

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 33rd Session

ALBANIA

I. BACKGROUND INFORMATION

Albania ratified the *1951 Convention on the Status of Refugees* and its *1967 Protocol* (hereinafter the *1951 Convention*) in 1992. It acceded to the *1954 Convention on the Status of Stateless Persons (the 1954 Convention)* and the *1961 Convention on the Reduction of Statelessness (the 1961 Convention)* in 2003. Relevant legislation include the *2014 Law on Asylum*, *2013 Law on Foreigners* and *1998 Law on Citizenship*. Since 2014, when Albania acquired candidate status to the EU, the Government of Albania has been adopting legislative and administrative measures to bring the Albanian legislation into compliance with the European Union (EU) asylum *acquis*.

The *2014 Law on Asylum* establishes the Directorate for Asylum and Citizenship (DAC) as the responsible authority for asylum procedures. Border Management has competence over the Border and Migration Police. The National Reception Centre for Asylum is foreseen in the *Law on Asylum* as the responsible entity to provide accommodation and cover asylum-seekers' basic needs. The three structures are part of the Ministry of Internal Affairs.

By the end of 2017 there were 4,579 persons under UNHCR's mandate in Albania, including 119 refugees, 44 asylum-seekers, and 4,416 persons at risk of statelessness.

Albania remains mostly a transit country for asylum-seekers and refugees and the limited access to documentation and socio-economic opportunities available triggers onward movement to neighbouring countries. The number of persons intercepted at the border areas and in-country in 2018 has reached 4,500 by the end of September, and the number of asylum requests 3,300. Out of the 4,500 persons intercepted, 456 are children (10 %) and 437 are female (9 %). Some 45% of those intercepted in 2018 declared to be from Syria, followed by Pakistan (17 %), Iraq (9 %). Palestinians, Algerians, Libyans, Moroccans and Afghanis arrive in lower numbers.

Given the transit nature of the flow, most of the asylum seekers do not complete procedures and move onwards. In 2017, only 4 % of the persons who requested asylum received a final decision (13 persons). In 2018, only 6 substantive decisions have been issued by Directorate for Asylum, of which 4 are recognitions and 2 are rejections.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 104.105: "Take steps to improve the situation of asylum seekers and refugees through, inter alia, discontinuing the practice of

detention of unaccompanied children, providing identification documents for refugees and ensuring their access to social assistance, implementing integration and housing programmes, as well as refraining from detaining asylum seekers, except as a last resort. (Sierra Leone)

Detention of unaccompanied children has not been a practice in 2016-2018, even if few cases have been sporadically reported and addressed by the authorities. The government has shown good will to cooperate with UNHCR and partners to identify alternatives and use detention only as last resort. In addition, it should be noted that detention of asylum-seekers in general has substantially decreased, and all asylum-seekers are referred to the National Reception Centre, which is an open centre.

The new *Law on the Protection of Children's Rights* enacted in 2017 covers all children, including asylum seeking, refugees and stateless children. Secondary legislation is being drafted and discussed to ensure inclusion of sufficient safeguards to protect children on the move. Moreover, the new *Law on Social Services and Care* (2016) and the *Law on Free Legal Aid* (2018) explicitly include refugees and persons granted subsidiary protection as beneficiaries.

Positive developments – general remarks

The Albanian legal framework on asylum is generally aligned with the EU asylum *acquis* and international standards, and institutionalization of procedures is underway. Reception capacity was doubled in 2017, with the EU funded extension of the National Reception Centre for Asylum, and the renovation of a municipal centre of Gjirokastra to accommodate temporarily asylum-seekers and persons with specific needs. Additional reception capacity by a UNHCR partner at the border with Montenegro was made available in 2018 for 120 persons.

The identification of persons at risk of statelessness has substantially improved following a mapping exercise conducted by UNHCR and Tirana Legal Aid Society in cooperation with several Ministries, INSTAT and Municipalities. In only four months, 1,031 persons at risk of statelessness have been identified by local actors, mostly affecting children of Albanian parents who are born abroad and Roma and Egyptian communities. The relevant Ministries, as well as the Speaker of the Parliament and several MPs have committed to engage in the process of legislative and administrative reform which is required to end statelessness by 2024. As a result, on 11 October, the Parliament approved modifications to the *Law on Civil Status*, whereby the two main causes of risk of Statelessness, as identified in the mapping exercise, namely the lack of registration by inactivity and/or lack of documentation of parents (which affected mostly Rome and Egyptian Communities), and the cumbersome and costly legal/administrative provisions and judicial requirements for the registration of Albanian children born abroad (which affected mostly the Albanian diaspora). Relevant bylaws for its implementation shall be approved by mid-January 2019, as decided by Parliament. In addition, the *Law on Citizenship* is in the process of being amended and the Ministry of Interior is actively seeking advice to prevent statelessness.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Issuance of identification and travel documents

Linked to 2nd cycle UPR recommendation no. 104.105: “Take steps to improve the situation of asylum seekers and refugees through, inter alia, discontinuing the practice of detention of unaccompanied children, providing identification documents for refugees and ensuring their access to social assistance, implementing integration and housing

programmes, as well as refraining from detaining asylum seekers, except as a last resort.
(Sierra Leone)

According to the *2014 Law on Asylum*, refugees are entitled to identification (ID) and travel documents. In practice, there are obstacles that prevent refugees from obtaining documentation as the current general documentation system does not generate them automatically. Hence, the Directorate of Asylum and the Civil Status Office should follow-up and coordinate on every individual case, which is not always the case. Only 5 refugees have been issued IDs and travel documents in 2017 and first half of 2018. In addition, the unique identifier provided by these documents is not compatible with the information system of other governmental structures, thus creating additional impediments on access to rights and services.

Recommendations:

UNHCR recommends that the Government of Albania:

- (a) Issue travel documents and ID cards for refugees and persons granted subsidiary protection as foreseen in the *Law on Asylum*; and
- (b) Design and implement informatics tools and mechanisms to allow asylum-seekers and refugees to have effective access to rights and services.

Issue 2: Rights of refugees and asylum-seekers

Linked to 2nd cycle UPR recommendation no. 104.105: "Take steps to improve the situation of asylum seekers and refugees through, inter alia, discontinuing the practice of detention of unaccompanied children, providing identification documents for refugees and ensuring their access to social assistance, implementing integration and housing programmes, as well as refraining from detaining asylum seekers, except as a last resort.
(Sierra Leone)

Contrary to the provisions of the *2014 Asylum Law*, Article 9.2 of the *Law on Social Assistance and Services* (2016) excludes asylum-seekers from its scope. This restricts the governmental support available for this category to the services provided at the National Reception Centre for Asylum.

Housing is a significant constraint for the refugees trying to integrate in Albania. The *Law on Social Programs for Housing in Urban Areas* (2018) allocates funds to the local government to provide social housing. Refugees, however, cannot access social public housing programs.

The current naturalisation process is not accessible for refugees in practice due to several requirements that are too onerous, including presentation of original documents from the country of origin (e.g. birth certificates, criminal records, etc.) and proof of sufficient economic means. UNHCR supported 15 persons granted international protection to apply for citizenship but their applications have been pending at the Ministry of Interior and/or the President's Office since 2017.

Recommendations:

UNHCR recommends that the Government of Albania:

- (a) Amend the *Law on Social Assistance and Services* to include asylum-seekers in its scope in line with provisions in the *Law on Asylum*, *Law on Child Protection*, fundamental rights foreseen in the Constitution of Albania and international standards;
- (b) Amend the *Law on Social Programs for Housing in Urban Areas* to include refugees and persons granted subsidiary protection among the beneficiaries of the law, in order to prevent discriminatory practices against long term residents with limited socio-economic opportunities;

- (c) Amend the *Law on Citizenship* to foresee flexible requirements for the naturalization of refugees with long term residence in Albania;
- (d) Ensure timely consideration of citizenship applications to avoid undue delays; and
- (e) Enhance inter-ministerial coordination on integration matters, particularly through a more active role of the Ministry of Health and Social Welfare and local governance structures to promote integration of asylum-seekers willing to remain in Albania.

Issue 3: Fair and efficient asylum procedures

Linked to 2nd cycle UPR recommendation no. 104.105: “Take steps to improve the situation of asylum seekers and refugees through, inter alia, discontinuing the practice of detention of unaccompanied children, providing identification documents for refugees and ensuring their access to social assistance, implementing integration and housing programmes, as well as refraining from detaining asylum seekers, except as a last resort. (Sierra Leone)

The composition of the office of the Director and the Directorate for Asylum and Citizenship changed in the beginning of 2018 as part of a governmental restructuring process. Most of the current staff do not have previous experience on refugee issues and require capacity-building and training.

The length of asylum procedures has substantially increased in 2018 compared to previous years, when a final decision on the substance could be issued in 2/3 months. In 2018, the time lapse between the asylum request and lodging of asylum applications has reached over 4 months for some cases. Given that the number of asylum seekers who decide to stay in Albania is low in comparison to those transiting the country, the existing structure should ensure quality and rapid decision making in those cases.

Delays in formalising asylum applications cause discouragement and increase dependency on the National Reception Centre for Asylum Seekers.

In some cases the Directorate for Asylum directly rejects applications as inadmissible without ensuring that the asylum seeker is adequately heard.

Recommendations:

UNHCR recommends that the Government of Albania:

- (a) Establishes administrative mechanisms to ensure the timely lodging of asylum applications, notably by persons who have shown willingness to remain in the Republic of Albania; and
- (b) When assessing admissibility criteria, ensures that asylum-seekers have access to effective procedural safeguards, notably ensuring effectively the right to be heard.

Additional protection challenges

Issue 4: Risk of statelessness

The *Law on Citizenship* includes safeguards protecting children against statelessness, but legal gaps have been identified for children born to persons not legally residing in Albania, as well as to Albanian citizens abroad. The *Law on Foreigners* provides a definition of stateless persons and foresees the issuance of residence permits on a humanitarian basis but there is no stateless determination procedure in place.

Further to a baseline study conducted by UNHCR, a first legal package to reduce the risk of statelessness was approved by the Parliament in October 2018. When followed by relevant

bylaws, the main causes of risk of statelessness will be addressed, namely: (a) lack of registration by inactivity and/or lack of documentation of parents, which affects mostly Roma and Egyptian Communities, and (b) cumbersome and costly legal/administrative provisions and judicial requirements for the registration of Albanian children born abroad, which affects mostly socially and economically vulnerable individuals of the Albanian diaspora. The UNHCR study and its recommendations have been widely supported by relevant State institutions, notably including relevant Ministries.

Recommendations:

UNHCR recommends that the Government of Albania:

- (a) Ensure that all international and regional obligations related to the right to nationality, and birth registration are fully incorporated into domestic law and implemented in practice;
- (b) Take steps to remove legal and practical impediments hindering the access to the Albanian nationality, and safeguard every child's right to a nationality, irrespective of the status, documentation, or actions of their parents;
- (c) Ensure that all civil registration and documentation procedures, including birth registration, are universally accessible by implementing the amendments to the Law on Civil Registry, hence simplifying complex and bureaucratic procedures and eliminating barriers related to cost, time, or distance;

**UNHCR
October 2018**

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

ALBANIA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations and UN Treaty Monitoring Bodies' Concluding Observations, relating to issues of interest and persons of concern to UNHCR with regards to ALBANIA.

I. Universal Periodic Review (Second Cycle – 2018)

| Recommendation ¹ | Recommending State/s | Position ² |
|---|--------------------------|----------------------------------|
| Equality and non-discrimination | | |
| 104.37 Fully implement the Law on Protection from Discrimination and launch a national awareness campaign on the issue of discrimination and racism; | Germany | Supported |
| 104.38 Study the possibility of strengthening the measures to fight discrimination, in order to eradicate the trend and/or the dissemination of stereotypes that lead to discrimination on the grounds of sexual orientation; | Argentina | Supported |
| 106.6 Ensure strict implementation of its new legislation on discrimination, as well as adopt new provisions prohibiting also discrimination based on nationality; | Switzerland | Partially supported ³ |
| Prevention of torture and ill-treatment | | |
| 104.16 Strengthen the public impact of the People's Advocate (Ombudsman) and his capacity to act effectively as a preventive national force also when it comes to sensitive issues such as prosecution of acts of torture; | Czech Republic | Supported |
| 104.41 Instruct police officers on an annual basis that any form of ill-treatment of detained persons is unacceptable and will be punished; | United States of America | Supported |
| 104.42 Prevent all cases of torture and ill-treatment by police, law enforcement officials and in places of detention and ensure effective, independent and impartial investigations in all cases; | Germany | Supported |
| 104.75 Effectively fight against torture and ill-treatment, especially in places of detention, ensuring that these acts are the subject of independent investigations and appropriate legal prosecutions, and that the use of preventive detention is exceptional and strictly regulated; | France | Supported |
| 105.18 Ensure the strict implementation of the prohibition of torture and ill-treatment, especially in pre-trial detention, and improve the conditions of detention in conformity with the international standards; | Costa Rica | Supported |

¹ All recommendations made to Albania during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Albania" (7 July 2014), A/HRC/27/4, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/076/77/PDF/G1407677.pdf?OpenElement>.

² Albania's views and replies, in English, can be found in: *Addendum* (21 July 2014), A/HRC/27/4/Add.1, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/089/09/PDF/G1408909.pdf?OpenElement>.

³ **Addendum:** "The first part of this recommendation is accepted and is being implemented regarding the effective implementation of the legislation on discriminations. The second part of this recommendation regarding the adoption of new provisions prohibiting discrimination based on nationality is not accepted and we provide the following information: The law "On protection from discrimination" contains an open-ended (non-exhaustive) list of discriminatory grounds, including the term "any other ground". In this context the nationality is provided as another ground for non-discrimination."

| Violence against women and children | | |
|---|--------------------------|-----------|
| 104.47 Fully implement the normative framework and related policies aimed at preventing violence against women, in particular by addressing the factors which may still prevent women from filing complaints regarding episodes of violence; | Italy | Supported |
| 104.48 Enhance support services for victims of domestic and gender-based violence; and take measures to raise awareness among law enforcement officials, lawyers and judges of the serious nature of domestic and gender-based violence; | Australia | Supported |
| 104.50 Establish appropriate shelters and social services for victims of domestic violence, as well as a system of victim compensation and reintegration; | Ireland | Supported |
| Trafficking and exploitation | | |
| 104.63 Reinforce measures to protect victims of trafficking, with due regard to the special situation of child victims, regardless of whether they have agreed to participate in judicial proceedings; | Croatia | Supported |
| 104.64. Consider improving assistance, including medical and social services, and shelter for trafficking victims, particularly women and children; | Thailand | Supported |
| 104.65 Take further measures to address the issue of violence against children, including trafficking and sexual abuse; | Portugal | Supported |
| 104.66 Take the necessary measures to effectively eliminate the worst forms of child labour; | United States of America | Supported |
| 104.67 Take measures to strengthen the monitoring mechanisms to combat child labour and the economic exploitation of minors; | Mexico | Supported |
| 104.68 Strengthen efforts aimed at protecting the rights of children in need, children who are victims of labour exploitation and children vulnerable to exploitation and violence; | Qatar | Supported |
| 105.23 Strengthen the legislation and the national action plan to fight trafficking in persons, in order to end the sexual exploitation of children; | France | Supported |
| 105.24 Take further measures to effectively combat trafficking in human beings, especially with regard to vulnerable groups such as women and children; | Slovenia | Supported |
| 105.27 Ensure early identification of victims of trafficking and provide adequate medical, legal and social assistance, including shelter; | Republic of Moldova | Supported |
| 106.13 Strengthen the legislation to fight trafficking in persons, especially women and children, ensuring the due punishment of the perpetrators of such crimes and the provision of legal and psychological assistance to victims; | Mexico | Supported |
| Freedom of expression | | |
| 104.85 Take measures to promote a safe and enabling environment for journalists to perform their work independently and without undue interference; | Lithuania | Supported |
| Migrants' rights | | |
| 104.104 Ensure the development of a human rights-based migration policy which guarantees respect of the rights of all migrants; | France | Supported |
| 104.105 Take steps to improve the situation of asylum seekers and refugees through, inter alia, discontinuing the practice of detention of unaccompanied children, providing identification documents for refugees and ensuring their access to social assistance, implementing integration and housing programmes, as well as refraining from detaining asylum seekers, except as a last resort; | Sierra Leone | Supported |

| Racism and xenophobia | | |
|--|---------|-----------|
| 105.29 Prevent more effectively racially motivated or xenophobic offences, investigate those cases and prosecute the perpetrators; | Tunisia | Supported |
| 105.30 Prevent effectively infractions with a racist or xenophobic motivation, conduct investigations and bring the perpetrators to justice; | Togo | Supported |

II. Treaty Bodies

Committee on the Elimination of Discrimination against Women

Concluding Observations, (2016), [CEDAW/C/ALB/CO/4](#)

Gender-based violence against women

22. The Committee commends the State party on its efforts to combat gender-based violence against women, inter alia by amending the Criminal Code to criminalize gender-based violence and marital rape and conducting public awareness campaigns. The Committee remains concerned, however, that such violence remains prevalent in the State party. It is also concerned about:

- (a) The low rate of reporting of cases of gender-based violence against women owing to women's limited access to legal aid services, especially in rural and remote areas, as well as the absence of hotline services for women who are victims of such violence;
- (b) The insufficient implementation of the national referral mechanism aimed at preventing and providing protection from gender-based violence, in particular at the local level, owing to the lack of coordination among responsible entities and the lack of the necessary skills and capacity among the responsible staff;
- (c) The insufficient number of shelters for women who are victims of gender-based violence and the restrictive criteria for admission to such shelters, as well as the lack of medical and psychological rehabilitation services for women;
- (d) The frequent failure to enforce protection orders and emergency protection orders.

23. The Committee recommends that the State party:

- (a) Take measures to encourage women to report cases of gender-based violence by providing free legal aid, including in rural and remote areas, and by establishing a 24-hour hotline service;**
- (b) Strengthen the role and capacity of relevant authorities with regard to the protection and rehabilitation of victims of gender-based violence in accordance with international standards;**
- (c) Increase the number and capacity of State-run shelters, increase the financing of shelters run by non-governmental organizations and put in place mechanisms for contracting, delegating to or obtaining the services of non-governmental organizations in order to respond to the needs of all women who are victims of gender-based violence, including Roma and Egyptian women, women with disabilities and women living in rural and remote areas;**
- (d) Strengthen the enforcement of court decisions, in particular those that concern protection orders or emergency protection orders for women who are victims of gender-based violence, including by building the capacity of judicial personnel, such as court bailiffs.**

Trafficking and exploitation of prostitution

24. The Committee welcomes the significant efforts of the State party in combating trafficking in women and girls, including for the purpose of sexual and labour exploitation, by introducing amendments to the Criminal Code (Law No. 144/2013) criminalizing the use of services

provided by victims of trafficking and decriminalizing victims of trafficking. It commends the State party on its efforts to improve the referral of victims to appropriate services, and improve the protection and assistance provided, including financial assistance. The Committee notes with concern, however, that the State party remains a source and destination country for trafficking in women and girls, especially trafficking linked to tourism in coastal areas. It also regrets the lack of information about the number of reports, prosecutions and convictions in cases of trafficking.

25. The Committee recommends that the State party continue to strengthen its efforts to combat trafficking in persons, in particular women and girls, by:

- (a) Ensuring the investigation, prosecution and conviction of traffickers, and of public officials complicit in such crimes;**
- (b) Building the capacity of the border and migration police to detect victims of trafficking;**
- (c) Exempting victims of trafficking from any liability and providing them with adequate protection, such as witness protection programmes and temporary residence permits, irrespective of their ability or willingness to cooperate with the prosecutorial authorities;**
- (d) Funding mobile units operated by civil society groups for the purpose of identifying victims;**
- (e) Increasing funding for shelters, both those run by the State and those run by non-governmental organizations, in order to provide victims with medical, psychological and social reintegration services.**

Disadvantaged groups of women

38. The Committee is concerned about the continuous discrimination against and lack of appropriate legislation or measures for the protection of women and girls belonging to disadvantaged and marginalized groups, such as older women, Roma and Egyptian women, women with disabilities, migrant women, lesbian, bisexual and transgender women, women in detention, secluded women and asylum-seeking women, in particular as regards their access to education, health services, employment, housing and participation in public and political life.

39. The Committee recommends that the State party adopt targeted laws, policies and programmes to ensure equal rights for women belonging to disadvantaged and marginalized groups, such as: [...]

- (d) Migrant women, by monitoring the impact on emigrant women of the Strategy for the Reintegration of Returnees and Repatriated Albanian Nationals 2010-2015;**
- (e) Lesbian, bisexual and transgender women, by harmonizing the Criminal Code with the anti-discrimination laws and introducing into it the issue of hate crimes;**
- (f) Women in detention, by monitoring the implementation of standards provided in Law No. 40/2014 for women in detention;**
- (g) Secluded women, by providing them with adequate protection and access to health care, education, employment and freedom of movement;**
- (h) Asylum-seeking women, by taking all measures necessary to put in place legal arrangements to ensure regularized stay for persons seeking to join their relatives in other countries of the European Union.**