

# E-commerce regulation in Albania

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## **Abstract**

*The Internet and digital technology are transforming our lives, every day with the paces in a dimension of a real revolution. These fast and deep transformations are now being considered worldwide, as the second most important revolution behind the industrial one. Regardless of these technological developments, the digital transformation of companies has had a slow but steady progress over the years. Business expectations and perception towards the need for digital transformation of services and the use of e-commerce are valued at high levels, receiving the main impetus during the two years of the COVID-19 pandemic, where online markets had an important role enabling the continuation of economic life despite social distancing restrictions. Referring the above, Albania has adhered to the European Union Directives related to electronic commerce, Directive 2000/31/EC on Electronic Commerce<sup>3</sup> and Directive 1999/93/EC<sup>4</sup>, as well as other related directives, making possible the approximation of a high level of our legislation, in the light of these directives. In the present paper, through a legal assessment, special attention has been paid to the National Digital Agenda for the period 2022-2026 and legal rules on e-commerce in the Albanian legislation, aiming to analyze the legal provisions, which regulate it in this regard. Also, an important objective of this paper is also the fact that it may serve as an important basis for further studies in this field. The analysis of the e-commerce legal regulation in Albania is based on the qualitative method, which contains also the research, analytical, descriptive, interpretive methods. The results of this paper, which treats an innovative topic, will stimulate debate in the academic level and contribute to the legal doctrine in Albania that lacks such.*

**Keywords:** e-business, e-commerce, national strategy, legal regulation, Albania.

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<sup>3</sup> Directive 2000/31/EC, "On Some legal aspects of Information Society services, especially on electronic commerce in domestic market (Directives on Electronic Commerce)", with CELEX 32000L003, OJ L 178, available online at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32000L0031>, last access on March 20<sup>th</sup>, 2023.

<sup>4</sup> Directive 1999/93/EC, "On electronic signature", with CELEX 31999L0093, OJ L 13, available online at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31999L0093>, last access on March 20<sup>th</sup>, 2023.

## 1. Introduction

In the present paper, through a legal assessment, will be analyzed the National Digital Agenda for the period 2022-2026 and legal rules on e-commerce in the Albanian legislation. This paper does not purport to serve as an exhaustive analysis of the above documents, but rather, aims to provide a general overview of the regulatory approach in relation to e-commerce in Albania.

The primary goal is the analysis of the abovementioned documents, focusing, initially on the conceptual assessment of e-business and e-commerce, main goals imposed in the National Digital Agenda for the period 2022-2026, as well a general provision regulating e-commerce in Albania. The analysis of the e-commerce legal regulation in Albania is based on the qualitative method, which contains also the research, analytical, descriptive, interpretive methods.

As a result of the lack of doctrinal treatments and judicial practice in Albania in relation to electronic commerce, we conclude that this paper is an attempt to make an important contribution to this specific topic, which constitutes innovation for Albanian topicality, as well as stimulates debate as a whole, especially in the academic level.

## 2. E-business & e-commerce conceptual assessment

Information and telecommunications technology can serve as a catalyst of the business community<sup>5</sup> by improving access to financing capital, facilitating access to local and global markets, strengthening the fiscal system, thereby enabling business processes and increasing interior demand for information technology.<sup>6</sup>

Given the above, conducting online business has become the first choice for many people, especially in recent years as a result of the Covid-19 pandemic. The latter has enabled an increase in electronic business activities not only from the point of view of sellers (business owners/service providers), but there has also been an increase in demand for clients, who want to buy almost everything online.<sup>7</sup>

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<sup>5</sup> O'Brien J. *Introduction to Information Systems*- Second Alternate Edition. McGraw-Hill, 2002, p. 24. For a more extensive view see Cristina Elena Popa Tache, *Public international law and fintech challenges*, „Perspectives of Law and Public Administration”, Volume 11, Issue 2, June 2022, pp. 218-225 and Laura Hoti Statovici, *The impact of digitalization in public administration in Kosovo*, „Perspectives of Law and Public Administration”, Volume 10, Issue 2, June 2021, pp. 80-84.

<sup>6</sup> Beqiri, E. *Interneti-komunikimet kompjuterike*. Dukagjini, 2002, p. 12. See also Cristina Elena Popa Tache, *About the Human Rights and Consumer Protection in the Digital Age of Digital Services Act 2022 or What Aspects Interested Investors Should Pay Attention To*, „International Investment Law Journal”, Volume 3, Issue 2, July 2023, pp. 121-132.

<sup>7</sup> Tregtia elektronike në Ballkanin Perëndimor: Sa të mbrojtura janë të dhënat tona kur blejmë në internet? Available online at <https://metamorphosis.org.mk/sq/blog/tregtia-elektronike-ne-ballkanin-perendimor-sa-te-mbrojtura-jane-te-dhenat-ona-kur-blejme-ne-inter-net/>, last access on March 20<sup>th</sup>, 2023. See Robert Siuciński, *Blockchain technology and mining process: how does polish tax*

According to statistics, in Albania, e-business is expected to reach \$ 475.4 million with an annual increase of 11% and about 1 million e-commerce users, with a diffusion that can reach over 40% in the next five years.<sup>8</sup>

E-business is the transformation of key business processes through the use of internet technology, focusing not only on buying and selling (e-commerce) but also on customer service and cooperation with partners.<sup>9</sup> Also, e-business can be widely defined as processes or fields of electronic or digital nature, involved in the management and functioning of a business organization. These include direct business activities such as marketing, sales and human resources, but also indirect activities like re-entering business processes and management of changes, which affect the improvement of efficiency and integrate business activities and processes.<sup>10</sup>

Electronic business has drastically changed the way enterprises, government agencies, nonprofits and other institutions work, allowing them to increase productivity, reduce costs, and move faster to digital transformation processes and improvement. Electronic billing, automated billing and digital payment systems reduce the amount of time workers devoted to these tasks, many of which were treated manually a few decades ago. This type of time saving allows businesses to reduce the number of department leaders or relocate workers. Digital systems also simplify work flows, reducing time between billing and payment and improving the cash flow for business.<sup>11</sup>

Despite the different levels of digital transformation, the challenges of electronic commerce have some common elements: providing electronic business services against increasingly sophisticated cyber threats; rapid scaling of services without endangering performance; rapid development of technologies and maintaining rhythm as a change in market dynamics; finding and training workers capable of maintaining pace with advanced technologies.<sup>12</sup>

There is no a broad accepted definition for the term "electronic commerce", but mostly there are definitions depending on the nature, dynamics and its use. Specifically, from the point of view of:<sup>13</sup>

- use and operation in market. E-commerce is defined as the trade that is

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*law tackle the problem?*, „Perspectives of Law and Public Administration”, Volume 10, Issue 2, June 2021, pp. 123-129.

<sup>8</sup> Ibid.

<sup>9</sup> Deitel, N., *E-business & e-commerce: how to program*. Prentice Hall, 2000, p. 7.

<sup>10</sup> Nezir N., *Tregtia elektronike*. Punim diplome. August 2010, p.15-16. Available online at <https://knowledgecenter.ubt-uni.net/cgi/viewcontent.cgi?article=3285&context=etd>, last access on March 20<sup>th</sup>, 2023.

<sup>11</sup> Hoxholli, A. *Biznesi dhe tregtia elektronike*, September 30<sup>th</sup>, 2022. Available online at [https://albanian.cri.cn/2022/09/30/ARTIFL\\_huMkDrWepQSjB5iIYO220930.shtml](https://albanian.cri.cn/2022/09/30/ARTIFL_huMkDrWepQSjB5iIYO220930.shtml), last access on March 20<sup>th</sup>, 2023.

<sup>12</sup> Ibid.

<sup>13</sup> Drejt Tregtisë Elektronike. Zbatimi i Tregtisë Elektronike si një Mundësi Inovative Online për Biznesin tuaj, USAID, December 2013, p. 7. See also Çili Sh., *Kontrata e shtjes në formë elektronike në Shqipëri, në nivel evropian dhe ndërkombëtar*. Punim doktorature. September 2017, p. 30. Available online at [https://uet.edu.al/wp-content/uploads/2021/12/Shkendi\\_Cili.pdf](https://uet.edu.al/wp-content/uploads/2021/12/Shkendi_Cili.pdf), last access on March 20<sup>th</sup>, 2023.

implemented in an environment other than the physical (real) markets, but in a new space such as virtual internet space. E-commerce belongs to those forms of commercial transactions in which the parties interact electronically and not with physical exchange or direct physical contact.<sup>14</sup>

- communication. E-commerce is defined as the use of electronic communication and digital information technology in business transactions to create, transform and reshape relationships for the creation of values between/or organizations and business. It is related to buying and selling online, conducting transactions involving transfer of ownership or rights to use goods or services through a computer network.<sup>15</sup>

- forms of commercial actions. OECD defines electronic commerce as “the set of commercial actions that include organisms and individuals based on electronic processing and data transmission, including text, voice and virtual images. It also refers to the effects that the electronic exchange of commercial information can have on the institutions and processes that support and regulate trade activity”.<sup>16</sup>

- transactions. "European E-Trade Initiative", defines electronic commerce as: “any form of business transactions in which the parties interact electronically and not through physical exchanges. It includes two types of activities: one of these is the electronic order of goods, which are sent to physical destination, using traditional ways, such as postal service or commercial couriers; and the other is the direct electronic trade which includes online orders, payments and the sending of non-embedded goods and services such as computer programs, entertainment materials or information services on a global scale”.<sup>17</sup>

- another definition to e-commerce, stipulates that it can be defined as an electronic process of purchase and sale, such as purchase and sale of product, services and information through the Internet, but commerce is not only purchase and sale but also electronic communication, cooperation and information communication.<sup>18</sup>

- whereas, according to our law “On electronic commerce”, the latter is defined as: “Conducting by the subjects of this activity, through the exchange of electronic documents for the trading of goods and/or services.” It specifically refers to various transactions through electronic means, such as the sale of different products and services through the Internet without the physical presence of the contracting parties.<sup>19</sup>

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<sup>14</sup> Mallezi A., J. Rystemaj, L. Pelinku, *Aspekte të së Drejtës së Biznesit në Shqipëri*, MediaPrint, Tiranë 2013, p. 479. See also Çili Sh., *op. cit.*

<sup>15</sup> Drejt Tregtisë Elektronike. Zbatimi i Tregtisë Elektronike si një Mundësi Inovative Online për Biznesin tuaj, USAID, December 2013. P.8. See also Çili Sh., *op. cit.*

<sup>16</sup> Wang F., *Law of Electronic Commercial Transaction; Contemporary issues in EU, US and China*, Routledge 2010, pp. 14-15.

<sup>17</sup> Ibid.

<sup>18</sup> Turban E., Chung H., Lee J., Chung M., *Electronic Commerce: A Managerial Perspective*. Prentice Hall. 1999. p. 17.

<sup>19</sup> See article 3 of Law No.10128, dated 11.05.2009 “On electronic commerce”. Official Gazette 85. Available online at <http://qbz.gov.al/eli/ligj/2009/05/11/10128>.

It is important to emphasize that e-commerce is surrounded by risk factors, which create a new exposure environment, such as: the high level of objections and returns of amounts, performing actions in a fully electronic environment and the global audience.<sup>20</sup>

There are several forms in which the Internet is used as a platform for commerce, such as:

1. e-commerce transactions between two businesses, which are referred to as business-to-business e-commerce, or "B2B";

2. government contracting between a business and a government falls under business-to-government e-commerce, or "B2G";

3. transactions in which the government offers its services to consumers through the Internet are referred to as government-to-consumer transactions, or "G2C";

4. e-commerce transactions between a business and consumers are referred to as business-to-consumer e-commerce, or "B2C".<sup>21</sup>

In this context, in order to be coherent with technological developments and to include new needs for e-business and e-commerce, Albania has enriched its environment by adopting several laws and national strategies, which will be treated in the below sections of this paper.

### 3. Albania Digital Strategy for the period 2022-2026

The Albania Digital Agenda 2022–2026<sup>22</sup> aims to promote investments in the key areas of advanced computing and data processing, artificial intelligence, cyber security and digital skills needed to develop them. It has the potential to connect businesses, public administration and citizens with the latest technologies and resources and will help to be globally competitive and strategically autonomous, developing and leading society towards digital transformation<sup>23</sup>.

For the period 2022-2026, the Government has defined four main goals, as follows:<sup>24</sup>

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<sup>20</sup> Tregtia elektronike në Ballkanin Perëndimor: Sa të mbrojtura janë të dhënat tona kur blejmë në internet? Available online at <https://metamorphosis.org.mk/sq/blog/tregtia-elektronike-ne-ballkanin-perendimor-sa-te-mbrojtura-jane-te-dhenat-tona-kur-blejme-ne-internet/>, last access on March 20<sup>th</sup>, 2023.

<sup>21</sup> Pappas Ch., *Comparative U.S. & (and) EU Approaches to E-Commerce Regulation: Jurisdiction, Electronic Contracts, Electronic Signatures and Taxation*, 31 Denver Journal of International Law and Policy, No. 2, January 2022, pp. 326-327. Available online at <https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1413&context=djilp>. Last access on March 20<sup>th</sup>, 2023.

<sup>22</sup> Vendim i Keshillit të Ministrave Nr. 370, date 1.6.2022 Per miratimin e strategjise ndersektorale "Akhenda Digjitale e Shqiperise" dhe Plani i Veprimit 2022-2026. Available online at <https://akshi.gov.al/wp-content/uploads/2022/06/vendim-2022-06-01-370.pdf>. Last access on March 20<sup>th</sup>, 2023.

<sup>23</sup> For a comparative view see Vicențiu-Traian Râmniceanu, *European Union Initiatives and Regulations on Sustainable Corporate Governance*, „International Investment Law Journal”, Volume 2, Issue 1, February 2022, pp. 83-92.

<sup>24</sup> Ibid.

1. *Digital Government: enabling digital policies, intelligent processes and advanced solutions on secure platforms.* Currently, there is a rich legal framework that directly and indirectly regulates information and communication technologies and the information company. However, the change and improvement of the legislation of governance and the information company is necessary to respond to the dynamic development of this field. The government will always have a preliminary attitude regarding the addressing of public policies, the identification of problems and taking appropriate preventive measures.<sup>25</sup>

The Albanian government will also follow EU directives, conclusions and recommendations and act in accordance with them. Implementing the regional framework for interoperability and recognition of trusted services in accordance with strategic documents and achieving greater harmonization with the EU in the field of interoperability and trusted services is a key objective.<sup>26</sup>

The economies of the Western Balkans formally agreed in Tirana, in November 2020, through the memorandum of understanding for the application of joint projects and actions to enable the exchange of common data and secure documents.<sup>27</sup>

The regional common market envisages common recognition of electronic signatures as well as other forms of electronic identification and trust services among the economies of the Western Balkans, based on EU directives. In this area, the economies of the Western Balkans will work together to develop services to facilitate the mobility of people who want to move for various purposes, for example for education, employment, health care, residence, retirement, travel, consumer rights and family rights. The government's efforts through achieving interoperability between the countries of the Western Balkans will serve as a path towards preparations to integrate into the EU's digital single market.<sup>28</sup>

To achieve the goals of the digital government, it is of great importance that the government modernizes its services based on the digitalization foundation such as identities, integration, data, applications, services and infrastructure, but also to implement advanced technologies such as artificial intelligence or advanced analytics.<sup>29</sup>

2. *Digital business: accessible, proactive services and business-ready actions.* The government will support the creation of new, innovative businesses, startups, but also organizations that are growing organically with new and advanced services based on advanced technologies. Those services can range from specific services developed for the government process to a broader platform that is opening access to multiple government services that use one or more advanced technologies, such as artificial intelligence.<sup>30</sup>

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<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

One of the most important aspects of the digitalization of a company and its infrastructure is the use of Internet of Things (IoT) solutions. These solutions can give the company an incredible increase in efficiency and cost management, while at the same time allowing the government to ensure control over the quality offered to the public (such as temperature surveillance of vaccines, policy compliance for food quality, etc.).<sup>31</sup>

In general, the government can use the best practices for digitizing businesses, followed by many EU countries, which allows businesses to access cheaper services, such as internet connections, IoT, cloud services, etc. and are an effective way to unlock the use of digital services. This will lead to the competitiveness of Albanian companies in a world market.

By supporting and promoting financial technology, the government will broadly seek to achieve four main objectives:<sup>32</sup>

*a. Increasing inclusion and financial access.* In developing markets, financial technology can provide the mechanisms by which citizens can gain secure access to basic financial services, especially in remote areas.

*b. Improving efficiency.* The government will ensure that the country's financial system is sufficiently efficient and robust, enabling technologies and solutions such as real-time payments, payment application interfaces, in order for public services, to be as attractive and efficient.<sup>33</sup>

*c. Stimulation of competition.* Healthy competition is always a motivating factor and it is clear that the newest players in the financial technology market are already a driving force for driving competition. One area where government influence can be seen is through the authorization and licensing of electronic banking processes for new entities.<sup>34</sup>

*d. Ensuring sustainability.* Finally, the government will ensure the sustainability of the electronic financial services system as a whole by identifying the most potential risk areas of the systems. The integration of artificial intelligence to detect problematic banking systems in time helps to reduce the financial damage to the citizen.<sup>35</sup>

*3. Digital citizens: Citizens and privacy, transparency of data and services to citizens.* A particular focus of the government will be on providing security to the public regarding good data management and analysis. In this framework, the necessary control instruments, work processes, standards and a greater transparency in the use of personal data will be created, which will help to create trust between the citizen and the government.<sup>36</sup>

Citizens and businesses will be empowered by e-government services designed according to user needs and developed in collaboration with third parties,

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<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

as well as by increased access to public information, enhanced transparency and effective tools for inclusion in the policy process.

Enablement means increasing the ability of citizens, businesses and other organizations to be proactive in society through the use of new technological tools. Public services benefit efficiency and user satisfaction by meeting user expectations and being designed around their needs, where possible.<sup>37</sup>

In order for citizens of all ages to prepare for a digital society, some of the following points can be taken into consideration:<sup>38</sup>

- increasing the integration of innovative technologies in the learning processes of primary and secondary education;
- institutionalization of weekly information technology (IT) classes in all secondary education classes;
- creation of digital skills subjects in all curricula of higher education institutions;
- establishment of digital citizen centers to provide online learning courses through user-friendly platforms;
- delivering training programs for all ages, social and professional groups from a variety of sectors through a long-term learning approach.
- applying a systematic certification mechanism for digital skills programs and adapting them to address the needs of the changing labor market.<sup>39</sup>

#### 4. *Digital education and digital skills: transforming learning and teaching.*

The most important points of digital transformation in education are as follows:

- Teaching and learning<sup>40</sup>
- Secure and Internet-connected buildings<sup>41</sup>
- Scientific research in higher education institutions<sup>42</sup>

In conclusion, it is important to emphasize that the implementation of this strategy will be monitored by the working group set up by the National Agency of the Information Society and specialized and interested civil society organizations or media.

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<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Learning management means enabling learning on scalable, secure, easy-to-access platforms and providing more personalized learning experiences. Cooperative learning means fostering group learning, continuously engaging students in learning processes to facilitate more student outcomes, etc.

<sup>41</sup> Security management means prevention, detection, notification and response to physical and digital threats. Management of services means optimization of processes, enabling the detection of predictive errors, diagnostics, stability, and efficiency etc.

<sup>42</sup> Enabling research means empowering research groups by providing the right cloud-based environments that support university policies, security and governance models. High-performance computing & AI centers mean enabling high-performance computing, machine learning and artificial intelligence on a scale that many researchers in many fields can accelerate the pace of scientific research and shorten the time to publication. Collaborative scientific research means accelerating the results of scientific research and expanding the impact by facilitating the distribution of academic scientific research between institutions.



#### 4. Legal regulation on e-commerce in Albania

The process of digital transformation has long begun in Albania and all public and private actors are working strongly to change the minds of citizens about this inevitable new form of communication.<sup>43</sup> During the period 2008-2013, a number of laws were drafted and adopted in accordance with European Union standards. The efforts of the Albanian institutions in this period focused on the development of the necessary legal and institutional framework in order to ensure the efficient environment for communicating with business, construction and maintenance of advanced electronic communication infrastructures for public administration needs and electronic government, legal adjustments on spectrum management on the basis of the principle of technological neutrality to promote the development of *broadband* infrastructure, the development and provision of electronic services to businesses and individuals within the electronic governance.<sup>44</sup>

The current Albanian legislator has attempted to reach the delay caused by many economic and political factors that had their consequences even in the digital environment.<sup>45</sup> Thus, the latter has tried, in the framework of the Stabilization and Association Agreement to adopt our laws with European directives in this field. The actualization of the legislation in this area is very important, as it is noticed that concrete electronic commerce applications are varied and are significantly affecting the Albanian market.<sup>46</sup>

The Law on “Electronic commerce”<sup>47</sup> has been adopted precisely to establish rules for conducting commercial actions electronically, through services provided by the information company, the protection of participating persons, legal protection and confidentiality of consumers or of the confidential data of participants in it, as well as to ensure the free movement of information services, specifying the responsibilities of the information company services provider. Therefore, from this point of view, the Law on Electronic commerce aims to protect the legal confidentiality of consumers or the confidential data of the participants in it.<sup>48</sup>

The legislator, according to article 4 of this law, has clearly stated that all commercial actions carried out electronically are based on the principles of equality of participants, free will, contractual freedom, free development of entrepreneurial activity, and free movement of goods, services in the territory of the Republic of Albania.<sup>49</sup>

In Article 5 of Law on “Electronic commerce”, the legislator has presented

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<sup>43</sup> Mallezi A., J. Rystemaj, L. Pelinku, *op. cit.*, p. 472. Çili Sh., *op. cit.*

<sup>44</sup> Vendim i Keshillit të Ministrave Nr. 370, date 1.6.2022 Per miratimin e strategjise ndersektorale. „Axxhenda Digjitalë e Shqipërisë” dhe Plani i Veprimet 2022-2026. Available online at <https://akshi.gov.al/wp-content/uploads/2022/06/vendim-2022-06-01-370.pdf>. Last access on March 20<sup>th</sup>, 2023.

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> Ligji Nr.10128, date 11.05.2009 “Per tregtine elektronike”, ndryshuar. Fletore Zyrtare Nr. 85. Available online at <http://qbz.gov.al/eli/ligj/2009/05/11/10128>.

<sup>48</sup> Mallezi A., J. Rystemaj, L. Pelinku, *op. cit.*, p.508. See also Çili Sh., *op.cit.*

<sup>49</sup> Ligji Nr. 10128, date 11.05.2009 “Per tregtine elektronike”, ndryshuar. Fletore Zyrtare Nr. 85. Available online at <http://qbz.gov.al/eli/ligj/2009/05/11/10128>.

guarantees in consumer protection by ensuring that the provider of the information company service, in the exercise of its activity, to provide remotely its services, should: a) not violate human rights; b) guarantee consumer and investors protection; c) ensure the protection of minors; d) impose safeguards for non-interference in its services and their non-use for criminal purposes; e) offer equally to all clients, regardless of distinction between sexes, races, trust, ethnicity or beliefs of persons, who benefit them; dh) not violate national security and public security; f) not violate public health.<sup>50</sup>

The 2013 legal changes to Law on “Electronic commerce” have added provision 5/1, which provides that the provision of information company services by a service provider, established in a member state of the European Union, for reasons belonging to the coordinated regulation field, it is not limited to the Republic of Albania.

According to the above cited law, any natural or legal person in the Republic of Albania is free to provide services to the information company without prior authorization, or any other requirement that has a similar effect.<sup>51</sup> Whereas, in the capacity of the consumer, in reference to the same law, is any natural person, who purchases or uses goods or services to meet personal needs, for purposes that are not related to commercial activity, business or professional exercise.<sup>52</sup>

All information company services must be provided with compensation, remotely,<sup>53</sup> by electronic means<sup>54</sup> and upon individual request<sup>55</sup> of the recipient of the service.

Article 3 of Law “On Electronic commerce” defines that the provider of service in the exercise of the activity makes available for the recipients of the service and the relevant authorities, the following:

- a) the trade name of the service provider and, if there is no such, the name under which is registered for the exercise of the activity;
- b) the address of the seat or main place, where service provider is located;

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<sup>50</sup> Ibid, article 5 point 1. Regarding the letter b), see the literature for a comparative view: for example, Elise Nicoleta Vâlcu, *Brief Considerations on the “Behaviour” of Professional Traders and Consumers in the Context of the Shift from Brick-And-Mortar to E-commerce. Union and Transposition Regulations*, „International Investment Law Journal”, Volume 3, Issue 1, February 2023, pp. 90-98.

<sup>51</sup> Ibid, article 6 point 1.

<sup>52</sup> Ibid, article 3/dh.

<sup>53</sup> "Remotely" means that the service is provided without the need for both parties to be present at the same time.

<sup>54</sup> "By electronic means" means that the service is sent from the point of origin and received at the final destination, by means of electronic equipment, for the processing (including numerical compression) and storage of the data. Sending, transmission and reception are all done via cables, radio waves, optical means and other electromagnetic means.

<sup>55</sup> "Upon individual request of the recipient of the service" means that the services are provided through data transmission, upon individual request of the recipient. Information company services include, in particular, the sale of goods and services, services of access to information or advertising on the Internet and access to services of public communication networks, transmission of data or storage of data of the recipient in public communications network.

- c) email address or any other detail that allows a quick and efficient communication with the service provider;
- d) registration data in the trade register of the service provider, especially the unique identification number of the person;
- e) special data of the responsible supervisory authority, when the activity of the service provider is the subject of its exercise upon special authorization;
- f) regulated professions, also showing:
- g) professional public entity or similar institution, where the service provider is registered;
- h) the professional title and the state of its issuance;
- i) reference to the rules that regulate the profession and jurisdiction applied in the country of origin, as well as the means of information about them;
- j) the unique identification number of the subject or NUIS.

Therefore, Law on "Electronic commerce" foresees that the information provided for the goods and services offered or planned to be offered, should be clear and easily understandable and the price is final and includes all taxes and shipping costs to the final destination of the beneficiary or recipient.<sup>56</sup>

As per article 11 point 1 of the same law, the contracts concluded through electronic means are called electronic contracts. In this legal provision it is stipulated also that the proposal and acceptance of the bid can be made through electronic means, which is their electronic form. In any case, for the electronic contract to be valid, must be met all the requirements provided by the Civil Code, for the general part of the contracts, the requirements provided for the concrete form of the contract, as well as the specific requirements, provided in Law No. 9902, dated 17.4.2008 "On the Protection of Consumers".

Article 13 of Law on "Electronic commerce" specifies that the provider of the goods and/or the service offers complete information, which must be clear and understandable, prior to the request made by the service recipient.<sup>57</sup> This concrete information is addressed to persons, who want to enter into an electronic contract of sale. This information includes the following:

- a) *the various procedural steps to be followed for the conclusion of the contract;*
- b) *contractual conditions of the parties;*
- c) *technical means to identify and correct errors, before the appearance of request/order;*
- d) *the languages offered for the conclusion of the contract.*

The purpose of publishing this information serves to the service receiver/buyer in order to have a clear and understandable view of the procedure that shall be followed for entering into an electronic contract of sale.<sup>58</sup>

Further, article 14 of Law on "Electronic commerce" identifies the

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<sup>56</sup> Çili Sh., *op. cit.*

<sup>57</sup> Ligji Nr. 10128, date 11.05.2009 "Per tregtine elektronike", ndryshuar. Fletore Zyrtare Nr. 85. Available online at <http://qbz.gov.al/eli/ligj/2009/05/11/10128>.

<sup>58</sup> Mallezi A., J. Rystemaj, L. Pelinku, *op. cit.*, pp. 498- 499.

conditions that should be fulfilled by an electronic contract of sale in order to be so called. The moment of conclusion of the electronic contract of sales, runs in three stages:

- a) *the service recipient indicates that has received/ service;*
- b) *the service provider declares the receipt of acceptance;*
- c) *the service provider sends to the provider an electronic message which contains the confirmation and acceptance of the bid.*<sup>59</sup>

Article 15, point 1, of Law on “Electronic commerce” stipulates that the service provider is guaranteed not be considered responsible for the transmitted information, if the service provider meets three conditions:

- a) *does not initiate transmission;*
- b) *does not select or modify the transmitted information content;*
- c) *does not select the transmission receiver.*<sup>60</sup>

Whereas, article 17 of this Law stipulates that, when a service of an information company consists of maintaining the information provided by the service recipient, the provider of the service company is not responsible for the information kept upon request of the service recipient, in case the service provider:

- a) *is not or may not be aware of the illegal activity of the recipient or the content of the information and, in terms of claims of damage, is not aware of the facts or circumstances from which the activity or illegal information derives;*
- b) *upon receipt of this information, acts immediately to remove or disable access to information.*<sup>61</sup>

The legislator in article 20 of the above cited law has defined the obligations of the information company services provider, who does not oversee the information that transmit or store, to notify immediately the responsible authorities- Consumer Protection Commission, if there are reasonable doubts on the illegal activity or submission of the illegal information by the services users.<sup>62</sup> Failure to comply with the liabilities of the above quoted law imposes to the provider of the information company services a penalty in the amount All 100,000 to All 200,000. All the conflicts rising by the provision or acceptance of the remote services shall be solved by the Arbitration Court or First Instance Court.<sup>63</sup>

## 5. Conclusions

Within the analysis of the Digital Agenda for the period 2022-2026 and Law on electronic commerce in Albania, we conclude that:

- the small quantities and skepticism of Albanian producers in e-commerce as a mean of commerce to expand into foreign markets has not helped to

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<sup>59</sup> Ibid. p.500.

<sup>60</sup> Ibid. p. 503.

<sup>61</sup> Ligji Nr.10128, date 11.05.2009 “Per tregtine elektronike”, ndryshuar. Fletore Zyrtare Nr. 85. Available online at <http://qbz.gov.al/eli/ligj/2009/05/11/10128>.

<sup>62</sup> Ibid, article 20.

<sup>63</sup> Ibid. article 24.

create a business model for sharing costs and profits between producers and e-commerce operators. It is also noted a lack of awareness of the potential of electronic commerce and difficulties by public agencies to understand their operating model.

- through the increase of e-commerce activities in Albania, unfair trade and violation of customers' rights have also been observed. Many of the unfair commercial practices have occurred because consumers/buyers were not aware of their rights, which are officially protected through the legal framework that has been completed and harmonized with the relevant directives of the European Union for electronic commerce.

- although Albania is still considered a cash economy, according to statistics, the e-commerce market is expected to reach 475.4 million US dollars with an annual growth of 11% and about 1 million e-commerce users.

- the Albania Digital Agenda 2022–2026 aims to promote investments in the key areas of advanced computing and data processing, artificial intelligence, cyber security and digital skills needed to develop them. It has the potential to connect businesses, public administration and citizens with the latest technologies and resources and will help to be globally competitive and strategically autonomous, developing and leading society towards digital transformation.

- also, the purpose of this Agenda is to set goals for the coming years by following modern platforms of data and digital technologies to meet the needs of the citizen, overcoming the lack of resources and adapting to the new way of remote work, advancing further with the digitization of government services and the development of cyber skills.

- the law on electronic commerce aims to protect consumers from damages or consequences that can be caused by an unregulated market. This law does not foresee the necessity to be licensed in order to exercise such activity. It does not require any specific form for the conclusion of electronic contracts, referring to the provisions of the Civil Code regarding the conditions for the form and validity of contracts. However, it still remains unclear, which of the form requirements, electronic contracts must comply with.

- Law on electronic commerce has presented guarantees in consumer protection by ensuring that the provider of the information company service, in the exercise of its activity, to provide remotely its services, should: a) not violate human rights; b) guarantee consumer and investors protection; c) ensure the protection of minors; d) impose safeguards for non -interference in its services and their non-use for criminal purposes; e) offer equally to all clients, regardless of distinction between sexes, races, trust, ethnicity or beliefs of persons, who benefit them; dh) not violate national security and public security; f) not violate public health

- as per above law, all information company services must be provided with compensation, remotely, by electronic means and upon individual request of the recipient of the service. The information company services provider has the obligation to notify immediately the responsible authorities - Consumer Protection

Commission, if there are reasonable doubts on the illegal activity or submission of the illegal information by the services users. Moreover, all conflicts rising by the provision or acceptance of the remote services shall be solved by the Arbitration Court or First Instance Court.

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