

Pursuant to Articles 78 and 83 alinea 1 of the Constitution, by proposal of the Council of Ministers,

The People's Council of the Republic of Albania

DECIDED:

CHAPTER I GENERAL PROVISIONS

Article 1 Purpose of the Law

1. Under this law the Republic of Albania recognises the right to asylum and temporary protection to all foreigners who are in need of international protection be they refugees or other persons who request asylum in compliance with the provisions of this law and the international conventions Albania is party to.
2. This law regulates the conditions and procedures of granting and ceasing of asylum in the Republic of Albania, as well as the rights and obligations of refugees and persons falling under temporary protection.

Article 2 Asylum

Asylum is the protection granted by the Republic of Albania to refugees and persons falling under Temporary Protection. Asylum enshrines the rights and obligations stipulated in the Geneva Convention Related to the Status of Refugees of 28 July 1951 and the 1967 New York Protocol, in international treaties Albania is party to as well as in the Albanian legislation.

Article 3 Asylum Seeker

An Asylum seeker is a foreigner who requests for asylum for the reasons presented in Articles 4 and 5 of this law.

Article 4 Refugee

A refugee is a foreigner who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her origin and is unable, or owing to such a fear, is unwilling, to avail himself of the protection of that country; or who, not having nationality and being outside the country of his/her former habitual residence as result of such events, is unable, or owing to such fear, is unwilling to return to it.

Article 5 Persons granted Temporary Protection on Humanitarian Grounds

A person granted Temporary Protection on humanitarian grounds is a foreigner who:

- a) although not fulfilling the refugee criteria contained in Article 4 of this Law, not falls under the provisions stipulated in Chapter V of this Law on "Temporary Protection", shall not be subjected to an expulsion or deportation order issued by the relevant authorities of the Republic of Albania, owing to the relevant reasons stated in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the United Nations Convention Against Torture, International Covenant on Civil and Political Rights, the United Nations Convention on the Rights of the Child and any other relevant international instrument to which the Republic of Albania is party or shall be party to.

b) is granted temporary protection by the Republic of Albania in accordance with Article 31 under Chapter V of the present Law.

Article 6 Extension of the granting of asylum based on the Family Unity

principle

1. The right to asylum with the same status shall be accorded also to the spouse, children under 18 years of age and to any other relative under the legal custody of the refugee, who has been granted asylum, provided they reside together.
2. The person above the age of 18 years cannot be granted asylum by application of the principle of family unity in accordance with paragraph 1 of this article, unless he/she is dependant of his refugee parents who have been granted asylum in the Republic of Albania. He/she should lodge an individual application in case he/she desires to be granted asylum in the Republic of Albania.
3. In case of divorce, separation or death of the refugee granted asylum, the family members who have obtained asylum in accordance to paragraph 1 of this article, shall continue enjoying asylum. The same applies to children enjoying asylum in accordance with the principle of family unity when they reach the age of 18.

Article 7 Non-refoulement

1. Notwithstanding provisions of Articles 8 and 9 and pursuant to this law the Republic of Albania recognises and respects its obligation not to return or refoul out of its territory persons who have benefited or requested asylum or those falling under temporary protection in the following cases:
 - a) to a country where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion; or
 - b) to a country where he/she would be exposed to torture or inhuman or degrading treatment or punishment, or any other such treatment envisaged in the international treaties Albania is party to;
 - c) to his/her country of origin, if he/she is under temporary protection granted in compliance with the provisions of this law.
 - d) to a third country from which he/she might be transferred to another country where he/she would be exposed to situations indicated in paragraph "a" and "b" of this Law.
2. No asylum seeker shall be refouled from the territory of the Republic of Albania, even if his/her request for asylum has been refused by the Office for Refugees, without him/her being given the legal opportunity to benefit from all procedural rights and guarantees envisaged by this law.

Article 8 Cessation of Asylum

1. Asylum granted under Article 4 to a refugee shall cease to exist if he/she:
 - a) has voluntarily re-availed him/herself of the protection of the country of his/her nationality; or
 - b) has voluntarily re-acquired his/her nationality; or
 - c) has acquired a new nationality, and enjoys the protection of the country of his/her new nationality; or

) has voluntarily re-established him/herself in the country which he/she left or outside which he/she remained owing to fear of persecution; or

d) can no longer, because the circumstances envisaged in Article 4 have ceased to exist, continue to refuse to avail him/herself of the protection of the country of his/her nationality;

dh) being a person who has no nationality he/she is, because of the circumstances in connection with which he/she has been recognised as a refugee have ceased to exist, able to return to the country of his/her former habitual residence;

2. Responsibility for the international protection of a person recognised as a refugee in accordance with the 1951 Convention and 1967 protocol in the Republic of Albania may be considered to be transferred to a third state party to the aforementioned international instruments if the latter has permitted the refugee to remain as such in its territory on a permanent basis and has informed the Republic of Albania accordingly.

3. The cessation of the asylum, follows the same procedures foreseen for the granting of asylum.

Article 9 Exclusion from the right of Asylum

1. A foreigner in the Republic of Albania shall be denied the right of asylum if there are serious reasons to believe that:

a) he/she has committed a crime against peace, a crime of war or against humanity, as defined in the international conventions;

b) he/she has committed a serious non-political crime outside the Republic of Albania;

c) he/she has been guilty of acts contrary to purposes and principles of the United Nations.

Article 10 Asylum Request and Asylum Application

1. Any statement of a foreigner vis-à-vis the relevant authorities, at the border or within the country, to the effect that he/she requires protection according to international conventions and Albanian legislation shall be considered an asylum request.

2. The asylum application is the formal asylum request vis-à-vis the Office for Refugees according to the procedure stipulated in article 23 of this law.

CHAPTER II RIGHTS & OBLIGATIONS

Article 11 Obligations of Asylum Seekers and Refugees

1. Any asylum seeker or refugee shall respect the Constitution, laws and other legal acts of the Republic of Albania.

2. No asylum seeker or refugee in the Republic of Albania is allowed to engage in any activities, which could disturb the public order, threaten the national security and undermine the relations of the Republic of Albania with other countries.

3. No asylum seeker and refugee shall act against the principles and purposes stemming from United Nations Treaties and Conventions acceded to by the Republic of Albania.

Article 12 Rights of Refugees

1. Any refugee granted asylum in the Republic of Albania shall enjoy, in compliance to the Albanian legislation and pursuant to Section E of the Final Act of the Conference of the Plenipotentiaries, the legal status provided for in the Convention Relating to the Status of Refugees of 1951 and all rights stipulated in other relevant international treaties the Republic of Albania is party to as well as the rights accorded to foreigners in general by the Albanian legislation.
2. Any refugee granted asylum shall, in particular, be entitled to have a special residence permit and a work permit. He/she shall enjoy the right of social assistance to the same extent as an Albanian national and will receive the social welfare he/she is entitled to from the Office for Refugees.
3. The Ministry of Public Order shall issue refugees granted asylum in the Republic of Albania a travel document which shall bear a return clause in accordance with Article 28 of the Convention Relating to the Status of Refugees of 28 July 1951. The document, may be used to travel to all countries, with the exception of the country of origin, and to return to the Republic of Albania for as long as it is valid.

Article 13 Rights of Asylum Seekers Granted individually Temporary

Protection on Humanitarian Grounds

Any asylum seeker who meets the criteria established in Article 5/a of the present Law and who has been granted Temporary Protection on Humanitarian Grounds on an individual basis by the relevant authorities of the Republic of Albania, shall benefit from the rights granted by this law to refugees in accordance with the 1951 Convention relating to the Status of Refugees, except with respect to the issuance of a Travel Document.

Article 14 Rights of Asylum Seekers granted Temporary protection prima

facie owing to situations of large-scale influx of persons

Any person granted Temporary Protection shall benefit from the rights granted to refugees, unless otherwise restricted by the National Commission for Refugees as specified in Article 32 of the present law.

Article 15 Rights of Asylum Seekers

1. An asylum seeker shall be treated in accordance with the relevant provisions of the Albanian legislation regulating the status of foreigners, unless provided otherwise by this law.
2. Any asylum seeker shall be granted
 - a) the right to non-refoulement according to paragraph 2 of article 7 of this law;
 - b) the right to social assistance to the same extent as an Albanian national, which he/she will receive from the Office for Refugees.

Article 16 Detention of Asylum seekers

1. No asylum seeker who has illegally entered the territory of the Republic of Albania shall be sentenced for the violation of the state border regime provided he/she presents him/herself without delay, but not later than 10 days, to the relevant authorities.
2. An asylum seeker who presents him/herself within this deadline to the competent authorities can only be detained if:

- a) his/her identity has to be verified; or
 - b) the asylum seeker has destroyed his/her identity and travel documents and is equipped with fraudulent documents with the purpose of cheating the authorities; or
 - c) the asylum seeker is subjected to international warrant of arrest; or
 - d) it is required for the protection of national security and public order.
3. The detention and the arrest of an asylum seeker shall be carried out according to the rules and procedures established in the Criminal Procedure Code of the Republic of Albania. In such a case the asylum seeker is guaranteed the contact with UNHCR and the exercise of rights provided for in the penal procedure.
4. With the exception of asylum seekers detained for reasons stipulated in paragraph 2/b of this article, the asylum seekers shall, if possible, be kept separate from other detainees.
5. In accordance with the relevant international instruments which the Republic of Albania is party to, as regards unaccompanied minor asylum seekers under 16 years of age, the latter shall not be held in prison-like conditions, only as an absolute last resort measure. Instead special arrangements will be made that are suitable for children.

CHAPTER III ASYLUM AUTHORITIES

Article 17 Office for Refugees

1. The Office for Refugees shall be composed of one head of the office, his/her deputy and at least 3 staff members responsible for the registration of the asylum applications, management of interviews as well as gathering other necessary data for the completion of documentation for each asylum application.
2. The Office for Refugees shall be exclusively competent for receiving asylum applications as well as for granting and withdrawing asylum in the first instance.
3. The Office for Refugees shall act as a co-ordinating body for the National Commission for Refugees and shall be responsible for the organisation of meetings of the Commission as well as the implementation of its decisions.
4. The Office shall also be responsible for the implementation of the measures necessary for the protection and assistance provided to refugees. The relevant authorities shall co-operate with the Office for Refugees in the implementation of rules and procedures necessary to grant asylum seekers and refugees their rights.
5. The Office for Refugees shall administer the public funds allocated to its budget as well as other aid and financial assistance for refugees provided by national and international organisations.
6. The Office for Refugees shall be the leading authority in cases of mass-influx and shall, under the leadership of the National Commissioner for Refugees, organise the processing of refugees granted temporary protection. It shall in particular take the responsibility for the registration, accommodation and food distribution concerning refugees under temporary protection.

Article 18 National Commissioner for Refugees

1. The National Commissioner for Refugees is the Head of the Office for Refugees.
2. The National Commissioner for Refugees shall organise and co-ordinate the meetings of the National Commission for Refugees, and ensure the timely implementation of its decisions.

3. The National Commissioner for Refugees shall not be part of the decision making process with regard to appeals against decisions of the Office for Refugees.
4. The National Commissioner for Refugees shall ensure that a guardian is appointed according to Albanian legislation for any unaccompanied asylum seeker who is under the age of 18 years, or who is mentally disabled so that his/her legal interests are presented and protected properly.
5. The National Commissioner for Refugees shall initiate the procedure for the cessation of asylum at the Office for Refugees, if there are good reasons to believe that the refugee concerned falls under the cessation clause stipulated in article 8 of this law.
6. The National Commissioner for Refugees shall supervise the registration of refugees granted temporary protection and co-ordinate the relief assistance granted by the local authorities and international organisations.
7. The National Commissioner for Refugees shall be guided by the guidelines provided by the respective Minister.

Article 19 National Commission for Refugees

1. The National Commission for Refugees shall be composed of 8 members:
 - the National Commissioner for Refugees,
 - a representative of the Ministry of Local Government,
 - a representative of the Ministry of Public Order,
 - a representative of the Ministry of Foreign Affairs,
 - a representative of the Ministry of Labour and Social Affairs,
 - a representative of the Department of National Security,
 - a representative of the Albanian Helsinki Committee, and
 - a representative of the Albanian Bar Association.
2. The National Commission for Refugees is the authority exclusively competent to decide on appeals launched against the decisions of the Office for Refugees.
3. Members of the National Commission for Refugees are appointed by their respective institutions for a one year period, with the right of renewal of their mandate, within 30 days from date this law enters into force.
4. The Commission functions on the basis of an internal regulation approved by majority of the members of the National Commission for Refugees.
5. In situations of mass-influx the National Commission for Refugees shall be exclusively competent to determine specific groups of foreigners to fall under Temporary Protection, and to end the Temporary Protection regime.

Article 20 United Nations High Commissioner for Refugees (UNHCR)

1. Asylum seekers, refugees as well as persons falling under temporary protection are entitled to contact the Office of the United Nations High Commissioner for Refugees (UNHCR). Representatives of UNHCR shall have access to any asylum seeker, refugee or any person falling under temporary protection in the territory of the Republic of Albania.
2. The Office for Refugees provides UNHCR with the necessary information on registered asylum seekers and, in particular, shall grant UNHCR, upon request, access to individual files of asylum seekers and refugees. The Office for Refugees shall further provide UNHCR with lists of

applications to be considered by the Office for Refugees and appeals to be considered in the coming meetings of the National Commission for Refugees, with the purpose of establishing the co-operation of the national authorities with UNHCR in compliance to article 35 of 1951 Geneva Convention Related to the Status of Refugees.

3. UNHCR may provide general guidelines and recommendations in individual cases to the Office for Refugees and the National Commission for Refugees. UNHCR may also provide recommendations concerning specific cases and temporary protection.

4. UNHCR may attend the Refugee Status Determination meetings of the Office for Refugees and National Commission for Refugees, in an observer capacity.

CHAPTER IV ASYLUM PROCEDURE

Article 21 Asylum Request

1. Foreigners who wish to claim asylum in the Republic of Albania shall:

a) approach the competent authorities, at the border or within the territory of the Republic of Albania, and file an asylum request; or

b) directly approach the Office for Refugees and file an asylum application.

2. Any foreigner requesting asylum at the police authorities according to paragraph 1 (a) of this article shall immediately be referred to the Office for Refugees in Tirana in order to be registered and to file his/her asylum application.

Article 22 Identity of Asylum Seekers

1. The authorities referring the asylum seeker to the Office for Refugees as well as the Office for Refugees are responsible for taking all necessary steps to establish the identity of the asylum seeker.

2. The Directorate of the Criminal Police assists in establishing the identity of the asylum seeker.

3. The Directorate of the Criminal Police preserves and keeps the data, gathered as defined in paragraph 2 of this article, in separate files in order to ensure the protection of the asylum seeker.

Article 23 Asylum application

1. The asylum application shall be presented in writing in Albanian or in one of the United Nations languages to the Office for Refugees. The application must, apart from the identity, express the asylum seeker's reasons for seeking protection on the territory of the Republic of Albania.

2. At the Office for Refugees the asylum seeker shall provide all necessary bio-data and fill in the forms presented by the Office for Refugees.

3. A Refugee Status Determination Information leaflet shall be provided to the asylum seeker at the time of the submission of his/her application for asylum. If the asylum seeker so desires, the Office for Refugees shall assist him/her to contact a pro bono lawyer, an expert on refugee matters or UNHCR.

4. The asylum seeker shall be allowed to stay in the territory of the Republic of Albania until the final decision concerning his/her asylum application is given.

Article 24 Obligations of Co-operation

1. The asylum seeker is obliged to co-operate for the clarification of the facts presented by him/her, particularly:
 - a) to provide the necessary information, verbally and in writing, as requested by the relevant authorities;
 - b) to observe the official orders which require reporting or presenting oneself in front of authorities or institutions;
 - c) to present and hand in all documents at his/her possession to the relevant authorities responsible for the implementation of the rules and procedures envisaged in this law.
 - d) the asylum seeker shall keep the Office for Refugees abreast of his/her last change of address without delay.
2. The asylum seeker shall be informed on the fact that the information he/she provides will serve as the basis for decision taking, and that it should, therefore, be true, accurate and as detailed as possible and that it shall remain confidential.

Article 25 Interpreters

1. If the asylum seeker does not have sufficient command of the Albanian language, he/she shall be provided with a qualified interpreter so that he/she can freely communicate during all phases of procedures envisaged in this Law.
2. The asylum seeker can choose another interpreter on his/her own expenses.

Article 26 Hearing

1. The asylum seeker shall be interviewed in connection with his/her asylum application at the Office for Refugees. If the hearing is not carried out within the same day, the asylum seeker is immediately informed on the date of the hearing which shall not take place later than 21 days from the day when the asylum seeker has filed his/her asylum application with the Office for Refugees.
2. The asylum seeker may be accompanied, counselled or represented by a lawyer. The representation by a lawyer shall not exempt the asylum seeker from responding to questions directed to him/her personally.
3. A female asylum seeker shall, if possible, shall be interviewed by a female staff-member of the Office for Refugees through a female interpreter.
4. The asylum seeker shall explain the facts underlying his/her well-founded fear of persecution or human rights violation, and provide necessary data comprising information on the place of residence, itinerary, stop-overs in other countries and asylum claims filed in other countries, as well as other necessary data for the clarification of the case.
5. The hearing shall not be public and the confidentiality of the hearing shall be guaranteed vis-à-vis the asylum seeker. The hearing can be observed only by representatives of the central or local government and a UNHCR representative.

Article 27 Procedures at the Office for Refugees

1. The Office for Refugees shall document all important data provided by the asylum seeker. After the asylum application is completed with all the necessary data and forms, the Office for Refugees shall provide the asylum seeker with the document certifying his/her identity and the

receipt of the asylum application as well as ensuring non-refoulement, in accordance with paragraph 4 of article 23 of this law.

2. The Office for Refugees shall conduct the hearing, verify the facts provided and complete the necessary documentation before reaching a decision. The file, if deemed necessary and when requested by the Office for Refugees, may contain the recommendation provided by UNHCR regarding the asylum application.

3. The Office for Refugees shall base its decisions on the relevant refugee definitions provided articles 4 , 6, 8 and 9 of the present Law. When taking a decision, the Office for Refugees shall not impose the burden of proof on the asylum seeker but grant him/her the benefit of the doubt. It also shall take into consideration recommendations presented by UNHCR.

4. The Office for Refugees shall take a decision within 30 days from the day of the hearing of the asylum seeker and provide the asylum seeker and UNHCR with a copy of the decision without delay, but in any case not later than 5 days from the date the decision has been taken. The decision of the Office for Refugees shall be given in writing and shall be motivated.

5. If an asylum application is accepted, the Office for Refugees shall inform the asylum seeker on the conditions of the asylum and on the fact that his/her asylum may be revoked only in accordance to article 8 of this law.

6. If an asylum application is denied, the Office for Refugees shall inform the asylum seeker in its written reasoned and individualised decision which shall spell out his/her right to lodge an appeal and the appeal-related timeframe. However, if the Office for Refugees does not serve its decision within 51 day timeframe starting from the asylum-seeker's hearing date, the Office for Refugees' silence shall be assimilated to an implicit rejection of the application.

Article 28 Abusive and Manifestly Unfounded Claims

1. The Office for Refugees may declare an asylum application "abusive" or "manifestly unfounded", respectively when:

- a) it has been established that the claim made by the asylum seeker is clearly fraudulent, in the sense that the applicant deliberately attempts to deceive the authorities;
- b) the claim made by the asylum seeker is not related in any manner to the criteria for granting of asylum as specified in Chapter I of this law.
- c) asylum shall be further denied to any foreigner who arrives from a third country party to the 1951 Convention/1967 Protocol where he/she cannot establish a well-founded fear of persecution for at least one of the reasons contained in Article 1A of the aforementioned Convention, nor a Human Rights violation or threat of refoulement in the sense of the Articles 4 and 6 of this Law, and if he/she can lawfully return to that country where his/her application for refugee status shall be examined in accordance with international standards.

2. In cases where the Office for Refugees determines an asylum application as "abusive" or "manifestly unfounded" an accelerated appeal procedure shall be applied:

- a) if at the first instance stage of the accelerated procedures the Office for Refugees does not serve its decision within 10 day timeframe, the application shall be automatically admitted into the normal Refugee Status Determination Procedure;
- b) the asylum seeker shall be granted a period of 7 days, starting with the day he/she receives the decision of the Office for Refugees, to lodge an appeal;
- c) the National Commission for Refugees shall handle the appeal with priority in order to arrive at a final decision within the shortest possible period of time;
- d) the National Commission for Refugees may decide on the information contained in the files, if it deems unnecessary to carry out a hearing of the asylum seeker.

Article 29 Appeal

1. The appeal against the decision of the Office for Refugees shall be addressed to the National Commission for Refugees within 15 days from the date the decision is received by the asylum seeker.
2. The request for appeal shall contain:
 - a) reasoning against the un-foundedness of the decision; and
 - b) other complementary data and documents, which were not presented to the Office for Refugees.
3. The Office for Refugees shall present the whole file concerning the asylum seeker appealing against its decision to the National Commission for Refugees.
4. The registration of any appeal request shall suspend the decision of the Office for Refugees. The asylum seeker shall be permitted to remain on the Albanian territory while the appeal is pending.
5. Before taking a decision the National Commission for Refugees shall conduct a hearing with the asylum seeker in accordance with article 26 of this law, if it cannot take a positive decision based on the information contained in the files.
6. The National Commission for Refugees shall adhere to the same principles guiding the procedure of the Office for Refugees.
7. The National Commission for Refugees shall take its decision at the latest 45 days from the day the appeal was filed. The motivated decision of the National Commission for Refugees shall be delivered to the asylum seeker through the Office for Refugees.
8. The decision of the National Commission for Refugees is final.

Article 30 Rejection and expulsion

1. The foreigner whose asylum claim has been finally rejected can be expelled subject to provisions of the Albanian legislation regulating the status of foreigners.
2. The Office for Refugees shall inform without delay the competent authorities about any final negative decision in asylum matters.

CHAPTER V TEMPORARY PROTECTION

Article 31 General

1. In situations of large-scale influx of civilian persons seeking international protection in the Albanian territory, the procedure provided for in Articles 21-30 of this law can be suspended and temporary protection shall be granted to all persons of this group.
2. The decision that a group of civilian persons forming part of a large-scale influx falls under temporary protection, or that the temporary protection regime is ended, shall be taken by the National Commission for Refugees in accordance with paragraph 5 of article 19 of this law. When making such decision the National Commission for Refugees will take into consideration the circumstances that led to the displacement and examine whether the persons belonging to this group appear prima facie likely to be eligible for protection.

Article 32 Rights of persons enjoying temporary protection

1. Foreigners enjoying Temporary Protection, are temporarily accepted in the Republic of Albania.
2. The rights of foreigners enjoying Temporary Protection, in particular their right to work and freedom of movement, may be restricted, for objective reasons, by the National Commission for Refugees for the first three years of their stay in the territory of the Republic of Albania.
3. In any event, these persons shall not be penalised or exposed to any unfavourable treatment solely on the ground of their unlawful entry into the country and they will generally be treated in accordance with internationally recognised human rights standards and the relevant provisions of this law.

Article 33 Access to asylum procedure

Foreigners enjoying Temporary Protection shall have the right to file an asylum application in accordance with the procedures provided in this Law, when their temporary protection comes to an end.

CHAPTER VI FINAL PROVISIONS

Article 34 Annulment

Article 22, paragraph 1 and articles 24,25,26,27 and 28 of the Law 7939, dated 25.5.1995 "On Migration" referring to asylum in the Republic of Albania are annulled.

Article 35 Entry into Force

This law takes effect the fifteenth day after its publication in the Official Gazette.

CHAIRMAN

Skender Gjinushi

Consellor: Viktor Gumi