

Uncovering darkness: Child sexual abuse material online in Albania

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Abstract

In 2018, the Albanian *domain.al* ranked third highest in Europe and the 8th highest in the world in terms of hosting Children Sexual Abuse Material (CSAM), as reported by UNICEF in "The Lost Cases" (2018). It is estimated that between 5,000 and 20,000 cases related to the production and use of CSAM were referred from international organizations to Albania. However, from 2016 until the end of 2018, only twelve cases were investigated, with just one case leading to a detection. This raises concerns about the adequacy of Albania's current criminal justice system and cyberinfrastructure in effectively investigating and prosecuting criminals in relation to the growing threat of CSAM. It is crucial to address any loopholes in the law and ensure that there are no safe havens for the facilitation or hosting of child sexual abuse materials online. This policy paper aims to identify and highlight the areas where gaps exist, and opportunities lie within the legal frameworks to combat CSAM.

Keywords: CSAM, child pornography, cyberinfrastructure, Albania criminal justice system.

Introduction

Although one cannot deny the benefits that technological advancements have brought to our lives, it is becoming increasingly evident that there are aspects of it that remain curious and warrant further exploration. More curious is the stance that as soon as we catch up to technology, there is a new wave of technological advancement. Today, as Artificial Intelligence brings the first glimpses of once-fantastical sci-fi movies into reality, those of us working in the legal system find ourselves engaged in a game of catching-up with technology. While many authors agree that the legal system should reflect past and present values and respond to evolving behaviours (Wisniewski Jr., 2007), it is indeed curious to observe the slow pace at which we are addressing cybercrimes in all its forms.

Amidst the whole spectrum of challenges in combatting cybercrime, this policy paper will address the alarming proliferation of Child Sexual Abuse Material (CSAM) in cyberspace (EPRS, 2022). Specifically focusing on Albania, the paper aims to shed light on the concerning prevalence of CSAM and the evident gaps in investigation and strategic approaches by law enforcement authorities to effectively combat this form of child sexual abuse.

Child Sexual Abuse Material, commonly known as "child pornography", is not a relatively new problem (Negredo L., Herrero Ó, 2016). The novelty stands that the internet is facilitating, incentivising, and making it easier to access such material, thus becoming a platform for the storage and sharing of explicit content depicting the sexual exploitation of children (Council of Europe).

In 2018, Albania emerged as a hub for hosting Child Sexual Abuse Material ("CSAM"), ranking third highest in Europe and eighth highest globally (The Lost Cases, 2020). The prevalence of CSAM in Albania poses a serious threat to the well-being of children and society. Despite the alarming scale of the problem and the large number of CSAM cases referred to Albania, the response from law enforcement has been inadequate (The Lost Cases, 2020, p 12). Therefore, it is imperative to be proactive and innovative in the legal solutions to investigate, prosecute, and prevent CSAM-related offences in Albania.

Defining *Child Sexual Abuse Material* under the Albanian Legal Framework

Child sexual abuse material (CSAM) refers to visual representations of minors participating in explicit sexual acts in photographs, videos, or other media (ECPAT terminology, 2016). It is a form of child sexual exploitation and online abuse facilitated through digital tools and the internet.

In the context of Albanian legislation, the term used to address this issue is "*child pornography*" instead of "*child sexual abuse material*" - although, the common approach of many international entities is to use the term "child sexual abuse material" as it better reflects the abusive and exploitative nature of the content (ECPAT terminology, 2016, p 54).

Article 117 of the Albanian Criminal Code sanctions the production, distribution, possession, and access of so-called *child pornography*.¹ Engaging in criminal activities such as the production, distribution, advertisement, export, import, sale, and publication of pornographic materials in environments with children can result in imprisonment ranging from three to ten years (Article 117/2). Additionally, the recruitment, exploitation, compulsion, or persuasion of a child to participate in pornographic shows, as well as the involvement in such displays that include children, carry penalties of five to ten years of imprisonment (Article 117/3).

Despite Albanian legislation being aligned with important documents on the protection of childrenⁱⁱ, the persisting prevalence of CSAM remains a concerning issue. According to recent reports, there has been a notable increase in the circulation and distribution of CSAM within online platforms, particularly those associated with Albanian domains. In 2020, out of 6129 reports made to ISIGURT.al, a platform for online child safety issues in Albania run by EXPAT Albania, 6054 were pages, videos or profiles that contained child sexual abuse material (ECPAT Albania, Out of Shadows Index, 2020, p 3).

In a report on Child Sexual Exploitation and Abuse online (ECPAT International and CRCA/ECPAT Albania, 2021, p 3), it was revealed that 56% of surveyed frontline workers expressed concerns about the lack of public awareness regarding child sexual exploitation and abuse online, and that "*Albania is really behind in understanding the seriousness of the child sexual abuse and exploitation online and offline.*" Additionally, another report focusing on the possession, storing, distribution, uploading, making, and creation of CSAM found that 55% of respondents were uncertain about the legality of these activities in Albania, indicating a need for greater clarity and education regarding the legal framework surrounding CSAM in the country (ITU, 2020, p 5).

Legal and Cyber Infrastructure in Albania

Albania scored 64.32 and ranked 80th in the world, and 40th in Europe, in the Global Cybersecurity Index 2020.¹ A score of 64.32 suggests that there is room for improvement in Albania's cybersecurity measures. Among the different aspects evaluated in the Global Cybersecurity Index (GCI), Albania received the highest score of 18.13 in the category of legal measures. This score indicates that Albania has taken significant steps "to enact laws, regulations, and policies that promote cybersecurity and establish a solid legal foundation for combating cyber threats" (ITU, The Global Security Index 2020, p 107).

¹ ITU, The Global Security Index 2020.

The GCI evaluation also calculated Albania's cooperative measures' score, which was 7.78. This rating reflects the nation's efforts to promote cooperation and collaboration with other stakeholders, both nationally and internationally, to effectively solve cybersecurity concerns. The growth in Child Sexual Abuse Material (CSAM) in Albania and the ability of law enforcement agencies to handle this issue are both indirectly impacted by cooperation measures, even if their primary focus is on addressing general cybersecurity issues.

In the findings of most reports working on CSAM, authors reflect that it is essential that all relevant stakeholders, including law enforcement authorities, internet service providers (ISPs), non-governmental organisations (NGOs), and international partners, collaborate and work together to better advance combating CSAM. Albania needs to develop systems for exchanging knowledge, skills, and best practices relating to CSAM detection, reporting, and prevention by actively participating in cooperative measures. Among other things, this can entail exchanging technology innovations for better content filtering and detection and cooperation to identify and track offenders and developing trends in intelligence gathering (The Lost Cases, 2020, p 17).

The Strategy Against Organised Crime and Serious Crimes 2021-2025 puts the fight against cybercrime as one of its main components, among trafficking in drugs, people, weapons, works of art and cultural heritage, money laundering, and organized criminal structures.² The strategy calls for the institutions and responsible agencies to increase their effectiveness in fighting cybercrimes, and particularly in proactive in detecting, tracing and investigating child pornography.³ In the Screening Report, the Commission has assessed that Albania needs to enhance its record in the "establishment of a more effective law enforcement response focusing on the detection, traceability and prosecution of cyber criminals", noting the lack of capacity of the existing ASP cybercrime unit to deal with cybercrime.⁴ Based on this assessment, Albania is recommended to take into advantage the models used in the EU, as well as the existing mechanisms to counter cybercrime.

For instance, on EU level, Europol established the European Cybercrime Centre (EC3) in 2013 to strengthen the law enforcement response to cybercrime in the EU in order to prevent and detect all forms of criminality associated with the sexual exploitation of children.⁵ EC3 supports operations and investigations by Member States by offering operational analysis, coordination and expertise, whilst serving as a central hub for criminal information and intelligence.⁶ Europol (EC3) and the State Police of Albania have established a national contact points for exchange of information⁷, although, there is lack of report and data in the main webpages of key institutions, if this contact point has been used.

² The Strategy Against Organised Crime and Serious Crimes Albania 2021-2025, p 7.

³ *ibid* p 11.

⁴ https://neighbourhood-enlargement.ec.europa.eu/system/files/202307/AL%20Cluster_1%20Draft%20screening%20report_external%20version.pdf?fbclid=IwAR3qIMVi3Dbh2PN4y9RBH6VnnYgGVxneiTVTDJFXqkwG2deTJX_DAUcmn0o, p 75.

⁵ <https://www.europol.europa.eu/about-europol/european-cybercrime-centre-ec3> EC3 focuses on the investigation of: (i) cyber-dependent crime, (ii) child sexual exploitation, and (iii) payment fraud.

⁶ *ibid*

⁷ Council of Europe, iProceeds, General guide on Protocols on interagency and international cooperation for investigations involving proceeds from crime online, 2017, <https://rm.coe.int/3156-25-guide-interagency-international-cooperationprotocol-albania-en/16807be166>.

Furthermore, in 2022, the EU adopted the new European multidisciplinary platform against criminal threats 2022-2025 (EMPACT 2022+), as "a security initiative driven by member states to identify, prioritise and address threats posed by organised international crime".⁸ The EMPACT 2022+ policy priorities are:

- Identifying and disrupting high-risk criminal networks active in the EU;
- Target the criminal offenders orchestrating cyber-attacks;
- Disrupt criminal networks engaged in trafficking in human beings (..) with a focus on those who recruit and advertise victims online, and are serviced by brokers providing digital service;
- **Combat child abuse online and offline, including the production and dissemination of child abuse material as well as online child sexual exploitation;**
- Fight against criminal networks involved in migrant smuggling;
- To identify and target criminal networks involved in drug trafficking;
- To target individual criminals and criminal networks orchestrating fraud (Online fraud schemes, excise fraud, MTIC Fraud, Intellectual Property Fraud), economic and financial crimes;
- Organised Property Crime;
- Environmental Crime; and
- Firearms trafficking.

CSAM is a transnational issue that requires strong cooperation between countries. Enhancing Albania's international collaboration and information sharing with EU member states, Europol, and other relevant international organizations will contribute to a more coordinated response to cyber threats. As per the Commission assessment in the Screening Report, "specialised training, better co-ordination between institutions and adequate budgetary resources are needed across the board but in particular in relatively new and quickly developing areas such as cybercrime. Further consolidation of the Special Prosecution Office and the National Bureau of Investigation is needed regarding the administrative capacities, trainings, access to databases and international and national cooperation".⁹

Understanding the GAP - Alert: CSAM material found in Albania

Understanding the issue of CSAM in Albania requires delving into a case scenario that sheds light on how such cases are investigated. The process begins with the discovery of CSAM material. This material can be reported to the law authorities by (a) credible sources such as international entities like Europol¹⁰, or NGOs that work to fight against CSAM, like Meter Onlus¹¹ and National Center for Missing & Exploited¹², (b) internet service providers, (c) law enforcement agencies themselves in their routine checks, or (d) concerned individuals. Based on the information obtained, the Albanian State Police, specifically the Sector for Investigation of Computer Crimes (Cybercrime Unit), must prepare the case and submit it to

⁸ <https://www.consilium.europa.eu/en/policies/cybersecurity/#cybercrime>

⁹ https://neighbourhood-enlargement.ec.europa.eu/system/files/202307/AL%20Cluster_1%20Draft%20screening%20report_external%20version.pdf?fbclid=IwAR3qIMVi3Dbh2PN4y9RBH6VnnYgGVxneiTVTDJFXqkwG2deTJX_DAUcmn0o, p 73.

¹⁰ <https://www.europol.europa.eu/stopchildabuse>.

¹¹ <https://associazionemeter.org/servizi/os-mo-co-p-osservatorio-mondiale-contro-la-pedofilia/>.

¹² <https://www.missingkids.org/theissues/csam>.

the Prosecutor's Office for a decision on whether the case will be investigated. The Prosecutor's Office needs to also authorise the initiation of IP resolution requests and the paperwork which will be submitted to the Internet Service Provider (ISP) for the IPs addresses. The Cybercrime Unit and the prosecutors need to obtain warrants from the judge to receive the records that identify account holders by ISP. The Cyber Unit collects the exhibits and delivers the materials for examination to the sector for the Examination of Computers and Audio-Video. The examination will ascertain whether the images of children are indecent, often requiring a manual process. In case there are indecent images, the material proof is referred to the Institute of Forensic Medicine for the determination of the age of the child. As a final step, the Cyber Unit submits the final case to the Prosecutor, who takes it to the judge. Here, the judicial process commences with a subsequent investigation.

Although this is a straining process, it is critical to conduct a thorough and detailed investigation. Gathering evidence, conducting interviews, analysing digital data, and coordinating with relevant stakeholders such as internet service providers and forensic experts are all part of the process. The investigative step is critical in identifying perpetrators, uncovering networks involved in CSAM distribution, and gathering evidence for prosecution. It necessitates the use of expert investigators who have been trained in digital forensics and specialised techniques for tracking and tracing online activities. Furthermore, international cooperation and information sharing with law enforcement agencies from other countries are required to effectively address cross-border CSAM offences.

The curious case of Albania, based on the information obtained by the authors of the "Lost Cases" report, is that between 5,000 and 20,000 referrals that the Cybercrime Unit at the Albanian State Police received, only 12 cases were investigated and only one case was detected in the timeframe from 2016 to 2018 (The Lost Cases, p 18). As authors argue soundly, *"even on the basis that 99 per cent of the referrals from reputable international institutions are incorrect, ASP should still have the grounds for investigating somewhere between 50–200 cases a year"* (The Lost Cases, p 13). Although specific data on the number of referrals sent to the Cyber Unit from 2020 to 2023 is currently unavailable, based on the data from the yearly report of the Prosecutor General on the state of crime in Albania, we find that:

- In 2022, a total of 67 proceedings connected to Article 117 of the Albanian Criminal Code "Child Pornography" were registered, out of which only 3 were sent to the court. Only one of the cases resulted in a conviction.¹³
- Similarly, in 2021, there were 11 registered cases specifically related to Article 117 on pornography, with 2 cases sent to the court. Only one person was convicted.¹⁴
- In 2020, 8 proceedings related to child pornography were registered, and 2 cases were sent to the court, resulting in a single conviction.¹⁵

These statistics indicate a significant gap in the functioning of the Cyber Unit in effectively combating child sexual abuse material in Albania. It is challenging to assess the whole scope of the problem without complete and reliable statistics. And particularly now - as Albania prepares to join the European Union, the case of addressing CSAM and the statistics

¹³ Prosecutor General, [Report of the Prosecutor General on the state of crime in Albania for 2022](#).

¹⁴ Prosecutor General, Report of the Prosecutor General on the state of crime in Albania for 2021.

¹⁵ Prosecutor General, Report of the Prosecutor General on the state of crime in Albania for 2020.

surrounding it should become a priority. The reasons behind this discrepancy between the number of registered cases and the guilty verdicts falls outside the scope of this paper. It is worth noted that there is a lack of research and spotlight on this matter, and some hypothesis that rise on this could be: (1) low capacities on the prosecution office in people and technology to investigate and produce evidence needed to prove any of the four elements of crime: *mens rea*, *actus reus*, *concurrence*, and *causation*; lack of cooperation with international stakeholders to gather evidence and investigate, such as with Europol for example - although there is an agreement that establishes the cooperation between Europol-Albania¹⁶ in the field of cybercrime, there is a lack of data on the instances where this has happened; and (3) lack of capabilities of judges to understand cybercrimes due to their complexity¹⁷. Further research is needed in this area to gain an understand of this issue.¹⁸

However, based on the objectives set for the law enforcement authorities in the Strategy for Investigation of Cybercrime 2021-2025¹⁹, we understand that efforts will be dedicated to resolving these gaps.

The European Commission Albania 2022 Report flagged the phenomenon of online child sexual abuse in Albania as "a concern". The importance of this issue is reflected in Albania's National Cybersecurity Strategy 2020–2025 (NCS), which includes the development of mechanisms to ensure children's online safety as one of its four key objectives. As cybersecurity is closely related to cybercrime, one hypothesis remains that the lack of security of key infrastructures in Albania is hindering the work of law enforcement authorities. To base this premise, we gather from the NCS the key results expected to be achieved in this strategy.

| No | Expected results | Achieved | No Data | No |
|----|---|----------|---------|----|
| 1 | Analysis of the national legal gap for the protection of children from sexual abuse on the Internet. ²⁰ | | | |
| 2 | Ensuring the provision of technical tools that assist the police and relevant bodies in analysing and detecting cases of online violence, especially related to images of child sexual abuse. | | | |
| 3 | Establishing training programs for judicial, prosecutorial and police personnel, regarding online child protection and cyber security, including evidence of digital use and mutual legal assistance. | | | |
| 4 | The establishment of a structure of courses at the Magistrate's School and the Security Academy, in relation to issues related to crimes against children online and ways to protect them online. | | | |

¹⁶ Europol Strategic Agreement the Republic of Albania and the European Police Office, <https://www.europol.europa.eu/sites/default/files/documents/albania.pdf>.

¹⁷ Based on the Law Faculty of University of Tirana programme, Cybercrime module is taught in 30 hours in the fourth year (link). In the magistrate school, the Module Cybercrime takes only 6 hours of the total programme for the first-year magistrates (link).

¹⁸ See <https://cesk.gov.al/wp-content/uploads/2020/07/AlbaniaCMMReport.pdf> for an assessment until 2018.

¹⁹ (1) extending the cybercrime investigation structure throughout the country and building technological and legal capacity; (2) presenting a prompt and efficient response to cybercrime, raising public awareness, taking legislative initiatives, and building professional capacity; (3) presenting a rapid and professional response to the prevention, prosecution, and investigation of cybercrime against children; and (4) increasing national and international cooperation in the field of cybercrime investigation with strategic partners.

²⁰ AKCESK, Annual Report, 2022.

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|---|--|--|--|--|
| 5 | Creation of mechanisms for standardizing the work of analysing digital evidence from the cybercrime structure in the State Police | | | |
| 6 | Creation of a working group together with cybercrime structures in the State Police and industry to solve the problems of investigation and identification of persons suspected of online child abuse, with a special focus on the identification of end users through addresses IP. | | | |

Table 1: Results indicators to be fulfilled in 2020-2025, extracted from Albanian's National Cybersecurity Strategy 2020-2025.

The expected results, in particular, the provision of technical tools, increasing capacities, and creation of structures to tackle online child abuse, ought to be strategic in what the law enforcement authorities lack in their fight against CSAM in Albania. However, there is no evidence to support whether the implementation of these solutions has started in either the AKCESK Annual Reports for 2021 or 2022. Meanwhile, research on organised cyber crime in Albania (Zhilli, Lamallari, 2022) find that "There is a risk that international criminal groups that distribute pornographic material of minors online may contract paedophiles resident in Albania to produce pornographic material with Albanian minors".

Considering these findings, this policy paper presents a key recommendation aimed at the prosecution office, which is **the establishment of a dedicated sub-section within the cyber unit that works closely with cybersecurity agencies in Albania**. This specialized unit would focus on identifying cases of Child Sexual Abuse Material within Albania, conducting thorough investigations, and proactively working to identify and support the victims involved. The prosecution office can improve its abilities to combat CSAM, protect children, and bring abusers to justice by establishing such a dedicated sub-section.

Establishing a CSAM Division within the Cybercrime Unit

A good practice which can serve as inspiration for the establishment of a specialized sub-section within the Cybercrime Unit in Albania is the model used in the United Kingdom.

In the UK, the Child Exploitation and Online Protection Command (CEOP) is a specialized sub-section within the National Crime Agency (NCA), which focuses on tackling child sexual exploitation, including online abuse and child pornography.²¹ It works as a platform for people to report online sexual abuse. As part of their mandate, CEOP proactively targets individuals involved in the production, distribution, and possession of CSAM. They employ various investigative techniques and collaborate with international partners to identify and apprehend offenders involved in the creation and dissemination of CSAM.

Similarly, the sub-section within the Cybercrime Unit in Albania can focus on:

1. Identifying and rescuing victims;
2. Tracing individuals involved in the creation and distribution of child exploitation material; and
3. Innovating digital investigative methods to effectively combat these crimes.

The Albanian State Police and the Cybercrime Unit need to engage **proactively** in the investigation of crimes committed against children online. The current Cyber unit does not conduct undercover operations or simulations, despite the provision in Article 294/a of the

²¹ Child Exploitation and Online Protection.

Criminal Procedural Code that allows for such actions. Additionally, the Cybercrime Unit lacks proactive efforts in gathering evidence or intelligence to identify and monitor suspects in classified programs like ICACCOPs and chat rooms, as highlighted in The Lost Cases report (p 20).

By establishing a specialized sub-section or unit, the Cybercrime Unit would have a designated team of professionals with specific knowledge and skills related to CSAM investigations. Furthermore, Albania can allocate dedicated resources, expertise, and training to address CSAM effectively to this structure directly. This would involve investing in state-of-the-art tools, software, and technologies for digital forensics, data analysis, and content identification, thereby improving the unit's capabilities in identifying and tracking CSAM materials across various online platforms, including encrypted networks.

Conclusion

In conclusion, tackling the alarming proliferation of Child Sexual Abuse in Albania necessitates a comprehensive and proactive approach. Despite Albania's compliance with important international child protection norms, the incidence of CSAM remains a serious concern. Albania must create and implement a strategy focusing on the investigation, prosecution, and prevention of CSAM. This strategy should prioritise the formation of a separate sub-unit under Albania's Cybercrime Unit to address Child Sexual Abuse Material. By allocating dedicated resources, expertise, and training to this sub-unit, Albania can considerably improve its skills in identifying and tracking CSAM materials, tracing perpetrators, and rescuing victims. This proactive strategy, supported by a robust legal framework and engagement with international stakeholders, will assist in the protection of children and the prosecution of those involved in CSAM offences.

Recommendations

To AKCESK: Prioritise the goals of policy No. 3, and initiate close collaboration with law enforcement, particularly concerning capacity raising, investing in tools and technology to detect CSAM and establishing a task force to understand the key issues that hinder the capabilities of law enforcement authorities in Albania to tackle CSAM.

To the Prosecution Office and State Police: The existing approach by the State Police is not adequate to tackle child pornography in Albania. As the framework allows for such strategy, consider establishing a dedicated sub-section within the Cybercrime Unit focused on identifying, investigating, and combating Child Sexual Abuse Material. This division should have specialised training in digital forensics, as well as methods for monitoring CSAM-related internet activity. Increasing interaction and cooperation with Internet Service Providers (ISPs) and online platforms to implement robust mechanisms for detecting, reporting, and removing Child Sexual Abuse Material (CSAM) as soon as possible from the Albanian domains is imperative to the success of this strategy.

To the Ministry of Justice: Increase the capacity and resources of law enforcement authorities, such as police and specialised units, to investigate and prosecute CSAM cases effectively. Provide specialised training in digital forensics, internet investigations, and CSAM

material identification. Encourage national and international law enforcement agencies to collaborate and share information in order to combat cross-border CSAM activity.

To Internet Service Providers (ISPs) and Online Platforms: Create mechanisms for collaborating with law enforcement when CSAM content is detected. This involves promptly reporting any identified CSAM cases, preserving evidence, and cooperating with law enforcement investigations as required.

To Civil Society Organisations: Prioritise awareness raising about the issue of CSAM among the general public, parents, educators, and children themselves. Create educational initiatives and programmes that emphasise the hazards and effects of CSAM, as well as the significance of online safety and responsible digital activity. Furthermore, fight for stronger legal frameworks and policies that effectively handle CSAM.

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ⁱ Article 117 Pornography

1) Production, distribution, advertisement, export, import, sale, and publication of pornographic materials in environments with children, by any means or form, shall constitute criminal contravention and shall be punishable by imprisonment of up to two years.

2) Production, import, offering, making available, distribution, broadcasting, use, or possession of child pornography, as well as the conscious creation of access in it, by any means or form, shall be punishable by three to ten years of imprisonment.

3) Recruitment, exploitation, compulsion, or the persuasion of a child to participate in pornographic shows, as well as the participation in such shows which involve the participation of children, shall be punishable by five to ten years of imprisonment.

ⁱⁱ The provisions outlined in Article 117 of the Albanian Criminal Code regarding CSAM align with several key documents of the EU acquis, particularly with Directive 2011/93/EU, Directive 2012/29/EU, and The European Strategy for a Better Internet for Children.