

REVENGE PORN

COMPARATIVE ANALYSIS IN SOUTH EAST EUROPE



INTRODUCTION

A SHORT COMPARATIVE ANALYSIS

Most of the countries covered in the study do not have legislation specifically regulating the non-consensual processing and distribution of images and videos (revenge porn or image-based sexual abuse) embedded within their Criminal Codes, with the exception of Croatia and Slovenia (both members of the EU). Each country does, however, criminalize a set of offenses that – can be applied to cases of revenge porn. These offenses broadly fall within two categories: 1. Protection of body and sexual integrity (e.g. sexual harassment, harassment, stalking) and 2. Protection against privacy intrusions through technological means (e.g. unauthorised recording/filming, disclosure of personal data). While these applications of criminal offense are limited, they can provide from a normative perspective protection against revenge porn. It is, however, much more difficult to assess if this application offers meaningful protection in practice.

In Serbia and Montenegro, criminal acts of sexual harassment and unauthorised recording are prosecuted based on private criminal charges, meaning persons are provided no assistance from the police/prosecutor and, more importantly, the charges must be filed within three months of discovery of the content. In each of the countries, with the exception of Serbia, these cases are within the remit of the Office of the General Prosecutor, with dedicated police units to counter cybercrime. It is unclear if these units also investigate cases of revenge porn or, more importantly, offer assistance during enforcement procedures (e.g. requests for removal of the content). In some countries, like Serbia and Albania, there are special police units to counter domestic violence that have a certain level of expertise in dealing with gender-based violence (GBV) cases.

The enforcement of judicial rulings is also highly problematic, especially given the lack of digital platform cooperation with state authorities. CERT and similar bodies are often involved in these procedures (e.g. content blocking/removal requests from digital platforms), with varying levels of success and expertise. In general, there is little to no intervention or assistance from the human rights oversight bodies, like the Gender Equality Commissions or Ombuds-persons who are still not particularly vested in this societal issue.

COUNTRY	REVENGE PORN DIRECTLY REGULATED	OTHER APPLICABLE LAWS
Albania	✘	<p>Article 121 Criminal Code: Unfair Intrusion into privacy (or private life)</p> <p>Article 121/a Criminal Code: Stalking</p>
Bosnia and Herzegovina	✘	<p>Article 189 of The Criminal Code of the Federation of BiH: Unlawful video recording</p> <p>Article 170 of The Criminal Code of Republika Srpska: Sexual Harassment</p> <p>Article 156: Unauthorized photographing</p>
Croatia	✔ Article 144a of the Criminal Code: misuse of sexually explicit recorded content	<p>Article 144 of the Criminal Codes: Unauthorized filming</p> <p>Article 146: Unauthorised use of personal data</p> <p>Article 156: Sexual harassment</p> <p>Article 139: Threat</p> <p>Article 140: Intrusive behaviour</p> <p>The Article 10 of the Law on protection from domestic violence</p> <p>The Article 8 of the Law on gender equality</p>
Greece	✘	<p>Article 38 of The Criminal Code: Unauthorized Transmission and publishing of personal data</p>
Montenegro	✘	<p>Article 168a of The Criminal Law: Stalking</p> <p>Article 174: Unauthorized photographing</p> <p>Article 175: Unauthorized publication and presentation of other people's writings, portraits and recordings</p>
North Macedonia	✘	<p>Article 149 of the Criminal Code: Misuse of personal data</p> <p>Article 193: Showing pornographic material to a child</p> <p>Article 193a: Production and distribution of child pornography</p> <p>Article 259: Blackmail</p>

COUNTRY	REVENGE PORN DIRECTLY REGULATED	OTHER APPLICABLE LAWS
Kosovo	✘	<p>Article 183 of the Criminal Code: Sexual harassment</p> <p>Article 225 defines: consent and lack of consent, sexual act, private parts, touching, child pornography, prostitution and sexual purposes</p> <p>Article 230: Degradation of sexual integrity</p> <p>Article 202: Unauthorized photographing and other recording in personal premises</p>
Serbia	✘	<p>Article 138a of the Criminal Code: Stalking</p> <p>Article 144: Unauthorized Photographing</p> <p>Article 145: Unauthorized Publication and Presentation of another's Texts, Portraits and Recordings</p> <p>Article 182a: Sexual Harassment</p> <p>Article 194: Domestic Violence</p> <p>Article 215: Blackmail</p>
Slovenia	✔ Article 143 of the Criminal Code: Misuse of personal data	<p>Article 138 of the Criminal Code: Filming without consent</p> <p>Article 161: Reputation damage</p>

ADVOCACY OPPORTUNITIES AND GOOD PRACTICES

In Slovenia and Croatia the Criminal Code recognizes revenge porn as a separate criminal offense. The Croatian Criminal Code also specifically addresses deep fakes and other forms of image-based sexual abuse, and assigns higher penalties for a wider distribution of the non-consensual content. In some countries (North Macedonia, Kosovo), policy changes are ongoing to ensure compatibility of national Criminal Codes with the Istanbul Convention. This provides an important opportunity to expand discussions with legislative bodies on the adjudication of revenge porn, to ensure that it is more meaningfully included in the drafting of future laws. While it is not always necessary to include direct provisions, like in the case of Slovenia or Croatia, it is, however, important to ensure that revenge porn is broadly identified and included, and that existing problematic legal requirements are amended (as mentioned above in the cases of Montenegro and Serbia).

Before proposing (or implementing) any legislative change, it is of the utmost importance that an in-depth review of and research into case-law be carried out for better understanding of previous court rulings, and the legal logic currently employed in litigation of digital GBV cases. This research suggests that existing Criminal Codes and case-law, when fully implemented, are sufficient for the provision of protection, and that advocacy initiatives should focus on strategic litigation, raising awareness and capacity-building for judicial and law enforcement authorities.

In regards to regional good practice, Albania is a model for geographic balance and division of resources when it comes to women-led initiatives. These initiatives in Bosnia and Herzegovina, ([the women of Kruscice](#) is an excellent example) have shown that community activism can lead to significant change – a key factor for motivating additional community work on revenge porn. In Greece, high-level cases (the [S. Panagiotopoulos case](#)) have raised social awareness of revenge porn, and served as a stepping stone for justice for survivors (as was recently the case in [Thessaloniki](#)). However, the penalties assigned to the perpetrators in these cases are still too lenient to serve as adequate deterrence, but can be utilized for analysis and as a baseline for similar cases. In a situation similar to that in Serbia,

survivors in Greece are encouraged to reach out to CSO support structures before engagement with police, so that women lawyers with specific expertise can provide trauma support early, and throughout the process. In Montenegro, the Women's Rights Center organises training for public servants who work on cases of revenge pornography, and there are [reports](#) of upcoming legislative changes that would allow state-wide filtering and blocking of online content, including revenge porn. NGOs in North Macedonia are using the Platform for Gender Equality to advocate for change to not just the legal framework, but also public narratives (victim blaming, shame, and sex as a taboo) surrounding revenge porn, via public protest and [demonstrations](#), as well as the provision of free legal aid and psychological support to survivors. In March 2022, in North Macedonia [two people](#) were convicted and charged with the criminal offence of production and distribution of child pornography. Kosovo's Law against domestic violence from 2010 is currently going through a process of amendment, with new priority given to countering violence against women online. This could provide an opportunity to more effectively counter GBV in the country. Serbia's [Strategy](#) for Prevention and Combating Gender-Based Violence Against Women and Domestic Violence (2021-2025) recognises revenge porn as a one form of GBV requiring more attention and awareness-raising. Existing experience, and decades of learning and developing [alternative systems](#) to counter GBV and support women have the potential to bring change, raise awareness and offer immediate help to survivors.