

## HATE SPEECH REGULATION - ALBANIA

The standards of regulation of hate speech are in line with international standards. Hate speech in Albania is regulated through several provisions in the Criminal Code as follows:

- Article 265 of the Criminal Code states: “Incitement of hatred or conflicts between nationalities, races, and religions, as well as the preparation and dissemination of articles with such content, is punishable through a fine or up to ten years of imprisonment.”
- Article 266 further details the prohibition of hate speech: “Endangering public order by calling for hate against parts of the population by insulting and or defaming them, or by demanding the use of violence or arbitrary actions against them, is punishable through a fine or up to five years of imprisonment.”

Other articles define as a crime the offering of materials that deny, significantly minimize or justify acts of genocide or crimes against humanity in public or deliberately disseminating these materials to the public through computer crimes.

- Article 84/a states that a serious threat to murder or serious injury to someone because of their ethnicity, nationality, race, or religious affiliation through computer systems is also a punishable crime.

The so-called defamation provisions in the Criminal Code, while not directly covering hate speech, can be considered as extended regulation in this regard. In this regard

- Article 119 punishes the intentional insult of a person.
- Article 119/a states that offering materials with racist or xenophobic content in public or through computer systems is also a criminal misdemeanour
- Article 119/b states that intentional insult because of ethnicity, nationality, race, or religion in public or through computer systems is also a criminal misdemeanour. The punishments foreseen in these cases are more severe in cases when the content is made through deliberate public dissemination or through computer networks.

Regarding **media-specific regulation**, the Law on Audiovisual Media lists among its principles that audiovisual media should comply with “the right to information, political and religious beliefs, personality, and dignity and with other human fundamental rights and freedoms.”

In addition, broadcasts should also be guided by “non-allowance of broadcasts inciting intolerance among citizens,” and “respect for good neighbourly relations among peoples,”

- Article 32 states: “Audio and/or audiovisual media services must not contain any incitement to hatred based on race, sex, religion or nationality.”
- Article 120 forbids the public broadcaster from engaging in political and religious propaganda, which, in theory, can also be a source of hate speech.

Meanwhile, Law no. 10221 On Protection from Discrimination addresses protection from different kinds of discrimination, including also an article on the publication of discriminatory advertising (Article 8).

The Law also establishes the Commissioner Against Discrimination, whose competencies include monitoring violations ex officio, as well acting on complaints from the public.

### **Main legal measures – sanctions and remedies stipulated**

The audiovisual media law provides for the establishment of a Council of Complaints at the Audiovisual Media Authority. The Council is in charge of handling complaints on content, specifically ethical ones, based on the Broadcasting Code, a bylaw detailing the main professional rules audiovisual media should abide by. The complaints received by the Council are mainly focused on privacy, treatment of minors in the media, and advertising, while there are only a few particular complaints regarding hate speech narratives or practices. The complaints filed against hate speech to the Council of Complaints are minimal and come mainly from concerned non-governmental organizations.

Apart from the Council of Complaints of the audiovisual media regulator, citizens can also resort to the Commissioner for Protection from Discrimination, in charge of reacting to cases of discrimination of every kind, either following the complaints of interested actors or ex officio. There have been only limited cases of the Commissioner dealing with complaints about media outlets regarding hate speech and discrimination. Most of these complaints came from cultural minority activists and one from the LGBTI community, and two inquiries were initiated by the Commissioner.

In 2020, the “No-hate Alliance” was constituted in Albania, with founding members the independent public institutions People’s Advocate, the Commissioner Against Discrimination, the Audiovisual Media Authority, and the non-governmental organization

the Albanian Media Council, aiming to fight hate speech and discrimination in Albania through a joint cooperation effort.

They have committed to work together in monitoring hate speech and discrimination in Albanian society and raise awareness of the need to refrain from such cases and build an inclusive society. They have been active and issued declarations and statements in several public cases of questionable media coverage, especially regarding the LGBT community. Even though the power of these bodies and alliance over media outlets or other actors is limited, the fact that these kinds of institutions came together in an area where there had been scarce coordinated effort previously is certainly positive.

### **Pending defamation package**

Apart from audiovisual media regulation, there have been several attempts in recent years to pass **regulation for online media**, citing mainly the need to impose professional rules on the sector given the numerous complaints concerning its lack of ethics.

After a controversial process, the parliament approved such a law at the end of 2019, amidst opposition from media organizations and human rights activists. The law was regarded as providing the regulator with quasi-judicial competences to sanction media outlets, suggesting that Albania already has sufficient laws to regulate cases in which media outlets violate the rights of others.

In this context, there are precedents decided on in the Albanian courts. In response to this opposition and also criticism of the law by international organizations, the Council of Europe decided to seek the opinion of the Venice Commission on the law.

The final opinion, published in June 2020, stated that the amendments “are not ready for adoption in their current form. The law suffers from vagueness and would likely have a ‘chilling effect’ suppressing free discussion and political speech in the Albanian sector of the internet.”

While the media organizations reiterated their call for the government to withdraw the law, Prime Minister Rama announced that they would take on board the recommendations and guarantee the right of each man to be protected from defamation, as well as the obligation of each news portal to be identified as the subject of the law.

For the moment, the process seems to be stalled and the law has not entered into effect.

Rererences:

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