

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: *Fourth Cycle, 47 Session*

ALBANIA

I. BACKGROUND INFORMATION

The Republic of Albania ratified the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* through Presidential Decree 200 in June 1992, without geographical limitations or reservations. Albania is a State party to the *1954 Convention Relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*. Albania is also a party to the European Convention on Nationality.

European Union integration is a national objective and a basis for various reforms in the country. The outcome of the Intergovernmental Conference at ministerial level in 2022 resulted in the EU opening accession negotiations with Albania. This was followed by the opening of the screening process, which indicated Albania's level of alignment with EU legislation. Once the date for opening of the accession negotiations is set, this may further stimulate improvements in the asylum policy development and practice. Albania is a signatory to several key international and regional human rights instruments and has taken steps to strengthen its legal framework aimed at harmonising its legislative framework with EU acquis.

Albania is considered primarily as a transit country by most refugees and migrants, and the authorities. Due to the general tendency of asylum-seekers to pursue onward movement, few asylum-seekers remain for extended periods in the country. As of December 2023, 15 applications (affecting 26 persons in total) were pending asylum processing.

The demographic structure of refugees and asylum-seekers residing in the country is as follows: 76 children (age bracket 0-17/ 32 girls; 44 boys); 73 adults (age bracket 18-49/ 35 women; 37 men); 12 older adults (age bracket 50-59/ 5 women; 7 men) and 11 elderly persons (above 60 years old/ 3 women; 8 men). The nationalities of the refugee and asylum-seeker population currently in the country are: Kosovo¹, Afghanistan, Belarus, "Guantanamo caseload" (China/Uzbekistan), DR Congo, Egypt, Iraq, Montenegro, Palestine, Russia, Syria, Tunisia, and Venezuela. There are currently 30 persons who are residing in the Reception Centre for Asylum, with others reside in urban areas.

Throughout 2023, Albania continued to see mixed movements of refugees and migrants, with 4,307 arrivals at the borders. This constitutes a 46% decrease from 2022. Despite the significant drop in figures, there was an increase of the number of persons referred to asylum processing compared to the same period in 2022 (4,5% increase). In 2023, a total of 282 persons were referred for asylum processing. However, ongoing restrictions in access to the asylum procedure and other appropriate processes continue to be of concern to UNHCR. Since 2018, Albania has not granted refugee status to any applicant. Those found to be in need of international protection have been exclusively granted subsidiary forms of protection.

In 2022, Albania decided to grant refugees from Ukraine the right to enter and stay for up to one year without a residence permit, or to apply and obtain temporary protection. From 24 February 2022 to 31 December 2023, some 42,000 refugees from Ukraine entered Albania, of which 38,268 eventually left the country. At the end of March 2024, there were 3,802

¹ Reference to Kosovo shall be understood in the context of the Security Council Resolution 1244 (1999).

refugees from Ukraine present in Albania. Albania continues to show hospitality to evacuated Afghan citizens who have been arriving since August 2021, under the auspices of other governments. On 6 March 2024, the Council of Ministers decided to extend the Temporary Protection regime until 17 September 2024.

In supporting Albania in its efforts to implement its international obligations, UNHCR collaborates with multiple national and international stakeholders, including the Ministry of Interior, People's Advocate (Ombudsman), Frontex, the EU Agency for Asylum (EUAA), and non-governmental organizations. UNHCR also partners with development actors to enhance collaboration among the UNSDCF. UNHCR remains closely involved at the UN Country Team level to contribute to the implementation of the UNSDCF 2022-26.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no: 95.196: "Adopt additional measures to protect migrants and asylum seekers (Iraq)"

A new Law on Asylum no 10/2021 was approved in 2021. This Law is partially in line with the most relevant EU Asylum Acquis. A new Law on Foreigners No 79/2021 was approved in 2021, partially compatible with the most relevant EU Directives regarding the treatment of foreign citizens, including migrants and persons in need of international protection. The legal framework is also complemented through 15 by-laws related to the Law on Asylum and several by-laws related to the Law on Foreigners. Efforts to fully implement the approved legislation are ongoing, as some of the by-laws in force are hindering its full application.

Linked to 3rd cycle UPR recommendation no: 95.197: "Strengthen the measures to avoid statelessness, especially for groups in vulnerable situations, facilitating the process of naturalization for refugees and Roma (Argentina)"

At the High-Level Segment on Statelessness, held in October 2019, Albania pledged to fully implement the 2018 legislative amendments that improve access to birth registration for children of Roma and Egyptian national minorities, and for children born outside the territory of the Republic of Albania whose parents are nationals of the Republic of Albania.

The new Law on Citizenship No 113 was approved in 2020. This law addresses some of the previous impediments and is aimed at resolving the civil status of persons at risk of statelessness and simplifying the process of naturalisation of foreign citizens including refugees. The Article 7(1) of the Law on Citizenship stipulates that *"a child born or found in the territory of the Republic of Albania at risk of being stateless, is granted Albanian citizenship"*. The new law has improved the requirements for granting Albanian citizenship by removing barriers for refugees to apply for acquisition of Albanian citizenship.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Unaccompanied and separated children in need of international protection

Linked to 3rd cycle UPR recommendations nos. 95.161-95.164

UNHCR and partners continued monitoring the pre-screening procedure, supporting identification and referral of persons in need of international protection or with specific needs, including unaccompanied and separated children (hereinafter UASC). Limited progress has been made in ensuring displaced children's inclusion in the national child

protection system. In 2023, 48 identified UASC were intercepted by the Border and Migration police entering Albania and 32 of them were referred to the asylum process. None of the UASC started the process of lodging of their asylum applications, in part due to long and unclear division of competences and responsibilities between different state authorities in charge of child protection.

Lack of interpreters and gaps in safeguards (including lack of appointments of legal guardians) have contributed to all UASC leaving the country before the asylum claims were filed. This puts UASC at heightened risk of vulnerability to violence and human trafficking. Additionally, the lack of separate reception facilities for UASC or designated areas within existing reception facilities remains a significant gap to assist vulnerable children. Even though the Law No.18/2017 explicitly stipulates that any child on Albanian territory should be protected, the Law on Social Care Services limits service provision to those who reside in Albania and particularly to those who have not started the asylum procedures. As a result, asylum-seeking UASC, whether they have managed to lodge an asylum claim or not, are denied access. This is a major legal shortcoming which has not yet been addressed.

On the job training and capacity building is needed for the asylum authorities (i.e., the Child Protection Unit, and social services professionals) to implement appropriate interviewing techniques and treatment of UASC, including for those that are not qualified and/or do not seek asylum. Best Interest Assessments (BIA) and Best Interest Determinations (BID) should be conducted by multi-sectoral teams mandated to conduct such exercises when a case of UASC is referred or brought to them by child protection workers.

Upon joint UNHCR-UNICEF advocacy, the Parliament requested UN agencies for their proposals to improve legislation on protection of UASC. UNHCR and UNICEF jointly advocate for and support the revision of the child protection legal framework with the aim of including UASC into the child protection system in Albania and preventing childhood statelessness in the country.

Recommendations:

UNHCR recommends that the Government of Albania:

- (a) Ensure timely, and adequate inclusion of all unaccompanied and separated children in the national child protection system, ensuring they can benefit from the same services provided to nationals without discrimination;
- (b) Establish age assessment procedures and safeguards for the Underage Separated Children who may be in need international protection;
- (c) Establish a separate facility for unaccompanied and separated children – who arrive in the country as part of the mixed movements – or alternatively, designate a section of the Reception Centre for Asylum as an interim measure for the accommodation of this vulnerable group;
- (d) Ensure on the job training and capacity building for the Asylum authorities to implement appropriate interviewing techniques and treatment of unaccompanied and separated children, including those that are not qualified and/or do not seek asylum;
- (e) Build capacity and mandate multi-sectoral teams to conduct best interest assessments and best interest determinations in cases where unaccompanied and separated children are referred by a child protection worker;
- (f) Improve case management for refugee and migrant children traveling as a part of mixed movements; and,
- (g) Ensure that each unaccompanied and separated child is appointed with a guardian in an efficient and timely manner and, at a later stage, a legal guardian.

Additional protection challenges

Issue 2: Refugee status determination procedures

In December 2023, the Government of Albania pledged at the Global Refugee Forum to, *inter alia*, “*continue to guarantee efficient asylum procedures as well as improve the quality of decision-making in these cases.*” UNHCR and its main counterpart at the Ministry of Interior elaborated a joint plan of action on asylum, reception, and solutions. Progress was made in establishing a baseline for the asylum system under the UNHCR-led regional Quality Assurance Initiative. The strengthening of the capacity of asylum officials began through dedicated roundtables and on the job training opportunities offered by UNHCR Albania.

A number of structural issues remain, including with respect to the administrative capacity to manage asylum applications in a fair and efficient procedure. Challenges to the sustainable implementation of the law include: multiple and competing priorities (not always related to asylum), lack of technical capacity, and lack of human resources. The first instance asylum authority needs increased technical capacity to assess asylum cases and undertake quality decision-making.

The procedural timeframes for applicants for asylum have improved, in line with the 2021 asylum law. However, other procedural aspects need to be enhanced including, *inter alia*, the personal interviews (including interviewing vulnerable persons), in depth research and use of country-of-origin information, and evidence assessments. Support implemented under UNHCR’s regional Quality Assurance Initiative, and the EUAA-Albania Roadmap are providing complementary efforts to the common objective of a strengthened quality asylum system, which will continue in 2024 and beyond.

While the 2017 Law on State Legal Aid stipulates free legal assistance and representation for asylum-seekers, in practice their access to free legal aid is limited. Legal assistance is currently supported by UNHCR’s NGO partner, but a systemic and sustainable solution is urgently needed. A free legal aid network has been established by the General Directorate for Free Legal Aid, under the Ministry of Justice. However, these offices need additional resources and capacity building for their practitioners.

Recommendations:

UNHCR recommends that the Government of Albania:

- (a) Accelerate efforts to improve the identification and referral of people in need of international protection to the asylum procedure, as well as to enhance the quality of first-instance asylum decisions and overall refugee status determination procedures;
- (b) Increase enhanced training and capacity building within the asylum authority, particularly for decision-makers and reviewer, to implement international and EU standards effectively;
- (c) Provide additional financial support and capacity building for the free legal aid system, in order to strengthen access to justice and legal representation for asylum-seekers.

Issue 3: Irregular returns to Greece

All the individuals arriving to Albania irregularly, as a part of mixed movement of refugees and migrants, are not currently interviewed or pre-screened as per the Instruction of the Minister of Interior No 174 of 12 September 2022. Safeguards for return/removal to a neighboring safe third country (almost exclusively, Greece) are not respected as per the Readmission Agreement. Reportedly, this is due to the lack of an implementation protocol associated with this Agreement. Albanian Border and Migration Police authorities do not fulfill the criteria as stipulated in the above-mentioned Instruction (e.g., lack of female personnel to conduct the pre-screening procedures in the case of female migrants and refugees, lack of human resources, and lack of infrastructure). Lack of interpreters and provision of relevant information on access to territory and asylum severely limit the opportunities of persons in need of international protection to seek and access asylum in

Albania.

Recommendations:

UNHCR recommends that the Government of Albania:

- (a) Adopt and apply a protocol for implementation of the Readmission Agreement with Greece;
- (b) Review the Albanian Border Migration Police's pre-screening procedures and practice, and apply established safeguards outlined in the national legal and administrative framework in order to determine international protection needs as well as vulnerabilities of persons in mixed movements; and,
- (c) Ensure that refugees and migrants intercepted in the territory are accorded appropriate safeguards and have the ability to appeal to the relevant authorities, as stipulated in the Law on Foreigners 79/2021.

UNHCR
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