing together and coordinating the activities of all those responsible for the protection of children from online violence, abuse and exploitation has been identified. The Ministry of Health and



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Social Protection has a coordinating mandate, but neither it nor the NCRPC exercises a specific coordinating role for online child safety issues. DCM no. 54, dated 31.01.2018 'On the Rules of Functioning of the National Council for the Rights and Protection of the Child' regulates the functioning of NCRPC and makes it mandatory for the Council<sup>132</sup> to discuss the implementation report of NACR 2017–2020, plan activities and the budget for implementation of the agenda, with financing from the state budget and other donor resources. **In practice, the NCRPC has not yet discussed the agenda components related to online child safety. Meanwhile, it has the right to set up technical advisory committees on specific issues, but in practice no such committee for CSEA issues has been established.**

Pursuant to the cooperation agreement between four ministries, 'On child online security in Albania', of February 2016, three deputy ministers<sup>133</sup>—Education, Interior, and Health and Social Protection—co-signed the 2018–2020 Action Plan on Safe internet for Children in Albania. The plan foresees coordinated actions between public and non-public actors in meeting four strategic objectives: 1) enhancing child safety on the internet through strengthening national and local capacities, 2) strengthening the legal framework and policies for online child safety, 3) strengthening the partnership between all public and non-public actors, and 4) awareness raising and the provision of information on online safety of children. From the perspective of leadership, this agreement provides for the three ministries to propose the establishment of an Advisory Technical Committee on Child Safety on the internet at NCRPC. This Committee will be composed of one representative from each ministry signatory to this agreement, one member each from the State Agency for the Rights and Protection of the Child (SARPC), the State Police, the National Authority for Electronic Certification and Cyber Security (NAECCS), the Authority of Electronic and Postal Communications (AECPC), etc. Members of the committee can be from any civil society organisation, public institution, telecommunications company, etc. The establishment of the Technical Advisory Committee in principle fills the currently existing gap regarding a unit whose purpose is to mobilise and coordinate the national response to CSEA, as well as to identify and promote the action for addressing the gaps identified. Nevertheless, such a committee has not yet been established.

The interviewed employees from national institutions gave a range of replies to the question on the existence of a national coordinating body, that brings together and coordinate the activities of all those with the responsibility to protect children from online violence, abuse and exploitation. Some of them identified SARPC as the national institution with a coordinating role on this issue, and others said that there was no such unit.

Based on the interviews, institutions do not clearly understand each other's roles and functions, though generally they recognise the roles and functions of the few institutions with which they interact more.<sup>134</sup>

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132 Chapter 3 "Council Meetings" Article 3.5

133 Ministry of Innovation, one of the signatory ministries of the February 2018 agreement, no longer exists in the government created after the 2017 general elections.

134 Annex 6 of the present report provides a chart demonstrating the interaction among the various stakeholders with regard to (1) CSEA online reporting, (2) investigation and punishment of offenders, (3) take down procedures, and (4) end-to-end support for the victims of online CSEA.

## RESEARCH, ANALYSIS, MONITORING<sup>135</sup>

*Under the Research, Analysis and Monitoring Pillar, the international standard<sup>136</sup> requires the existence of a national situational analysis of CSEA risk and response, and the identification of measurements and indicators. It also establishes the necessity for a continuous process of child impact assessment, the collection of sufficient and reliable disaggregated data on children, covering 0–18-year-olds, and cooperation with research institutions and the use of qualitative and quantitative data.*



## KEY FINDINGS



There are no specific data currently collected and consequently published/made available regarding online CSEA, mainly due to the following barriers:

- To date, there have been no dedicated technical discussions among the relevant actors to agree on measuring CSEA risks and responses since this is a new emerging field of targeted work.
- Overall, child monitoring systems/mechanisms and capacities are weak in the country, even when it comes to measuring and reporting on other child protection components.



### Responsible institutions in the context of the Albanian legislation

Based on various legislative acts, several institutions bear roles and responsibilities in collecting and producing data/indicators on CSEA. The national institution vested with the general competence of collecting, processing, producing and administering official statistics is the National Institute of Statistics (INSTAT). According to the Law on the Rights and Protection of the Child, both a) the Minister coordinating the protection of children's rights (Minister of Health and Social Protection) is responsible for the analysis of data from statistical and other reports with the aim of using such analysis to inform policies for children; and b) SARPC is responsible for assembling and publishing of data/indicators on child protection and other areas of children's rights at national level. The Ministry of Justice, in conformity with Articles 136 and 137 of the Criminal Justice Code for Children, is responsible for the administration of the database of criminal justice for children.



### Research, analysis and monitoring in practice

Official statistics are produced by INSTAT relying on two categories of data sources: survey (managed by INSTAT), and administrative data (shared by

<sup>135</sup> The Model National Response (MNR) suggests that response to CSEA can be achieved through robust research, regular monitoring and evaluation.

<sup>136</sup> Provided in Annex 4 of the present report.

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national institutions, being the primary collectors/managers of the data). Data on CSEA are presently not part of any surveys of INSTAT, either are any of such data/indicators reported to INSTAT from other institutions. Moreover, there are no clear plans by INSTAT to do differently in the near future.

Situation analysis of children in Albania, produced by MHSP and SARPC, are neither regular nor comprehensive. They focus mostly in reporting commitments undertaken by different stakeholders, rather than presenting the situation on different child rights' matters/components, such as CSEA. This mostly relates to limited human and technical capacities at both institutions to dedicate efforts in such exercises. In addition, the subject matter is recognized as new, and agreement on measurement or scope of any analysis would require the collaboration among several actors.

Even, the latest DCM (no. 623, date 26.10.2018)<sup>137</sup> that establishes the statistical child rights monitoring does not specifically *include any indicators related to online CSEA*. However, an opportunity sits there to bring into light data, presently recorded by the Child Protection Units, on cases of children reporting online violence. With the leadership of SARPC, this data could be identified by each unit and reported at national level.

According to Article 136 of the Criminal Justice Code for Children, a criminal justice database for minors should be established with the aim of creating an integrated system of data collection for minors. The system should be managed by the Ministry of Justice<sup>138</sup> and all officials with a role in criminal proceedings (e.g. prosecutors, judicial police) have the right to access the system and insert data in their possession. However, the system is not yet established, and the sub-legal acts still not approved.

Due to the above status of data collection and processing no research, analysis or monitoring activity was identified which was performed by the state institutions with regards to CSEA online.

## 6.2.2 CRIMINAL JUSTICE

The #WePROTECT MNR addresses under the Criminal Justice Pillar issues such as dedicated law enforcement, child-focused judiciary and prosecution, and access to image databases.

### DEDICATED LAW ENFORCEMENT AND PROSECUTION<sup>139</sup>

*With regard to dedicated law enforcement and prosecution, the international standards<sup>140</sup> call for:*

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<sup>137</sup> <http://femijet.gov.al/wp-content/uploads/2019/01/VKM-nr.-636-date-26.10.2018.pdf>

<sup>138</sup> Article 137, Criminal Justice Code for Children.

<sup>139</sup> MNR stresses the need for: (1) law enforcement officers to have the knowledge, skills, systems, tools and resources required to enable them to deliver the functions detailed above, leading to positive judicial outcomes; (2) working through a multi-stakeholder approach, which means that the law enforcement officers understand the role of the child protection workforce and NGOs in enhancing the support provided to victims during and after CSEA investigations. They involve child protection professionals in the investigation to ensure that their work always remains child-focused and their investigations are undertaken using leading practice child protection principles.

<sup>140</sup> Provided in Annex 4 of the present report.

**Opportunity:**

The Ministry of Interior has increased by 30 percent its budget on information technology and remains willing to increase this budget to face the challenges of cybercrime.

The ministry is considering prioritising reform of the Security Academy as a way of increasing capacities through training and will make the continuous training of online security practitioners compulsory.

*specialised and trained units or persons in combating CSEA; adequate financial resources for specialised CSEA units and persons; investigation treated as priority without unjustified delay; effective investigation; covert operations; access to child pornography to identify victims; investigation and available procedures and support services; child-friendly interviews; the right to be heard and supply evidence; access to safety and protection of privacy; access to free legal aid; provision of specific training on information technology and collection of electronic evidence; and assurance of psychological training of law enforcement bodies.*



## KEY FINDINGS

- ☁ The Cybercrime unit of the State Police has undertaken several capacity building programmes, mostly donor-driven, to investigate cases of online CSEA, while there is lack of an in-house system for passing on specialised skills in this area.
- ☁ The Cybercrime unit of the State Police, reports a lack of proper infrastructure and lack of a website surveillance hampering their ability to start ex officio and proactive investigations. Afraid that covert operations might be considered as ‘agent provocateur’<sup>141</sup> the police do not undertake them. This barrier should be addressed through adequate training, standard procedures and technical tools.
- ☁ Lack of coordination between the cybercrime investigation unit of the police and other parts of the child protection system might deprive the victim from receiving other services to which they are entitled.
- ☁ Prosecutors report a need for training on information technology and collection of electronic evidence;
- ☁ Investigations of online CSEA are also hampered by the lack of rapid response by ISPs to the prosecution’s requests, difficulties in identifying the IP address of alleged offenders, as well as a lack of technical infrastructure for the prosecution such as equipment and interviewing facilities.

### ☁ Responsible institutions in the context of the Albanian legislation<sup>141</sup>

The police and prosecution are the investigation authorities in the Republic of Albania vested with specific competences. Both are competent to receive at their own initiative, or from reporting of third parties, notice of criminal

<sup>141</sup> For the concept of ‘agent provocateur’ please refer to section Criminal Justice, on Investigation Techniques.

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offences. Both are legally responsible to start *ex officio* investigation of those crimes for which the prosecution does not require criminal reporting. Most CSEA offences—except for Article 106 of the CC—are covered by obligation to *ex officio* investigation. When exercising their investigative functions both police and prosecutors are bound to respect the standards of child-friendly justice established by the CJCC. The prosecution, and the police when delegated by the former, also have some specific competences in terms of collection of evidence for cases of online CSEA.

### **Dedicated law enforcement and prosecution in practice**

Increasing the effectiveness of the investigation into cybercrime is part of the strategic objectives of both the State Police and the Prosecution Office. Specifically, two of the strategic objectives of the Cross-cutting Strategy for Combating Organised Crime, Illegal Trafficking and Terrorism 2013–2020 of the State Police are directly linked to the effective investigation of online CSEA, namely: 1) Improving the capacity of the Forensic Police to examine the evidence, and 2) Increasing the effectiveness of cybercrime structures. One of the indicators for this objective was a two percent increase by 2016 in the number of investigations on the abuse of minors on the internet.<sup>142</sup>

The General Prosecution's Medium-Term Strategy 2018–2020,<sup>143</sup> in pursuit of the objective of increasing the effectiveness of investigations has identified strengthening of the fight against cybercrime as one of its measures. In the Strategy there is no explicit reference to online safety for children, but measures are envisaged for substantially increasing the effectiveness of the investigation. Strengthening of the professional and logistical capacities of cybercrime investigation structures<sup>144</sup> and of cooperation with other state and private structures operating in the field of information technology are two of the measures envisaged. The Strategy also foresees improvement in the electronic infrastructure of prosecution offices.

#### **i. Specialised and trained units and persons**

Based on MNR, the presence of dedicated professional units and persons is important for ensuring that the reports of CSEA are collected, investigated and prosecuted effectively.

The General Police Directorate has set up and operates a cybercrime unit composed of ten specialists. With the exception of the Tirana Police Directorate, where there are two specialists trained and focused on cybercrime cases, in other police structures or police stations in the districts, there is no such specialised staff.

Citizens can report cybercrime online (on the website of the General Police Directorate at 'Report online cybercrime'), in the Police Directorate or Commissariat, or directly to the Cybercrime Unit at the General Police

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<sup>142</sup> The assessment team could not get hold of the information to check if the indicator was achieved.

<sup>143</sup> [http://www.pp.gov.al/web/strategjia\\_pp\\_2018\\_2020\\_final\\_1357.pdf](http://www.pp.gov.al/web/strategjia_pp_2018_2020_final_1357.pdf)

<sup>144</sup> Ibid, p. 12.

Directorate for cases outside of Tirana district. When a case is reported to the police station, it receives the evidence that is forwarded to the cybercrime unit at the General Directorate of Police, following which the victims may have to present themselves to the cybercrime unit in Tirana. If a case of child pornography is reported the Cybercrime Unit at the General Police Directorate, investigates the case. **It was identified a lack of coordination both within the police among the cybercrime unit and the child protection unit as well as among child protection workers and police officers at local level. This lack of coordination between the cybercrime unit and other parts of the child protection system might deprive the victim from receiving other services to which they are entitled.** No concrete cooperation was identified between the cybercrime unit and the child protection sector in the General Police Directorate. Such a lack of interaction is manifested in the procedures for investigating cases. The unit is specialised in investigating cybercrime, including online CSEA cases, and applies internal procedures for the investigations. **However, according to the interviews conducted, the cybercrime does not have procedures for ensuring the inclusion of child protection professionals in the investigation.** Based on the MNR, this procedure ensures that the police work always remains child-focused and that the investigations are undertaken using leading practices of child protection principles.<sup>145</sup>

The unit member officials report that they have been trained and specialised in social media, cybercrimes, child pornography, sexting, cyberbullying, grooming, and online games. The training has been provided mostly by the International Criminal Investigative Training Assistance Program (ICITAP), Police Assistance Mission of the European Community to Albania (PAMECA), Organisation for Security and Cooperation in Europe (OSCE), European Commission (EC) and the Federal Bureau of Investigations (FBI). However, **most of the specialist training in this area has been episodic and donor-driven, and there is a lack of an in-house system for passing on specialised skills.** The Police Academy delivers six lectures on cybercrime to front-office police officers responsible for receiving and despatching criminal reports. Whereas these lectures will be part of the compulsory training programme of the Police Academy, there is a need to assess the content and impact on knowledge and practice.

Since 2014, a Cybercrime Sector has been operating in the General Prosecutor's Office and consists of a chief of sector, prosecutor and an official of the Judiciary police. In the prosecution offices where interviews are conducted, sections for juveniles have been set up, though the number of prosecutors varies, with three prosecutors in Durrës, two in Fier, and three in Lushnje. **None of the prosecutors interviewed has had cases of online CSEA. They explained that, "There are no manuals or written procedures related to the investigation of cases of online CSEA." During the investigation the prosecutors refer to the criminal justice code for children and the criminal procedures code. They reported that they receive trainings on issues**

<sup>145</sup> WeProtect Global Alliance, *Preventing and Tackling Child Sexual Exploitation and Abuse (CSEA): A Model National Response*, November 2016, p. 9.



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**covering the new code on justice for children but no training in CSEA was reported.**

**ii. Adequate resources for specialised CSEA units and persons**

The evidence on cybercrime collected by the police structures is analysed by the Forensic Police Laboratory. It was reported in the interviews that this laboratory is equipped with the necessary infrastructure for performing good quality examinations.

According to Article 280 of the CPC, police have the competence to operate *ex officio*, at their own initiative, and start an investigation, but in practice this is not done due to the lack of proper infrastructure. The State Police do not have a centre for surveillance of websites with pornographic content of minors, as it lacks the necessary technical infrastructure.

From the interviews with prosecutors, the Criminal Justice Code for Children is assessed as being very relevant to juvenile protection but difficult to apply in practice, needing a large budget and plenty of structural adjustments. Appropriate facilities for juveniles in the prosecution premises have not yet been made, probably as a result of lack of funding, e.g., there is not enough equipment available for conducting interviews under the provisions of the new code.

**iii. Collection of evidence and investigation techniques**

Collection of evidence is fundamental for the prosecution but is extremely challenging in the case of cybercrime. Online CSEA offences present serious difficulties for the collection of evidence in Albania.

**During interviews, the cybercrime unit reported that in more than six years it has investigated 61 reported cases of child pornography, but that the investigations concluded that none of these were genuine cases of child pornography and were not considered as criminal offences.** Every case that has been reported was investigated by the police, who cooperate with AECP and ISP in the investigations. **Responses from the ISPs are generally delayed by more than a week, creating the conditions for the police to lose track of the abusers under investigation.**

The Cybercrime unit has received several trainings in case investigation. The two cases investigated by the unit during the first months of 2018 had been referred by international police partners. In one case, the subject of the investigation possessed pornographic material of children and in the other the adult had communicated with a minor and exchanged photographs. Both cases were successfully investigated by the Cybercrime sector and the offenders were arrested. None of the cases involved Albanian minors. The Albanian Criminal Procedure Code provides for some investigation techniques. Specifically, Article 294/a provides for simulated actions undertaken following due authorisation and under the supervision of a prosecutor. The article highlights that due regard should be given not to provoke a criminal act, because if provocation is proven the evidence

During interviews, the cybercrime unit reported that in more than six years it has investigated 61 reported cases of child pornography, but that the investigations concluded that none of these were genuine cases of child pornography and were not considered as criminal offences.



collected during the covert operations cannot be used. This last element was evaluated by interviewees as restricting the police from undertaking simulated actions. However, those interviewees did not refer to any particular case in support of the statement, where the investigative technique of covert operations had been used in an online CSEA case and dismissed in court due to lack of compliance with the provocation principle.

Prosecutors stressed in interviews that cooperation with the private sector was a very important element in cybercrime investigation and the collection of evidence. No agreement exists between law enforcement agencies and ISPs, and delays by the latter could well affect the quality of the investigation. IP identification is reported to be a very difficult process. In Albania, there is lack of immediate cooperation over urgent issues. For example, **it is not possible for a judicial police officer to order blocking or deleting of materials without carrying out formal procedures, such as presenting a Court order**, which takes time, and only after which has the prosecution the power to order the blocking or deletion of material. Another challenge concerning the quality of the conducting of investigations was reported in towns of Lushnje and Fier, where the courts have not yet opened a juvenile section. The prosecutors in these areas perform only the initial actions and then pass them on to Vlore. This creates problems with the quality of the prosecution, as the taking of evidence and its validity can be questioned by the court due to the fact that the prosecutors presenting the case in court are not the same as those who collected the evidence.

#### iv. Child-friendly measures during investigation

**The Cybercrime unit reported that there have been no cases of Albanian victims of Child Sexual Exploitation and Abuse and thus could not present any child-friendly measures used during investigation.** In the Police Directorate of Tirana, it was reported that a psychologist is always present in interviews with minors.

The prosecution structures that were interviewed did not mention any cases of children being exploited in online space. The prosecutors interviewed work in juvenile units and, in cases involving juveniles, respect the provisions of the criminal justice code for children, and specifically the following conditions:

- 1) They review quickly and with priority cases of child victims, guaranteeing that no stage of the criminal process aggravates or causes trauma among the children.
- 2) It is current common practice for interviews with a child to be carried out in the presence of a psychologist. However, there is need for better training for psychologists who are selected from court lists.
- 3) The prosecutors specified that they ensure that at all phases of the criminal prosecution the privacy of the child is respected and all information that may lead to their identification is not made public.
- 4) Depending on the circumstances, the prosecutors adopt various protection measures.

## CHILD-FOCUSED JUDICIARY

*With regard to the judiciary, the international standards<sup>146</sup> require the following: Ensure training of judiciary in CSEA; Ensure training of judiciary in psychology; Hearings closed to the public; Video-taped testimony of child victim provided as evidence; The victim is heard through ICT tools without being present in the courtroom; The right to be heard; The presentation of evidence, needs and concerns; Support services provided during criminal proceedings; Information provided on rights, judicial procedures and available services; Right to safety and protection of privacy; Right to free legal aid; Case treated as priority, avoiding delays in the dispositions of cases and execution of orders or decrees granting compensation.*



## KEY FINDINGS

- Effective implementation of the Criminal Justice Code for Children requires a series of additional measures, as well as human and financial resources. Juvenile sections have been created only in six larger courts.
- Improvement of the physical infrastructure that would enable compliance with CJCC requirements for child-friendly criminal justice standards is needed.
- Lists of professionals competent in dealing with cases involving children are only being prepared by the police and the Order of Psychologists. Lists from other professions are still missing.
- Better training and preparation of psychologists and free legal aid lawyers is reported as a need. Even though the School of Magistrates offers a range of professional trainings in VAC and online CSEA, the judges and prosecutors generally do not choose these specific thematic issues. Trainings in VAC and online CSEA are not part of the obligatory curricula.



### Responsible institutions in the context of the Albanian legislation

Judges exercise judicial authority in the Republic of Albania. Aside from the competences on the issuing of execution of orders during the investigation proceedings, as well as other orders, judges are, in general, responsible for directing court proceedings and issuing a court decision on the case. The CCJC also provides that special sections dealing with minors should be established. Judges for these sections should be appropriately trained in order to deal with child victims and offenders.

<sup>146</sup> Provided in Annex 4 of the present report.

### Child-focused judicial authorities in practice

The CJCC is a modern piece of legislation that conforms to the best international standards in respect of the protection of CSEA victims. Even so, its implementation requires a series of additional measures, as well as human and financial resources. Article 140 provides for some rules regarding implementation. Specifically, the Ministry of Justice and the Ministry responsible for public order shall adapt and equip rooms of courts, prosecutors and police for interviewing children within six months of the entry into force of the law. Even though considerable time has elapsed this disposition has not yet been implemented. Similarly, **paragraph 5 provides that, within six months of the entry into force of the CJCC, lists will be prepared of professionals competent in dealing with cases involving children. The Order of Psychologists has already compiled a list of trained psychologists to handle justice for children cases. The police have also determined the officers who will handle cases of criminal justice for children and have received training from the Police Academy. Other professions have not yet determined lists of specialised professionals.**

Article 27 of the CJCC provides for the establishment within district courts of special sections dealing with issues for minors. These sections will review cases of offences of adults against minors and child victims. **However, special sections dealing with minors have yet to be set up in all courts. Judges of juvenile sections were limited to seven judicial districts despite the fact that they should be constituted in all seven judicial districts. Meanwhile, the courts do not have disaggregated statistics in order to identify potential victims of online CSEA.**

The judge who was interviewed, from a section for juveniles, has not yet considered cases of online violence against children. Apparently, **Tirana Court has set up a juvenile section comprising six judges. However, no interviewing facilities have been installed.** According to the judge, when taking evidence from a minor the whole process is recorded on audio and video. Security measures are applied to prevent contact of the juvenile with the accused, though the physical infrastructure makes it difficult to guarantee such prevention. The main reported difficulty with cases was the validity of the evidence, which depends upon the investigation process. The judge suggested that, on the one hand, the work of evidence collection by the police should be improved and, on the other, cybercrime is difficult to detect and prove. No collaboration with CPUs was identified.

With regard to human resources and capacities, judges seem to be aware of the importance of the psychologist in court cases concerning minors; this role is also well defined in the criminal justice code for children. During the interviews the concern of judges for specialised professional development of psychologists was identified. Such a specialised workforce is missing. It was also pointed out that better training and preparation of free legal aid lawyers is needed. The judges reported that they have received training on the new criminal justice code for children through a partnership with the Swedish government. The School of Magistrates offers several professional training

courses for prosecutors and judges. The existing training modules have themes on VAC and online CSEA. However, as the judges and prosecutors do not choose these specific themes, they are not part of the obligatory curricula.

### THE IMAGE DATABASE<sup>147</sup>

*The international standards<sup>148</sup> require: The setting up of a database of convicted CSEA offenders; Setting up of a DNA database of convicted CSEA offenders; International exchange of such information.*



## KEY FINDINGS



Image database containing the identity and DNA information of convicted CSEA offenders is not required under the Albanian legislation.



### Responsible institutions in the context of the Albanian legislation

The Albanian legislation does not envisage measures for the setting up of image databases and, therefore, neither the institutions responsible for their establishment.



### Image database in practice

In practice, the State Police does have a database that helps investigations, but no database was identified containing the identity or DNA information of convicted CSEA offenders as required by international standards.

### 6.2.3 VICTIM

Under the Victim Pillar the #WePROTECT Model National Response addresses end-to-end support, which, essentially, ought to include integrated services for investigation, prosecution and aftercare, and provide a child helpline, enabling reporting by victims and for them to receive support, with referrals to services for ongoing assistance.

### END-TO-END SUPPORT

*With regard to end-to-end support the international standards<sup>149</sup> call for: Coordination on a national and a local level among the different agencies in*

<sup>147</sup> Referring to the image database the MNR foresees: Law enforcement use of Interpol's International Child Sexual Exploitation database (ICSE DB) to improve the efficiency and effectiveness of efforts to identify victims and offenders. Where appropriate a national child sexual abuse image database is in place and law enforcement use it to improve the efficiency and effectiveness of their efforts to identify victims and offenders.

<sup>148</sup> Contained in Annex 4 of the present report.

<sup>149</sup> Contained in Annex 4 of the present report.

*the different sectors: education, health, social services, law enforcement, and judiciary; Cooperation between public authorities, Civil Society Organisations (CSOs) and the private sector; Establishment of social programmes and multi-disciplinary structures for provision of assistance to victims and care givers; Assistance for victims undergoing physical and psycho-social recovery in the short and long term; Criminal justice response to be followed by assistance.*



## KEY FINDINGS

- ☁ Cooperation and coordination among all actors with roles and responsibilities for the protection of children should be strengthened. At the local level not all institutions actively participate in the Inter-Sectoral Technical Group and are involved in the management of cases of children in need of protection, regardless of the efforts of the CPU to include them.
- ☁ Child protection workers face challenges due to lack of knowledge of child online safety, their work environments not tailored to the needs of the child, and lack of budgets for case management. The limited number of CPWs makes their work even more challenging.
- ☁ There is a lack of specialised rehabilitation services for sexual abuse and exploitation victims, or procedures for emotional and psychological support for victims and witnesses.
- ☁ There is no support system for the management and rehabilitation of child abusers, including those that abuse through the internet.

### ☁ Responsible institutions in the context of the Albanian legislation

The Law on the rights and protection of the child states that the relevant authorities responsible for exercising different functions at the central and local levels, and in coordination with each other, include the following:

- 1) SARPC,<sup>150</sup> which coordinates and organises an integrated child protection system in accordance with the national child protection policies.
- 2) Municipalities, vested with the responsibility to create an integrated system of child protection at the local level. The law foresees the establishment of a CPU operating within the Social Services Structure of the municipality, with the main responsibility of the management of individual cases. The Inter-Sectoral Technical Group is, according to the law, an ad hoc group dealing with cases of children in need of protection. It comprises representatives of the state police, social services, education, health and

<sup>150</sup> Law no. 18/2017, dated 23.02.2017, 'On the rights and protection of children', Article 40.

justice structures, NGOs, and any other specialist with knowledge of the particular case of an abused child.<sup>151</sup>

3) State Social Services, which exercises various functions, including monitoring implementation of the social service legislation, and assesses the needs for social care services.

### End-to-end support in practice

**1. Coordination on a national and a local level among the different agencies in the different sectors: education, health, social services, law enforcement, and judiciary; Cooperation between public authorities, CSOs and the private sector.**

#### **Opportunity:**

The legal obligation to set up CPUs in each municipality and a CPW for every 3,000 children, along with this DCM, which clearly defines not only the roles and responsibilities of each institution but also the specific procedures to work on case management, are crucial to making the child protection system functional in every local unit in Albania, as well as effective at addressing online CSEA.

*DCM no. 578, dated 3.10.2018 'On the procedures for referral and case management, the design and content of the individual plan for protecting, financing of the expenditures for its implementation, as well as the implementation of the protection measures' has created the necessary basis to make possible a coordinated inter-institutional response for the management of cases of children in need of protection. This DCM clearly sets out the rules and procedures for referral and case management of children in need of protection, defines the roles and responsibilities of different agencies in the different sectors, and, for the first time, provides the provision of funding for child case management, as well as implementation of protection measures.*

It is important that efforts to create an integrated multi-sectoral approach to child case management at the local level have been in place for several years and child protection workers have benefited from a number of case-management trainings through cross-sectoral approaches.

The CPWs interviewed pointed out that, in practice, for cases of child protection challenges are encountered in interactions with various institutions, some of which do not participate in meetings of the Inter-Sectoral Technical Group. None of those interviewed or who participated in the focus groups had managed cases of children exploited or abused in online space, even though the interviews targeted the municipalities in which the General Prosecution Office had reported the existence of such cases the year earlier. The CPWs had been working in their position for years and their lack of information on the cases indicates the lack of referral of cases to the CPU.

The CPU work environments are not tailored to the needs of the child, while insufficient budgets for case management add to the challenge of their work. Despite the fact that the law foresees the establishment of CPUs in the municipality, with one CPW for every 3,000 children, in practice even in those few municipalities with a CPU, there are insufficient numbers of CPWs. From

<sup>151</sup> Law no. 18/2017, dated 23.02.2017, 'On the rights and protection of children', Article 52, (2).



interviews in the municipalities it appears there is only one CPW covering the entire territory of the municipality. The employees interviewed, and the focus groups were unaware of the existence of guidelines or manuals for online CSEA but stressed that if they had to manage such cases they would follow the standard case management procedures. The CPWs are aware of the procedures and steps to follow when a case of violence is reported, but none has ever participated in trainings specifically tailored for online CSEA.

## **2. Assist victims in physical and psycho-social recovery in the short and long term**

### **Opportunity:**

One of the services provided in this basket is the rehabilitation service for victims of sexual abuse, as provided for in point 12.b of this DCM, that mainly has the form of a rehabilitating service, therapies for health and psychological rehabilitation and any other identified need for the victim. This service can be established at the national, regional or municipal level according to the needs identified for this service in the social plans.

Law no. 121, dated 21.11.2016, 'On Social Care Services in the Republic of Albania' and the by-laws deriving from it regulate the functioning of the system of social care services and, in particular, the process of provision of services by the authorities responsible. The basket of social care services, regulated by DCM no. 518, dated 04.09.2018, contains a variety of services, which include pre-social services, family services, community services, residential services and specialised services. The regulation of the basket of services and the establishment of the social fund at the local level provide an opportunity to expand the currently limited coverage of social care services.

In practice, a lack of specialised service for victims of sexual abuse was identified at both the national and the local level. Although the **CPWs interviewed and the CPW part of the focus group had not managed cases of children exploited in online space, they had managed cases of children who needed psychological services, but the lack of such services made it impossible for victims to be supported.** In general, it is recognised that there is not a specialised statutory workforce in place for child victims of sexual abuse. No remedy or reparation available for online VAC victims and their guardians and caregivers is identified.

## **CHILD HELPLINE AND REPORTING PLATFORMS**

*The international standards<sup>152</sup> with regard to the Child Helpline call for the following actions: Encourage and support for the setting up of information and advice services to callers; Telephone or internet helplines; Adapt legislation or procedures that balance the obligation to respect confidentiality and anonymity with the need to report CSEA to child protection authorities; Establish toll-free child helplines that are accessible, have national coverage, have well-trained professionals and volunteers, and operate 24/7; Cooperate with NGO hotlines and services for children; Develop child-sensitive mechanisms for reporting sexual abuse for children with no phone access.*

<sup>152</sup> Annex 4 of the present report.





## KEY FINDINGS

- ☛ The Child helpline ALO 116 111 is functioning both as a helpline providing immediate psychological support to victims and as a hotline for reporting cases of violation of children's rights, including cases of online CSEA to the responsible government agencies.
- ☛ The web-BASED REPORTING platform isigurt.al— is a project driven initiative and therefore more fragile to ever changing funding environment.
- ☛ From its establishment in 2009 the ALO 116 helpline has been supported solely by UNICEF, however since 2017 the law on the Rights and Protection of the Child calls for SARPC to guarantee a toll free telephone help line for children.

### ☛ Responsible institutions in the context of the Albanian legislation

Pursuant to Article 68 of the Law on the Rights and Protection of Children, SARPC, either at its own initiative, or in cooperation with NGOs, makes available a free, widely published telephone line for which there is an obligation to verify and refer each reported case to a CPU or other competent structure.

### ☛ Child Helpline and Reporting platforms in practice

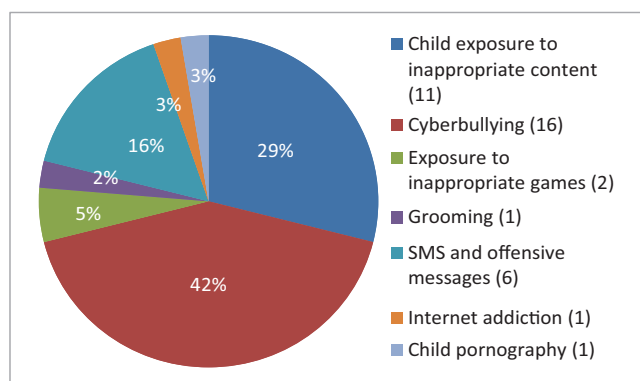
The existing child helpline, established in 2009 with the support of UNICEF Albania, is a toll-free child helpline accessible to everyone, has national coverage and is functional 24 hours per day, seven days a week. ALO 116 111 provides victim reporting and support, as well as referral to services for ongoing assistance, thus serving the functions of both helpline and reporting hotline.

Apart from operating via telephone, ALO 116 111 creates the opportunity to report or ask for support by other means, such as through e-mails or the Facebook chat service. Statistics on ALO 116 111 for 2017 indicate that the service received 845 calls on child online safety issues, of which 38 were calls in need of referral and psycho-social counselling, and 807 provided information on online safety on specific topics such as cyberbullying, online trolling, messages and offending posts, child pornography, etc. All cases reported to ALO 116 111 have received counselling.

Since 2016, with the support of UNICEF Albania and implemented by the NGO CRCA, a platform to report internet material suspected of being illegal, harmful, including child sexual abuse material, was set up. Isigurt.al is an internet platforms for child safety. Through its format, the website facilitates reports on (Chart 1): exposure to images or material with sexual content,

cyberbullying, mobile bullying, grooming, child pornography, internet addiction, minor pornography on the internet, and offensive SMSs and other messages and emails.

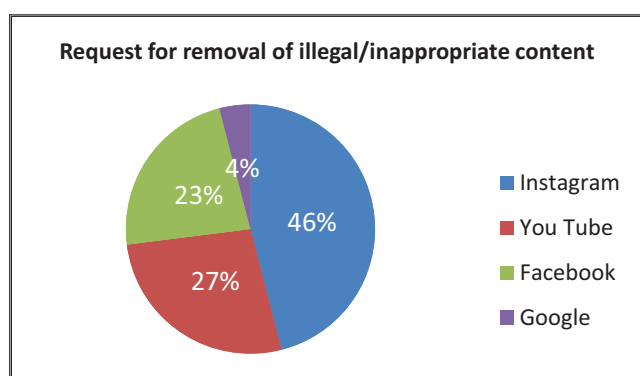
**Chart 1: Reports of online CSEA received by ALO 116 111 in 2017**



The platform gives access for every individual to report on CSEA. There is a report button, 'Report! Illegal content' on <http://www.isigurt.al> that allows for immediate reporting. The reporting can also be carried out via mobile application for Isigurt.al, created for this particular purpose. Currently, all reports are transferred to ALO 116 111 staff who assess them and take the necessary follow up actions and referrals.

### 1. Referral function

ALO116 111 has a cooperation agreement with SARPC and State Social Services, and it also cooperates with the State Police and the Prosecutor's Office. After referring cases to relevant institutions in a very few cases ALO 116 111 receives information on how the case management has progressed. Cases that have been referred to the police are assessed as cases of criminal offence, but in some cases, they were informed by the respective police unit that the continuation of investigations was impossible because the cases did not have the evidence necessary for criminal prosecution.<sup>153</sup>



In 2017, ALO 116 111 referred 23 cases of online CSEA to specific institutions: 15 for further investigation (referred to state police), four to CPUs and rehabilitation services (SARPC), and four for removal of content (SARPC and NAECCS).

The helpline is active in reporting cases and has managed to work closely with Facebook and Google for the removal of inappropriate pages.

In 2017, ALO 116 111 requested the removal from the internet of 82 cases of inappropriate materials, from the pages of YouTube, Facebook, Instagram and Google. CRCA, its partner organisation, with membership to the global missing children network, facilitated the communication.

<sup>153</sup> The case of child pornography specified above is developed in detail on page 80 of the present report.

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Materials have been removed, but the possibility for them to be uploaded still exists. ALO 116 111 reports difficulties in communicating with Albanian portals and resistance from the latter for immediate removal of inappropriate or harmful materials.

## **2. Available human resources and capacities**

The helpline is staffed by six professionals, one of whom is a social worker and the others, psychologists. Additionally, there is a case manager who receives assessments from the counsellors and refers cases to the respective agencies and institutions. The case manager of the child helpline has continuously participated in international trainings and conferences covering issues on VAC, including online CSEA. The helpline professionals have now been working for many years in providing this service. There are four cases reported every 25 minutes on average.

The helpline has a case management manual dedicated to online child protection and based upon the experiences of the international helplines with which they collaborate. The data collected from phone calls are registered in an excel sheet where the whole process that was followed for a particular case and its status are described. The data are stored on a single computer and only basic data are registered electronically. The helpline has never experienced a leak of sensitive data from the inside, but they have had problems with one educational institution over a domestic violence case, in which the name of the case manager was revealed to the perpetrator who then threatened the case manager. The victim was not protected as they should have been, and the case manager was exposed to risk unnecessarily. Helpline professionals do not feel safe when they refer cases to another structure because not all officials understand the importance of the protection of data and the safeguarding of privacy.

The helpline is donor funded. Even though the law on the rights of the child calls for SARPC to establish an official budget line for children no funds from its budget are foreseen for this legal obligation.

## **6.2.4 SOCIETAL**

The #WePROTECT Model National Response addresses under the Societal Pillar the hotline,<sup>154</sup> educational programmes and child participation.

## **EDUCATIONAL PROGRAMMES AND CHILD PARTICIPATION**

*With regard to educational programmes the international standards call<sup>155</sup> for: Awareness raising on child protection for professionals working with children in the sectors of education, health, social protection, sport and*

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<sup>154</sup> In Albania, the Child helpline and hotline functions are exercised by ALO 116 111.

<sup>155</sup> Annex 4 of the present report.

*leisure, judiciary and law enforcement; Adequate knowledge of CSEA and identification tools for professionals working with children in those sectors; Information on CSEA risks and protection tools for children during primary and secondary education provided in collaboration with parents; Awareness-raising campaigns for the general public with information provided on CSEA and the preventive measures available.*



## KEY FINDINGS

-  A new educational programme is in place for schoolchildren and efforts have been made to involve teachers and students in awareness-raising activities. However, these activities fail to target parents, caregivers, guardians and practitioners. There is a need to equip parents and teachers with better knowledge and digital skills.
-  The awareness-raising activities do not involve all stakeholders, and particularly none of the CPUs reached through this assessment have participated in such activities. A digital platform<sup>156</sup> recently developed by IDE creates a good opportunity also in terms of informing children and parents on how and where to report cases and seek support. The new programme launched on peer-to-peer education on online safety is also a good opportunity to raise awareness among children, parents and caregivers.

### Responsible institutions in the context of the Albanian legislation

According to the Albanian legislation the following institutions have specific responsibilities with regard to educational programmes and awareness-raising activities:

- 1) Ministry of Education, Sport and Youth has the mission to draft and implement policies that aim to ensure a quality educational system, ongoing development of education, and respect for the rights of the individual, community and society.
- 2) IED is responsible the compilation of pre-university school curricula, development of higher education policies, conducting research in the field of didactics, and the use of modern technologies in teaching and learning.
- 3) SARPC has awareness raising and training functions.
- 4) NAECCS has the obligation to conduct awareness and education activities in the field of cybersecurity.

156 <http://digitalplatform.al/>

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## Educational programmes

Review of the ICT curricula for grades 4, 6, 7, 8 and 9 is already implemented by IDE, while for grade 5 there will be a change to the curriculum, to include special topics covering the safe use of the internet. ICT teachers have been trained in the new curriculum to a good level, though this was only a single day of training.

For teachers participating in the focus group, the subject of ICT was supplementary to the main subjects that were taught: mathematics, physics, chemistry, and so on. During the focus group discussion, it was noted that teachers felt the need to have more exposure to updated information that relates to child protection online. Even though they reported working constantly with children, they do not feel well enough prepared to deal with cases of online VAC and would not know how to support the children if they were exposed to inappropriate material on the internet or where to report such cases. Another challenge the teachers reported is collaboration with parents. “There was a case where a student opened a fake Facebook profile containing personal information on his friend,” one teacher reported. They had to ask the student’s parents to help with removing it from the source computer, but the parents acted aggressively and did not cooperate. Children are very advanced in IT in comparison to their teachers and parents they claimed. Children of Emin Duraku School have developed information leaflets on online safety and designed a school web page in which they can chat with their peers on online safety issues. Teachers said this was a very successful initiative but was not further supported.

## Awareness-raising activities

In the frame of the Digital Agenda of Albania 2015–2020, every February, NAECCS, in cooperation with the Ministry of Education, Sports and Youth, SARPC, ISPs and ALO 116 111, undertakes awareness campaigns on children’s online safety. So far, the campaigns have mostly targeted children, providing advice on protection, interactive talks with children on staying safe on the internet and informing them on where to report cases. A small number of ISPs also reported that they have undertaken campaigns on child online safety targeting the parents. NAECCS is also considering a strategy for awareness campaigns targeting parents.

Peer-to-peer education on online safety is the latest programme for children and adolescents in Albania undertaken during the 2018–2019 academic year by NAECCS and the Ministry of Education, Sports and Youth supported by UNICEF. Some 300 children were trained as peer educators in 2018 on issues such as cyberbullying, safe online behaviour, meeting strangers and sharing private information, sexting and S-extortion, etc., and will undergo educational activities with their peers in their respective schools and communities. This programme is being implemented in fourteen schools in seven regions and is expected to raise the awareness of some 15,000 children, ICT teachers, parents and caregivers. The Ministry of Education, Sports and Youth intends to formally adopt the tools and methodology

developed in the framework of the peer education programme as part of the extra-curricular programme for children of age 11–13 years.

At the beginning of the last four school years, the Ministry of Education, Sports and Youth through the Regional Education Directorates, has developed a national plan against violence in school. However, data on online CSEA are still not collected and therefore the plan does not yet have specific references to violence in the online space. IED has worked to create a digital platform that will inform teachers and students about online safety. Initially, the platform will give teachers the opportunity to create forums that include not only children but also parents. The platform will be enriched with information materials and also with videos prepared by children themselves. The platform will contain a standardised test to measure a teacher's level of knowledge. IT staff will be needed to expand the platform, but this will depend upon sufficient funding being made available.

#### 6.2.5 INDUSTRY

Notice, take down procedures and liability of service providers are covered by the #WePROTECT National Model Response under the Industry Pillar.

#### INDUSTRY

*The international standard<sup>157</sup> on notice and take down procedures calls for: Notice submission mechanisms in place that are easy to access, user-friendly, and allow submission by electronic means; Effective measures to prevent the submission of notices or counter-notices in bad faith and other abusive behaviours; Existence of points of contact for states and service providers, and fast-track procedures should be designed for processing notices submitted by competent authorities; Cooperation between hosting service providers sharing experiences, ICT solutions and best practices; Development of codes of conduct, entering into MoUs and other voluntary arrangements; Obligation to terminate or prevent infringement ordered by a competent court or administrative authority; Procedures for removal or disabling access to information of illegal content; Prompt removal of web pages containing or disseminating child pornography hosted on a state's territory; Obtaining the removal of such pages hosted outside of their territory; Blocking access to web pages containing or disseminating child pornography to internet users within their territory.*

157 Annex 4 of the present report.



## KEY FINDINGS

- ☁ The legal obligation of the ISP to adapt tools such as parental control or similar to devices used by children to access the internet is not yet monitored by any public institution. This legal obligation is currently implemented only by some ISPs, but these do not have a system in place to inform parents of the existence of such tools.
- ☁ No procedures were reported by ISPs to enable: 1) immediate decommissioning or removal of CSEAM the moment the company confirms the presence of such materials in its service, and 2) timely reporting to authorities of online CSEA.
- ☁ No special unit was identified to deal with online CSEA issues and no specific training on the matter were reported by the interviewed ISP. There is no cooperation between public institutions and the ICT industry in terms of sharing innovative solutions.

### 🔥 Responsible institutions in the context of the Albanian legislation

Under the Industry Pillar several institutions are vested with competences over the ICT industry. Specifically:

- 1) AEPC exercises its competences over the electronic communication networks and over the electronic communication services but has no competence over either caching or hosting by service providers. According to the Electronic Communication Law, electronic communication networks have the responsibility to preserve data for criminal prosecution purposes, the obligation to cooperate with the Criminal Justice Authorities in terms of data preservation, search, seizure and interception, conforming to the provisions of the Albanian Criminal Procedure Code. AEPC, being the supervisory authority of the electronic communication networks, has the competence to take the necessary measures on these operators when they fail to implement the above-mentioned obligations.
- 2) SARPC is competent to require the competent authority to block access to networks or pages circulating materials with content harmful for children.
- 3) NAECCS is the “Responsible Authority for Electronic Certification and Cyber Security” regulated by Law no. 2/2017, ‘On cybersecurity’. NAECCS has the duty to establish, administer and maintain a unique online system for the publication of web pages with illegal content.
- 4) The Commissioner for the Right to Information and Protection of Personal Data, is provided with main competences under Article 30 of the Data Protection Law, as follows: Conduct an administrative investigation, have access to personal data processing and collect



all necessary information with a view to fulfilling the supervisory obligations; Order for blocking, erasure, destruction or suspension the unlawful processing of personal data. These competences are only applicable on subjects effectively exercising control and processing of personal data.

## ICT Ecosystem response in practice

### Opportunity:

*Pursuant to Law on the rights and protection of the child approval of a DCM that will clarify the procedures to be followed for blocking illegal material is expected.*

### 1. Take down procedures

Take down procedures are important for two main reasons:

- 1) The child in the image is re-victimised every time the material is viewed.
- 2) The existence of harmful materials online increases the rate of offending by giving others opportunity to view illegal material.

**Harmful or illegal material can be reported to the police, ALO 116 111, SARPC, and the Data Protection Commissioner. If it is reported to the police, the material is removed by order of the court. When reported to ALO 116 111, it notifies SARPC who addresses to NAECCS a request based on Article 27 of the Law on the rights and protection of the child. NAECCS does not have the right to request the blocking of materials in the online space. Therefore, within the framework of the cooperation agreement with AECP, although not specifying the cooperation for the blocking of materials related to the scope of this assessment, the latter is requested to block the reported material.**

Upon receipt of the request AECP requires electronic communications providers to undertake immediate blocking. AECP has improved the speed of communication with the providers, as currently the blocking notice is sent via email. In the case of non-respect for AECP's request, administrative measures are applied to the electronic communications providers. It was reported that for cases involving child safety, the response of the ISP was immediate and there was no need to apply administrative measures. Nevertheless, the number of cases has been very limited.

The majority of reported cases of online harmful materials are made public by caching and hosting service providers. The limited liability regime of intermediary service providers, along with the unregulated area of notice and take down procedures, is reflected in the fact that there are no clear procedures for how different institutions inter-operate with regard to the take down of illegal or inappropriate material in online space. As explained in the legal findings, due to the limited liability regime imposed by the Electronic Trade Law the area of intermediary service providers remains unsettled. AECP, or any other administrative authority, cannot order YouTube, Instagram or similar portals to remove illegal or inappropriate materials from their

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sites. The cases reported by ALO 116 111 or the SARPC have been posted on the above-mentioned networks. In this situation, the unit having received the reporting directly communicates with the caching or hosting service provider for the removal of materials. The removal and blocking under these conditions is a challenge. However, using the liability mechanism the public authorities listed above<sup>158</sup> might send to intermediary service providers a notification of illegal activities, which would finally oblige the service provider to move itself to remove the content or access to it in order to avoid liability.

The Commissioner for the Right to Information and Protection of Personal Data has encountered a few cases of online abuse. Cases are received via their website on which there is a section for complaints. The Commissioner addresses directly the ISP by requesting them to block or remove the material. If there is evidence of criminal offence, the case is forwarded to the state police with whom they have no specific agreement, though there are points of contact. The Commissioner has direct communication with Facebook and Google and has made it possible for them to remove reported pages.

All actors involved in the take down procedures emphasised that once pages are removed after being reported to Facebook, YouTube or Google the chances of them being uploaded again are high as long as the source is not identified.

The MNR recommends that when child sexual abuse material is hosted in another country, but has not been removed at source, ISPs should use available technical means, such as blocking or filtering, to prevent the material being accessed in Albania.<sup>159</sup>

Pursuant to Article 27 of the Law on the rights and protection of the child, ISPs have a new obligation to adapt tools such as parental control or similar to devices used by children to access the internet. In practice, AECP, being the supervisory authority of the electronic communication networks, has the competence to take the necessary measures upon these operators when they fail to implement their obligations. This legal requirement has not yet begun to be implemented.

There is a code of ethics for ISPs that exists on paper but is never monitored. Some companies such as ABCom or Tring have created Safe Internet Services. There are three levels of security on their servers that filter sites based on pre-selected key words, but parents are unaware of these security measures the companies have installed. For example, in the case of ABCom, very few of the 50,000 clients have requested the installation of security measures on their devices, which would provide higher safety for children

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<sup>158</sup> In section Industry, Responsible institutions in the context of the Albanian law.

<sup>159</sup> WeProtect Global Alliance, *Preventing and Tackling Child Sexual Exploitation and Abuse (CSEA): A Model National Response*, November 2016, p. 30.

accessing them. No collaboration with government institutions in this regard is reported. It appears that telephone companies are more advanced with regard to child online safety. For example, Vodafone has developed specific services for this purpose. More than 100,000 clients are active in the Vodafone Secure Net. There are no dedicated staff, but the company is very sensitive about online safety issues concerning children. Outlet staff have been trained in the new products that address online safety, but as it transpires they do not necessarily inform the clients on how to use these safety measures.

## 2.CSEA reporting

**With regard to CSEA reporting, the MNR stresses the need for industry to put in place processes and allocate resources to enable the timely identification and reporting to authorities of online CSEA. In practice, such measures have not been pursued by the interviewed ISP. No special unit to deal with online CSEA issues and no specific training on the matter has been reported.**

### Opportunity:

*There are apps and searching engine platforms, developed by Microsoft or phone companies, that can be adapted and used for the purpose of child online safety.*

*Microsoft has a cooperation agreement with the Albanian Government and is ready to incorporate to the agreement child online security.*

## 3. Innovative solutions

The Internet industry has a unique knowledge of technological solutions and sharing such knowledge with relevant stakeholders can enhance collective efforts to reduce online CSEA.

Microsoft has an agreement with the government to improve its capacities around online safety. It applies the global standards in its work, taking into consideration online safety components as well. Online protection is a major component Microsoft considers and applies in its software. In most of the products that target children, Microsoft<sup>160</sup> has developed online security, such as

parent control or filtering of content. Microsoft has a search engine—ADN photos—for online photograph identification. If a picture is misused, this engine can track the picture even after it has been manipulated. However, cooperation with the Albanian institutions has been only in the frame of awareness-raising campaigns.

<sup>160</sup> <https://www.microsoft.com/en-us/photodna>; <https://hourofcode.com/us/sq/learn>; <https://account.microsoft.com/account/ManageMyAccount?destrt=FamilyLandingPage>

## CASE STUDY

### *Some challenges of the current response to online CSEA presented through a real story*

*This case illustrates some of the gaps identified in the findings with regard to end-to-end support and removal of inappropriate material from online space.*

*A 15-year-old girl living in a town some distance from Tirana has a Facebook profile. Without authorisation, unidentified people copied photographs from her profile that they subsequently used for creating a video with humiliating labels accompanied by equally humiliating music that was published on YouTube.*

**Reporting:** *The girl reported to isigurt.al and the team that verified the case assessed that there had been a criminal offence. ALO 116 111 reported the case to the police. The girl also reported her case to the local police station.*

**Psychological assistance for the girl:** *ALO 116 111 offered immediate psychological counselling over the phone to the girl, while referring the case to SARPC and to the CPU in the girl's municipality. SARPC immediately alerted the local CPU, which made a number of assessment visits without providing psychological assistance to the victim due to the lack of this service at the municipal level. ALO 116 continued with psychological counselling over the phone.*

**Blocking and removing material from online space:** *ALO 116 111 immediately communicated with YouTube for removal of the material, which was removed after verification by YouTube. However, the material may yet be uploaded by the author of the video.*

**Investigation:** *The police reacted once the case was reported, but the investigation concluded that it could not be classified as a criminal offence and thus could not continue with the procedure. ALO 116 111 referred the case to the prosecution but did not receive a reply of whether or not an investigation had begun, despite the good will expressed by the prosecutor for a thorough investigation of the case.*

## 6.2.6 MEDIA AND COMMUNICATION

The issue covered by the #WePROTECT National Model Response under the Media and Communication Pillar is that of ethical and informed media reporting.

### ETHICAL AND INFORMED MEDIA REPORTING<sup>161</sup>

*The international standards<sup>162</sup> on ethical and informed media call for the following actions: Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to their well-being; Encourage the media to provide appropriate information*

<sup>161</sup> According to the MNR, media are required to use ethical language when reporting: language that does not disturb the sensibility of the children and also protects the privacy of CSEA victims.

<sup>162</sup> Annex 4 of the present report.

*on CSEA; Rules on privacy protection, including identity and image and prevention of public dissemination of information that could lead to identification of CSEA victims.*



## KEY FINDINGS



Informing journalists about online child safety provides a good opportunity to promote public awareness of this issue. AMA's periodical monitoring of audio-visual media with regard to respecting children's rights provides a good opportunity for identification of unprofessional reporting by journalists. However, AMA has no competence over CSEA online issues which is why they have not been object of its monitoring. Even though every year AMA supports the training of journalists, due to the above reason so far these trainings have not included the issue of reporting online CSEA.



### Responsible institutions under the Albanian legislation

The Audio-Visual Media Authority (AMA) is the regulatory authority of audio-visual media in Albania. This body is competent to supervise audio-visual media operators in the implementation of ethical reporting and to adopt various sanctions—from fines to licence withdrawal—for violations of reporting standards. AMA has no competence over hosting service providers such as video-sharing platforms (YouTube; IG video, etc.).



### Media and communication in practice

In its field of responsibility, AMA has established rules for audio-visual broadcasters including on child protection. The principles, rules, requirements and practices of audio-visual broadcasting in Albania are defined by the Broadcasting Code for Audio-Visual Media. One of the fundamental principles that lay the basis of audio-visual activity is related to children's rights. Concretely, point 1.4 of its principles<sup>163</sup> specifies that the activity of audio-visual broadcasting respects, in particular, the rights, the highest interest of the child, and the moral and legal requirements for the protection of the rights of the child.

The broadcasting code, in Section 4, obliges media service operators to be particularly cautious when broadcasting news programmes of respecting the rights of children when reporting on cases of children where they might be victims or perpetrators of violent events, bullying, sexual violence, serious

163 Broadcasting Code for Audio-Visual Media, p. 4, <http://ama.gov.al/wp-content/uploads/2018/05/Kodi-i-Transmetimit-p%C3%ABr-Median-Audiovizive.pdf>

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crimes, etc. Meanwhile, section 5 'Children in audio-visual broadcasts' sets out a number of detailed rules for implementation by audio-visual media service providers dealing with child identification, interviewing, advertising, entertainment programmes, films, and precautionary warning signs of children in audio-visual programmes.

AMA monitors implementation of the Code by audio-visual media service operators through thematic monitoring and an already set-up complaints system. Supervision of implementation of the Broadcasting Code, approved by AMA, is the competence of the Appeals Council, and concerns respect for dignity and other fundamental human rights, and, in particular, the protection of children's rights, the right to information and awareness of public opinion regarding respect of moral and ethical norms in audio-visual programmes. Following the monitoring or upon submission of complaints, AMA imposes penalties where children's rights have been violated.

Every year, AMA supports the trainings of journalists with a focus on the professional reporting of children's news. Because CSEA online is not in AMA's competence, online security was not part of the training.

#### **CASE STUDY**

##### ***The effects of the ungoverned area of intermediary service providers and of non-professional journalist's reporting, 2016***

On YouTube and JetaOshQef, footage is posted of a high-school boy abused by three girls and two boys. In the footage, the boy is first kicked by the boys and then a girl hits him with a stick. The footage was recorded by another person and uploaded onto the internet. The boy reported a severe psychological condition and demanded the immediate removal of the material from the internet. Upon receiving the report by ALO116, the case was referred to the police, who managed to identify the perpetrators and initiate criminal proceedings against them for 'intentional damage', 'insult' and 'unlawful deprivation of liberty'.

The case was also reported to YouTube. The material was removed from both JetaOshQef and YouTube. Although it has been two years since publication of the video on the portal of an Albanian print media website, along with the news of the punishment of the authors, a photograph from the footage in which the boy was exposed to violence is still available.

The news was accompanied by a denigrating photo of the boy and indirectly leads to his identification. His or his parents' consent was not obtained when the photograph taken and published.



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Law no. 69/2012, 'On pre-university education system in the Republic of Albania', Pre-University Education Law.







- Law no. 9918, dated 19.05.2008, 'On electronic communications in the Republic of Albania', Electronic Communications Law.
- Law no. 10128, dated 11.5.2009, 'On electronic trade', Electronic Trade Law.
- Law no. 2/2017, 'On cyber security', Cyber Security Law.
- Law no 9887, dated 10.03.2008, 'On protection of personal data', Data Protection Law.
- Law no. 7895, dated 27.1.1995, 'Criminal Code of the Republic of Albania', CC.
- Law no. 7905, dated 21.03.1995, 'Code of Criminal Procedure of the Republic of Albania', CPC.
- Law no. 37/2017, 'Criminal Justice Code for Children', CJCC.
- Law no. 97/2013, 'On audio and audio-visual media services in the Republic of Albania', Audio-Visual media Law.
- Law no. 7531, dated 11.12.1991, 'On the ratification of the Convention on the Rights of the Child'.
- Law no. 9834, dated 22.11.2007, 'On the accession of the Republic of Albania to the Optional Protocol of the UN Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography'.
- Law no. 8888, dated 25.4.2002, 'On the ratification of the convention on cybercrime'.
- Law no. 10 071, dated 9.2.2009, 'On the ratification of the European Council on the protection of children from sexual abuse and exploitation'.

#### **D. Policies / Strategies**

- Action Plan on Safe internet for children in Albania, 2018-2020. Co-signed by the ministries of Education, Interior, Health and Social Protection, 2018.
- Digital Agenda Strategy 2015–2020, Ministry of Innovation and Public Administration, 2014.
- National Agenda for Children's Rights 2017–2020, Ministry of Social Welfare and Youth, April 2017.
- National Strategy for Information Society Development, National Agency for Information Society, 2008.
- Programme of the Government of Albania, 2017–2021, the Council of Ministers, 2017.
- National Strategy for the fight against human trafficking and Action Plan 2014-2017, Ministry of Interior, 2014.

# ANNEXES

## ANNEX 1: #WEPROTECT GLOBAL ALLIANCE MODEL NATIONAL RESPONSE

Enablers	Capabilities	Outcomes
Cross sector multi-disciplinary collaboration	<b>Policy and Governance</b>  <ol style="list-style-type: none"> <li><b>Leadership:</b> An accountable National Governance and Oversight Committee</li> <li><b>Research, Analysis and Monitoring:</b> National situational analysis of CSEA risk and response; measurements/indicators</li> <li><b>Legislation:</b> Comprehensive and effective legal framework to investigate offenders and ensure protection for victims</li> </ol>	<b>Highest level national commitment to CSEA prevention and response</b> <p>Comprehensive understanding of CSEA within the highest levels of government and law enforcement. Willingness to work with, and coordinate the efforts of, multiple stakeholders to ensure the enhanced protection of victims and an enhanced response to CSEA offending.</p>
Willingness to prosecute, functioning justice system and rule of law	<b>Criminal Justice</b>  <ol style="list-style-type: none"> <li><b>Dedicated Law Enforcement:</b> National remit; trained officers; proactive and reactive investigations; victim-focused; international cooperation</li> <li><b>Judiciary and Prosecutors:</b> Trained; victim-focused</li> <li><b>Offender Management Process:</b> Prevent re-offending of those in the criminal justice system nationally and internationally</li> <li><b>Access to Image Databases:</b> National database; link to Interpol database (ICSE)</li> </ol>	<b>Effective and successful CSEA investigations, convictions and offender management</b> <p>Law Enforcement judiciary have the knowledge, skills, systems and tools required to enable them to perform victim-focused investigations and secure positive judicial outcomes. CSEA offenders are managed and reoffending prevented.</p>
Supportive reporting environment	<b>Victim</b>  <ol style="list-style-type: none"> <li><b>Offender Management Process:</b> Integrated services provided during investigation, prosecution and after-care</li> <li><b>Child Protection Workforce:</b> Trained, coordinated and available to provide victim support</li> <li><b>Compensation, remedies and complaints arrangements:</b> Accessible procedures</li> <li><b>Child Helpline:</b> Victim reporting and support; referrals to services for ongoing assistance</li> </ol>	<b>Appropriate support services for children and young people</b> <p>Children and young people have access to services that support them through the investigation and prosecution of crimes against them. They have access to shelter; specialised medical and psychological services; and rehabilitation, repatriation and resocialization services.</p>
Aware and supportive public and professionals, working with and for children	<b>Societal</b>  <ol style="list-style-type: none"> <li><b>CSEA Hotline:</b> Mechanism for reporting online CSEA content; link to law enforcement and Internet service providers</li> <li><b>Education Programme:</b> For: children/young people; parents/carers; teachers; practitioners; faith representatives</li> <li><b>Child Participation:</b> Children and young people have a voice in the development of policy and practice</li> <li><b>Offender Support Systems:</b> Medical, psychological, self- help, awareness.</li> </ol>	<b>CSEA prevented</b> <p>Children and young people are informed and empowered to protect themselves from CSEA. Parents, carers, teachers and childcare professionals are better prepared to keep children safe from CSEA, including addressing taboos surrounding sexual violence.</p>
Sufficient financial and human resources	<b>Industry</b>  <ol style="list-style-type: none"> <li><b>Takedown Procedures:</b> Local removal and blocking of online CSEA content</li> <li><b>CSEA Reporting:</b> Statutory protections that would allow industry to fully and effectively report CSEA, including the transmission of content, to law enforcement or another designated agency</li> <li><b>Innovative Solution Development:</b> Industry engagement to help address local CSEA issues</li> <li><b>Corporate Social Responsibility:</b> Effective child-focused programme</li> </ol>	<b>Industry engaged in developing solutions to prevent and tackle CSEA</b> <p>Industry has the power and willingness to block and remove online CSEA content and proactively address local CSEA issues. Industry proactively reports online CSEA.</p>
National legal and policy frameworks in accordance with the UNCRC and other international and regional standards	<b>Media and Communications</b>  <ol style="list-style-type: none"> <li><b>Ethical and Informed Media Reporting:</b> Enable awareness and accurate understanding of problem</li> <li><b>Universal Terminology:</b> Guidelines and application</li> </ol>	<b>Awareness raised among the public, professionals and policy makers</b> <p>Potential future offenders are deterred. CSEA offending and reoffending is reduced.</p>
Data and evidence on CSEA		

## ANNEX 2: CRITERIA OF ASSESSMENT

WePROTECT Global Alliance Model National Response, identifies six intervention pillars with 21 capabilities/components that lead to significant outcomes for protecting children and tackling CSEA. These 21 capabilities were used as criteria of assessment to assess the current response of Albania to VAC online and identify the possible legal, institutional and human resources gaps. For each of the assessment criteria the team defined the assessment questions and developed a detailed assessment framework and methodology. Below the explanation of each assessment criterion/research focus and the analysis that will be applied.

### 1. Legal and Policy gaps assessment criteria

#### **Criterion 1: Policy and Governance Legislation**

There is legislation in place which clearly establishes the responsible institutions for policy and Governance of VAC online issues. The legislation provides for clear division of functions among institutions and in case of overlapping of policy and governance functions provides for coordination mechanism. The legislation is in line with binding international standards.

#### **Criterion 2: Research and monitoring legislation**

There is legislation in place which provides research obligations for CSEA online and monitoring the implementation of policies and legislation on VAC online. This legislation should establish the competent institutions engaged with research, the specific research methodologies in order to ensure quality and the competent institutions engaged with monitoring and relevant monitoring tools. The legislation is in line with binding international standards.

#### **Criterion 3: Criminal Justice Legislation**

Criminal justice legislation in place should be drafted in such a way as to permit the investigation, prosecution and conviction for CSEA online offences. Definitions of CSEA offences should be conform to international standards. Specific ICT investigation tools to police forces and prosecution for the investigation and prosecution of CSEA online offences should be provided. The criminal justice legislation is in line with binding international standards.

#### **Criterion 4: Victim Support Legislation**

Victim support legislation in place should provide for an integrated protection system composed of well-designed coordination mechanisms among the institutions providing end-to-end support. Preventive, support and protection measures along with those provided by criminal justice legislation should be design in order to implement early intervention and assistance. Victim support legislation should be in line with binding international standards.

#### **Criterion 5: Education and awareness raising legislation**

There exists legislation in place which provides for education and awareness raising activities of competent organs directed to Parents, guardians, child educators, children, civil society, citizens and/or the general public. Obligations shall be established especially for education institutions making it compulsory for

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them to put in place education and awareness raising programs. Education and awareness raising legislation should be in line with binding international standards.

**Criterion 6: Industry regulatory legislation**

Legislation shall exist that regulates in a clear manner the obligation of the online industry. Legislation shall establish clearly the responsibilities of the industry with regards to materials published on their controlled networks and use of their ICT tools; obligation to establish effective take down procedures of harmful materials; obligations to report to authorities; obligations to put in place prevention procedures. Industry regulatory legislation should be in line with binding international standards.

**Criterion 7: Media regulatory legislation**

Legislation shall be in place which obliges media, written, audio-visual and online media, to take the necessary precautions in publishing news related to CSEA online and respecting privacy of victims. Media legislation should be in line with binding international standards.

**Criterion 8: Data collection legislation**

Legislation should be in place regulating the collection and processing of data related to CSEA online victims. Legislation should regulate image databases, access to data and data sharing among relevant stakeholder, new techniques for data collections and processing. Data collection legislation should be in line with binding international standards.

## **2. Institutional gaps assessment criteria**

**Criterion 1: Leadership and Coordination**

The effective addressing of CSEA online requires the involvement of all governmental and non-governmental stakeholders that have roles and responsibilities in protecting children from online sexual abuse. Coordination and interaction among them, along with the drafting of national programs based on legislation and policies, the implementation of the national plan and the process of monitoring and reporting its implementation is important to enable effective addressing of the CSEA online.

**Criterion 2: Research, analysis and monitoring**

The action to prevent and tackle CSEA online should be based on evidence and information shared by all relevant stakeholders. The continuous research and analysis can clearly identify threat, vulnerability, risk and response to CSEA online. The data need to be collected not only from the stakeholders directly involved in preventing and tackling CSEA online, but also from other sources such as children, parents, educators, service providers.

**Criterion 3: End-to-end support**

The victims of CSEA should be provided with an immediate and long-term support plan based on their needs assessed to help them cope with the immediate impact of the abuse and recover from harm. The support should be provided during investigation, legal proceedings and beyond. Rehabilitation and reintegration services are also an important part of the end-to end support.

**Criterion 4: Compensation, remedies and complaints arrangements**

It includes the provision of effective remedy and reparations for CSEA online victims and their caregivers. More specifically: services to aid the recovery of CSEA online victims (medical, psychological, social care, legal, housing, education services; compensation arrangements; accessible advocacy services.)

**Criterion 5: Child helpline**

Child helpline is one of the support and intervention services aiming at supporting children to report the abuse and to provide direct assistance in removing a child from a dangerous situation. It is a 24-hour service, 7 days a week and can be offered via telephone line, or a combination of text messaging, internet, e-mail, etc. The helpline cooperates with a network of law enforcement, child protection units, social service providers, etc. The helpline should be promoted publicly.

**Criterion 6: CSEA hotline**

The hotline is a platform to report CSEAM. It works in partnership with the industry to remove the illegal content and the case is reported to the law enforcement agency to further investigate and identify the victim. Standardized processes formally agreed between the hotline and law enforcement should be implemented. The hotline should be promoted publicly.

**Criterion 7: Access to image databases**

The law enforcement should cooperate at national and international level to share information in order to reduce the risk for repeated investigation of child sexual abuse material. The use of Interpol's International Child sexual Exploitation database by national law enforcement can improve their efforts in identifying victims and offenders. The establishment of a national child abuse image database is also suggested in order to enhance operational capability of law enforcement to identify the victim and the offender.

**Criterion 8: Education program**

Raising awareness on CSEA is a key component of the prevention measures. Education programs create the opportunity to discuss on CSEA in schools and community and to empower children, parents, caregivers with information on CSEA, their rights, where to find support and report the cases of sexual exploitation and abuse. These programs can be incorporated into national education curricula in order to make sure the national rollout. Teachers should be trained in order to deliver the messages effectively.

**Criterion 9: Takedown procedures**

These are procedures used by companies that disrupt the ability to use the internet to sexually exploit children and distribute child sexual abuse material. Reports can be made by customers, the public, law enforcement agencies or hotline organizations. IT infrastructure should be in place to enable the secure receipt of information by industry providers.

**Criterion 10: CSEA online reporting**

The industry should put in place processes and procedures to make sure the identification and reporting of child sexual exploitation and abuse to law enforcement. The company's staff must have the knowledge and skills required to report effectively VAC online to law enforcement.

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### **Criterion 11: Innovative solution development**

It is important to improve the existing approaches and identify new ways to prevent and tackle VAC online. Companies can benefit by shared innovative tools and techniques and lessons learned. An important part of enabling more online services to prevent VAC online in their services is to set up harmonizing policies between companies.

### **Criterion 12: Corporate social responsibility**

The policies, procedures and processes of the company should contain child safety considerations and be followed by concrete measures to identify, prevent and report VAC online. The companies should play an active role in developing, promoting and delivering messages to prevent CSEA and to deter the offenders.

### **Criterion 13: Ethical and informed media reporting**

The media plays an important role in informing the public and overcoming the myths and stereotypes on CSEA. Ethical, balanced and informed media reporting is critical in providing best outcome for preventing CSEA and protecting the victims.

## **3. Capacity assessment criteria**

### **Criterion 1: Dedicated law enforcement**

Law enforcement officers should have the knowledge, skills, tools and necessary infrastructure and resources to deliver effectively their duties. They also need to closely work with other professionals (child protection workers, nongovernmental organizations, online service providers etc.) in order to be effective in protecting the victims and investigating the offenders.

### **Criterion 2: Judiciary and Prosecutors**

Prosecutors and judges should have appropriate skills and knowledge not only to ensure due legal process but also to fully understand the needs of the victim and avoid any negative emotional or psychological damage of the latter from the judicial process. They should know and use specific measures during and after trial in order to support the victims.

### **Criterion 3: Child Protection Workforce**

A skilled and trained child protection workforce ensures the provision of high quality services to the victims. The social workers and all the other professionals in contact with children should be trained to support children during law enforcement investigations as well as to prepare and manage an effective plan aiming at the rehabilitation and reintegration of the victim. They should also be supported by formal working procedures providing detailed guidelines and protocols of conduct.

### **Criterion 4: Education and awareness raising**

Raising awareness on CSEA is a key component of the prevention measures. Education programs create the opportunity to discuss on CSEA in schools and community and to empower children, parents, caregivers with information on CSEA, their rights, where to find support and report the cases of sexual exploitation and abuse. These programs can be incorporated into national



education curricula in order to make sure the national rollout. Teachers should be trained in order to deliver the messages effectively.

**Criterion 5: End-to-end support**

The victims of CSEA should be provided with an immediate and long-term support plan based on their needs assessed to help them cope with the immediate impact of the abuse and recover from harm. The support should be provided during investigation, legal proceedings and beyond. Rehabilitation and reintegration services are also an important part of the end-to end support.

**Criterion 6: Child helpline**

Child helpline is one of the support and intervention services aiming at supporting children to report the abuse and to provide direct assistance in removing a child from a dangerous situation. It is a 24-hour service, 7 days a week and can be offered via telephone line, or a combination of text messaging, internet, e-mail, etc. The helpline cooperates with a network of law enforcement, child protection units, social service providers, etc. The helpline should be promoted publicly.

**Criterion 7: VAC online reporting**

The industry should put in place processes and procedures to make sure the identification and reporting of child sexual exploitation and abuse to law enforcement. The company's staff must have the knowledge and skills as well as detailed procedures to report effectively CSEA online to law enforcement.

**Criterion 8: Ethical and informed media reporting**

The media plays an important role in informing the public and overcoming the myths and stereotypes on CSEA. Ethical, balanced and informed media reporting is critical in providing best outcome for preventing CSEA and protecting the victims. Media professionals should have the necessary training and skills to tackle CSEA online.

### ANNEX 3: ASSESSMENT MATRIX AND KEY INFORMANT INTERVIEWS

LEVEL	KEY RESEARCH QUESTION	SUB-QUESTIONS	KEY ACTORS	METHOD
<i>Legislation and policy</i>	To what extent the current legal and policy framework guarantees the protection of children from violence, abuse and exploitation, online and offline, and complies with international standards?	<ul style="list-style-type: none"> <li>- Is there any strategy, policy and or action plan addressing child protection issues in general and or VAC in particular, including child online safety?</li> <li>- Is there any legislation in place to protect children from sexual abuse and exploitation, both online and offline?</li> <li>- What are the measures of prevention, prosecution and support provided for by the legislation in force?</li> <li>- Are substantive criminal law provisions sufficiently clear and complete so as to enable prosecution of VAC online cases?</li> <li>- Are procedural criminal law provision sufficiently clear and complete so as to enable proactive investigation of VAC online perpetrators?</li> <li>- Is the legislation regulating the ICT sufficiently clear in terms of industry's responsibility for online content, prevention measures for VAC online, take-down procedures of harmful material, collaboration with prosecution authorities, monitoring and reporting of VAC online cases?</li> <li>- Is there legislation in place establishing social/child protection services to children victim of violence, abuse and exploitation in general and VAC online in particular?</li> <li>- Is the legislation in place sufficiently clear and elaborated to provide end-to-end support to children victim of VAC online?</li> <li>- Is the legal terminology clear, uniform and conform to international standards?</li> <li>- Is the Albanian legislation in force regulating all aspects of VAC online (Prevention-prosecution-support) conform to international standards?</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Health and Social Welfare</li> <li>• Ministry of Justice</li> <li>• Ministry of Interior</li> <li>• Ministry of Education, Sports and Youth</li> <li>• Competent authority for cyber security</li> <li>• Authority for Electronic and Postal Communication</li> <li>• National Agency of the Information Society</li> <li>• Prosecution office</li> <li>• State Social Service</li> <li>• State agency for the rights and protection of the child</li> <li>• Court</li> <li>• State police</li> <li>• Interpol</li> <li>• NGO-S</li> </ul>	Desk research Interviews
<i>Institutional</i>	To what extent are institutional systems and procedural mechanisms established to implement the child protection policy and legal framework?	<ul style="list-style-type: none"> <li>- Are there any multi-stakeholder, cross-sector national body or bodies in place for bringing together and coordinating the activities of those with responsibility to protect children from all forms of violence, abuse and exploitation, including VAC online?</li> <li>- Which are institutions addressing the different aspects of VAC online, and are they provided with sufficiently clear and elaborated division of functions and internal working procedures?</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Justice</li> <li>• Ministry of Health and Social Welfare</li> <li>• Ministry of Interior</li> <li>• Ministry of Education, Sports and Youth</li> <li>• State agency for the rights and protection of the child</li> </ul>	Desk research Interviews Focus groups

<b>Institutional</b>	<ul style="list-style-type: none"> <li>- Is there a dedicated law enforcement unit/team specialised in investigation and prosecution of VAC online? Is their professional profile related to the issue? Are the procedures clear and comprehensive?</li> <li>- Are there special sections of judiciary hearing VAC online cases composed of specialized judges?</li> <li>- Are there any working procedures on VAC online investigations providing for coordination between all relevant stakeholders such as law enforcement, social services/children services and health services?</li> <li>- What is the current institutional response to cases of VAC online in all aspects from investigation, to prosecution and support to victims?</li> <li>- What is the current ICT ecosystem response, including industry engagement in addressing child protection issues? What are the procedures, if any, to enable the timely decommissioning/removal/of child sexual abuse material when a company confirms its presence on its service?</li> <li>- Is the child Help Line interacting with educational facilities, hospitals, law enforcement, judicial services, shelters, and other child-related services? Are there clear procedures in place related to documentation and data? What type of support and direct assistance is the Help line provide to VAC and CSEA victims?</li> <li>- Is there a dedicated reporting portal (hotline) in place to report internet material suspected to be illegal, including child sexual abuse material? What is, if any, its inter-connection with law enforcement bodies?</li> <li>- What are the procedures for, and their level of availability of access of the victims and witnesses to emotional and psychological support?</li> <li>- Is there any effective remedy or reparation available for VAC online victims and their guardians/caregivers other than criminal prosecution of perpetrators?</li> <li>- Is there a planned and integrated end-to-end support available for VAC online victims to help them with the immediate impact of their abuse and recover from the harm experienced? Are they specialized of the issue? Are the services free?</li> <li>- Is there any psychological and wellness support available for law enforcement and judiciary staff dealing with VAC online cases?</li> <li>- Is there a multi-agency and support system in place to manage and rehabilitate VAC online perpetrators and child sex offenders to support them and to prevent their reoffending?</li> <li>- Is there a national child sexual abuse image database and to what extent the law enforcement uses it to improve the efficiency and effectiveness of their efforts to identify victims and offenders? What is the level and the extend of international cooperation.</li> </ul>	<ul style="list-style-type: none"> <li>• National Agency of the Information Society</li> <li>• Institute for Education Development</li> <li>• Competent authority for cyber security</li> <li>• Ministry of Infrastructure and Energy</li> <li>• Court</li> <li>• State Police</li> <li>• Prosecutor</li> <li>• Interpol</li> <li>• Commissioner for the Right to Information and Protection of Personal Data</li> <li>• AMA</li> <li>• ALO 116 111</li> <li>• isigurte.al</li> <li>• Vodafone</li> <li>• Altelecom</li> <li>• Eagle</li> <li>• Telecom</li> <li>• Abissnet</li> <li>• Tring,</li> <li>• ABCom</li> </ul>	
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<p><b>Capacities</b></p>	<p><b>To what extent are the human resources in place and capable to implement the existing legal and policy provisions?</b></p>	<ul style="list-style-type: none"> <li>- What is the number of the dedicated law enforcement officers in the specialised teams/units dealing with investigation and prosecution of VAC (including online focus)? What is their professional profile?</li> <li>- What is the number of the judges specialized in hearing VAC online cases in each court? What is their professional profile?</li> <li>- What is the level of understanding of the law enforcement officers of the role of the child protection workforce and non-governmental organisations in enhancing the support provided to victims during and after VAC investigations, including cases of online CSEA?</li> <li>- Does the law enforcement have special training in order to investigate and collect evidence of VAC online cases? Any specific IT training?</li> <li>- Are judges sufficiently trained to review evidence of VAC online?</li> <li>- What is the extent to which the VAC online training and techniques are available and provided?</li> <li>- Is the trained specialist statutory workforce (child protection work force) skilled enough, coordinated and available to provide support to victims of violence and abuse, including sexual exploitation and abuse?</li> <li>- What is the availability of training for social service workforce on providing support to children during a law enforcement investigation?</li> <li>- What is the availability and extent to which the Child Helpline employees receive the necessary training and guidance to enable them to fulfil their role to a high and consistent standard?</li> <li>- What is the level of promotion of the helpline to children and young people?</li> <li>- Is there a national educational programme to raise awareness on VAC (both offline and online) and empowering children, young people, parents, guardians, caregivers and practitioners with information about VAC online?</li> <li>- Are the employees of ICT industry trained in issues such as: VAC online controls and take down procedures; online investigation methods to identify the distributors of VAC online materials; cooperate with law enforcement in order to investigate VAC online perpetrators; collect VAC online evidence necessary for investigation.</li> </ul>	<ul style="list-style-type: none"> <li>• State agency for the rights and protection of the child</li> <li>• National Agency of the Information Society</li> <li>• Institute for Education Development</li> <li>• Competent authority for cyber security</li> <li>• Court</li> <li>• Police</li> <li>• Prosecutor</li> <li>• Teachers</li> <li>• Health services</li> <li>• Child protection services</li> <li>• Social services</li> <li>• ALO 116 111</li> <li>• Vodafone</li> <li>• Altelecom</li> <li>• Eagle</li> <li>• Telecom</li> <li>• Abisnet</li> <li>• Tring,</li> <li>• ABCom</li> </ul>	<p>Desk research Interviews Focus groups</p>
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## Key informant interviews ("KII")

Key Actors	KII no	Venue
1. Ministry of Health and Social Welfare	1	Tirana
2. Ministry of Justice	1	Tirana
3. Ministry of Interior	1	Tirana
4. Ministry of Education, Sports and Youth	1	Tirana
5. Ministry of Infrastructure and Energy	1	Tirana
6. Competent authority for cyber security	1	Tirana
7. Authority for Electronic and Postal Communication	1	Tirana
8. National Agency of the Information Society	1	Tirana
9. Prosecutor office	4	Tirana, Durres, Fier, Lushnje
10. State Social Service	1	Tirana
11. State agency for the rights and protection of the child	1	Tirana
12. Court	1	Tirana,
13. State police	3	Tirana
14. The Commissioner for the Right to Information and Protection of Personal Data	1	Tirana
15. AMA	1	Tirana
16. ALO 116 111	1	Tirana
17. Isigurt.al	1	Tirana
18. Vodafone	1	Tirana
19. Telecom	1	Tirana
20. Tring	1	Tirana
21. ABCom	1	Tirana
22. Microsoft	1	Tirana
23. Child protection services	2	Fier, Lushnje
24. Institute for Education Development	1	Tirana
25. INSTAT	1	Tirana

## ANNEX 4: INTERNATIONAL STANDARDS

#WEPROTECT MODEL	FOCUS AREA	INTERNATIONAL STANDARD	INTERNATIONAL LEGISLATION / SOFT LAW	MANDATORY
POLICY AND GOVERNANCE	<b>Leadership</b> Accountable national government and oversight Committee	1- Creation of a special unit of high governmental level reporting directly to the Prime Minister; the President or a Cabinet Committee on Children with the competences of: developing a comprehensive child strategy; monitoring the implementation of the strategy; ensuring coordination at all levels. 2- Set up independent national or local institutions for promotion and protection of children rights with specific resources and competences	Point 1: General Comment No. 5 of the CRC Committee, Paragraph B, No. 39. Point 2: Lanzarote Convention Article 10 (2) (a)	Point 1: <b>Not Mandatory</b> / Soft-Law provision CRC Committee Point 2: <b>-Mandatory</b> provision Lanzarote Convention
	<b>Research, Analysis, Monitoring</b> National Situational analysis of CSEA risk and response / measurements, indicators	1- Set up mechanisms for data collection / focal points at national or local level for CSEA analysis 2- Continuous process of child impact assessment and child impact evaluation at all government levels 3- Collection of sufficient and reliable disaggregated data on children, covering 0-18 years. 4- Nationally applicable indicators 5- Cooperation with research institutions and use of qualitative and quantitative data	Lanzarote Convention Article 10 (2) (b) General Comment No. 5 of the CRC Committee, Paragraph E, No. 45; Paragraph F No. 48	Point 1 – <b>Mandatory</b> provision Lanzarote Convention Points 2-4: <b>Not mandatory</b> / Soft-Law provisions CRC Committee
	<b>Legislation</b> Comprehensive and effective legal framework to investigate offenders and ensure protection for victims	1- Substantive Criminal Law Provisions 2- Procedural Criminal Law Provisions 3- Administrative law provisions 4- Online industry provisions	CRC; OPSC; Budapest Convention; Lanzarote Convention EU Law dispositions	<b>Mandatory</b> convention norms with some discretion regarding implementation and not mandatory EU law dispositions
CRIMINAL JUSTICE	<b>Criminal Law Offences</b> Substantive criminal law provisions providing CSEA offences	1- Sexual Abuse 2- Child Prostitution 3- Child Pornography 4- Participation of children in pornographic performances 5- Corruption of Children 6- Solicitation of children for sexual purposes	Combination of the dispositions of the CRC; the OPSC; the Budapest Convention and the Lanzarote Convention as established in Annex 5.	<b>Mandatory</b> convention norms with some degree of discretion regarding implementation

CRIMINAL JUSTICE	<p><b>Procedural Criminal Law</b> Substantive and procedural criminal law provisions necessary for the prosecution and conviction of CSEA offenders</p> <ol style="list-style-type: none"> <li>1- Criminal reporting</li> <li>2- Initiation of proceedings</li> <li>3- Statute of limitation</li> </ol>	Combination of the dispositions of the CRC; the OPSC; the Budapest Convention and the Lanzarote Convention	<b>Mandatory</b> convention norms with some degree of discretion regarding implementation
	<p><b>Dedicated Law Enforcement</b> National remit; trained officers; proactive and reactive investigation; victim-focused;</p> <ol style="list-style-type: none"> <li>1- Provide specific training in information technology and collection of electronic evidence</li> <li>2- Specialized and trained units or persons in combating CSEA;</li> <li>3- Ensure psychological training of law enforcement</li> <li>4- Adequate financial resources for specialized CSEA units / persons;</li> <li>5- Investigation treated as priority without unjustified delay;</li> <li>6- Effective investigation: covert operations; access child pornography to identify victims</li> <li>7- Child friendly interviews</li> <li>8- Information on rights; investigation and available procedures and support services;</li> <li>9- Right to be heard and supply evidence;</li> <li>10- Right to safety and protection of privacy</li> <li>11- Right to free legal aid</li> </ol>	<p>Point 1: Recommendation No. R (95) 13 Committee of Ministers of the CoE</p> <p>Points 2 and 4-11 the Lanzarote Convention: Article 34; Article 30 (3); Article 30 (5); Article 31; Article 35</p> <p>Point 3: Article 8 OPSC</p>	<p>Point 1: <b>Not Mandatory</b> / Soft-Law provision of the CoE Committee of Ministers</p> <p><b>Points 2- 11 Mandatory</b> convention norms with some degree of discretion regarding implementation</p>
	<p><b>Judiciary and Prosecution</b> Trained, Victim focused</p> <ol style="list-style-type: none"> <li>1- Ensure training of judiciary and prosecution on CSEA</li> <li>2- Ensure psychological training of judiciary and prosecution</li> <li>3- Hearings closed to the public</li> <li>4- Videotaped testimony of children victim as evidence</li> <li>5- The victim is heard in the courtroom without being present through ICT tools</li> <li>6- Right to be heard; present evidence, needs and concerns;</li> <li>7- Support services during criminal proceedings to present their interests</li> <li>8- Information on rights, judicial procedures; available services;</li> <li>9- Right to safety and protection of privacy</li> <li>10- Right to free legal aid</li> <li>11- Case treated as priority avoiding delays in the dispositions of cases and execution of orders or decrees granting compensation</li> </ol>	<p>Lanzarote Convention: Article 31; Article 35 (2); Article 36</p> <p>OPSC Article 8</p>	<b>Mandatory</b> convention norms with some degree of discretion regarding implementation



VICTIM	<b>End to end support'</b> Integrated services during investigation; after-prosecution; after-care	<ol style="list-style-type: none"> <li>1- Coordination on national and local level of different agencies of different sectors: education; health; social services; law enforcement; judiciary;</li> <li>2- Establish social programs and multidisciplinary structures for assistance to victims and care givers</li> <li>3- Assist victims in physical and psycho-social recovery in short and long term</li> <li>4- Criminal justice response shall be followed by assistance</li> <li>5- Providing support services for the presentation of their rights during investigation and criminal proceedings</li> </ol>	Lanzarote Convention: Article 10 (1); Article 10 (3); Article 11 (1); Article 14; Article 30 (2); Article 31 (1) (d)  OPSC Article 8 (1) (d)	<b>Mandatory</b> convention norms with some degree of discretion regarding implementation
	<b>Child Protection Workforce</b> Trained, Coordinated, Available to provide support	<ol style="list-style-type: none"> <li>1- Legal and psychological training for child protection workforce</li> <li>2- Adequate knowledge of CSEA and reporting procedures</li> <li>3- Exclusion from recruitment of convicted CSEA offenders</li> <li>4- Coordination on national and local level of different agencies among sectors: education; health; social services; law enforcement; judiciary;</li> <li>5- Multidisciplinary structures</li> </ol>	OPSC Article 8 (4)  Lanzarote Convention: Article 5 (2); Article 5 (3); Article 10 (1); Article 11 (1)	<b>Mandatory</b> convention norms with some degree of discretion regarding implementation
	<b>Compensation, Remedies, complaints arrangements</b> Accessible procedures	<ol style="list-style-type: none"> <li>1- Existence of effective procedures for judicial involvement</li> <li>2- Access to free legal aid when a party to the criminal proceeding (ex. civil party)</li> <li>3- Access to information on judicial and administrative proceedings</li> <li>4- Access to adequate procedures to seek compensation for damages</li> </ol>	CRC Article 19 (2);  Lanzarote Convention: Article 31 (1) (d); OPSC: Article 9 (4)	<b>Mandatory</b> convention norms with some degree of discretion regarding implementation
	<b>Child Helpline</b> Victim reporting and support; referral to services for ongoing assistance	<ol style="list-style-type: none"> <li>1- Encourage and support to the setting up of information and advice services to callers</li> <li>2- Telephone or internet helplines</li> <li>3- Adapt legislation or procedures that balances the obligation to respect confidentiality and anonymity with the need to reports CSEA to child protection authorities.</li> <li>4- Establish toll-free child helplines which is accessible, has national coverage, has well-trained professionals and volunteers, operates 24/7;</li> <li>5- Cooperate with NGO hotlines and services for children;</li> </ol>	Points 1, 2 and 3 Lanzarote Convention: Article 12 and 13 (1)  Points 4 and 5 CRC Committee standards related to Article 19 (2) of the CRC	<b>Points 1-2-3-7 are Mandatory</b> convention norms with some degree of discretion regarding implementation  <b>Points 4-5-6 Not Mandatory /</b> Soft-Law standards of the CRC Committee

SOCIETAL	<p><b>CSEA Hotline</b> Public and industry reporting of CSEA offences – online and offline; link to law enforcement and child protection systems</p> <ol style="list-style-type: none"> <li>1- Establish reporting and referral measures as part of the protection system;</li> <li>2- Ensure that confidentiality rules do not prevent professionals on reporting CSEA cases to child protection services;</li> <li>3- Measures to encourage any person who knows about CSEA to report to the competent services</li> <li>4- Encourage the ICT sector to implement CSEA prevention policies; to put in place self-regulation or co-regulation norms</li> </ol>	<p>Point 1: CRC Article 19</p> <p>Points 2–4 Lanzarote Convention: Article 9 (2) and Article 12</p>	<p><b>Mandatory</b> convention norms with wide degree of discretion regarding implementation</p>
	<p><b>Education Program</b> For children/young people; parents/carers/teachers; practitioners; faith representatives</p> <ol style="list-style-type: none"> <li>1. Awareness raising on child protection for professionals working with children of education, health, social protection, sport and leisure, judicial and law-enforcement sectors</li> <li>2. Adequate knowledge on CSEA and identification tools for professionals working with children of education, health, social protection, sport and leisure, judicial and law-enforcement sectors</li> <li>3. Information on CSEA risks and protection tools for children during primary and secondary education provided in collaboration with parents;</li> <li>4. Awareness raising campaigns for the general public with info on CSEA and the preventive measures available.</li> </ol>	<p>Lanzarote Convention: Article 5 (1) and (2); Article 6; Article 8 (1)</p>	<p><b>Mandatory</b> convention norms with wide degree of discretion regarding implementation</p>
INDUSTRY	<p><b>Notice and Takedown procedure</b> Local removal and blocking of online CSEA content</p> <ol style="list-style-type: none"> <li>1- Notice submission mechanisms in place which are easy to access, user friendly, and allow submission by electronic means;</li> <li>2- Effective measures to prevent the submission of notices or counter-notices in bad faith and other abusive behaviours;</li> <li>3- Existence of points of contacts for states and service providers and fast-track procedures for processing notices submitted by competent authorities should be designed;</li> <li>4- Cooperation between hosting services providers and trusted flaggers;</li> <li>5- Cooperation between hosting service providers sharing experiences, ICT solutions and best practices; development of code of conducts, entering MoUs and other voluntary arrangements.</li> <li>6- Obligation to terminate or prevent infringement ordered by a competent court or administrative authority</li> <li>7- Procedures for the removal or disabling access to information of illegal content.</li> <li>8- Prompt removal of web pages containing or disseminating child pornography hosted in their territory;</li> <li>9- Block access to web pages containing or disseminating child pornography towards the internet users within their territory.</li> </ol>	<p>Points 1 -5 Commission Recommendation (EU) 2018/334</p> <p>Points 6-7 Directive 2000/31/EC: Article 13, Article 14</p> <p>Points 8-10 Directive 2011/92/EU: Article 25</p>	<p><b>Not Mandatory</b> / Commission Recommendation (EU) 2018/334 is a soft-law provisions even for EU member states</p> <p><b>Not mandatory in the classic sense</b> / EU law provisions constitute for Albania standards of approximation. They are not directly and immediately binding due to lack of EU Membership of Albania</p>

INDUSTRY	<p><b>CSEA Reporting / Competences of Authorities over ICT industry</b></p> <p>Statutory protection that would allow industry to fully and effectively report CSEA, including the transmission of content, to law enforcement or other designated agency</p> <ol style="list-style-type: none"> <li>1- Confidentiality rules do not prevent professionals on reporting CSEA cases to child protection services;</li> <li>2- Order expeditious preservation of specific computer data; and traffic data and expeditious disclosure of traffic data;</li> <li>3- Order submission of specified computer data, traffic data, subscriber information;</li> <li>4- Search and access computer systems and computer data storage mediums</li> <li>5- Seize or secure accessed computer data;</li> <li>6- Collect /record computer data in real time;</li> <li>7- Intercept content data of specific communications in real time when serious offences are committed</li> <li>8- Obligation to promptly inform competent authorities of alleged illegal activities</li> </ol>	<p>Point 1: Lanzarote Convention: Article 12;</p> <p>Points 2- 7: Budapest Convention Article 16, Article 17, Article 18; Article 19; Article 20; Article 21</p> <p>Points 8 Directive 2000/31/EC: Article 12</p>	<p><b>Mandatory</b> convention principles and technical norms with some degree of discretion regarding implementation</p>
	<p><b>Service Providers Liability</b></p> <p>Liability of intermediary service providers: transmission, caching, hosting</p> <ol style="list-style-type: none"> <li>1- Transmission (conduit) operators not liable for transmitted content which is not processed; it is not initiated; it is not sent to selected receiver.</li> <li>2- Caching operators not liable for automatic, intermediate and temporary storage of data not modified; stored in conformity with standard; expeditiously removed or disabled after the caching purpose is fulfilled.</li> <li>3- Hosting operators not liable of stored info in their platforms when there is no actual knowledge of illegal activity or information; there is no awareness of facts or circumstances from which illegal activity is apparent.</li> </ol>	<p>Directive 2000/31/EC: Article 12, Article 13, Article 14</p>	<p><b>Not mandatory in the classic sense</b> / EU law provisions constitute standards of approximation for Albania. They are not directly and immediately binding due to lack of EU Membership of Albania</p>
MEDIA AND COMMUNICATION	<p><b>Ethical and informed media reporting</b></p> <p>Enable awareness and accurate understanding of problem</p> <p>Protection of privacy of children victim</p> <ol style="list-style-type: none"> <li>1- Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his /her well-being</li> <li>2- Encourage the media to provide appropriate info on CSEA</li> <li>3- Rules on privacy protection including identity and image and prevent public dissemination of info that could lead to identification of CSEA victims</li> </ol>	<p>Point 1- CRC Article 17 (e)</p> <p>Point 2, 3: Lanzarote Convention Article 9 (3); Article 31 (1) (e);</p>	<p><b>Mandatory</b> convention norms with wide degree of discretion regarding implementation</p>

## ANNEX 5: INTERNATIONAL STANDARDS FOR SUBSTANTIVE CRIMINAL LAW PROVISIONS

OFFENCE	CRC	OPTIONAL PROTOCOL	BUDAPEST CONVENTION	LANZAROTE CONVENTION	LEGAL STANDARD
<b>Sexual abuse</b>	<p><b>Article 34 (a)</b></p> <p>States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful <b>sexual activity</b>;</p>	N/A	N/A	<p><b>Article 18: Sexual abuse</b></p> <p>1 Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:</p> <p>a) engaging in <b>sexual activities</b> with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;</p> <p>b) engaging in sexual activities with a child where use is made of coercion, force or threats, or abuse is made of a recognised position of trust, authority or influence over the child, including within the family; or</p> <p>abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.</p> <p>2. For the purpose of paragraph 1 above, each Party shall decide the age below which it is prohibited to engage in sexual activities with a child.</p> <p>3 The provisions of paragraph 1.a are not intended to govern consensual sexual activities between minors.</p>	<p><b>Lanzarote Convention</b></p> <p>(sexual activity not defined / states discretion)</p>
<b>Definition of Child Prostitution</b>	N/A	<p><b>Article (2) (b)</b></p> <p>For the purpose of the present Protocol:</p> <p>(b) Child prostitution means the use of a child in <b>sexual activities</b> for remuneration or any other form of consideration;</p>	N/A	<p><b>Article 19 (2)</b></p> <p>2 For the purpose of the present article, the term "child prostitution" shall mean the fact of using a child for <b>sexual activities</b> where money or any other form of remuneration or consideration is given or promised as payment, regardless if this payment, promise or consideration is made to the child or to a third person.</p>	<p><b>Lanzarote Convention</b></p> <p>(sexual activity not defined / states discretion)</p>

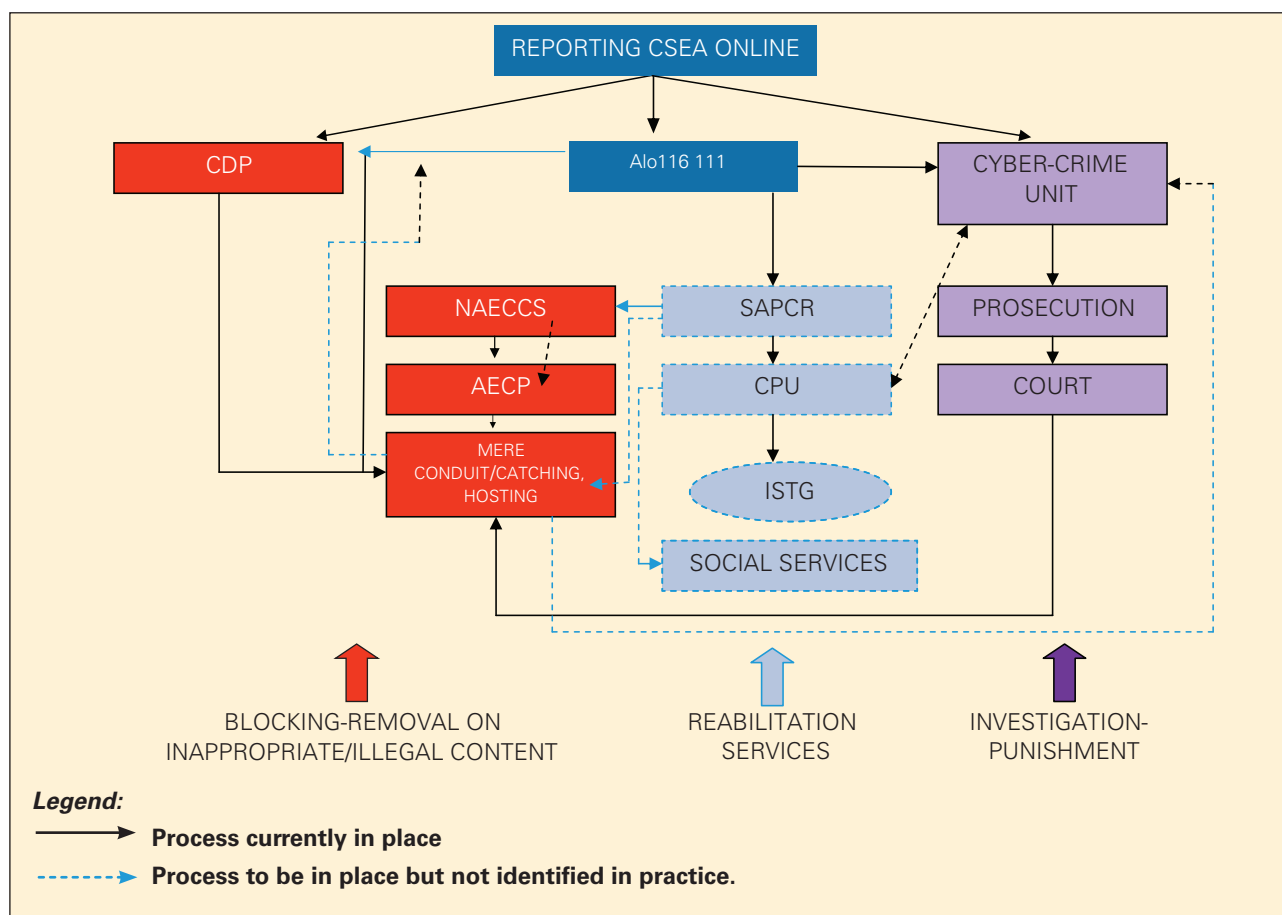
<b>Child Prostitution Offences</b>	<p><b>Article 34 (b)</b></p> <p>States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:</p> <p>(b) The exploitative use of children in prostitution or other unlawful <b>sexual practices</b>;</p>	<p><b>Article 3 (1) (b)</b></p> <p>1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether these offences are committed domestically or transnationally or on an individual or organized basis:</p> <p>(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in Article 2;</p>	N/A	<p><b>Article 19 (1)</b></p> <p>1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:</p> <p>a) recruiting a child into prostitution or causing a child to participate in prostitution;</p> <p>b) coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes;</p> <p>c) having recourse to child prostitution,</p> <p>d) offering, procuring or providing a child for child prostitution</p> <p>*** (Child prostitution defined as in the Lanzarote Convention)</p>	<p><b>Mix Optional Prot. Lanzarote Convent.</b></p> <p>1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:</p> <p>a) recruiting a child into prostitution or causing a child to participate in prostitution;</p> <p>b) coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes;</p> <p>c) having recourse to child prostitution,</p> <p>d) offering, procuring or providing a child for child prostitution</p> <p>*** (Child prostitution defined as in the Lanzarote Convention)</p>
<b>Definition of Child Pornography</b>		<p><b>Article 2 (c)</b></p> <p>Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit <b>sexual activities</b> or any representation of the sexual parts of a child for primarily sexual purposes.</p>	<p><b>Article 9 (2) and (3)</b></p> <p>For the purpose of paragraph 1 above, the term "child pornography" shall include pornographic material that visually depicts:</p> <p>a- a minor engaged in sexually explicit conduct;</p> <p>b- a person appearing to be a minor engaged in sexually explicit conduct;</p> <p>c- realistic images representing a minor engaged in sexually explicit conduct.</p>	<p><b>Article 20 (2) -</b></p> <p>For the purpose of the present article, the term "child pornography" shall mean any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child's sexual organs for primarily sexual purposes.</p>	<p><b>Mix of Op. Protocol Budapest Convention Lanzarote Convention</b></p> <p>For the purpose of the present article, the term "child pornography" shall mean any representation, by whatever means of:</p> <p>a. a child engaged in real or simulated sexually explicit conduct;</p> <p>b. a person appearing to be a child engaged in real or simulated sexually explicit conduct;</p> <p>c. realistic images representing a child engaged in sexually explicit conduct;</p> <p>d. child's sexual organs for primarily sexual purposes</p>

<b>Child Pornography Offences</b>		<p>Article 3 (1) (c)</p> <p>Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in Article 2.</p>	<p>Article 9 (1)</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:</p> <ul style="list-style-type: none"> <li>a) producing child pornography for the purpose of its distribution through a computer system;</li> <li>b) offering or making available child pornography through a computer system;</li> <li>c) distributing or transmitting child pornography through a computer system;</li> <li>d) procuring child pornography through a computer system for oneself or for another person;</li> <li>e) possessing child pornography in a computer system or on a computer-data storage medium.</li> </ul>	<p>Article 20 (1)</p> <p>1.Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct, when committed without right, is criminalised:</p> <ul style="list-style-type: none"> <li>a) producing child pornography;</li> <li>b) offering or making available child pornography;</li> <li>c) distributing, disseminating or transmitting child pornography;</li> <li>d) procuring child pornography for oneself or for another person;</li> <li>e) importing or exporting child pornography;</li> <li>f) selling child pornography;</li> <li>g) possessing child pornography;</li> <li>h) knowingly obtaining access, through information and communication technologies, to child pornography;</li> </ul>	<p><b>Mix: Optional Protocol Budapest Convention Lanzarote Convention</b></p> <p>1.Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct, when committed without right, is criminalised:</p> <ul style="list-style-type: none"> <li>a) producing child pornography;</li> <li>b) offering or making available child pornography;</li> <li>c) distributing, disseminating or transmitting child pornography;</li> <li>d) procuring child pornography for oneself or for another person;</li> <li>e) importing or exporting child pornography;</li> <li>f) selling child pornography;</li> <li>g) possessing child pornography;</li> <li>h) knowingly obtaining access, through information and communication technologies, to child pornography;</li> </ul>
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Offences concerning participation of children in pornographic performances		Article 34 (c) States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:  (c) The exploitative use of children in pornographic performances and materials.		Article 21 1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised: (a) recruiting a child into participating in pornographic performances or causing a child to participate in such performances; (b) coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes; (c) knowingly attending pornographic performances involving the participation of children. 2. Each Party may reserve the right to limit the application of paragraph 1.c to cases where children have been recruited or coerced in conformity with paragraph 1.a or b.	Lanzarote Convention
Corruption of Children				Article 22 – Corruption of children Each Party shall take the necessary legislative or other measures to criminalise the intentional causing, for sexual purposes, of a child who has not reached the age set in application of Article 18, paragraph 2, to witness sexual abuse or sexual activities, even without having to participate.	Lanzarote Convention
Solicitation of children for sexual purposes				Article 23 – Solicitation of children for sexual purposes Each Party shall take the necessary legislative or other measures to criminalise the intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age set in application of Article 18, paragraph 2, for the purpose of committing any of the offences established in accordance with Article 18, paragraph 1.a, or Article 20, paragraph 1.a, against him or her, where this proposal has been followed by material acts leading to such a meeting.	Lanzarote Convention



## ANNEX 6: INSTITUTIONAL RESPONSE GRAPHIC



The chart is built in accordance with the findings on the institutional response to CSEA online. It demonstrates the interaction amongst different stakeholders with regard to: (1) CSEA online reporting; (2) investigation and punishment of offenders; (3) takedown procedures; (4) end-to-end support for the victims of CSEA online; The chart presents the way the institutions need to interact with in order to enable the reporting of CSEA cases, the investigation and punishment of the perpetrators, the provision of rehabilitation services and the removal of the inappropriate content from the online space. The lines —————> are used in the chart to indicate the identified lack in interaction amongst the institutions, whereas the lines -----> are used to demonstrate identified interaction amongst the institutions.

Based on the assessment and as seen in the chart, there are gaps in the way the current system reacts in addressing the reported cases of CSEA online. Some gaps are due to the legal framework, while some others are mainly generated by the lack of a multi-sectoral mechanism that enables a joint coordinated action of all public and non-public stakeholders to effectively tackle CSEA online. In this mechanism each actor should have clear roles and responsibilities and continuously exercise them as part of a unified system.

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## ANNEX 7: METHODOLOGY

### *Assessment framework*

The assessment framework is a combination of the #WePROTECT Global Alliance Model National Response (MNR) and the international legal standards deriving from the relevant conventions, as well as the EU legislation, governing the issue of CSEA.

The MNR comprises of six main pillars of intervention:

- ✓ Policy and Governance;
- ✓ Criminal Justice;
- ✓ Victim;
- ✓ Societal;
- ✓ Industry; and
- ✓ Media and Communication.

Under each pillar, the MNR identifies 21 capabilities that are elements necessary for the system to function effectively. (Annex 1). Some of these capabilities have been used to form broad criteria for assessment in this report, as provided in Annex 2. In addition, the criteria for the broad assessment were accompanied by a comprehensive list of detailed assessment questions developed during the inception phase as guidance for the assessment attached here as Annex 3.

Legislation is an element of the MNR and it is included under the Policy and Governance Pillar. It is also one of the specific objectives of this assessment, focused on identifying the international legal standards on CSEA and to what extent they are reflected in the Albanian legislation. While the MNR provides some general guidance on the legislation, it is not a binding instrument. The specific binding legal standards are contained in several international instruments that are analysed with the aim of identifying such standards governing all six MNR pillars. For this purpose, the international conventions regulating CSEA, ratified by Albania and becoming part of its internal legislation, were reviewed. These include the Convention on the Rights of the Child (CRC), Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (OPSC), Budapest Convention and Lanzarote Convention. Some specific aspects of online CSEA were not addressed by the above-mentioned international conventions but were regulated by EU legal acts. Due to the standard-setting force of EU Law (the Brussels Effect) and to specific obligations of Albania in the context of the EU integration process<sup>164</sup> these acts were also reviewed and used to identify international standards for the uncovered MNR pillars, mainly related to Industry. These are Directive 2000/31/EC<sup>165</sup> (e-Commerce Directive), Directive 2011/92/EU,<sup>166</sup> and Commission Recommendation (EU) 2018/334,<sup>167</sup> a soft law instrument.

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<sup>164</sup> Albania is a Candidate country and thus not yet obliged to transpose EU directives within the established terms and to directly apply EU legislation (regulations, etc.), unlike member states. Nevertheless, due to its commitment stemming from Article 70 of the Stabilisation and Association Agreement between Albania and the European Commission (SAA), Albania is under the obligation to progressively approximate its legislation to the EU.

<sup>165</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 'On certain legal aspects of information society services, in particular electronic commerce, in the Internal Market'.

<sup>166</sup> Directive 2011/92/EU of the European Parliament and of the Council, of 13 December 2011 'On combating the sexual abuse and sexual exploitation of children and child pornography and replacing Council Framework Decision 2004/68/JHA'.

<sup>167</sup> Commission Recommendation (EU) 2018/334 of 1 March 2018 'On measures to effectively tackle illegal content online'.

Review of these international legal acts culminated in the identification of a set of international legal standards for all six MNR pillars. These standards are collected and presented in Annex 4 of the present report and used to assess the Albanian legal and institutional framework, as well as the available human resources. They are complementary to the MNR assessment criteria, detailed further with the added value of being binding international norms instead of best practice guidelines.

### **Methodological approach**

The assessment was conducted using secondary and primary data analysis, applying for the latter a qualitative approach, enabling the capturing of the opinions of a wide range of stakeholders engaged in the assessment. With triangulation of the information, a combination of various data collection qualitative instruments was used as laid out below.

#### ✓ Secondary data analysis: Desk review

The desk review was applied during the analysis of the international and national legal framework on the protection of children from online CSEA, necessary to identify the international standards in all six pillars of the MNR (Policy and Governance; Criminal Justice; Victim; Societal; Industry; Media and Communication) and the compliance of Albanian law to such standards. The comparative review of the Albanian legislation for all six MNR pillars with the identified international standards led to identification of gaps in the Albanian legislation.

The desk review was also used for the mapping out of the roles and responsibilities of key stakeholders dealing with issues related to VAC and online CSEA under all six MNR pillars, and to identify and analyse, where existent, Albanian policies, strategies and actions plans, on online CSEA.

#### ✓ Primary data

Primary data were collected through a combination of techniques, including key informant interviews were held in Durres, Fier, Lushnje and Tirana and focus group (FG) discussions were held in Tirana. In the study area, four schools in the centre and four schools in peripheries were selected. Child Protection Units (CPUs) were selected according to the reported VAC cases, while in Tirana employees from all CPUs were invited to participate in the FGs.

#### **a. Key informant interviews**

In order to gain a better picture of the current infrastructure dealing with online CSEA and of the human capital capabilities and training needs, four members of the team of consultants conducted key informant interviews (KIIs). The interviewees helped provide a deeper understanding of the response of the country to CSEA issues and of the capacity to address the gaps, as well as to identify the need for specialised human resources on those issues. The timeframe for the interview was approximately 45–60 minutes. The assessment

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matrix for KIIs (level, key questions, sub-questions, key actors and methods) are reported in Annex 3. In all, 31 individuals were interviewed as part of this assessment.

During the KIIs, two case studies were identified that could be used to assess capacity gaps. These case studies helped to provide a better understanding of the identification and response mechanisms to CSEA issues.

#### **b. Focus groups**

Two focus groups (FG) were organised. The one with teachers was used to assess capacity gaps in the environment of the school system, and whether there was awareness of online CSEA and the education curriculum creates the opportunity for discussion of the issue in schools. Twelve teachers participated in this FG, which took place at Vasil Shanto School and lasted 90 minutes.

The FG with the CPU social workers was conducted with the aim of finding whether the child protection workforce is sufficiently trained to ensure the provision of high quality services to victims. The assessment looked into the capacities of social workers to support children during law enforcement investigations, their preparation in managing an effective plan for rehabilitation and reintegration of the victim, and whether there are clear working procedures for the process. Guidance through the questions in FG took place, with 18 child protection workers (CPWs) participating in the discussion, which took place at the Gonxhe Bojaxhi Centre, and lasted 80 minutes.

