



Home Office

OPERATIONAL GUIDANCE NOTE

ALBANIA

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1. Introduction

- 1.1** This document provides Home Office caseworkers with guidance on the nature and handling of the most common types of claims received from nationals/residents of Albania, including whether claims are or are not likely to justify the granting of asylum, humanitarian protection or discretionary leave. Caseworkers must refer to the relevant asylum instructions (AI) for further details of the policy on these areas.
- 1.2** Caseworkers must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive.
- 1.3** The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant country of origin information (COI) and any other pertinent data, such as country caselaw.

- 1.4** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. Where a claim for asylum or humanitarian protection is being considered, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules.
- 1.5** Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for discretionary leave in accordance with the published policy.
- 1.6** With effect from 1 April 2003 Albania is a country listed in section 94 of the Nationality, Immigration and Asylum Act 2002 and the prima face evidence is that the current underlying situation in the country remains the same or similar to that considered when the country was first designated. Asylum and human rights claims must be considered on their individual merits. However, if, following consideration, a claim from an applicant who is entitled to reside in Albania is refused caseworkers must certify the claim as clearly unfounded unless satisfied that it is not. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country Assessment

- 2.1** Caseworkers should refer to the relevant COI Service country of origin information material. An overview of the human rights situation in certain countries can also be found in the [Foreign & Commonwealth \(FCO\) Human Rights and Democracy Report](#), which examines developments in countries where human rights issues are of greatest concern.

2.2 Actors of Protection

- 2.2.1** Caseworkers must refer to section 7 of the AI - [Considering the asylum claim and assessing credibility](#). To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence.
- 2.2.2** Caseworkers must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so.
- 2.2.3** Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.
- 2.2.4** Local and regional public order police directorates operationally and administratively come under the command of the State Police General Director, who in turn reports to the Ministry of Interior (MOI). The State Police are the main organisation responsible for internal security. The Republican Guard protects high-level state officials, foreign dignitaries and certain state properties. The armed forces under the Ministry of Defence are mainly responsible for protecting

the independence, sovereignty and territorial integrity of the country, with some additional tasks of assisting the population in times of humanitarian need. The State Intelligence Service (SHISH) gathers information and carries out foreign intelligence and counterintelligence activities aimed at protecting the state's integrity, independence and constitutional order.¹

- 2.2.5** Civilian authorities maintained effective control over the State Police, Republican Guard, armed forces and SHISH, although periodically state resources were used for personal gain. For example, instances of police accepting bribes in return for not issuing citations or not entering personal information into crime databases were widespread. The Government has mechanisms to investigate and punish abuse and corruption. As part of institutional reform efforts, the Government's Internal Control Service (ICS) conducts audits, responds to complaints and carry out investigations with increased emphasis on human rights, prison conditions and adherence to standard operating procedures.²
- 2.2.6** The People's Advocate Ombudsman of the Republic of Albania was envisaged in Chapter VI of the Albanian Constitution approved in November 1998. Article 60 states that the People's Advocate defends the rights, freedom and lawful interests of individuals from unlawful or improper actions or failures to act of the organs of public administration. The Parliament passed the Law on the People's Advocate in February 1999. The People's Advocate is elected by three-fifths of all members of the Assembly for a five year period, with the right of re-election.³ On the 22 December 2011, the Albanian Parliament elected Mr Igli Totozani as the People's Advocate of the Republic of Albania.⁴
- 2.2.7** In June 2012, the UN Committee against Torture expressed concerns about the lack of effective and impartial investigations by the MOI into alleged ill-treatment by law enforcement officers. The Committee also reported that basic safeguards against torture were not provided to people in detention, including timely access to lawyers and doctors and noted the excessive length of pre-trial detention.⁵
- 2.2.8** In 2012, the UN Committee Against Torture expressed concern that the People's Advocate monitors the situation in detention through the Unit for Prevention of Torture only once it receives allegations of abuse and with prior consent, therefore limiting the protective aspects of its preventive visits. The Committee is also concerned at the lack of professional staff, financial resources and methodological resources provided to the People's Advocate and the absence of assignments for more than two years, due to which the places of detention have been visited only irregularly.⁶
- 2.2.9** During 2012 the Albanian Ombudsman processed complaints against police officers mainly on arrest and detention problems. The Ombudsman received

¹ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

² US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

³ Amended Constitution of the Republic of Albania, 21 April 2008, Article 60 <http://www.unhcr.org/refworld/docid/4c1f68912.html> and [Republic of Albanian](#)

⁴ People's Advocate website, About Us (undated current webpage accessed March 2013) http://www.avokatipopullit.gov.al/?page_id=219&lang=en

⁵ Amnesty International – Annual Report: Albania 2103 – 23 May 2013 <http://www.amnestyusa.org/research/reports/annual-report-albania-2013>

⁶ UN Committee Against Torture, Consideration of Reports submitted by States Parties under Article 19 of the Convention, 26 June 2012, Paragraphs 10 and 11 <http://www2.ohchr.org/english/bodies/cat/cats48.htm>

4,252 complaints during 2012 and investigated or provided counsel in 385 cases. State police officers did not always enforce the law equally. Personal associations, political or criminal connections, poor infrastructure and lack of equipment or inadequate supervision often influenced enforcement of laws. Low salaries, poor motivation and leadership and a lack of diversity in the workforce contributed to continued corruption and unprofessional behaviour.⁷

- 2.2.10** The Albanian Helsinki Committee (AHC) reported that police sometimes used excessive force or inhuman treatment. The majority of the complaints involved unjustified stops by police, detention past legal deadlines, failure to make citizens aware of their rights when detained and poor conditions of detention centres. The AHC said police often reported that detainees claiming abuse arrived with pre-existing injuries.⁸
- 2.2.11** The US State Department report that the constitution provides for an independent Judiciary. However, political pressure, intimidation, widespread corruption and limited resources sometimes prevent the Judiciary from functioning independently and efficiently. Additionally, court hearings are often closed to the public. Court security officers routinely refuse entry to hearings and routinely call the presiding judge in each case to ask if the person seeking admission can attend the hearing. Some agencies routinely disregard court orders. The politicization of appointments to the High and Constitutional Courts threatened to undermine the independence and integrity of these institutions. On 11 June 2012, based on 2008 constitutional amendments, the assembly elected a President by a simple majority in a process that many observers viewed as partisan and in contravention of the constitution which calls for the President of the Republic to represent the “unity of the Albanian people.”⁹
- 2.2.12** The law provides that defendants are presumed innocent until convicted. The court system does not provide for jury trials. Defendants have the right to consult with an attorney and to have one provided at public expense if they cannot afford one. Defendants have the right to confront witnesses against them and present witnesses and evidence in their defence. Defendants have the right to appeal. The Government generally respected these rights in practice.¹⁰
- 2.2.13** While individuals and organisations may seek civil remedies for human rights violations, courts were susceptible to corruption, inefficiency, intimidation and political tampering. Many court hearings were held in judges’ offices, which contributed to a lack of professionalism and opportunities for corruption. These factors undermined the Judiciary’s authority, contributed to controversial court decisions and led to an inconsistent application of civil law.¹¹
- 2.2.14** According to Freedom House – Nations in Transit 2013 – Albania’s Judicial institutions continued to suffer from political pressure and interference in 2012.

⁷ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁸ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁹ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

¹⁰ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

¹¹ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

The General Prosecutor, Ina Rama, was removed through a contentious legal interpretation on the length of her term and a new one was appointed. Rama had repeatedly investigated senior government figures accused of corruption and other abuses, earning the enmity of the Prime Minister. Three out of nine members of the Constitutional Court have finished their mandates but are still holding office. Some legal reforms affecting the Judicial System were approved by Parliament during 2012, while other key laws are still pending. Enforcement of court decisions remains weak, particularly by state institutions. The motives and perpetrators behind the 2011 assassination of a judge in the city of Vlora were still unknown.¹² While the Albanian constitution provides the foundation for a well-functioning and independent Judicial System, it has demonstrated chronic weaknesses resulting from political polarization and pressures, decreasing financial support and the persistence of corruption.¹³

2.2.15 Corruption is widespread in many sectors in Albania, posing a major obstacle to the country's development and democratization. Despite the fact that the European Union (EU) considers fighting corruption a key priority for Albania's integration, anti-corruption efforts has produced weak results due to a lack of political motivation and institutional enforcement. The implementation of Albania's 2011–2013 Anti-corruption Action Plan continued in 2012 without proper monitoring or follow-up. The year witnessed acquittals in two extremely prominent cases of high-level corruption, demonstrating the inability of the Judicial System to withstand political influence and punish corruption.¹⁴

2.2.16 The European Commission (EC) 2013 states that the Law on legal aid was revised in May 2013, introducing possible exemptions from judicial fees for victims of trafficking and domestic violence and establishing local legal aid offices. The State Commission for Legal Aid called on lawyers to apply to be listed as free legal aid lawyers. Implementation of the law has been very slow and the budget allocation insufficient for local offices to be set up in the short term.¹⁵

2.3 Internal relocation.

2.3.1 Caseworkers must refer to the asylum instruction on [Internal Relocation](#) and in the case of a female applicant, the asylum instruction on [Gender Issues in the Asylum Claim](#), for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules.

2.3.2 It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum.

¹² Freedom House – Nations in Transit 2013 – Albania
http://www.freedomhouse.org/sites/default/files/Albania_final_0.pdf

¹³ Freedom House – Nations in Transit 2013 – Albania
http://www.freedomhouse.org/sites/default/files/Albania_final_0.pdf

¹⁴ Freedom House – Nations in Transit 2013 – Albania
http://www.freedomhouse.org/sites/default/files/Albania_final_0.pdf

¹⁵ European Commission 2013 Albania Progress Report, 16 October 2013
http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf

- 2.3.3** Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account.
- 2.3.4** Caseworkers must refer to the gender issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.
- 2.3.5** Where a category of applicant's fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given as to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents.
- 2.3.6** If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.
- 2.3.7** The US State Department report that the constitution and law provide for freedom of internal movement, foreign travel, emigration and repatriation, and the government generally respected these rights in practice. Internal migrants must transfer their civil registration to their new community of residence to receive government services and must prove they are legally domiciled through property ownership, a property rental agreement or utility bills.. Other citizens lacked formal registration in the communities in which they resided, particularly Roma and Balkan-Egyptians. The law does not prohibit their registration, but it was often difficult in practice to complete.¹⁶
- 2.3.8** There are no legal restrictions on women's freedom of movement in Albania, but in reality, freedom of movement is restricted by the expectation that a married woman will move to live with her husband's family. In addition, women may have to seek permission from their husband or family before travelling within Albania or abroad. For some women, freedom of movement on a day-to-day basis is restricted, with 15 per cent reporting that their husband/partner took the final decision as to whether their wife could go and visit her family members.¹⁷
- 2.3.9** It may be practical for applicants in some categories who may have a well-founded fear of persecution in one area to relocate to other parts of Albania where they would not have a well founded fear and, taking into account their personal circumstances, it would not be unduly harsh to expect them to do so. Careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant. Caseworkers need to consider the ability of the persecutor to pursue the claimant in the proposed site of relocation

¹⁶ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 2 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

¹⁷ OECD Social Institutions and Gender Index, Gender Equality and Social Institutions in Albania 2012, Restricted civil liberties <http://genderindex.org/country/albania>

and whether effective protection is available in that area. Caseworkers will also need to consider the age, gender, health, ethnicity, religion, financial circumstances and support network of the claimant, as well as the security, human rights and socio-economic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves.

2.4 Country Guidance Caselaw

[EH \(Blood Feuds\) Albania CG \[2012\] UKUT 00348 \(IAC\)](#) 15 October 2012.

In this country guidance case, the Upper Tribunal found that:

1. While there remain a number of active blood feuds in Albania, they are few and declining. There are a small number of deaths annually arising from those feuds and a small number of adults and children living in self-confinement for protection. Government programmes to educate self-confined children exist but very few children are involved in them.
2. The existence of a 'modern blood feud' is not established: Kanun blood feuds have always allowed for the possibility of pre-emptive killing by a dominant clan.
3. The Albanian state has taken steps to improve state protection, but in areas where Kanun law predominates (particularly in northern Albania) those steps do not yet provide sufficiency of protection from Kanun-related blood-taking if an active feud exists and affects the individual claimant. Internal relocation to an area of Albania less dependent on the Kanun may provide sufficient protection, depending on the reach, influence, and commitment to prosecution of the feud by the aggressor clan.
4. International protection under the Refugee Convention, Qualification Directive or Articles 2 and 3 ECHR is not available to an appellant who is willing and intends to commit a revenge killing on return to his country of origin, by reference to that intention.
5. Where there is an active feud affecting an individual and self-confinement is the only option, that person will normally qualify for Refugee status.
6. In determining whether an active blood feud exists, the fact-finding Tribunal should consider:
 - (i) the history of the alleged feud, including the notoriety of the original killings, the numbers killed, and the degree of commitment by the aggressor clan toward the prosecution of the feud;
 - (ii) the length of time since the last death and the relationship of the last person killed to the appellant;
 - (iii) the ability of members of the aggressor clan to locate the appellant if returned to another part of Albania; and
 - (iv) the past and likely future attitude of the police and other authorities towards the feud and the protection of the family of the person claiming to be at risk, including any past attempts to seek prosecution of members of the aggressor clan, or to seek protection from the Albanian authorities.
7. In order to establish that there is an active blood feud affecting him personally, an appellant must produce satisfactory individual evidence of its existence in relation to him. In particular, the appellant must establish:
 - (i) his profile as a potential target of the feud identified and which family carried out the most recent killing; and
 - (ii) whether the appellant has been, or other members of his family have been, or are currently in self-confinement within Albania.
8. Attestation letters from Albanian non-governmental organisations (NGOs)

should not in general be regarded as reliable evidence of the existence of a feud.

9. Documents originating from the Albanian Courts, police or prosecution service, if genuine, may assist in establishing the existence of a blood feud at the date of the document relied upon, subject to the test of reliability set out in [A v Secretary of State for the Home Department \(Pakistan\) \[2002\] UKIAT 00439, \[2002\] Imm A R 318 \(Tanveer Ahmed\)](#).
10. Unless factual, prompt and consistent, Albanian press reports will add little or no evidential weight in considering whether a feud exists.
11. Whether the feud continues and what the attitude of the aggressor clan to its pursuit may be will remain questions of fact to be determined by the fact-finding Tribunal.
12. This guidance replaces that contained in [TB \(Blood feuds – relevant risk factors\) Albania CG \[2004\] UKIAT 000158](#).

[Supreme Court. RT \(Zimbabwe\) & others v Secretary of State for the Home Department \[2012\] UKSC 38 \(25 July 2012\)](#) The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

[AM and BM \(Trafficked women\) Albania CG \[2010\] UKUT 80 \(IAC\) 18 February 2010](#)

In this country guidance case the Upper Tribunal found that:

- (a) It is not possible to set out a typical profile of trafficked women from Albania: trafficked women come from all areas of the country and from varied social backgrounds.
- (b) At its worst the psychological damage inflicted on a victim of trafficking can lead to difficulties in reintegrating into Albanian society and has implications on whether or not it is possible for the victim of trafficking, should she fear persecution in her own area, to relocate.
- (c) Much of Albanian society is governed by a strict code of honour which not only means that trafficked women would have very considerable difficulty in reintegrating into their home areas on return but also will affect their ability to relocate internally. Those who have children outside marriage are particularly vulnerable. In extreme cases the close relatives of the trafficked woman may refuse to have the trafficked woman's child return with her and could force her to abandon the child.
- (d) Those that see themselves outside society, for example, divorced or abandoned women, or others who wish to live abroad, may seek out traffickers in order to facilitate their departure from Albania and their establishment in prostitution abroad. Although such women are not "trafficked women" in the sense that they have not been abducted against

their will, there is likely to be considerable violence within the relationships and the psychological affect of that violence may lead to a situation where the pressures which they are under and the lack of freedom they are under means that such women should be treated as trafficked women.

- (e) The Albanian Government and authorities are taking steps to protect trafficked women who return but such steps are not always effective. When considering whether or not there is a sufficiency of protection for a trafficked woman who is to be returned her particular circumstances must be considered. Not all trafficked women returning to Albania will be unable to access the arrangements and facilities available to enable successful re-integration.
- (f) Trafficked women from Albania may well be members of a particular social group on that account alone. Whether they are at risk of persecution on account of such membership and whether they will be able to access sufficiency of protection from the authorities will depend upon their individual circumstances including but not limited to the following: 1) The social status and economic standing of the trafficked woman's family. 2) The level of education of the trafficked woman or her family. 3) The trafficked woman's state of health, particularly her mental health. 4) The presence of an illegitimate child. 5) The area of origin of the trafficked woman's family. 6) The trafficked woman's age.

MK (Lesbians) Albania CG [2009] UKAIT 0003 9 September 2009

The Tribunal found:

(1) It cannot be said that without more there is a real risk that a woman without family support in Albania would suffer destitution amounting to inhuman or degrading treatment resulting in a breach of her rights under article 3 of the ECHR or persecution, but each case must be determined on its own facts.

(2) Although it is no longer illegal for consenting adults to have homosexual relations in private, homosexual men known to be members of gay associations and those who visit cruising areas in the centre of Tirana are likely be harassed and on occasions ill-treated by the police and in individual cases homosexual men may be at risk of harm from members of their families.

(3) In general terms, lesbian women do not frequent cruising areas and do not join LGBT organisations. Therefore there is lacking the opportunity for them to be harassed or persecuted by the police.

(4) In general terms in Albania women of lesbian orientation are able to carry on lesbian relationships discreetly without attracting the risk of serious harm. A lesbian woman, whose sexual orientation becomes known, may be at risk of harm from members of her family, particularly if she is from a traditional family from the north of Albania, but each case must be determined on its merits. In such a case, however, it is likely that there would be an adequacy of state protection.

(5) In any particular case where the safety of the return of a lesbian woman to Albania is in issue, it will have to be determined whether she is likely to behave discreetly upon return and if so whether "discretion" is something that she can

reasonably be expected to tolerate, in the light of all of the circumstances of the case, including the social norms and religious beliefs commonly held in Albania. Such a person will only establish a right to refugee status if she can establish that the apprehended violation of her fundamental rights is likely to attain a substantial level of seriousness.

[VD \(Trafficking\) Albania CG \[2004\] UKIAT00115 26 May 2004](#)

The IAT considered whether in general it is likely that an individual would be trafficked, and found that it is not reasonably likely that an individual Albanian girl or woman would be at risk of being trafficked even if the individual falls within the 14 to 17 year old age group. The tribunal also considered whether there is in general a sufficiency of protection for women who may be at risk of being trafficked and held that in the totality of evidence before them that there is in general a sufficiency of protection against trafficking in Albania.

[DM \(Sufficiency of Protection – PSG – Women – Domestic Violence\) Albania CG \[2004\] UKIAT 00059 1 April 2004.](#)

The appellant fled Albania because her ex-boyfriend threatened to kill her. The police considered the threats. The IAT found that the Adjudicator was wrong to construe the judgments in [Shah & Islam v. Secretary of State for the Home Department \[1999\] Imm AR 283](#) as providing any broad basis for saying that women generally are to be regarded as capable of forming a particular social group for Refugee Convention purposes. [Shah & Islam](#) dealt with very specific circumstances under which it can be held that there is lack of sufficiency of protection for women generally in Pakistan. The situation in Albania is entirely different from that in Pakistan and there is no evidence to suggest that the position of women is actively undermined by the provision of law. The Tribunal found that there is sufficiency of protection for women in general and that their position in society is not actively undermined by the provision of law.

As regards sufficiency of protection the IAT referred to [Osman v UK \[2000\] 29 EHRR245](#) – and concluded that in connection with Article 2 one has to bear in mind the difficulties involved in policing modern society, the unpredictability of human conduct, and the operational choices which have to be made in terms of priorities and resources. An obligation to provide protection had to be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities.

[IM \(Risk – Objective Evidence – Homosexuals\) Albania CG \[2003\] UKIAT 00067 Heard 15 July 2003, promulgated 8 September 2003.](#)

After a review of the available, albeit limited, objective evidence the Tribunal had regard to the decriminalisation of homosexuality, the presence of an officially registered gay rights group and the almost entire absence of any reported ill-treatment of homosexuals in Albania since 1994. The IAT concluded that there was also no evidence to show that the police or the Albanian authorities ill-treat gay men.

[Skenderaj \[C/2001/1336 promulgated 26 April 2002\]](#)

The Court of Appeal held that families involved in the Blood Feud were not a distinct social group - the threat to Skenderaj was “a private matter” and his family was not regarded as a distinct group by Albanian society any more than

most other families in the country. The critical factor in cases where a victim of non-state persecution is unwilling to seek state protection is not necessarily whether the state is able and willing to provide a sufficiency of protection to the Horvath standard, though in many cases it may be highly relevant to the victim's well-founded fear of persecution. The test is whether the potential victim's unwillingness to seek it flows from that fear.

3. Main categories of claims

- 3.1** This section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Albania. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment.
- 3.2** It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, humanitarian protection, sufficiency of protection and internal relocation are set out in the relevant asylum instructions, but how these affect particular categories of claim are set out in the instructions below.
- 3.3** All asylum instructions (AIs) can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at [asylum policy instructions](#).
- 3.4** Each claim should be assessed to determine whether there is a reasonable likelihood that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in the Court of Appeal's judgment in [Karanakaran](#) should be followed when deciding how much weight to be given to the material provided in support of the claim (see the AI '[Considering the asylum claim and assessing credibility](#)').
- 3.5** For any asylum cases which involve children either as dependants or as the main applicants, caseworkers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction '[Every Child Matters; Change for Children](#)' sets out the key principles to take into account.
- 3.6** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of humanitarian protection is appropriate. (See AI on [humanitarian protection](#)). Where an application for asylum and humanitarian protection falls to be refused, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules.
- 3.7** They must also consider whether there are any compelling reasons for granting discretionary Leave (DL) to the individual concerned. (See AI on [discretionary leave](#)).

Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR

- 3.8** An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR).
- 3.9** Caseworkers are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of humanitarian protection because the Article 3 threshold has been met.

Other severe humanitarian conditions and general levels of violence

- 3.10** There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point that return in itself could, in extreme cases, constitute inhuman and degrading treatment.
- 3.11** Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.
- 3.12** As a result of the [Sufi & Elmi v UK](#) judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for humanitarian protection.

Credibility

- 3.13** Caseworkers will need to assess credibility issues based on all the evidence available to them from the interview, documentary evidence and country of origin information. Caseworkers will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'Section 4 – Making the Decision' in the AI ['Considering the asylum claim and assessing credibility'](#).
- 3.14** Caseworkers must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file.
- 3.15** In all other cases, the caseworkers should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.16 Blood Feuds

- 3.16.1** Some claimants will apply for asylum or make a human rights claim based on ill-treatment amounting to persecution as a result of a 'blood feud'.
- 3.16.2 Treatment.** Feuds and revenge killings began to resurface in the 1990s during Albania's transition from communism to democracy. These crimes reactivated the old Kanuns (traditional codes), specifically the Leke Dukagjini Kanun. The Albanian blood feud is a centuries old custom that draws on tribal tradition and customary law. A distinguishing feature of blood feuds from other crimes is that they are carried out publicly. Northern Albanians, in particular, have respect for the Kanun and it has passed from generation to generation for hundreds of years. All blood feuds involve violations of honour.¹⁸
- 3.16.3** In its November 2011 report on Albania's implementation of the provisions of the International Covenant on Civil and Political Rights, the UN Human Rights Committee stated that the activity of the police for prevention and investigation of murders of blood feuds has consisted in:
- a) establishing special structures for the fight against blood feud, especially in areas when this phenomenon is widely spread like in the districts of Shkodra, Lezha, Kukes, Diber, etc.;
 - b) selecting the staff and their continuous training on specific issues related to prevention and reveal of murders in general and those of blood avenge or vengeance in particular;
 - c) strengthening the co-operation with prosecution office for investigating quickly these penal offences and bring the offenders before law court;
 - d) undertaking actions for the seizure of criminal offenders in general and those for blood avenge in particular as a very important means for prevention of blood feud;
 - e) arrangement of activities for the seizure of wanted persons convicted of commitment of murders for the motive of blood avenge, and these have led to reduce evidently blood feud murders;
 - f) strengthening and institutionalizing co-operation between local government organs and NGOs for settling conflicts by reconciliation;
 - g) strengthening co-operation between educational directorates and schools for education of the young generation with the spirit of tolerance and prevention of crimes;
 - h) supporting and cooperating with commission of blood feud reconciliation, always in compliance with law, for the purpose of intermediating the solution by conciliation of conflicts of blood feuds.¹⁹
- 3.16.4** According to the Institute for Democracy and Mediation (IDM) 2012 Crime Report, out of 1,027 cases of threatening and intimidation registered last year, 1,025 have been classified as 'life threatening' offences and only two cases were categorized as 'serious threatening for revenge or blood feud' misdemeanours for which the Criminal Code stipulates severe punishments.²⁰

¹⁸ Canadian Refugee Board (IRB) Issue paper 'Albania Blood Feuds', May 2008
http://www.ecoi.net/file_upload/1684_1243258524_http-www2-irb-cisr-gc-ca-en-research-publications-index-e-hm.pdf

¹⁹ UN Human Rights Committee. 17 November 2011 CCPR/C/ALB/2. Para 648
[http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/11B1D855AE0842CBC1257BAA004C4FD4](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/11B1D855AE0842CBC1257BAA004C4FD4)

²⁰ Institute for Democracy and Mediation (IDM) Crime Trends in Albania 2012
http://idmalbania.org/sites/default/files/publications/crime_trends_in_albania_2012_-_english_-_final_3.pdf,

- 3.16.5** The UN Human Rights Council's Special Rapporteur on extrajudicial, summary or arbitrary executions reported in April 2013 stated that blood feud killings also continued to occur, although the lack of reliable data renders it difficult to refer to concrete figures and the dynamics of the phenomenon. The official statistics of the General Directorate of State Police indicate that five blood feud killings and five revenge motivated killings occurred in 2010; five blood feud killings and four revenge motivated killings took place in 2011 and two blood feud killings and two revenge motivated killings were registered in the first six months of 2012. According to the same source, as of early April 2013, there were 67 self-isolated families due to blood feuds and 33 children not attending school for the same reason. Of those children, 23 were registered in the region of Shkodra, in northern Albania. Furthermore, the current statistical data gathered by the Ministry of Justice from district courts, as made available by the Government of Albania, indicate that 50 cases of revenge and blood feud killings were filed with the courts in the period from January 2010 to June 2012. A total of 24 cases were filed in 2010, 17 cases were filed in 2011, while the first six months of 2012 registered 9 cases. From the point of view of the government, these figures from the Ministry of Justice indicate a trend of reduction of blood feud crimes during the last two years. However, it is unclear to the Special Rapporteur to what extent the statistical data provided on cases in courts reflects the actual situation of blood feud-related killings in the country. He recalls in this regard the comments made by his predecessor on the challenges to accurately define the extent of the phenomenon, due to the parallel use of several differing definitions and the fragmentation of statistical data, as well as to the possible underreporting by both affected families and officials.²¹
- 3.16.6** The Special Rapporteur received further information that current blood feud killings sometimes no longer follow the traditional pattern established by the Kanun rules, which reportedly authorise the killing of male members of a family, and strictly forbid killing women and children. In the current context, following a conflict situation, there are cases where a person may feel vindicated in killing the other individual or any member of his family, including women and children. In this regard, the Special Rapporteur notes with concern the reported killing, in a blood feud, of a 14-year-old girl in May 2012.²²
- 3.16.7** Article 78 of Albania's Criminal Code, which was amended by Law No. 8733 in 2001, states that "homicide committed for interest, retaliation or blood feud is punished by not less than twenty-five years or life imprisonment." Article 83/a, which was added to the Criminal Code in 2001, states that 'serious threat of revenge or blood feud to a person or minor [causing them] to stay isolated is punished by fine or up to three years of imprisonment'. Sources indicate that there have been prosecutions in Albania for blood-feud-related murders.²³
- 3.16.8** In October 2012, the UN Committee on the Rights of the Child expressed

²¹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions – 23 April 2013
http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.4_EN.pdf

²² Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions – 23 April 2013
http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.4_EN.pdf

²³ IRB - Immigration and Refugee Board of Canada: Statistics on blood feuds; state protection and support services available to those affected by blood feuds, including whether individuals have been prosecuted for blood-feud-related crimes (2007 - September 2010) [ALB103573.E], 15 October 2010 (available at [ecoi.net](http://www.ecoi.net/local_link/148535/249717_en.html))
http://www.ecoi.net/local_link/148535/249717_en.html

concern over the persistence of “blood feuds” and in particular the killing of children and the confinement of a large number of children for fear of being killed, especially in the northern areas of Albania.²⁴ According to an October 2012 EC report, in June 2012, the Albanian State Police launched a database of persons directly involved in blood feuds which could help to address the lack of reliable data and stated that more decisive action by the authorities is required to address the problem.²⁵

- 3.16.9** According to the Immigration and Refugee Board of Canada in a statement prepared by the Albanian MOI for the Research Directorate, an official indicated that some NGOs in Albania have issued certificates or attestation letters to people involved in blood feuds, but these organisations do not have any "legal right" to issue such certificates. Similarly, in correspondence with the Research Directorate, the Executive Director of the Albanian Foundation for Conflict Resolution and Reconciliation of Disputes (AFCR), an Albanian NGO established in 1995 for the purpose of conflict resolution and the promotion of tolerance and understanding, stated that some NGOs have issued attestation letters about blood feuds, but that they do not have any official authority to act in this capacity.²⁶
- 3.16.10** The official of the Albanian MOI indicated that the police, prosecution office and the Courts are the state institutions that handle blood feud problems and that the Courts and Prosecution Office are the only agencies authorised by the Government to issue certificates related to blood feuds. Without providing details, the official indicated that these certificates can be issued after authorities "evaluate whether a case requires further legal protection or not." In contrast to the official's statement, two NGOs active in blood-feud mediation indicated that, to their knowledge, there are no governmental agencies that issue attestation letters about blood feuds. Further information about the issuance, processing and storage of these certificates by the Courts and Prosecution Office could not be found among the sources consulted by the Research Directorate.²⁷
- 3.16.11** Regarding the role of NGOs in mediating blood feuds, the MOI official explained that NGOs operate in accordance with the Constitution and the 1999 Law on Mediation. The official specifically listed the Committee of Nationwide Reconciliation (CNR), the Mission of Feuds Reconciliation, the League of Missionaries of Peace, the AFRC and the Centre for Justice and Peace as organisations active in blood feud mediation. However, in response to a question about whether any NGOs are approved by the Government to verify the authenticity of blood feuds, he noted that NGOs "do not duplicate the powers of the Court and the Prosecution Office."²⁸
- 3.16.12** In contrast to the official, the Chairman of the CNR, in a correspondence with the

²⁴ UN Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, 5 October 2012, paragraph 31

http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ALB-CO-2-4_en.pdf

²⁵ European Commission, 2012 Albania Progress Report, 10 October 2012 p.17

http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf

²⁶ Immigration and Refugee Board of Canada, Albania – Attestation Letters for Blood Feuds – 1 February 2012
<http://www.unhcr.org/refworld/docid/4f5f1ab32.html>

²⁷ Immigration and Refugee Board of Canada, Albania – Attestation Letters for Blood Feuds – 1 February 2012
<http://www.unhcr.org/refworld/docid/4f5f1ab32.html>

²⁸ Immigration and Refugee Board of Canada, Albania – Attestation Letters for Blood Feuds – 1 February 2012
<http://www.unhcr.org/refworld/docid/4f5f1ab32.html>

Research Directorate, stated that the CNR is the "only organisation recognized by the Government and it has full authority, approved by the Government to verify blood feuds and issue the attestation letters." In correspondence with the Research Directorate, the chairman of the CNR offered a recommendation letter of 29 September 2009, which states that the Albanian Ministry of Labour, Social Affairs and Equal Opportunities co-operates with the CNR and recommends "all local and international institutions" to contact the Committee with regard to verification of the families in blood feuds. The letter further describes the CNR as the "leading forum of the associations and missions of reconciliation, protects the rights of the families affected by blood feuds and certifies all the issues related to the families in blood feuds."²⁹

- 3.16.13** The Chairman of the CNR supplied the following information on its procedures. The attestation letters are issued only after the verification of a blood feud and confirmation that it would be difficult to reconcile. The attestation letters are signed only by the chairman of the CNR, Mr. Gjin Marku. No one else is authorised to sign the letters. The CNR creates a file for a particular blood feud, which includes a copy of the letter. The file may contain information on the situation that caused the blood feud, contact details of individuals involved in the blood feud and notes on reconciliation attempts. All the files are stored in accordance with the Albanian Data Protection Act, in the main office of the CNR in Tirana.³⁰

See also: [Actors of Protection \(Section 2.2 above\)](#)

[Internal Relocation \(Section 2.3 above\)](#)

[Caselaw \(Section 2.4 above\)](#)

- 3.16.14 Conclusion.** Caseworkers should pay particular attention to distinguish blood feud conflicts from other crimes. In the country guidance case of [EH \(Blood Feuds\) Albania CG \[2012\] UKUT 00348 \(IAC\)](#), the Upper Tribunal found that whilst there remain a number of active blood feuds in Albania, they are few and declining. There are a small number of deaths annually arising from those feuds and a small number of adults and children living in self-confinement for protection. Government programmes to educate self-confined children exist but very few children are involved in them. The existence of a 'modern blood feud' is not established, however, Kanun (traditional codes) blood feuds have always allowed for the possibility of pre-emptive killing by a dominant clan. The Albanian state has taken steps to improve state protection, but in areas where Kanun law predominates, particularly in northern Albania, those steps do not yet provide sufficiency of protection from Kanun-related blood-taking if an active feud exists and affects the individual claimant. Internal relocation to an area of Albania less dependent on the Kanun may provide sufficient protection, depending on the reach, influence and commitment to prosecution of the feud by the aggressor clan.

- 3.16.15** The onus is on the applicant to demonstrate why they believe they would be unable to access effective protection or why they believe they would not be able to relocate to a specific town/city such as Tirana to mitigate any risk.

²⁹ Immigration and Refugee Board of Canada, Albania – Attestation Letters for Blood Feuds – 1 February 2012 <http://www.unhcr.org/refworld/docid/4f5f1ab32.html>

³⁰ Immigration and Refugee Board of Canada, Albania – Attestation Letters for Blood Feuds – 1 February 2012 <http://www.unhcr.org/refworld/docid/4f5f1ab32.html>

3.16.16 In general it is unlikely that a claimant would be able to establish a need for international protection as a consequence of a blood feud but it is important that the particular circumstances of the individual claimant are carefully considered on a case by case basis. Where there is an active feud affecting an individual, that person is only likely to qualify for refugee status if the reach and influence of the opposing clan is so extensive that self-confinement is the only realistic option. It should also be noted that blood feuds are normally triggered by a murder or other serious offence carried out by the claimant's family. The claimant's involvement in any such crime should be carefully considered as evidence of serious criminality may mean they the person falls to be excluded under Article 1F of the Refugee Convention.

3.16.17 Where persecution is due to an act of an individual and not because of membership of a particular family, (as in [Skenderaj](#)) then there will be no PSG. However, if the persecution is purely on the basis of membership of a family, as in most blood feud cases and as in [Fornah K \(Sierra Leone\) v SSHD \[2006\] UKHL Civ 46 18 October 2006](#), then the applicant will be considered to be a member of a PSG. Where an applicant is able to demonstrate that the circumstances of their case result in them being a member of a PSG and where they are unable to avail themselves of sufficient protection from the Government or relocate internally then a grant of asylum will be appropriate.

3.17 Organised crime

3.17.1 Some claimants will apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of organised criminal gangs and that law enforcement agencies, such as the police, are not able to offer sufficient protection. Some claimants will claim that the police are linked to criminal gangs and that that they face unlawful arrest and detention.

3.17.2 Treatment. Organised crime is present in Albania³¹ and criminal activity has increased overall, as exemplified by the rise in homicides and armed robberies though such incidents generally do not end in violence.³² In February 2013, the Chief Commissioner of the police was killed in a 'mafia-style hit' in what was the third highest ranking Albanian police officer to be murdered in 8 months.³³ A study by the Institute for Democracy and Mediation shows that Albania has registered an exponential growth in violent crimes from 2008 to 2011, including a marked growth in violent crimes such as murder, battery, robbery and theft. According to the study, the factors that contributed to the rise in criminality, apart from the poor performance of law enforcement institutions, include the economic crisis and particularly the political crisis in Albania during the 2008-2011 period.³⁴

3.17.3 Although the overall security situation has improved in recent years, organised criminal activity continues to operate. Organised crime remains a serious

³¹ U.S Department of State International Travel – Albania Country Specific Information – 24 September 2013
http://travel.state.gov/travel/cis_pa_tw/cis/cis_1076.html#victim

³² OSAC Albania 2013 Crime and Safety Report, 12 March 2013
<https://www.osac.gov/pages/ContentReportDetails.aspx?cid=13750>

³³ Balkan Insight, Albania Police Chief Murdered in Mafia-Style Hit, 25 February 2013
<http://www.balkaninsight.com/en/article/albania-police-chief-murdered-in-mafia-style-hit>

³⁴ Balkan Insight, Albania Registers Sharp Rise in Crime, 7 September 2012
<http://www.balkaninsight.com/en/article/albania-registers-stunning-rise-in-criminality-study-finds>

problem, but violence related to it rarely affects the international community.³⁵

- 3.17.4** According to Europol, within the EU, Albanian speaking groups were active in the fields of cocaine, heroin, synthetic drug and cannabis trafficking. The financial resources of these groups have enabled them to interact with criminal organisations in source areas for illicit drugs, as well as to proactively identify new criminal opportunities. Some of their proceeds were reportedly destined for support organisations for the former Kosovo Liberation Army.³⁶
- 3.17.5** In the field of police co-operation and the fight against organised crime — one of the key priorities set in the Commission’s Opinion — there has been progress. International police co-operation continues to provide good results in terms of police operations, arrests and co-operation in investigations, including on criminal assets. Albanian police and the prosecutor’s office have been involved in increased co-operation, including with regard to criminal intelligence. In January 2013, a memorandum to strengthen co-operation between the institutions involved in the fight against organised crime and financing of terrorism was concluded. The number of assets investigations and cases sent to the prosecutor has increased. Joint training activities for police officers and prosecution officials were held, including on issues relating to asset seizures and cybercrime. Co-operation between the Financial Investigative Units (FIUs) and the police has improved. A new strategy on organised crime 2013-2020 and the Action Plan 2013-2016 were adopted in July 2013.³⁷
- 3.17.6** According to the EC, organised crime remains a serious concern in Albania. Problems persist regarding the implementation of the ‘anti-mafia law’, in particular with the confiscation of seized assets. Proactive investigations into wealth originating from criminal activities abroad but re-invested in Albania need to be stepped up. Co-operation between the police and the General Prosecutor’s Office (GPO) needs to be improved and the capacity of the police to respond appropriately and in due time to prosecutors’ requests for the use of special investigative techniques should be strengthened. The number of prosecutors in the Serious Crimes Prosecution Office needs to be increased and technical skills in specialised areas such as cybercrime and financial investigations upgraded. The harmonisation of statistics across institutions for the track record of investigations, prosecutions and convictions needs to be improved. The operational capacity of the forensic laboratory, especially regarding DNA interpretation and the DNA database, needs to be enhanced. The capacity to obtain the best evidence possible for court convictions by improving the capacity of the police and law enforcement agencies to draft quality reports should be improved.³⁸
- 3.17.7** The EC states that Albania has made some progress in the area of justice, freedom and security, in particular in border management and in the fight against organised crime, money laundering and drugs trafficking. More efforts are

³⁵ OSAC, Albania 2013 Crime and Safety Report, 12 March 2013,

<https://www.osac.gov/pages/ContentReportDetails.aspx?cid=13750>

³⁶ EUROPOL – EU Organised Crime Threat Assessment (OCTA) 2011

https://www.europol.europa.eu/sites/default/files/publications/octa_2011.pdf

³⁷ European Commission 2013 Albania Progress Report, 16 October 2013, Page 47

http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf

³⁸ European Commission 2013 Albania Progress Report, 16 October 2013 Page 48

http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf

required to enhance co-operation between law enforcement institutions and to establish a solid and convincing track record of proactive criminal and financial investigations, prosecutions and convictions. Appropriate budget planning and allocations are crucial to sustain all institutions involved in border control and the fight against organised crime. A migration strategy has not yet been adopted. Overall, preparations in this field are advancing.³⁹

- 3.17.8** Albania made a formal application for membership of the EU in 2009, on the basis of a 2006 Stabilisation and Association agreement. The EU is keen to encourage further reform, particularly as regards stamping out organised crime and corruption and developing media freedom and property and minority rights. Edi Rama, the Socialist Party leader who took over the reins of government in 2013, has vowed that Albania will achieve full EU membership within the next ten years.⁴⁰
- 3.17.9** The US State Department report covering 2012 stated that while the law provides criminal penalties for official corruption, the government did not implement the law effectively and officials frequently engaged in corrupt practices with impunity. The government prosecuted corrupt officials and managed complaints regarding police corruption through the ombudsman and the Internal Control Service of the Albanian State Police. For much of 2012, broad immunity provisions for judges, members of parliament, and other high-level officials prohibited not only prosecution but any use of investigative measures, hindering the government's ability to prosecute high-level corruption. On 18 September 2012, the assembly passed legislation enabling prosecutors to start investigations against judges, assembly members and other high-level officials. The government's task force against organised crime co-ordinated anticorruption activities. The task force includes several ministers and heads of independent state-owned agencies, such as the public electricity company, and representatives of the police and intelligence organisations. The Joint Investigative Units (JIUs) fight economic crime and corruption and are multiagency units that investigate and prosecute public corruption and other financial crimes. The JIUs continued to bring cases in numerous sectors with extensive corruption.⁴¹
- 3.17.10** According to the EC, the number of corruption cases investigated by the JIUs increased by 28% in 2012 compared to 2011, whereas the proceedings sent to court increased by 52% in 2012. The High Inspectorate for Declaration and Audit of Assets (HIDAA) also continued detecting cases of suspicious asset declarations. However, overall, the number of investigations and convictions remains low. There is a need to improve HIDAA's audit capacity. Co-ordination among institutions and further investigation of these cases needs to be stepped up. Overall, investigations continue to have a reactive, rather than proactive nature and risk assessments for corruption are not carried out systematically. State institutions dealing with the fight against corruption remain vulnerable to political pressure and influence.⁴²

³⁹ European Commission 2013 Albania Progress Report, 16 October 2013, Page 49
http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf

⁴⁰ BBC News – Albania Profile – 26 September 2013
<http://www.bbc.co.uk/news/world-europe-17679574>

⁴¹ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013
 Section 4 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁴² European Commission 2013 Albania Progress Report, 16 October 2013, Page 40
http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf

See also: [Actors of Protection](#) (Section 2.2 above)

[Internal Relocation](#) (Section 2.3 above)

[Caselaw](#) (Section 2.4 above)

- 3.17.11 Conclusion** The Albanian authorities are making significant efforts to combat organised crime, but with limited success. Relatively high levels of organised crime remain within Albania and protection may not be available in all cases particularly where the corruption of state officials is an issue. Internal relocation is likely to be available to individuals seeking to escape a localised threat from members of organised criminal gangs. A grant of asylum or Humanitarian Protection will not, therefore, generally be appropriate in these cases.
- 3.18 Involvement with opposition political parties**
- 3.18.1** Some claimants will apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of members of a rival political party.
- 3.18.2 Treatment.** Albania is a parliamentary democracy. The Albanian Constitution was adopted by referendum on 22 November 1998 and came into effect shortly afterwards. The Constitution sets out the basis for an executive consisting of the President and Council of Ministers, a Parliamentary Assembly and a Judiciary including the Constitutional Court and High Court. The President is elected for a 5-year term by a three-fifths majority of Members of Parliament. No president may serve more than 2 terms in office.⁴³
- 3.18.3** In 2009 the country held parliamentary elections that the Organisation for Security and Co-operation in Europe (OSCE) / Office for Democratic Institutions and Human Rights (ODIHR) election observation mission stated met most OSCE commitments but, nevertheless, “did not fully realise the country’s potential to adhere to the highest standards for democratic elections.” The observation mission specifically cited problems in administrative procedures with the vote count, “a highly polarized environment,” biased media coverage and procedural violations such as proxy voting.⁴⁴
- 3.18.4** According to Freedom House – Nations in Transit – 2013, Interior Minister Bujar Nishani was elected President by Parliament on 11 June 2012. He was endorsed by a simple majority of lawmakers from Prime Minister Sali Berisha’s Democratic Party (PD) and allied factions, without a consensual process or the cross-party support advocated by the EU and the international community. Nishani subsequently replaced a number of security and judicial officials who had clashed with the Berisha government. Nationalistic rhetoric has become more common among political parties, especially on the right, generating objections in neighbouring countries as well as from Albania’s strategic international partners.⁴⁵ The PD demonstrated a lack of political motivation to include the opposition in the selection process. At the same time, the opposition chose not to

⁴³ Balkan Insight, Bujar Nishani Sworn in as Albania’s President, 25 July 2012

<http://www.balkaninsight.com/en/article/bujar-nishani-sworn-in-as-albania-s-president>

⁴⁴ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 3 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁴⁵ Freedom House – Nations in Transit 2013 – Albania

http://www.freedomhouse.org/sites/default/files/Albania_final_0.pdf

endorse the first two candidates proposed by the ruling coalition, who were not directly linked to the majority. As a result, the first three voting sessions, which required a qualified majority, failed. Nishani was elected during the fourth voting session, which required only a simple majority. As Albania is a parliamentary republic, the president has few executive powers, but he does have an important role in appointments to the judiciary and security services.⁴⁶

- 3.18.5** The main opposition Socialist Party (PS) boycotted the vote and Mr Nishani was the only candidate put forward by the ruling coalition led by Prime Minister Sali Berisha's PD. Albania had been mired in political crisis for three years since the Socialists accused the Democrats of electoral fraud after the June 2009 legislative polls and the failure to agree a consensus presidential candidate marked a setback for EU efforts to ease political tensions. Government and opposition leaders traded accusations of sabotage throughout the process, which went through several rounds.⁴⁷
- 3.18.6** Following the political and institutional conflicts of 2011, the year 2012 featured a consolidation of power by Prime Minister Sali Berisha and his ruling Democratic Party (PD). The parliament functioned regularly and passed some relevant legislative reforms with the consent of both major political parties, partly overcoming the partisan gridlock of past years. The reforms addressed a number of the 12 key priorities set by the EU. However, this progress was not enough for the European Council to grant Albania candidate status. Albania's application was denied, mainly due to a lack of results from adopted legislation and the refusal of the opposition PS to pass the three remaining bills related to the EU priorities.⁴⁸
- 3.18.7** On 21 January 2011, the Republican Guard opened fire on a crowd of opposition protesters, killing four people and wounding dozens more.⁴⁹ By the end of 2011, 11 Republican Guards were under investigation in connection with the deaths. More than 140 police officers and demonstrators were injured overall. Police beat dispersing demonstrators and several journalists. At least 112 demonstrators were arrested and some 30 were subsequently convicted of setting fire to vehicles, assaulting police and breaching the security perimeter of the Prime Minister's offices. Commissioners of the Ombudsperson's Office visited Tirana police stations and detention centres following the January demonstrations. They stated that detained demonstrators, two of whom bore marks of physical ill-treatment, alleged being ill-treated during arrest, and that psychological pressure had been used to make them sign self-incriminating statements. Nine complaints of police ill-treatment were reportedly filed.⁵⁰ In February 2013, Tirana District Court ruled that two former officers of the Republican Guard were not guilty of the deaths of three protesters. Prime Minister Berisha has repeatedly called the protest a failed coup attempt and has vowed to punish those responsible.⁵¹

⁴⁶ Freedom House – Nations in Transit 2013 – Albania

http://www.freedomhouse.org/sites/default/files/Albania_final_0.pdf

⁴⁷ BBC News – Country Profile – Albania – 26 September 2013

<http://www.bbc.co.uk/news/world-europe-17680733>

⁴⁸ Freedom House – Nations in Transit 2013 – Albania

http://www.freedomhouse.org/sites/default/files/Albania_final_0.pdf

⁴⁹ Freedom House – Nations in Transit 2012 – Albania, 6 June 2012

http://www.freedomhouse.org/sites/default/files/Albania_final_0.pdf

⁵⁰ Amnesty International Annual Report 2012 – Albania, 24 May 2012

<https://www.amnesty.org/en/region/albania/report-2012>

⁵¹ Balkan Insight, Albania Guardsmen Acquitted of Killing Protesters, 7 February 2013

3.18.8 Albania appointed a new prosecutor general after its rankings in a world corruption index showed it slipping further behind in the fight against bribe-taking and related crimes. The ruling PD voted in Adriatik Llalla to the post, after Ina Rama who was given the job five years ago failed to live up to high expectations. An ex-prosecutor, Llalla's appointment came soon after Transparency International said Albania ranked 113 out of 176 countries in its corruption perception index, down 18 positions from 2011 and on the same level as Ethiopia, Guatemala and Niger. The opposition PS abstained from voting because it felt that President Bujar Nishani violated the constitution in cutting short Rama's mandate by five months. An appellate court judge, Rama was elected for an indefinite term five years ago but constitutional changes introduced a few months afterwards limited her mandate to five years. In his former post as inspector general, Llalla went after a government minister and a lawmaker but little came of it. In remarks after his new appointment, he criticised some prosecutors for siding with, rather than fighting, criminals. "Prosecutors take decisions based on the law, they are independent of crime and politics and free to take any decisions dictated by the law and their inner convictions," Llalla said. Rama had threatened to complain to the Constitutional Court about her sacking, but reports said she had changed her mind mainly out of concern to protect her staff. She tried to prosecute a government minister for alleged embezzlement in connection with a road contract, but the case collapsed, with some critics blaming lack of attention to procedural rules for the failure.⁵²

3.18.9 The OSCE stated Albania's parliamentary elections on 23 June 2013 were competitive with active citizen participation throughout the campaign and genuine respect for fundamental freedom. However, international observers stated that the atmosphere of mistrust between the two main political forces tainted the electoral environment and challenged the administration of the entire electoral process. Persistent, long-standing differences and continued mutual mistrust between the main political parties undercut the work of the election administration and the boycott of the Central Election Commission by opposition parties following the controversial dismissal of one of its members meant that it conducted the remainder of its work without the quorum necessary to make key decisions, the statement continued.⁵³

See also: [Actors of Protection](#) (Section 2.2 above)

[Internal Relocation](#) (Section 2.3 above)

[Caselaw](#) (Section 2.4 above)

3.18.10 Conclusion. Albania is a parliamentary democracy and political parties are able to register and contest elections. There is little evidence of persecution or mistreatment of political opponents. Those claiming to face threats from political opponents should be able to seek protection from the authorities or internally relocate to escape a localised threat. Therefore, a claim based on fear of members of opposing political parties is unlikely to qualify for a grant of asylum or

<http://www.balkaninsight.com/en/article/albania-guardsmen-not-guilty-of-protestors-death>

⁵² [Reuters](http://www.reuters.com/article/2012/12/07/albania-prosecutor-idUSL5E8N470820121207) - Albania Gets New Prosecutor After Slip on Corruption List – 7 December 2012

<http://www.reuters.com/article/2012/12/07/albania-prosecutor-idUSL5E8N470820121207>

⁵³ Organization for Security and Co-operation in Europe – 23 June 2013

<http://www.osce.org/odihr/elections/103062>

Humanitarian Protection.

3.19 Trafficking of women

3.19.1 Some claimants will claim asylum or make human rights claim based on their fear of being trafficked or their fear of those who trafficked them if they return to Albania.

3.19.2 Treatment . Albania is a source country for men, women and children subjected to sex trafficking and forced labour. Albanian victims are subjected to sex trafficking within Albania and in Greece, Italy, Macedonia, Kosovo, Belgium, Netherlands, Germany, Switzerland, Ireland and the United Kingdom. Many women are subjected to trafficking after accepting offers of employment in waitressing, bartending, dancing or singing in neighbouring countries, specifically in Kosovo, Greece and Macedonia. Victims of labour trafficking from the Philippines were identified in Albania during 2012. Albanian children are subjected to begging and other forms of compelled labour. Some Albanian girls are subjected to sex trafficking or forced labour following arranged marriages.⁵⁴

3.19.3 The Government of Albania does not fully comply with the minimum standards for the elimination of trafficking however, it is making significant efforts to do so. Despite these efforts, the government failed to demonstrate evidence of increasing efforts to address human trafficking in 2012; therefore, Albania is placed on the Tier 2 Watch List. The government modestly funded NGOs shelters that provided services to victims of trafficking and judges were reported to take a more victim-centred approach during trials. The government, however, decreased the number of offenders it investigated, prosecuted and convicted for trafficking. Albanian authorities continued to prosecute and punish victims for unlawful acts that were a direct result of the victims being subjected to sex trafficking. The government removed the national anti-trafficking co-ordinator, who was highly effective in collaborating with NGOs to develop the national referral mechanism (NRM) and standard operating procedures, and left the position vacant for five months. This left the national co-ordinator's office without the authority to convene interagency meetings. Some ministries failed to designate representatives to participate in the NRM and lack of co-ordination hindered implementation of the anti-trafficking legislation. Assistance to child victims of trafficking was inconsistent.⁵⁵

3.19.4 The criminal code for Albania prohibits sex and labour trafficking under articles 110(a), 128(b), and 114(b), which prescribe penalties of five to 15 years' imprisonment. These penalties are sufficiently stringent and exceed those prescribed for other serious crimes, such as rape. The Serious Crimes Prosecution office reported investigating 11 human trafficking suspects in 2012, compared with 27 suspects in 2011. The government did not disaggregate data to demonstrate that it made efforts against both sex trafficking and forced labour. Courts dismissed prosecutions against two defendants due to lack of evidence. The government convicted two sex trafficking offenders in 2012, compared with five trafficking offenders convicted in 2011. The two offenders convicted were

⁵⁴ U.S State Department (USSD) Trafficking in Persons Report June 2013
<http://www.state.gov/documents/organization/210738.pdf>

⁵⁵ U.S State Department (USSD) Trafficking in Persons Report June 2013
<http://www.state.gov/documents/organization/210738.pdf>

sentenced to 15 years' imprisonment and a fine equivalent of approximately \$57,100 and 10 years' imprisonment and a fine equivalent of approximately \$38,100 respectively. Two prosecutions remained ongoing. Albanian law enforcement officials co-ordinated with police in Italy and Germany to investigate and prosecute sex trafficking cases. During 2012, the government trained 114 judges, prosecutors and judicial police officers on trafficking awareness. NGOs reported that judges adopted a more victim-centred approach during trials after a series of government-sponsored trainings. While media reports alleged that a Republican Guard officer subjected a child to sex trafficking and received a reduced sentence of one year in prison for admitting to the crime of exploitation of prostitution, the government did not report any investigations or prosecutions of government employees allegedly complicit in human trafficking offences during 2012.⁵⁶

- 3.19.5** The government maintained efforts to refer victims of trafficking to appropriate services during 2012, but lack of co-ordination among ministries and sporadic implementation of standard operating procedures resulted in punishment for victims of trafficking. In the last year, the government reported identifying 42 new victims. NGOs identified an additional 50 new victims in 2012. This was an increase over a total of 84 victims identified in 2011. A total of 138 victims were cared for in state-run and NGO shelters. Eleven victims identified were men and 26 were children. Two identified victims were subjected to labour trafficking. Law enforcement officials continued to miss opportunities to identify and refer victims to services using standard operating procedures. The government trained approximately 500 police, government official and civil society members on implementing standard operating procedures, though high rates of turnover in government positions—specifically within the police—prevented progress at the local level in identifying and protecting victims of trafficking. Most police and regional authorities remain untrained on trafficking issues and use of standard operating procedures is inconsistent. As a result, many victims were treated as suspects in prostitution-related offences and not provided access to services through the NRM.⁵⁷
- 3.19.6** The government provided the equivalent of approximately \$7,280 to NGO shelters however, this money was strictly allocated for food expenses only and was minimal in light of the number of victims served. The government provided no financial support for services to trafficking victims' dependent children. The government reported that it allocated the equivalent of approximately \$280,952 for social services for adult victims of trafficking; however, it did not release information on how much of this was spent on these services.⁵⁸
- 3.19.7** Three shelters were operated by NGOs and provided comprehensive services. A fourth state-run shelter provided limited services, but worked in collaboration with NGOs to meet the needs of victims. Two adults and one child housed in the state shelter disappeared during 2012. Victims' freedom of movement in the state-run shelter was limited.⁵⁹

⁵⁶ U.S State Department (USSD) Trafficking in Persons Report June 2013
<http://www.state.gov/documents/organization/210738.pdf>

⁵⁷ U.S State Department (USSD) Trafficking in Persons Report June 2013
<http://www.state.gov/documents/organization/210738.pdf>

⁵⁸ U.S State Department (USSD) Trafficking in Persons Report June 2013
<http://www.state.gov/documents/organization/210738.pdf>

- 3.19.8** In 2012, the government approved access to free healthcare for victims of trafficking, but service providers reported that bureaucratic hurdles prevented victims from accessing free healthcare during 2012. In practice, potential beneficiaries attempting to access healthcare were required to self-identify as victims of trafficking to numerous professionals in violation of privacy laws. One hundred new child protection units were established at the local level; the units have a direct role in increasing identification of child victims of trafficking and ensuring protection, but most employees lacked the training and resources to effectively identify and assist child victims of trafficking.⁶⁰
- 3.19.9** The government encouraged victims to participate in investigations and prosecutions of trafficking offenders by providing victim witnesses access to social workers and psychologists during trials. The Serious Crimes Prosecution office in Tirana includes a victim witness co-ordinator, however, victims outside Tirana did not have access to this service and local prosecutors lacked training on how to effectively work with victim witnesses. This problem was exacerbated for trafficking victims in cases in which the trafficker was prosecuted for prostitution-related offences and not under the trafficking law. As an alternative to removal for foreign trafficking victims, Albania's anti-trafficking law provides a two-year reflection period with temporary residency status and the opportunity to apply for permanent residency after five years in the country, as well as authorisation to work. However, in practice, the government has yet to grant this status to a victim.⁶¹
- 3.19.10** According to the EU 2013, recent amendments to the Criminal Code address the issue of internal trafficking and criminalise the use of services of the victims. The Office of the National Anti-Trafficking Co-ordinator (ONATC) was actively engaged within the joint working group established between the MOI, the General Prosecutor's Office and the Ministry of Justice to discuss concrete trafficking cases in order to improve investigations and trial proceedings. Police investigations and the use of special investigative means against trafficking in adults and minors show a positive trend. Yet, Albania remains a source country for trafficked adults and minors, including forced begging of children. The EU states that further strengthening of the ONATC is required; internal trafficking remains a concern and proactive investigations need to be further stepped up; a comprehensive, multidisciplinary and victim-oriented approach to trafficking in human beings still needs to be developed; the identification of victims needs to be improved; the Albanian authorities should strengthen the co-ordination and referral mechanism and ensure that victims have unhindered access to assistance, support and protection, including re-integration upon return. The EU continues that it is essential that efforts on prevention and addressing demand of trafficking in human beings be stepped up. Transposition of international conventions relating to the fight against human trafficking should be completed.⁶²
- 3.19.11** With effect from 1 November 2013 the International Organization for Migration

⁵⁹ U.S State Department (USSD) Trafficking in Persons Report June 2013
<http://www.state.gov/documents/organization/210738.pdf>

⁶⁰ U.S State Department (USSD) Trafficking in Persons Report June 2013
<http://www.state.gov/documents/organization/210738.pdf>

⁶¹ U.S State Department (USSD) Trafficking in Persons Report June 2013
<http://www.state.gov/documents/organization/210738.pdf>

⁶² European Commission 2013 Albania Progress Report, 16 October 2013, Page 48
http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf

(IOM), on behalf of the Home Office, has established a dedicated assistance package for victims of trafficking returning from the UK to Albania, including those with children. It has been designed explicitly to help them resettle and reintegrate in a humane and sustainable way to mitigate the risk of re-trafficking or related ill treatment. When considering whether individuals we accept have been victims of trafficking should also qualify for asylum, case owners should consider carefully the potential remedy offered by this package.

See also: [Actors of Protection](#) (section 2.3 above)

[Internal Relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.19.12 Conclusion. The Albanian Government has made significant efforts in recent years to fight human trafficking and has created legislative, organisational and operational frameworks in the areas of investigation, prosecution, protection and prevention. Although trafficking continues to be a problem in Albania, the Government has taken steps on several fronts to curb the activities of traffickers and to ensure that victims or potential victims can obtain protection from the authorities. There are a number of examples of the prosecution and conviction of traffickers with appropriate sentences.

3.19.12 Whilst the Albanian Government and authorities have taken steps to protect trafficked women who return such steps have not always been fully effective. Trafficked women can be at risk of re-trafficking on return to Albania. When considering whether or not there is a sufficiency of state protection for a trafficked woman who is to be returned, caseworkers must take full account of the claimant's particular circumstances. Much of Albanian society is governed by a strict code of honour which not only means that trafficked women would have very considerable difficulty in reintegrating into their home areas on return but also will affect their ability to relocate internally. Those who have children outside marriage are particularly vulnerable. Factors to be taken into account include (i) the social status and economic standing of the trafficked woman's family; (ii) the level of education of the trafficked woman or her family; (iii) the trafficked woman's state of health, particularly her mental health; (iv) the presence of an illegitimate child; (v) the area of origin of the trafficked woman's family (vi) the trafficked woman's age; (vi) the influence of traffickers; (vii) the result of previous attempts to access protection; and (viii) what support network (friends/family) will be available to the applicant on return.

3.19.13 The onus is on the applicant to demonstrate why they believe they would be unable to access effective protection, including the UK funded reintegration programme administered by the IOM (see para 3.19.11) or why they believe they would not be able to relocate to a specific town/city such as Tirana to mitigate any risk.

3.19.14 Whilst it is important that the particular circumstances of the individual claim continue to be carefully considered in line with [AM and BM](#), as the UK Government now offers a safe route for return and reintegration applicants from Albania are unlikely to qualify for a grant of asylum or Humanitarian Protection on the basis of a human trafficking claim unless they can demonstrate why these arrangements would not be able to assist them.

3.20 Victims of domestic violence

- 3.20.1** Some women claimants will apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of members of their family due to domestic violence and that the authorities are not willing or able to offer sufficiency of protection.
- 3.20.2 Treatment.** The US State Department reported that domestic violence against women, including spousal abuse, remained a serious problem in 2012. During 2012 police reported cases of domestic violence and the government pressed charges in some cases. The Department of Equal Opportunities at the Ministry of Labour, Social Affairs and Equal Opportunity covers women's issues, including domestic violence.⁶³
- 3.20.3** The government shelter for domestic violence victims in Tirana assisted 35 women and 37 children from April 2011 to May 2012. However, the shelter could not accept victims without a court order. After inspecting the shelter in April 2012, the ombudsman found cases of repeated abuse by shelter director Dodona Kaloshi, who had reportedly verbally degraded victims and forced some children to sleep on the floor. Police routinely denied protection to women housed at the shelter when they travelled to court appearances or to take their children to school, leaving some to be assaulted by their husbands while they were away from the shelter. After growing criticism and a television expose, the government removed Kaloshi from the position several weeks after the ombudsman's findings. At the end of 2011, NGOs operated 15 shelters to protect victims from domestic violence, six in Tirana and nine outside the capital. Police reported they received 2,349 domestic violence-related complaints through their emergency hotline. According to government figures in 2011, there were 2,526 cases of domestic violence reported during 2012, compared with 2,181 in 2011. Police often did not have the training or capacity to deal with domestic violence cases.⁶⁴
- 3.20.4** Credible sources informed the Special Rapporteur of the very limited hosting capacity of the centres, such as a reported capacity of 21 persons in the shelter in Elbasan and of 20 persons in the shelter in Vlora. The Special Rapporteur is concerned about the current figures on shelter capacity, which indicate the very insufficient capacity of the existing shelters to host victims, compared to the level of reported incidents and the prevalence of domestic violence in Albania. While welcoming the creation of the first national shelter, he urges the Albanian authorities to intensify efforts to establish additional shelters and significantly increase their hosting capacity.⁶⁵
- 3.20.5** As stated, there were 2,526 reported incidents of domestic violence which was 345 more than in the previous year and petitions by victims for court protection orders also increased. Most victims were women. An amendment to the Criminal Code making violence in the family an offence punishable by up to five years' imprisonment came into force in April 2012. Prosecutions could only be initiated

⁶³ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 6 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁶⁴ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 6 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁶⁵ Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions 23 April 2013, Killings in the context of Domestic violence <http://www.refworld.org/cgi-bin/tehis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic%20violence&coi=ALB&searchin=title&sort=date>

on the basis of a victim's complaint. The Director of the National Centre for Victims of Domestic Violence was dismissed in May 2012, after the ombudsperson investigated complaints by women at the Centre that they had been subjected to arbitrary punishments and restrictions.⁶⁶

- 3.20.6** The Government of Albania has taken a number of steps, in particular in the fight against domestic violence but according to the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, more effort to combat domestic violence needs to be further intensified. The level of domestic violence in Albania, remains widespread and has resulted in a number of killings and murder threats, in particular of and against women.⁶⁷
- 3.20.7** The OSCE Presence in Albania reported that at least 23 women were murdered in 2012 as a result of violence by their husbands, partners or other family members.⁶⁸
- 3.20.8** The government has taken a number of significant measures to strengthen the legal and policy framework on the prevention of and fight against domestic violence. On 19 December 2011, Albania signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The Albanian Parliament approved the ratification of the Convention in November 2012 and it entered into force in the country in February 2013. As a State party to the Convention, Albania is required to take a series of legislative and policy measures to improve the prevention of violence against women, including domestic violence; to improve the protection of victims; to prosecute perpetrators; and to put in place comprehensive, multidisciplinary policies to end violence against women and domestic violence. The Convention also requires the adequate allocation of human and financial resources to effectively implement the necessary policies to end all forms of violence against women. It also calls on State parties to collect national data and support research, to recognize and support the role of NGOs and to encourage the media to set guidelines and self-regulatory standards to help prevent violence against women and to respect the dignity of women who are victims of such violence.⁶⁹
- 3.20.9** The OSCE Presence in Albania informed the Special Rapporteur of a change witnessed in the attitude of police officers in the process of handling domestic violence cases, which may be partly due to the training received by the special police units in charge of domestic violence. The number of immediate protection orders issued against perpetrators has also significantly increased.⁷⁰

⁶⁶ Amnesty International annual Report 2013 Albania

[http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=519f51b818&skip=0&query=domestic violence&coi=ALB&searchin=title&sort=date](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=519f51b818&skip=0&query=domestic%20violence&coi=ALB&searchin=title&sort=date)

⁶⁷ Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions 23 April 2013, Killings in the context of Domestic violence

[http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic violence&coi=ALB&searchin=title&sort=date](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic%20violence&coi=ALB&searchin=title&sort=date)

⁶⁸ Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions 23 April 2013, Killings in the context of Domestic violence

[http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic violence&coi=ALB&searchin=title&sort=date](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic%20violence&coi=ALB&searchin=title&sort=date)

⁶⁹ Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions 23 April 2013, Killings in the context of Domestic violence

[http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic violence&coi=ALB&searchin=title&sort=date](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic%20violence&coi=ALB&searchin=title&sort=date)

⁷⁰ Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions 23 April 2013,

- 3.20.10** According to the Special Rapporteur, a change in attitude is still required among prosecutors and judges, who apparently tend to consider domestic violence as a private family matter and therefore may impose lighter penalties for the crimes perpetrated in this field. In this regard, the OSCE Presence in Albania informed the Special Rapporteur that perpetrators in cases of domestic violence are often not properly prosecuted and punished by the courts. For instance, the classification of a crime as a simple murder, rather than as a murder resulting from domestic violence, may lead to the possibility that the perpetrator receives a lighter punishment. Amnesty International further reported that, in 2011, courts rarely imposed imprisonment sentences for those who violated the terms of protection orders, which is punishable with fines or up to two years of imprisonment.⁷¹
- 3.20.11** The criminal code penalises rape, including spousal rape. However, victims rarely reported spousal abuse and officials did not prosecute spousal rape in practice. The concept of spousal rape was not well-established and authorities and the public often did not consider it a crime. The law imposes penalties for rape and assault depending on the age of the victim. For rape of an adult, the prison term is three to 10 years; for rape of an adolescent between the ages of 14 and 18, the term is five to 15 years; and, for rape of a child under the age of 14, the term is seven to 15 years.⁷²

See also: [Actors of Protection](#) (Section 2.2 above)

[Internal Relocation](#) (Section 2.3 above)

[Caselaw](#) (Section 2.4 above)

- 3.20.12 Conclusion** There is societal discrimination and violence against women in Albania particularly in the north of the country and women who are unemployed, less educated and living in rural areas are more vulnerable to violence. However, the Government has passed legislation that outlaws discrimination against women and women are not excluded from any employment or occupation. In addition, there are also a number of NGOs who work to promote women's rights and campaign against discrimination and violence. For a claim to succeed on grounds of domestic violence, the onus will be on the applicant to demonstrate not only that they will face on return persecutory or inhuman or degrading treatment, but also why they would be unable to access effective protection or alternatively relocate elsewhere in Albania to escape localised threats from members of their family, but the reasonableness of internal relocation must be assessed on a case by case basis taking full account of the individual circumstances of the particular claimant.

3.21 Gay men and lesbians

Killings in the context of Domestic violence

[http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic violence&coi=ALB&searchin=title&sort=date](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic%20violence&coi=ALB&searchin=title&sort=date)

⁷¹ Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions 23 April 2013, Killings in the context of Domestic violence

[http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic violence&coi=ALB&searchin=title&sort=date](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=51b993184&skip=0&query=domestic%20violence&coi=ALB&searchin=title&sort=date)

⁷² US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 6 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

- 3.21.1** Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution as gay men, lesbians, bi-sexual or transgender persons in Albania.
- 3.21.2 Treatment.** The US State Department report covering 2012 stated that the law prohibits discrimination against lesbian, gay, bisexual and transgender (LGBT) individuals. However, no official claims of discrimination had yet been filed and the government had not had an opportunity to enforce the law. Despite the law and the government's formal support for LGBT rights, homophobic attitudes remained. On 23 March 2012, the media erroneously reported that LGBT activists were planning a pride parade in May 2012. Deputy Defence Minister Ekrem Spahiu responded to the announcement, stating, "My only commentary on this gay parade is that the organisers should be beaten with clubs." The international community, civil society and many citizens criticized the remarks. However, public demonstrations, some political leaders and religious organisations supported Spahiu's comments. On a television program a few days later, another member of Spahiu's political party told openly gay activist Kristi Pinderi, "If you were my son, I would put a bullet in your head." The government has reiterated its support for the LGBT community and Prime Minister Berisha has stated that LGBT activists would be permitted to organise a public demonstration according to their legal rights. It has been reported that the state police co-ordinated with LGBT organisations and supplied effective security for several LGBT-related events during 2012.⁷³
- 3.21.3** According to the EC 2013, in December 2012, the Ministry of Labour, Social Affairs and Equal Opportunities launched the action plan on the rights of LGBT persons. Amendments to the Criminal Code introduce an aggravating circumstance for offences relating to gender, race, ethnicity, gender identity, sexual orientation, political beliefs, religion, health status, genetic predisposition or disability. In May 2013, Prime Minister Berisha and then opposition leader Rama met with representatives of the LGBT community, subsequently setting an unambiguous example for an anti-discriminatory approach within Albanian society. First steps have been taken to review compulsory education textbooks in order to eliminate stereotypes fostering discrimination. There were cases of homophobic speech without judicial follow-up. The EC states that an inter-ministerial working group needs to be established to ensure implementation of the action plan on the rights of LGBT persons.⁷⁴
- 3.21.4** According to the International Lesbian, Gay, Biseual, Trans And Intersex Association (ILGA), Albania continued to make progress at the institutional level towards greater recognition and protection of LGBT people. This was clearly demonstrated through amongst others i) the ombudsman's special report on the situation of the LGBT community and subsequent follow-up work ii) the Ministry of Labour, Social Affairs and Equal Opportunities' drafting of a National Activity Plan towards the promotion of greater LGBT equality and iii) the State Police's development of a Memorandum of Co-operation with LGBT civil society. At the same time, homophobia and transphobia remains widespread, and unfortunately at times fuelled by public officials, as was the case with the Deputy Defence

⁷³ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 6 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁷⁴ European Commission 2013 Albania Progress Report, 16 October 2013, Page 44 http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf

Minister's call for violence against LGBT people. In this context, the level of social stigma remains high, including among young people who harbour high levels of negative attitudes.⁷⁵

- 3.21.5** In his Special Report on the situation of the LGBT community, the ombudsperson recommended that the Ministry of Education and Sciences: (i) include information on LGBT issues in school curricula and education programmes; and (ii) train academic staff on LGBT issues. These recommendations aim to create a safe education environment and to fight discrimination in schools.⁷⁶
- 3.21.6** The Ministry of Labour, Social Affairs and Equal Opportunities, with the participation of LGBT organisations, drafted a plan including measures to tackle discrimination on the basis of sexual orientation and gender identity. The initiative was part of the Council of Europe's regional project Combating discrimination based on sexual orientation and gender identity and part of the National Activity Plan for the country's potential accession to the EU. LGBT organisations participated in the meetings and roundtables and provided a training course on the rights of LGBT people to members of the public administration.⁷⁷
- 3.21.7** The ombudsman has signed collaboration agreements with LGBT organisations on the following areas: (i) exchange of information; (ii) preparation of studies and special reports on Albanian legislation and its implementation; (iii) analysis of draft legislation prepared by the Parliament; (iv) undertaking common initiatives for the improvement of human rights; (v) treatment of specific cases of discrimination by the public administration and (vi) the raising of awareness on LGBT rights among the general public.⁷⁸

See also: [Actors of Protection](#) (Section 2.2 above)

[Internal Relocation](#) (Section 2.3 above)

[Caselaw](#) (Section 2.4 above)

- 3.21.8 Conclusion** Caseworkers must refer to the Asylum Instruction on sexual orientation and gender identity in the asylum claim.
- 3.21.9** Albania is a conservative society where homophobic attitudes persist, however in general the level of discrimination is not such that it will reach the level of being persecutory or otherwise inhuman or degrading treatment.
- 3.21.10** There are laws prohibiting discrimination against LGBT persons and the government supports LGBT rights. The government, with the participation of

⁷⁵ Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe. 17 May 2013. [http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5195e05d4&skip=0&query=LGBT persons&coi=ALB](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5195e05d4&skip=0&query=LGBT%20persons&coi=ALB)

⁷⁶ Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe. 17 May 2013. [http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5195e05d4&skip=0&query=LGBT persons&coi=ALB](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5195e05d4&skip=0&query=LGBT%20persons&coi=ALB)

⁷⁷ Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe. 17 May 2013. [http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5195e05d4&skip=0&query=LGBT persons&coi=ALB](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5195e05d4&skip=0&query=LGBT%20persons&coi=ALB)

⁷⁸ Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 17 May 2013. [http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5195e05d4&skip=0&query=LGBT persons&coi=ALB](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5195e05d4&skip=0&query=LGBT%20persons&coi=ALB)

LGBT organisations, has developed further initiatives to tackle discrimination on the basis of sexual orientation and gender identity. The state police have also coordinated with LGBT organisations and when necessary provided effective security/protection for LGBT-related events. Whilst there have in recent years been a small number of reports of police not providing effective protection in individual cases, there are avenues of redress in such circumstances

3.21.11 For a claim to succeed on grounds of sexual orientation, the onus will be on the applicant to demonstrate not only that they will face on return persecutory or inhuman or degrading treatment, but also why they would be unable to access effective protection or alternatively relocate to less conservative areas of the country where they would not face such difficulties even without concealing their sexual orientation in the proposed new location.

3.22 Prison conditions

3.22.1 Applicants may claim that they cannot return to Albania due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Albania are so poor as to amount to torture or inhuman treatment or punishment.

3.22.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of humanitarian protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

3.22.3 Consideration. Prison and detention centre conditions varied widely and older facilities fell far short of international standards, with unhygienic conditions, lack of many basic amenities and mistreatment by guards and other prisoners threatened the lives and health of prisoners and detainees. Prison and detention centre conditions varied widely between facilities dating from the communist period and those opened after 1991 as well as between those under control of the Ministry of Justice and those under the MOI. The Ministry of Justice operates prisons and long-term detention centres. Conditions in those facilities varied widely. Older facilities had inadequate sanitation, ventilation, lighting, health care, and access to potable water, while those built after 1991 generally met international standards.⁷⁹

3.22.4 Prisoners and detainees have the right to meet relatives and meetings can occur up to four times per month for adults and up to eight times for juveniles. Prisoners and detainees are free to exercise their religion and some facilities have special places for religious services. Prisoners and detainees are permitted to submit complaints to the ombudsman. Every penal installation has a mailbox in which prisoners and detainees are entitled to submit complaints without censorship. The ombudsman reported that this service was functional. The country did not use alternative sentencing.⁸⁰

⁷⁹ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁸⁰ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

- 3.22.5** Prisoners and detainees are entitled under the law to submit complaints to judicial and administrative authorities. Authorities investigated credible allegations of inhuman conditions and documented the results of their investigations, although the results were not easily accessible to the general public. The Prisons Directorate maintained co-operation agreements with several NGOs and the ombudsman. Prisoners could meet confidentially with the ombudsman, the Prisons Supervisory Commission or foreign and domestic human rights NGOs. However, NGOs reported that the government rarely took their suggestions seriously and when confronted with reports of abuse, officials refused to investigate.⁸¹
- 3.22.6** According to Amnesty International Annual Report 2012, Inmates at Lezhë and Fushë-Krujë prisons went on hunger-strike in protest against poor conditions. The ombudsperson criticized sanitation in some prisons and remand centres, citing squalid toilets, rodents, damp cells and the unhygienic preparation and distribution of food. The ombudsperson also noted the poor quality of construction of recently built detention centres in Durrës, Kavaja and Korça. Remand centres and the Women's Prison in Tirana were overcrowded and prison medical services, especially for detainees with mental illnesses were inadequate.⁸²
- 3.22.7** According to the EC some police holding cells which were in very poor condition have been taken out of use. However, some cases of ill-treatment and excessive use of force have been reported and conditions in some prisons and police holding cells remain below standard. Despite the positive trend in this field, there are still reports that procedures for processing accompanied or arrested persons were not systematically observed. Cases of ill-treatment continue to be often handled through administrative rather than judicial procedures.⁸³
- 3.22.8** The UN Committee Against Torture notes with concern that pre-trial detention continues to be excessively applied. The Committee is particularly concerned about the high number of reports of torture and ill-treatment during pre-trial detention, the length of pre-trial detention of up to three years, as well as reports of courts often imposing pre-trial detention without justification. Furthermore, the Committee is also concerned at reports that persons who have been detained for long periods and whose rights have not been respected during pre-trial detention face difficulties in accessing justice and seeking redress.⁸⁴
- 3.22.9** Progress has been made concerning the prison system, with continued implementation of training programmes, an increase in the activities offered to prisoners and a general improvement in the standards of treatment of detainees. Increased follow-up of the Ombudsman's recommendations has had a positive impact on detention conditions. Over recent years, several new penitentiary facilities have been built which need to be sustained through adequate maintenance budgets. Adoption of the regulation for penitentiary infrastructure

⁸¹ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 Section 1 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254>

⁸² Amnesty International Annual Report 2012 – Albania, 24 May 2012 <https://www.amnesty.org/en/region/albania/report-2012>

⁸³ European Commission 2012 Albania Progress Report, 10 October 2012 page 17 http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf

⁸⁴ UN Committee Against Torture, Consideration of reports submitted by States parties under article 19 of the Convention, 26 June 2012, paragraph 16 <http://www2.ohchr.org/english/bodies/cat/cats48.htm>

planning is pending. Prisoners' living standards continue to vary according to the availability of food or equipment provided by their families. Installation of locked cabinets has improved confidentiality of personal medical data which needs to be ensured through continued training of prison staff on safeguarding detainees' right to privacy and confidentiality. Progress on replacing individual padlocks, a safety hazard, with more modern systems is slow.⁸⁵

- 3.22.10** The establishment of the Probation Service has had a positive impact on reducing overcrowding and preventing reoffending. Four new regional offices were open in January 2012 and plans for developing the Service, including hiring additional probation specialists, have been approved. This will help reduce the case-load per specialist and improve the functioning of the Service. The Law on Electronic Monitoring of Offenders came into force in April 2012 and a tender was launched to select an electronic monitoring provider. Continued over-use of pre-trial detention for low-risk offenders and juveniles remains a concern.⁸⁶
- 3.22.11** The government allowed local and international human rights groups, the media, and International Committee of the Red Cross, as well as international bodies such as the Committee for the Prevention of Torture (CPT), to monitor prison conditions.⁸⁷
- 3.22.12 Conclusion** Whilst some prison conditions in Albania are poor, with overcrowding and a lack of food and medical care being particular problems, conditions are unlikely to reach the Article 3 threshold. Therefore, even where claimants can demonstrate a real risk of imprisonment on return to Albania, a grant of Humanitarian Protection will not generally be appropriate. However, given the length of pre-trial detention where ill-treatment and excessive use of force does take place, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention, the likely type of detention facility, and the individual's age, gender and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

4. Unaccompanied minors claiming in their own right

- 4.1** Unaccompanied minors claiming in their own right who have not been granted asylum or HP can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.
- 4.2** At present the Home Office does not have pre-approved arrangements in place with NGOs or other organisations in Albania to provide alternative adequate reception arrangements in cases where the minor cannot be returned to their family. Those who cannot be returned should be considered for leave as an Unaccompanied Asylum Seeking Children (UASC).

⁸⁵ European Commission 2012 Albania Progress Report, 10 October 2012, page 17 http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf

⁸⁶ European Commission 2012 Albania Progress Report, 10 October 2012, page 17 http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf

⁸⁷ US State Department Albania Country Report on Human Rights Practices 2012 Published 19 April 2013 [Section 1](http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204254)

- 4.3** Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to endeavour to trace the families of UASC as soon as possible after the claim for asylum is made, while ensuring that those endeavours do not jeopardise the child's and/or their family's safety.
- 4.4** Information on the infrastructure within Albania which may potentially be utilised to assist in endeavouring to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).
- 4.5** Caseworkers should refer to the AI: [Processing an Asylum Application from a Child](#), for further information on assessing the availability of safe and adequate reception arrangements, UASC Leave and family tracing. Additional information on family tracing can be obtained from the [interim guidance](#) on Court of Appeal judgment in [KA \(Afghanistan\) & Others \[2012\] EWCA civ1014](#).
- 5. Medical treatment**
- 5.1** Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR.
- 5.2** Caseworkers should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COI Service (COIS).
- 5.3** The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of [N \(FC\) v SSHD \[2005\] UKHL31](#), it is "whether the applicant's illness has reached such a critical stage (i.e. he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.
- 5.4** That standard continues to be followed in the Upper Tribunal (UT) where, in the case of [GS and EO \(Article 3 – health cases\) India \[2012\] UKUT 00397\(IAC\)](#) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, the absence of resources through civil war or similar human agency.
- 5.5** The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR.
- 5.6** All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional

circumstances that prevent return, namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.

5.7 Where a caseworker considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of discretionary leave. Caseworkers must refer to the AI on [Discretionary Leave](#) for the appropriate period of leave to grant.

6. Returns

6.1 There is no policy which precludes the enforced return to Albania of failed asylum seekers who have no legal basis of stay in the United Kingdom.

6.2 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules.

6.3 Any medical conditions put forward by the person as a reason not to remove them and which have not previously been considered, must be fully investigated against the background of the latest available country of origin information and the specific facts of the case. A decision should then be made as to whether removal remains the correct course of action, in accordance with [chapter 53.8 of the Enforcement Instructions and Guidance](#).

6.4 Individuals can return voluntarily to their country of origin / place of habitual residence at any time in one of three ways:

- (i) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK
- (ii) leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or
- (iii) leaving the UK under one of the [Assisted Voluntary Return \(AVR\) schemes](#).

**Country Specific Litigation Team
Immigration and Border Policy Directorate
Home Office
November 2013**