



The role of AGCOM in the protection of copyright online

LIVE EVENT PIRACY

WIPO – February 2025



Legal framework on online copyright protection

- **Law no. 633/1941** - according to article 182-*bis*, Agcom is in charge of preventing and identifying copyright violations
- **E-commerce Decree n. 70/2003** - Agcom is the administrative authority with monitoring functions competent in the sector of copyright

According to articles 14, 15 and 16, the administrative authority with monitoring functions may request ISPs to terminate or prevent any infringement

- **Law n. 93/2023** concerning online piracy of live content confirms and consolidates Agcom's prominent role in the fight against online piracy, introducing new competencies to take action through the adoption of so-called “dynamic injunctions”



The regulatory process 1/2

- **Feb 2010** - preliminary study
- **Dec 2010** - public consultation on the general approach (deliberation No. 668/10/CONS)
- **Jul 2011** - public consultation on a draft regulation (deliberation No. 398/11/CONS)
- **May 2013** - workshop with international benchmark (ESP-UK-FRA)
- **Jul 2013** – public consultation on a revised draft regulation (deliberation No. 452/13/CONS)
- **Dec 2013** - Agcom approves the Regulation (deliberation No. 680/13/CONS)
- **March 31 2014** - the Regulation comes into force



The regulatory process 2/2

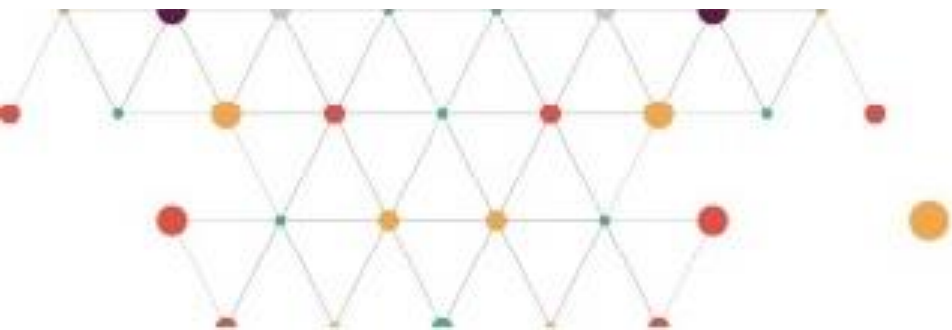



- **January 2018** - Agcom **launches a public consultation** on the subsequent amendments to the Regulation, pursuant to the annual “European law”, empowering AGCOM to adopt protective and precautionary measures
- **Oct 2018** - Agcom **approves** the amendments to the Regulation.
- **Oct 2020** – Agcom **launches a public consultation** on the subsequent amendments to the Regulation, pursuant to the “Decreto rilancio”, expanding Agcom competences
- **July 2021** – Agcom **approves** the amendments to the Regulation, extending the subjective scope to service providers that use, directly or indirectly, national numbering resources
- **December 2022** - Agcom launched a **public consultation** on the amendments to the Regulation aimed at offering a toolbox to combat the illegal streaming of live events, in particular sports events
- **July 2023** - Agcom **approved** the amendments to the Regulation (Resolution No. 189/23/CONS)



Strengths of Regulation

- Cheap and quick alternative to time consuming and expensive judiciary procedures
- The whole process is digital
- Collecting societies and antipiracy federations as an hub for the monitoring of website





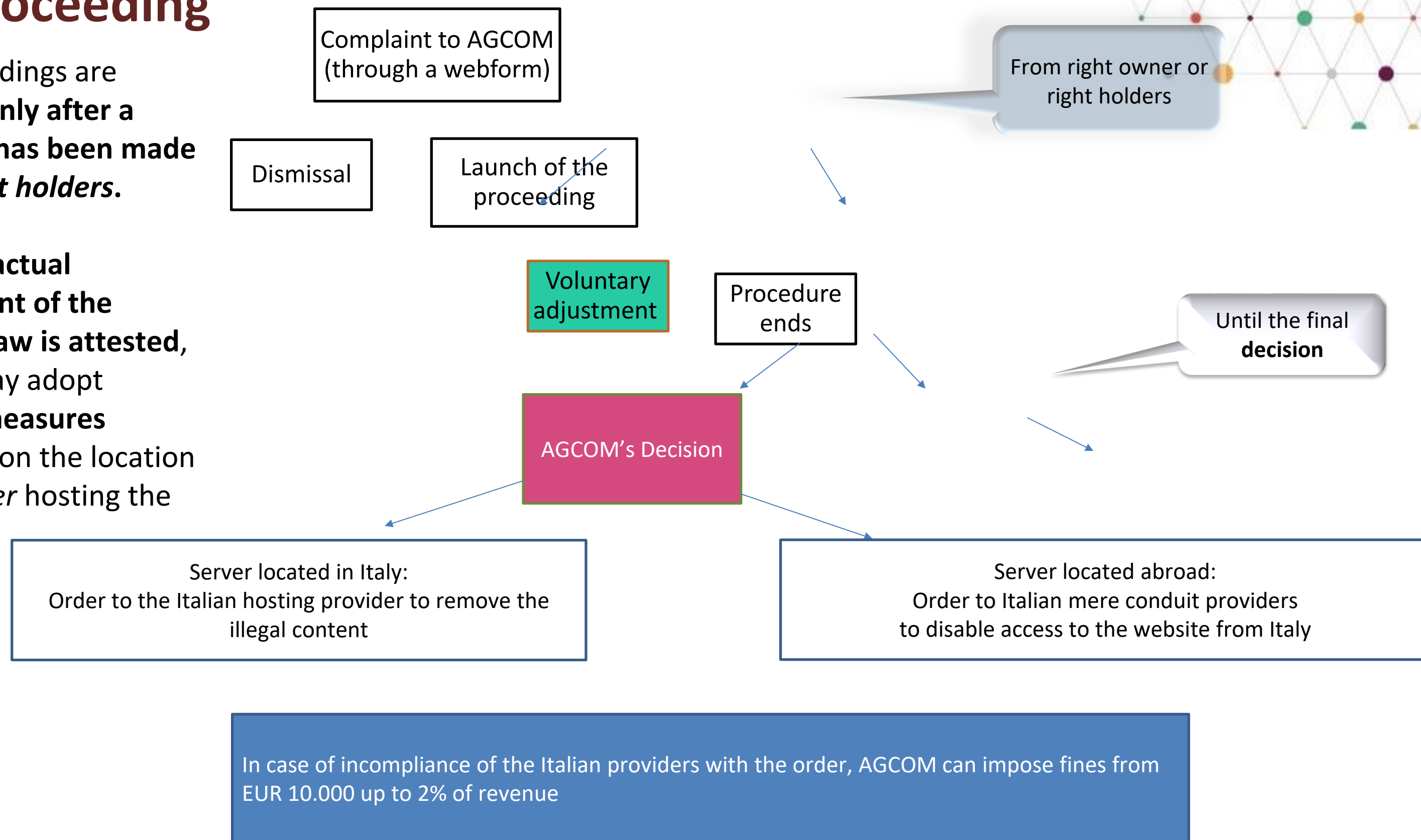
Relation between the administrative and the judicial procedure

- AGCOM's procedure **does not replace the judicial process** but is alternative and freezes in the event of an appeal of either party to the Court.
- Like all AGCOM decisions, the orders regarding copyright can be opposed presenting complaints to the TAR (the Administrative Court) of Latium.

The proceeding

The proceedings are **launched only after a complaint has been made by the *right holders*.**

Where an actual **infringement of the copyright law is attested**, AGCOM may adopt **different measures** depending on the location of the *server* hosting the content



In case of incompilance of the Italian providers with the order, AGCOM can impose fines from EUR 10.000 up to 2% of revenue



Different **measures**

The regulation does not refer to end-users of digital works

- if the server is located in **Italy**

Agcom may order the **hosting provider** under the Italian jurisdiction to **remove** the digital work from the website

- if the server is located **outside of Italy**

Agcom may intervene only towards **mere conduit** providers under the Italian jurisdiction who may be ordered to disable the access to the website (domain names or IP addresses)

- In case of incompliance with the order, Agcom can impose **finances up to 2% of revenue**
- 



The formal proceedings: **type of lanes**

Ordinary lane: 35 days


- No massive infringement and serious threat to the economic exploitation of works
- The complaint comes from single rightholder/owner
- The dismissal or the opening of the proceeding is done within 7 days
- Compliance is ensured within 3 days

Fast lane: 12 days

- Massive infringement and serious threat to the economic exploitation of works
- The complaint comes from an authorised or delegated entity (Union, antipiracy association or CMO/IME)
- The dismissal or the opening of the proceeding is done within 3 days
- Compliance is ensured within 2 days

The 2018 amendments

In December, the so-called “European Law” (an annual law adopted by the Italian Parliament to ensure a full implementation of the European law) has amended the national framework for copyright protection online, enhancing AGCOM’s powers on such matter, already implemented with the Regulation adopted in 2013. Specifically, the Law intervenes on two main aspects:



firstly, it empowers AGCOM to adopt **protective and precautionary** measures against websites evidently infringing copyright, given that there is an **imminent and irreparable harm for the rightholders**.

Secondly, it entrusts AGCOM to adopt measures to **avoid reiterations (aliases)** of violations already identified by a previous decision of AGCOM itself.

For both provisions, the law requires AGCOM to adopt the detailed rules in its own Regulation. Pursuant this, AGCOM in 2018 launched a public consultation proposing to consequently amend the Regulation for protection of copyright online and notifying it to the European Commission pursuant to the Directive 2015/1535.

Request for precautionary measures

within 3 days following receipt of the complaint

Notifications to ISPs,
uploader and site owners
within 2 days of notification

Claim about precautionary measures
within 5 days following receipt of the notification

Voluntary adjustment

Launch of the proceeding

Dismissal of the proceeding
and revocation of the precautionary measures

Note
to *Commission for services and products* - CSP
at the first due meeting

Notifications to ISPs
uploader and to site owners

Notifications to ISPs
uploader and site owners

Deliberation
(CSP **within 7 days** of the claim)

Trends 2014>2024

5135

complaints

3715

Orders to disable access

Repeated infringement

56%

Precautionary measures

6%

All data are updated to 31 December 2024



Online piracy of **live content**. The regulatory **process**

- **December 2022** - Agcom launched a **public consultation** on the amendments to the Regulation aimed at offering a toolbox to combat the illegal streaming of live events, in particular sports events
- **July 2023** - Agcom **approved** the amendments to the Regulation (Resolution No. 189/23/CONS)



Live event piracy

The regulatory **process**

- **European Parliament Resolution of 19 May 2021 on challenges of sports events organizers in the digital environment**

The removal of, or the disabling of access to, infringing live sport broadcasts by online intermediaries must be immediate or as fast as possible, and in any event no later than within 30 minutes of the receipt of the notification from rightsholders

- **European Commission Recommendation of 4 May 2023 on combating online piracy of sports and other live events**

Encourages Member States, national authorities, holders of rights and providers of intermediary services to take effective, appropriate, and proportionate measures to combat unauthorised retransmissions of live sports events and other live events

Providers are encouraged to cooperate with rightsholders, in particular by developing and using technical solutions aimed at facilitating the processing of notices, such as application programming interfaces

Member States are encouraged to provide for the possibility to seek Dynamic injunctions



Live event piracy

The regulatory **process**



- **Italian legislative decree n. 9/2008 «Melandri Decree»**

The sports event organizer (i.e. the football club) and the sports competition organizer (i.e. the football league) shall be the joint holders of the audiovisual rights to the sports events of the competition and they generally authorize broadcasters to broadcast them

Rightsholders are entitled to take legal action in the case of infringement of broadcasting or online transmission of sports events. Broadcasters and sports events organizers, in their capacity as licensees, are also entitled to take legal action



Online piracy of **live content**

Anti-piracy **legislation**

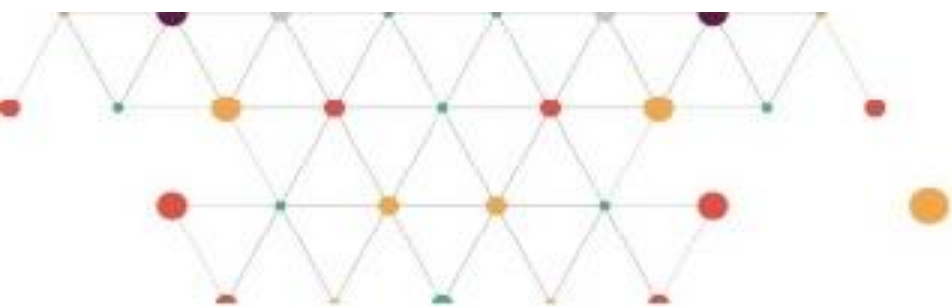


- Agcom's competencies have been further developed pursuant to the **law n. 93/2023** (entered into force on 8 August 2023), concerning online piracy of live content
- The law confirms and consolidates **Agcom's prominent role** in the fight against online piracy by extending its sphere of intervention in both subjective and objective terms, **introducing new competencies to take action through the adoption of so-called “dynamic injunctions”**
- **Dynamic order**: an early measure that constitutes a valid tool to block all subsequent violations of the same kind. This new provision, in the future, after another public consultation, would be applicable not only to sports events, but to all events broadcast live or otherwise live



Online piracy of **live content** Anti-piracy **legislation**

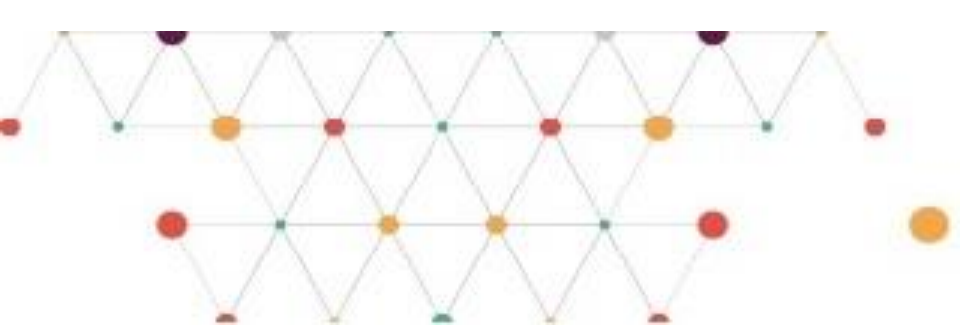
- The law requires the providers to execute the **blocking order within 30 minutes**, in line with Agcom Regulation
- According to law n. 93/2023, the orders are addressed to the **information society service providers involved in any capacity in the accessibility of the website or illegal services** and also to the **search engines**
- The law also requires to implement a **machine-to-machine platform** in order to submit complaints and allow the ISP to comply the order





Online piracy of **live content**

The **proceeding**

- **Precautionary proceeding** can be initiated pursuant to a **complaint of the rightsholders** at a very early stage of the transmission of the live event, (when the event is advertised, or while it is being broadcast)
 - Once the precautionary measure is adopted, **rightsholders can directly notify the ISPs** further complaints related to other infringements of live events of the same nature **through** a machine-to-machine **platform (Piracy Shield)**
 - The Regulation (art. *9-bis*) provides that the block affects the telematic addresses unequivocally intended for the broadcasting of unlawful contents
 - **The ISPs have 30 minutes to comply**
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Online piracy of **live content**. The **proceeding**

- pursuant article 9-bis of the Regulation ISPs, the Uploader and the Website Manager can submit a complaint within terms of five days of publication of the block
- in case of complaint ISPs, the Uploader or the Website Manager shall specify the IP address or the domain name blocked but which they assume is used for legitimate services, providing all elements useful to support the legitimate use



Online piracy of **live content**

Anti-piracy **legislation**

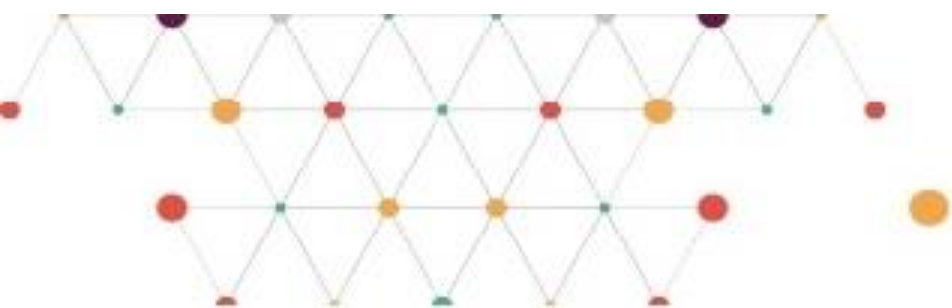
In October 2024 the anti-piracy law has been amended pursuant to the so-called Omnibus Decree (Decree-Law No. 113 of 9 August 2024 converted with amendments by Law No. 143 of 7 October 2024):

- online search engine, VPN service providers and publicly available DNS providers, regardless of their residence or location, are explicitly included in the scope
- the block affects now the telematic addresses **predominantly intended** for the broadcasting of unlawful contents
- AGCOM can unblock FQDN and IP addresses that have been blocked for over six months

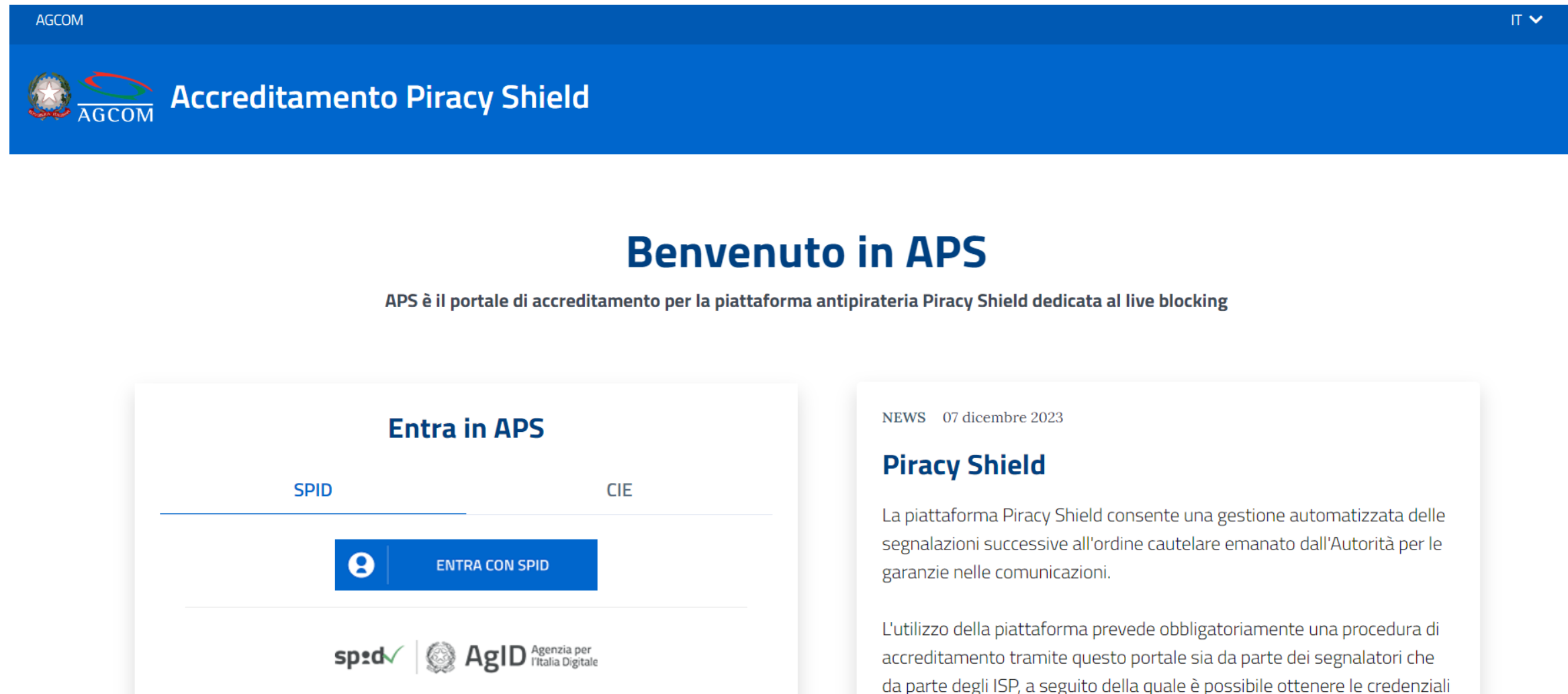


Online piracy of **live content**. Platform "**Piracy Shield**"


- On **7 September 2023** Agcom established a **Technical Table** - *in collaboration with the National Cybersecurity Agency* - to discuss the technical implementation with the ISPs and the rightsholders in order to share **the best rules** for a coordinated and efficient application of the live blocking
- Following the work of the Technical Table, with Resolution No. 321/23/CONS, AGCOM defined the technical and operational requirements for the unique automated platform
- The machine-to-machine platform "**Piracy Shield**" is in charge of Agcom and it **was put online on 1st February 2024**.



Online piracy of **live content**. **Accreditation portal**



AGCOM IT ▼


 **Accreditamento Piracy Shield**



Benvenuto in APS

APS è il portale di accreditamento per la piattaforma antipirateria Piracy Shield dedicata al live blocking

Entra in APS

SPID CIE

 **ENTRA CON SPID**

  **AgID** Agenzia per l'Italia Digitale

NEWS 07 dicembre 2023

Piracy Shield

La piattaforma Piracy Shield consente una gestione automatizzata delle segnalazioni successive all'ordine cautelare emanato dall'Autorità per le garanzie nelle comunicazioni.

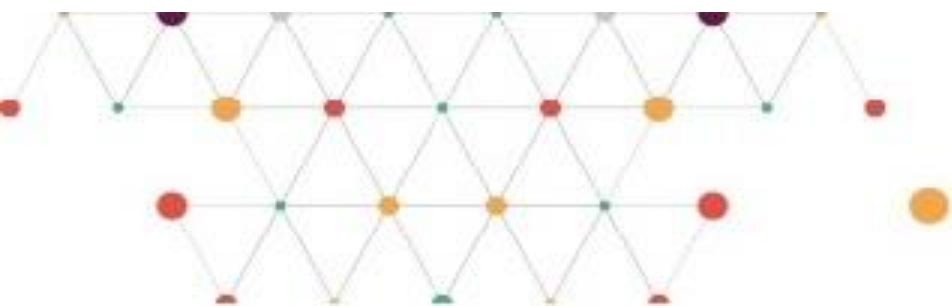
L'utilizzo della piattaforma prevede obbligatoriamente una procedura di accreditamento tramite questo portale sia da parte dei segnalatori che da parte degli ISP, a seguito della quale è possibile ottenere le credenziali

- Agcom provided an **accreditation portal**
- **All the companies** involved must be accredited by indicating **all the data of the company** and of a technical contact person
- After the accreditation phase, each company receive the **personal credentials to access the platform “Piracy Shield” and can upload its whitelist**



Online piracy of **live content**. Platform "**Piracy Shield**"

- Access service providers have registered on the Piracy Shield platform by the deadline of 31 January 2024, as required by Resolution No. 321/23/CONS
- On October 23, 2024 Agcom has adopted **a call** to VPN service providers and publicly available DNS providers, regardless of their place of residence or location, online search engine, and more generally, information society service providers involved in any capacity in the accessibility of illegal websites or services, to undertake all necessary actions to ensure the full functioning of the Piracy Shield platform through **their final and complete accreditation** thereto

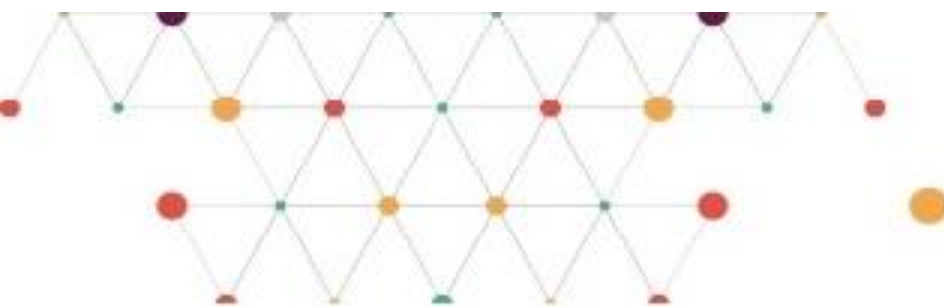




Platform "**Piracy Shield**"

The **dimension** of activities

- **Portal accreditation**
5 rightsholders
325 ISPs
- **Precautionary proceeding**
Agcom adopted **21** precautionary measures
- **FQDN/IP blocked through Piracy Shield**
FQDN: more than 29.000
IP: more than 7.000





WWW.AGCOM.IT

<https://www.agcom.it/competenze/antipirateria-e-piracy-shield/piattaforma-piracy-shield>

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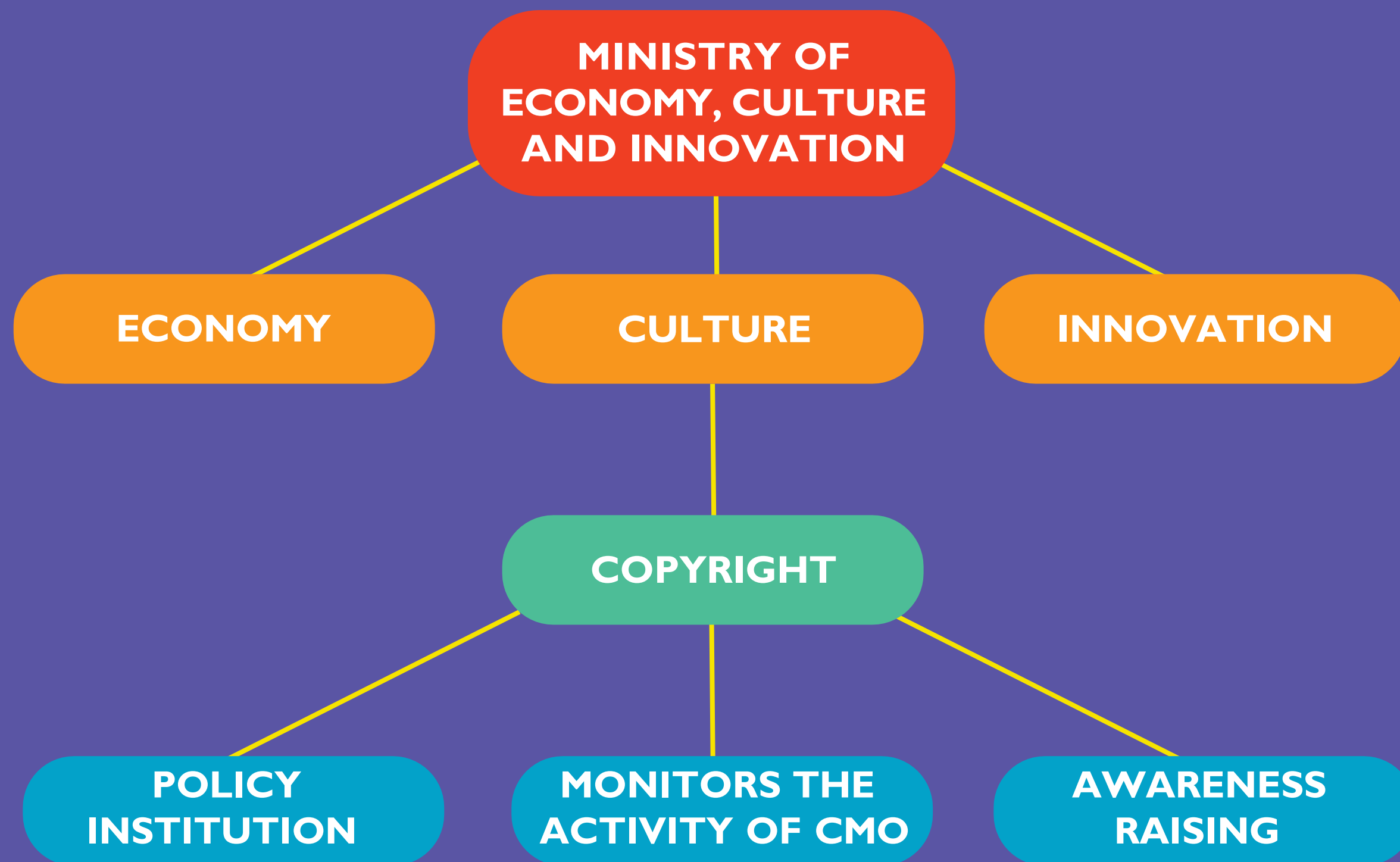
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ENFORCEMENT OF COPYRIGHT IN THE DIGITAL ENVIRONMENT ALBANIAN PERSPECTIVE

Borana Ajazi
Director of Copyright Directorate
Ministry of Economy, Culture and Innovation

► COPYRIGHT IN ALBANIA





THE CURRENT SITUATION ON ONLINE ENFORCEMENT OF COPYRIGHT



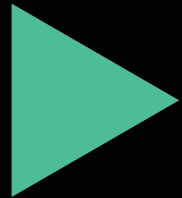
-  No legal framework regulating the issues of online environment and copyright
 -  No structures with the authority to enforce copyright online and impose obligations on digital services
 -  No data on the scale of copyright infringement of in the digital environment and the its potential impact on creative industries.
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THE RESPONSE OF THE GOVERNMENT

Legal Framework – Proposal for amendments to the National Copyright Law:

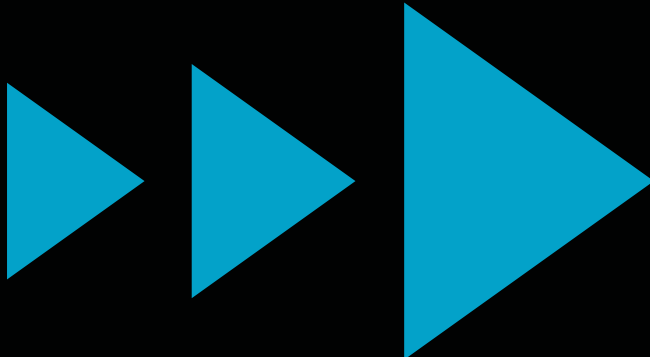
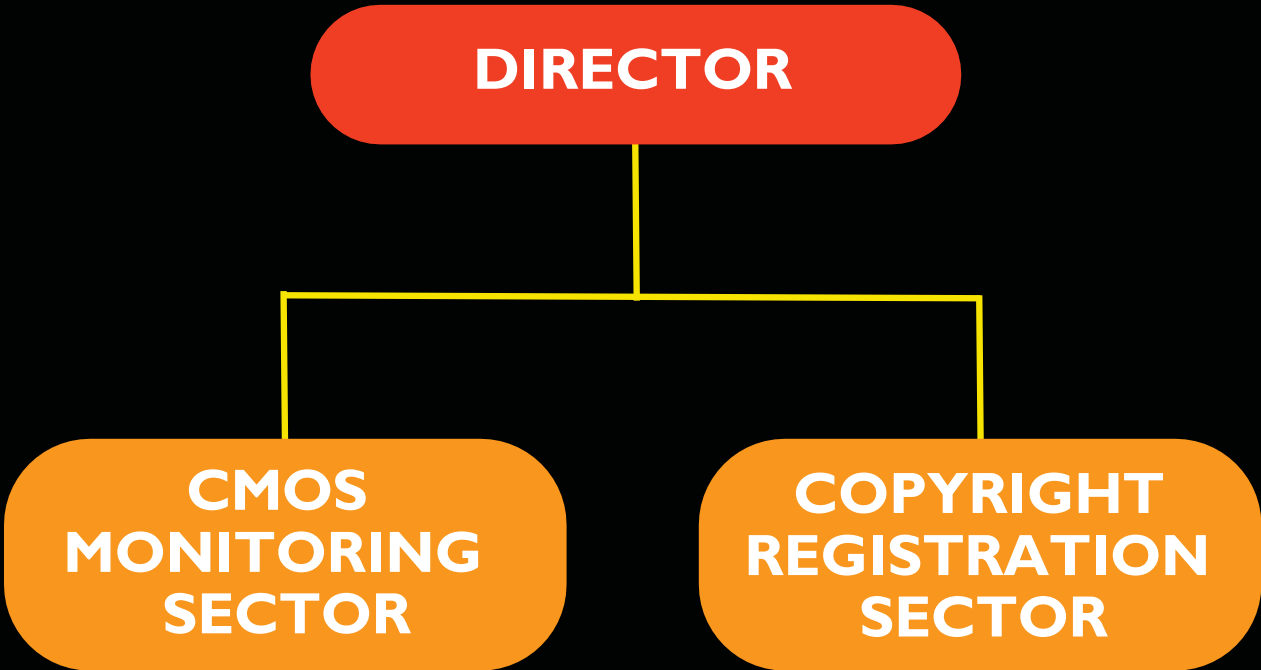
- **Adapt exceptions and limitations to the digital and cross-border environment:**
introduce mandatory exceptions or limitations for: use of works and other subject matter in digital and cross-border teaching activities and preservation of cultural heritage
- **Improve licensing practices and ensure wider access to content:**
a framework for the use, by cultural heritage institutions, of out- of-commerce works, measures to facilitate collective licensing, access to and availability of audiovisual works on video-on-demand platforms and a provision on works of visual art in the public domain
- **Achieve a well-functioning marketplace for copyright:**
introduce a related right for press publishers for the online use of press publications and allows them to receive a share of the compensation due for uses of third-party works,
- Introduce provisions that impose **obligations to online platforms** (art 17 of the Digital Service Market EU Directive and possibly art 9, 10 and 13 of the Digital Service Act EU Regulation 2022/2065)



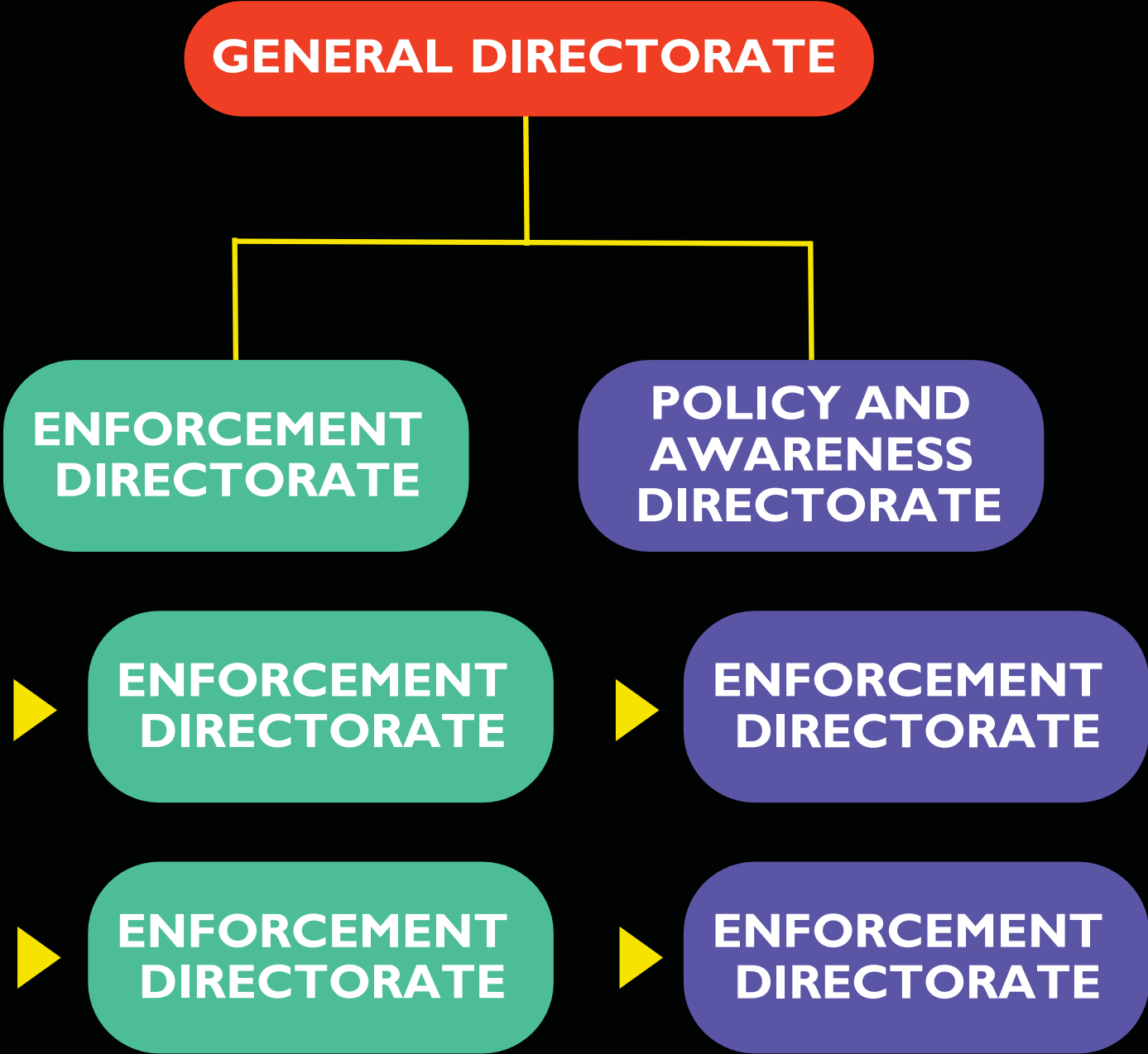
THE RESPONSE OF THE GOVERNMENT

Copyright Directorate, is a policy public institution, is under the Ministry of Economy, Culture and Innovation and in its current organisation, cannot enforce copyright online.

CURRENT



PROPOSAL/IDEA



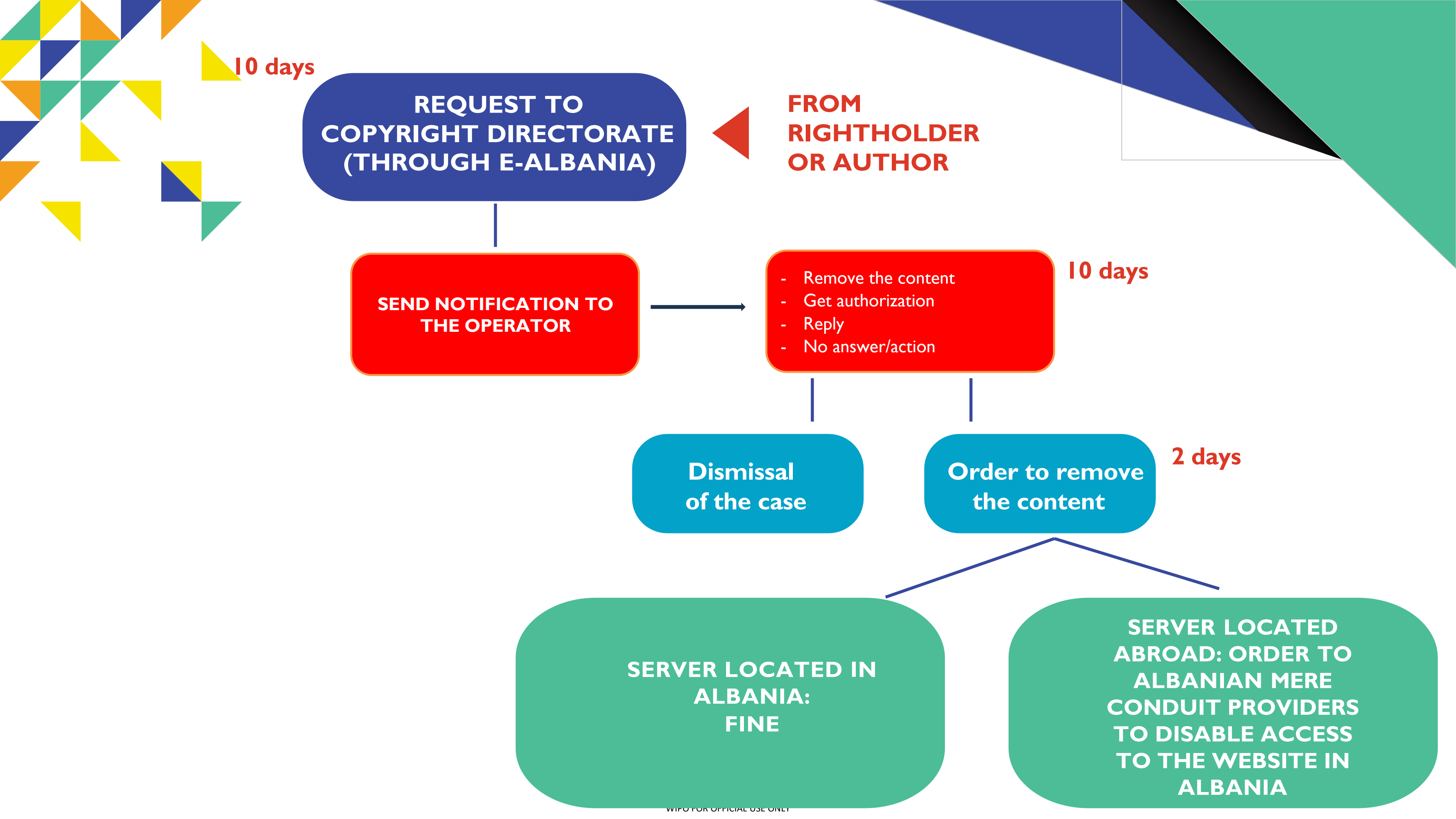


ENFORCEMENT OF COPYRIGHT ONLINE

**Its an online tool – Through the
Governmental Digital Platform
“e-Albania”**

The proceedings are launched only after a complaint has been made by the right holders. Where an actual infringement of the copyright law is attested, Copyright Directorate may adopt different measures depending on the location of the server hosting the content.







COPYRIGHT LAW AND JUDGES

MEKI/Copyright Directorate's procedure does not replace the judicial process, but it is an alternative and freezes in the event of an appeal of either party to the Court.

As all MEKI/Copyright Directorate's decisions, regarding copyright can be challenged at the Administrative Court, because there are no specialized judges.



ONLINE CONTENT SHARING SERVICE PROVIDERS

REGULATING OCSSP TWO-FOLD:

Establish the legal responsibility and liability of OCSSPs for distributing copyright material
Remunerate rightholders for the use of their works or other subject matter

CHALLENGES:

Albania is not part of the European Union and OCSSPs have no obligations in applying Albanian Copyright Law.

SOLUTION:

Digital Service Act (Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act))

Art 13 - obligation to appoint a legal representative in a Member State

Art 9 - national judiciary authority or any authority that is competent for the copyright sector to order any digital service active in Albania to remove any content that is breaching the national Copyright Law

Art 10 - platforms are obliged to provide information to the competent authorities concerning their activities and the revenues gathered in Albania.

Breach of Copyright Law by OCSSP: Financial penalties up to 3 per cent of the annual revenues collected in Albania.



▶ ANTI PIRACY PLAN – FUTURE CHALLENGES

- COOPERATION – PRIVATE PUBLIC ACTION.
- AWARENESS AND EDUCATION.
- CAPACITY BUILDING.
- PREVENTION AND PROTECTION: DATA OF PIRACY.





THANK YOU