

Digital Privacy under the ECtHR: The Albanian Constitutional Court as a Case Study**Associate Professor Fabian Zhilla****Canadian Institute of Technology, Faculty of Economy, Business Administration Department****Tirana, Albania**ORCID ID: <https://orcid.org/0000-0001-5929-9674>**Abstract**

Objectives: The rapid expansion of digital technologies has fundamentally transformed criminal investigations. Unlike traditional physical evidence, smartphones contain extensive personal, professional and sensitive information, making their seizure and forensic examination one of the most challenging issues under Article 8 of the European Convention on Human Rights (ECHR). This paper examines the constitutional limits governing smartphone searches through the evolving jurisprudence of the European Court of Human Rights (ECtHR), using Decision No. 44/2025 of the Albanian Constitutional Court as a case study. It seeks to assess whether and to what extent the Albanian Court has incorporated the principles developed by the ECtHR concerning legality, legitimate aim, necessity, proportionality and effective procedural safeguards.

Methodology: The paper employs doctrinal legal research combined with a case-study approach. It analyses the relevant provisions of the Albanian Constitution and criminal procedure legislation alongside the ECtHR's jurisprudence on digital privacy, with particular reference to *Benedik v. Slovenia* (2018), *Saber v. Norway* (2020), and *Kırdök and Others v. Türkiye* (2024). The reasoning adopted by the Albanian Constitutional Court is critically examined against these European standards.

Findings: The analysis demonstrates that Decision No. 44/2025 represents a significant development in Albanian constitutional jurisprudence. The Court distinguishes between the physical seizure of a smartphone and access to its digital content, recognising that forensic examination constitutes a separate and more intensive interference with the right to privacy. The judgment strengthens the application of proportionality by requiring investigative measures to remain closely connected to the object of the criminal investigation, while emphasising judicial oversight and the protection of third-party data. At the same time, several issues remain open, including the constitutional limits of forensic imaging, data filtering and the treatment of privileged communications.

Originality: The paper argues that the Albanian Constitutional Court provides an important example of how domestic constitutional courts can implement and further develop ECtHR standards in response to the challenges posed by digital evidence, thereby contributing to the emerging European jurisprudence on digital privacy.

Keywords: Article 8 ECHR; digital privacy; smartphone searches; electronic evidence; proportionality; constitutional review; Albania.