



DRAFT
REGULATION ON MARKET ANALYSIS

Approved by Decision of the Steering Council (DSC/VKD) of AKEP, No. 27, dated 14.11.2025

This Regulation has been drafted on the basis of the provision of Article 89 (1) of Law No. 54/2024 “On Electronic Communications in the Republic of Albania” (hereinafter Law 54/2024), taking into account: Law No. 9121, dated 28.7.2003 “On the Protection of Competition”, as amended; Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 “establishing the European Electronic Communications Code”; the European Commission Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation (EU) 2020/2245; the European Commission Guidelines on market analysis and the assessment of significant market power under the EU regulatory framework for electronic communications networks and services C/2018/2374).

Article 1

Objective

This Regulation lays down the rules and procedures for the implementation of the market analysis process, the definition of relevant markets, the identification of undertakings with significant market power (SMP), and the imposition of regulatory measures, in accordance with the provisions of Law No. 54/2024 “On Electronic Communications in the Republic of Albania.”

Article 2

Methodology Used

1. AKEP determines the markets for ex ante regulation, in accordance with the guidelines “On the Process of Market Analysis, Market Definition and Assessment of Significant Market Power (SMP) in the Electronic Communications Sector,” as well as the legal criteria enabling the definition and assessment of markets, and on this basis:
 - a. In accordance with Articles 87 and 89 of Law No. 54/2024, and taking into account the list of markets recommended by the European Commission, including specific national circumstances, identifies the markets justified for ex ante intervention;
 - b. Assesses undertakings with significant market power (SMP) in accordance with Article 88 of Law No. 54/2024;
 - c. Imposes, maintains, modifies, or removes regulatory obligations in accordance with the provisions of Article 92 of Law No. 54/2024.
2. The market analysis document, among other things, contains:
 - a. A detailed definition of the relevant market, including the product/service dimension as well as its geographic scope;
 - b. The three-criteria test, when necessary, in accordance with Articles 87 and 89 of Law No. 54/2024;

- c. The analysis of SMP and the regulatory obligations for undertakings with significant market power, in accordance with Article 90 of the same law;
 - d. The specification of individual regulatory obligations may be adopted through other acts of AKEP, in accordance with Article 92 of Law No. 54/2024.
3. For the purposes of market analysis, AKEP uses periodic statistical and financial data submitted regularly by electronic communications undertakings. If additional data are required, AKEP requests and manages such data in accordance with Article 41 of Law No. 54/2024. In data requests, AKEP specifies the format and deadlines for submission. Undertakings providing electronic communications networks and services are obliged to submit the data as requested by AKEP.
4. Additionally, in market analysis documents, AKEP may use supplementary data from various international reports or best practices considered by regional or EU countries and that meet the comparison criteria for products/services forming part of the relevant market under analysis.
5. In conducting market analysis, AKEP also takes into account:
 1. Guidelines and recommendations of the European Commission and BEREC in force regarding the process of electronic communications market analysis and the assessment of SMP in these markets;
 2. Guidelines and provisions of the Competition Protection Law in force;
 3. International best practices from regional or EU countries that meet the comparison criteria for products/services forming part of the relevant market under analysis.

Article 3

List of Relevant Markets

1. AKEP analyzes the following relevant markets for SMP as potential markets for ex ante intervention within the territory of the Republic of Albania, in accordance with Articles 87, 89, and 90 of Law No. 54/2024 and the European Commission Recommendation on ex ante regulated markets:
 1. The wholesale market for local access at a fixed location;
 2. The wholesale market for access to dedicated capacity;
 3. The wholesale market for call termination on individual fixed networks;
 4. The wholesale market for call termination on individual mobile networks.
2. AKEP may define and analyze other markets not included in the list under paragraph (1), if deemed necessary for regulatory purposes, in accordance with Articles 87 and 89 of Law No. 54/2024 and the guidelines of the European Commission and BEREC.
3. The detailed definition of relevant markets, including their geographic and product/service dimensions, shall be part of the market analysis document prepared by AKEP.

4. If AKEP analyzes a market that is not part of the list in Article 3 paragraph (1) or the list recommended by the European Commission in force, in accordance with Article 89 (2) of Law No. 54/2024, it assesses whether this market meets the three-criteria test (criteria also set out in the relevant EC recommendations/guidelines in force), namely the simultaneous fulfillment of the following three conditions in the market under analysis:
 - a. The presence of high and non-transitory barriers to entry;
 - b. An assessment of whether the market structure is unlikely to move towards effective competition within a relevant time period;
 - c. Assessment of whether the application of competition law alone is sufficient to adequately address the market failure under consideration.
5. If a market does not meet one of the three criteria, AKEP does not analyze this market for SMP and does not impose regulatory obligations in this market, or cancels existing obligations, in accordance with Article 90 of Law No. 54/2024.

Article 4

Review of Market Definition and Market Analysis

1. AKEP conducts periodic analyses of the relevant markets identified in accordance with the provisions of Law No. 54/2024, in line with Articles 87 and 90 of this law, according to the following deadlines:
 - a) Within five years from the date of the previous AKEP decision determining undertakings with significant market power (SMP) in a relevant market, as established in AKEP's regulation;
 - b) Within three years from the date of amendment of the regulation on the definition of relevant markets, in accordance with European Union recommendations, for previously unanalyzed markets;
 - c) Within three years from the date of Albania's accession to the European Union;
 - d) In exceptional and justified cases, the deadline set in point "a" above may be extended by no more than one year. AKEP shall notify the Minister of the reasons for the extension of the market analysis deadline at least four months before the expiration of the deadline.
2. Where the facts and circumstances underpinning the conclusions of previous market analyses have changed and no longer reflect the current market situation, AKEP reviews the conclusions and relevant decisions, including:
 - a. The definition of the relevant market;
 - b. The assessment of significant market power (SMP);
 - c. The regulatory obligations imposed on SMP undertakings.
3. If a market no longer meets the criteria for ex ante intervention, AKEP may decide to remove or modify the regulatory obligations, in accordance with Articles 90 and 92 of Law No. 54/2024.

4. During the review of the market analysis, AKEP takes into account:
 - a. Changes in market structure and competition;
 - b. Technological evolution and market developments;
 - c. Recommendations and guidelines of the European Commission and BEREC regarding market analysis.

Article 5

Procedures for Consultation and Publication

1. In accordance with Articles 44 and 45 of Law No. 54/2024, before taking decisions and regulatory measures concerning undertakings designated with SMP in the relevant markets, AKEP shall seek and take due account of the opinions of interested parties through a public consultation process. The duration of the public consultation process shall not be less than 30 days, except in extraordinary circumstances.
2. The publication of the results of market analyses and the measures to be taken for market regulation, as well as the relevant decisions of the AKEP Steering Council, shall be carried out in accordance with Article 24 of Law No. 54/2024, ensuring transparency and informing the public and market participants.

Article 6

Entry into Force

1. This Regulation shall enter into force upon the approval of the final document by the AKEP Steering Council and its publication on the official AKEP website, in accordance with Article 24 of Law No. 54/2024.
2. Regulation No. 9, dated 17.07.2009 “On Market Analysis,” approved by DSC/VKD No. 747, dated 17.07.2009, and amended by DSC/VKD No. 2342, dated 31.07.2013, is hereby repealed.