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OPERATIONAL GUIDANCE NOTE

ALBANIA

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1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Albania and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Albania Country of Origin Information at:
- http://www.homeoffice.gov.uk/rds/country_reports.html
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instructions on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.
- 1.4** With effect from 1 April 2003 Albania is a country listed in section 94 of the Nationality Immigration and Asylum Act 2002. If, following consideration, a claim made on or after 1 April 2003 by someone who is entitled to reside in Albania is refused, case owners should certify it 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. Guidance on whether certain types of claim are likely to be clearly unfounded is set out below.

Source documents

- 1.5 A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

- 2.1 Albania is a parliamentary democracy with a population of approximately 3.6 million. 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 Members of Parliament. The President is the constitutional Head of State but, in practice, has limited powers. The Council of Ministers performs the main executive functions of government and includes the Prime Minister, the Deputy Prime Minister and line ministers. The Prime Minister is usually the leader of the largest party in the governing coalition. The Parliamentary Assembly consists of 140 Members of parliament or 'deputies' and is elected for a four-year term by a mixture of first-past-the-post and party-list proportional representation. The current governing coalition is led by the Democratic Party (DP), and the Opposition is led by the Socialist Party (SP).¹
- 2.2 From 1997-2005, Albania was ruled by the Socialist Party. The most recent parliamentary elections were held in July 2005 and Democratic Party leader Dr Sali Berisha became Prime Minister, promising to address the problems of corruption and organised crime. Despite failing to fully meet international standards, the election was praised for bringing Albania's first rotation of power without significant violence in the post-Communist era. Political disputes delayed the 2007 local elections to February and were criticised by the Organisation for Security and Cooperation in Europe (OSCE) for failing to fully comply with international standards. In July 2007, the Albanian Parliament elected Bamir Topi to be the fifth President of the Republic.²
- 2.3 The constitution provides for an independent judiciary. It was reported in 2007 that the judiciary and law enforcement agencies were inefficient and prone to corruption, and judicial proceedings could be unjustifiably delayed. Enforcement of court decisions was weak. In November 2007, the minister of justice resigned amid allegations of corruption.³ Police, prosecutors and the judiciary continued to blame each other for failures that allowed criminals to avoid imprisonment. However, there were some improvements in co-operation, including the initiation in September 2007 of the Joint Investigative Unit, which brought together criminal investigators and prosecutors to work on specific cases. The unit showed early successes with the arrests of 13 government officials for corruption in the final three months of the year.⁴
- 2.4 Overall, there have been some steps in 2007 to improve the efficiency of the judiciary. However it has continued to function poorly due to shortfalls in independence, transparency and efficiency. Legislation planned to address these issues has been delayed. The High Council of Justice is implementing a new system for the professional evaluation of lower court judges in advance of adoption of the planned law overhauling the judiciary. The capacity of the courts to manage the judicial budget improved significantly through training. A reduction in the number of district courts was expected to increase efficiency. Some improvement has been made to the capacity of the bailiff service. The backlog of court rulings awaiting enforcement involving state institutions was reduced. The Magistrates' School continued to provide training in human rights, ethics, commercial matters and other issues. A dedicated directorate for witness protection is provided for under the new police structure but amendments to the law on witness protection are necessary before operational guidelines can be developed.⁵
- 2.5 The Government generally respected the human rights of its citizens. However, there were serious problems in several areas in 2007 including societal "blood feud" killings, security force

¹ FCO Country Profile 28 February 2008

² FCO Country Profile 28 February 2008. Freedom House 2008

³ Freedom House 2008

⁴ USSD 2007

⁵ EU Progress Report 2007

abuse of prisoners and detainees, poor prison and pre-trial detention conditions, police corruption and impunity, discrimination against women, children and minorities, and human trafficking.⁶

- 2.6** The law prohibits torture and ill-treatment. However in 2007 the police and prison guards sometimes beat and abused suspects. The Albanian Helsinki Committee and the Albanian Human Rights Group (AHRG) continued to report that police nationwide sometimes used excessive force or inhumane treatment. According to the AHRG, most mistreatment took place at the time of arrest or initial detention.⁷ With regard to prevention of torture and ill-treatment and the fight against impunity, the Criminal Code definition of torture was amended in accordance with Article 1 of the UN Convention against Torture. The Prosecutor General issued formal instructions to prosecutors and judicial police underlining the need to observe human rights in criminal proceedings. Progress was made in implementing European Committee for the Prevention of Torture (CPT) recommendations. In particular, the transfer of responsibility for pre-trial detention facilities from the Interior Ministry to the Justice Ministry is now largely complete. A task force was set up to monitor implementation of CPT recommendations.⁸
- 2.7** The overall performance of law enforcement remained weak in 2007. Unprofessional behaviour and corruption remained impediments to the development of an effective civilian police force. Low salaries and widespread corruption throughout society made police corruption difficult to combat. The government prosecuted corrupt officials and managed complaints regarding corrupt police through the ombudsman. During 2007 the Office of Internal Control filed 159 reports with the prosecutor's office involving 221 police employees, of whom 5 were senior officers, 75 were mid-level and 141 were of lower rank. As a result 85 police officers were awaiting trial on charges of corruption. In 2007 the ombudsman received 274 general complaints from citizens against the police. At the end of 2007, 233 complaints had been processed and the ombudsman concluded 82 in favour of the complaining citizen. These included 21 complaints of physical mistreatment.⁹
- 2.8** Although corruption pervades all areas of life, the government is making efforts to address the problem. The government has drafted a new anti-corruption strategy for 2007-2013. The strategy shows a positive change in approach from short-term solutions to more effective and sustainable measures. Albania has adopted public procurement legislation, passed legislation on bribery, and improved its institutional capacity by creating a new task force with the chief prosecutor's office to combat corruption and financial crime. Prosecutors, judicial police and judges have been trained on anti-corruption legislation. Furthermore, over 20 senior government officials were arrested in 2007 as part of the anti-corruption campaign. Albania was ranked 105 out of 180 countries surveyed in Transparency International's 2007 Corruption Perception Index.¹⁰
- 2.9** As regards cultural rights, Albania recognised three national minorities (Greek, Macedonian and Serbian-Montenegrin) and two ethno-linguistic minorities (Aromanian and Roma). A climate of respect and tolerance generally prevails regarding minority groups. Albania ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which has now entered into force. Albania is endeavouring, within its budgetary limitation, to fulfil its commitments under the Council of Europe Framework Convention for the Protection of National Minorities. The constitution provides that persons belonging to minorities have the right to be taught in their mother tongue. Schools specifically for members of the Greek and Macedonian minorities have significantly higher teacher-pupil ratios than the national average. The Ministry of Education and Science issued an instruction allowing Roma children to enrol in schools without being registered.¹¹

⁶ USSD Albania 2007

⁷ USSD Albania 2007

⁸ EU Progress Report 2007

⁹ USSD Albania 2007

¹⁰ EU Progress Report 2007/Freedom House: Freedom in the World 2008

¹¹ EU Progress Report 2007

- 2.10** However, the Roma minority still face significant discrimination and marginalisation. Less than half of all Roma children go to primary school and only about 25% complete primary education. This low level of education and professional qualifications limits access to the formal labour market and begging is widespread. Overall there has been little progress in improving the situation of the Roma which continue to face very difficult living conditions. The state has taken some steps to improve housing and employment opportunities for the Roma but little tangible progress has been achieved so far. Lack of resources and weaknesses in strategy have limited the impact of government measures.¹²
- 2.11** Albania has actively pursued closer relations with the EU. NATO and EU membership are the key elements of Albania's foreign policy. The overwhelming majority of the population wants EU membership and increased prosperity. The current government shares these goals and is trying to stimulate inward investment and economic development, strengthen the rule of law and implement the key reforms set out in Albanian's European Partnership. A major milestone was reached in June 2006 when Albania signed a Stabilisation and Association Agreement with the European Union, bringing it one step closer to membership. Albania is currently working to implement the agreement, which will come into force once ratified by all EU Member States.¹³

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Albania. It also contains any common claims that may raise issues covered by the Asylum Instructions on Discretionary Leave. 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. 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 guidance below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction on Considering the Asylum Claim).
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in section 4 below or on the individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see the Asylum Instructions on 'Considering the Asylum Claim' and 'Assessing Credibility in Asylum and Human Rights Claims'. [Case owners should also refer to the Asylum Instruction on Nationality.]
- 3.5** All Asylum Instructions can be accessed on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at

¹² EU Progress Report 2007/Freedom House, Freedom in the World 2008

¹³ FCO Country Profile 28 February 2008

<http://www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>

3.6 Blood feuds

- 3.6.1** 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'.
- 3.6.2** *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 have passed it from generation to generation for hundreds of years. All blood feuds involve violations of honour.¹⁴
- 3.6.3** Definition of honour is broad and may include: insults, property issues, trafficking of persons, accidental killings, murder, conflicts over water rights, being disrespectful of a woman and accusing a person of lying. The classic blood feud can only pass through the male bloodline. In modern blood feuds, it is reported that people no longer adhere to strict rules such as the minimum age requirement of 16 years. Women, traditionally exempt from blood feuds, are said to have become targets. Further reported developments are the pre-emptive strike and the paid blood feud assassin. The concept of pre-emptive strike allows an individual who believes a rival family is looking to take blood from his family to strike first by killing a male member of the rival family, thereby eliminating risk to himself and his family. In the case of the paid assassin, an individual who does not want to commit the actual murder pays a third party to carry out the killing. Many blood feuds take place in remote areas where people do not want to seek recourse through the legal system, predominantly in rural, northern areas but can reportedly also occur elsewhere although less commonly in urban areas.¹⁵
- 3.6.4** Blood feuds can be resolved by reconciliation through a mediator who tries to broker a settlement. One way to resolve a blood feud by mediation is to arrange a marriage of two members of the rival families. A blood feud can also be resolved through monetary compensation. An agreement of the offending party to move away and total forgiveness without any compensation are other possible solutions. Unless the injured party in a blood feud initiates forgiveness, calling on the services of a reconciliation committee is the only way to resolve a feud. There are a number of reconciliation committees in Albania. For example, the Committee of Nationwide Reconciliation (CNR) is an NGO that works toward encouraging the rule of law in Albania and discouraging the use of *Kanun* traditions. It has contacts with Albanian state organisations and conflict resolution groups and deals with national policy, arranges conferences and issues reports on blood feuds. An attestation letter is a document that confirms whether a blood feud has occurred. The head of the CNR states that his organisation is the sole authorised provider of attestation letters.¹⁶
- 3.6.5** Some children were unable to leave their homes, including attending school, due to fear of reprisal from blood feuds. Figures on the numbers of affected children vary; the latest figures from the Ministry of Interior in 2007 indicate about 20 children permanently sequestered, while NGOs cite a figure as high as a few hundred. These children were generally home schooled. According to the CNR, 182 children remained endangered by blood feuds involving their families; 86 of these in particularly dangerous circumstances.¹⁷
- 3.6.6** The CNR states that blood feud killings are down by 50% so far in 2008 and the number of feuds it reconciles is expected to double this year. However, there are estimated to be 1,600 families confined to their homes because of blood feuds.¹⁸ One of the leading coordinators for

¹⁴ Canadian Refugee Board (IRB) Issue paper 'Albania Blood Feuds', May 2008

¹⁵ Canadian Refugee Board (IRB) Issue paper 'Albania Blood Feuds', May 2008

¹⁶ Canadian Refugee Board (IRB) Issue paper 'Albania Blood Feuds', May 2008

¹⁷ USSD Albania 2007

¹⁸ Spiegel online 'Albania seeks solutions to its blood feud problem', accessed 17.10.08

CNR states that an estimated 114 families are thought to be living in hiding in greater Tirana.¹⁹ The USSD notes that statistics vary on blood feud activity and that the *kanun* is followed in only a few isolated communities. According to the Interior Ministry, 2 of the 96 murders during 2007 were related to blood feuds, the number of such killings having dropped due to an increase in investigations. During 2007, an NGO-sponsored conference called on the government's Co-ordinating Council on the Fight Against Blood Feuds to take a more proactive role.²⁰

3.6.7 Government efforts relating to blood feuds have reportedly focused on prevention rather than assistance to affected families. Legislation exists to deal with people who commit blood feuds but there is no special law to protect victims. Article 78 of the 1995 Criminal Code, amended in January 2001, sets out the punishment for murder committed as a result of a blood feud. In 2003, the Albanian parliament passed a law entitled 'On the Dispute Resolution through Mediation', outlining who is eligible for blood feud mediations, who can work as a mediator and how the mediation process is conducted.²¹ In 2005, the Albanian parliament approved a law establishing a coordination council, chaired by the president, to develop a national strategy against blood feuds and to coordinate activities of government agencies (not yet active).²² In February 2007 the parliament approved amendments to the Criminal Code to criminalise blood feuds and make them punishable by a 3-year sentence. The Court of Serious Crimes tried blood feud cases. Premeditated murder, when committed for revenge or a blood feud, is punishable by 20 years or life imprisonment, higher than the usual sentence for murder.²³

3.6.8 Sufficiency of protection. Local police units report to the Ministry of the Interior and are the main force responsible for internal security. As noted above, the law provides for 20 years to life imprisonment for killing linked to a blood feud and blood feuds are punishable by a 3-year sentence. The government has set up a special crimes court and a witness protection programme. There have been prosecutions in blood feud murder cases. The Commissioner for Human Rights in Europe stated that police managers have supported reconciliation activities and the CNR.²⁴ Despite formal efforts made by the authorities to address the issue, some involved in blood feuds may not report the matter to the authorities because of mistrust of state institutions and/or because they choose to execute retribution outside of the legal system.²⁵ There is no evidence to indicate that individual Albanians fearing the actions of those seeking to carry out a blood feud cannot access protection from the Albanian police and pursue these through the legal mechanisms that have been set up to deal with blood feuds.

3.6.9 Internal relocation. The law provides freedom of movement within Albania and the Government generally respected this right in practice. Internal migrants must transfer their civil registration to their new community to be entitled to government services, and must prove they are legally domiciled either through property ownerships, a property rental agreement or utility bills. Many cannot provide this proof and thus lack access to essential services.²⁶ Whilst there may be some difficulties accessing local services internal relocation to escape the localised threat of a blood feud will not generally be unduly harsh. Whether internal relocation would enable an individual to avoid a threat in an individual case will depend on the commitment of those attempting to enforce the blood feud.

3.6.10 Caselaw.

KOCI [2003] EWCA Civ 1507 The Court of Appeal found that whilst each case should be considered on its individual merits and conditions in Albania at the relevant time, the evidence at that time pointed towards protection being inadequate on the evidence of the individual case, "not merely as a generality in such cases but actually in his own specific case."

¹⁹ Christian Science Monitor 'Peacemaker breaks the ancient grip of Albania's blood feuds'

²⁰ USSD Albania 2007

²¹ Canadian Refugee Board (IRB) Responses to Information Requests (RIR) 22.09.06

²² Canadian Refugee Board (IRB) Issue paper 'Albania Blood Feuds', May 2008

²³ USSD 2007/Canadian Refugee Board (IRB) Issue Paper 'Albania Blood Feuds', May 2008

²⁴ Canadian Refugee Board (IRB) Issue paper 'Albania Blood Feuds', May 2008

²⁵ Canadian Refugee Board (IRB) Issue paper 'Albania Blood Feuds', May 2008

²⁶ USSD 2007

TB (Blood Feuds – Relevant Risk Factors) Albania CG [2004] UKIAT 00158 The tribunal found that a number of factors will be relevant in determining the nature of the risk on return:

- (a) whether the dispute can be characterised as a “blood feud” at all;
- (b) even if it can, then the extent to which its origins and development (if any) are to be regarded by Albanian society as falling within the classic principles of the Kanun;
- (c) the history of the feud, including the notoriety of the original killings and the numbers killed;
- (d) the past and likely future attitude of the police and other authorities;
- (e) the degree of commitment shown by the opposing family;
- (f) the time that has elapsed since the killing;
- (g) the ability of the opposing family to locate the alleged victim anywhere in Albania
- (h) that person’s profile as a potential target for the blood feud; and
- (i) the prospects for eliminating the feud, whether by recourse to the payment of money, a reconciliation organisation or otherwise.

The tribunal noted that whilst it is plainly too early to say that any potential victim of a blood feud of the “classic type” can now look to the authorities for a sufficiency of protection....the governments initiatives are particularly likely to make themselves felt, in terms of institutional attitudes within Tirana itself.

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.

SB Moldova (PSG – Protection Regulations – Reg 6) Moldova CG [2008] UKAIT 00002

The AIT found that “In order for a particular social group to exist, the group must have a distinct identity in the relevant society because it is perceived as being different by the surrounding society. We emphasise both that the particular social group must have a distinct identity as well as the requirement that the distinct identity of the group must arise because the group is perceived as being different by the surrounding society. Although it would not be necessary for the whole of a given society to perceive the group to be different from it, it is not necessary for us to lay any guidelines in this respect in this case”

3.6.11 Conclusion. In general, the Albanian Government is able and willing to offer effective protection for its citizens who are the victims of a blood feud; however, there may be individual cases where the level of protection offered is, in practice, insufficient. The level of protection should be assessed on a case by case basis taking into account what the claimant did to seek protection and what response was received. Internal relocation may be appropriate in some cases.

3.6.12 The UNHCR²⁷ consider that there may be some individuals who, because of the circumstances of their case, may be considered to be a PSG. However, we consider that the findings in **Skenderaj** taken together with **SB Moldova** suggest that families affected by blood feuds in Albania are not perceived as being different by the surrounding society and would not form a PSG. The majority of claimants from this category of claim will not, therefore, qualify for either a grant of asylum or Humanitarian Protection and where there is a strong internal relocation argument supported by a previous successful relocation some claims may be certifiable, though most cases are unlikely to be clearly unfounded.

3.7 Organised crime

3.7.1 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

²⁷ UNHCR position on claims for refugee status under the 1951 Convention relating to the Status of Refugees based on a fear of persecution due to an individual's membership of a family or clan engaged in a blood feud.

claim that the police are linked to criminal gangs and that that they face unlawful arrest and detention.

- 3.7.2 *Treatment.*** The transition from communism to democracy in Albania has proved challenging as successive governments have had to deal with high unemployment, widespread corruption, a dilapidated physical infrastructure, powerful organised crime networks and combative political opponents.²⁸ The transition from totalitarian rule to democracy has been associated with the growth of crime in many countries throughout the world leading to corruption, privatisation fraud, protection rackets and other forms of organised crime. Following the conflicts in the former Yugoslavia and the imposition of international sanctions, smuggling of commodities needed by the warring parties was paid for, in part, through various forms of trafficking. The collapse of the Albanian pyramid schemes in 1997 and then the conflict in Kosovo contributed to the development of organised crime.²⁹
- 3.7.3** Whilst the incidence of conventional crime in the Balkans is low, organised crime has manifested itself in different activities including drug trafficking, trafficking in human beings; trafficking in firearms; smuggling of migrants and economic crimes such as duty evasion and counterfeiting, tax and customs fraud, and money laundering. Drug trafficking in particular generates enormous profits. Albania is particularly susceptible to money laundering as it remains highly cash based and its banking sector is only now recovering from the loss of confidence in institutions engendered by the 1997 crisis caused by the collapse of a number of financial pyramid schemes.³⁰
- 3.7.4** The United Nations Convention against Transnational Organised Crime, which Albania adopted in 2002, is the main international instrument to counter organised crime. The Convention is further supplemented by 3 Protocols, on human trafficking (adopted 2002), migrant smuggling (adopted 2002) and firearms smuggling (not yet adopted). States that ratify this instrument commit themselves to taking a series of measures against transnational organised crime.³¹ Albanian law mandates the sequestration and confiscation of assets derived from organised crime and trafficking. The Agency for the Administration of Sequestered and Confiscated Assets administers such assets, including those of persons found guilty of trafficking related crimes. In 2006 there were several court-ordered seizures but no cases of forfeited assets successfully liquidated or of funds distributed to victims. Although the government has improved its Witness Protection Programme, Amnesty International reported that witness protection continued to be weak and prosecutors complained that prosecutions often failed because at trial the victims of trafficking tended to withdraw their testimony under pressure from traffickers or their own families.³²
- 3.7.5** According to the official statistics, murder rates declined by two thirds in Albania between 2001 and 2006, from 6 per 100,000 to 2 per 100,000. The number of murders committed in Albania in 2006 is only 5% of the figure cited after the collapse of government in 1997.³³ In 2007, 96 murders were recorded to have resulted from vigilante action, criminal gangs and organised crime.³⁴
- 3.7.6** The Balkan countries inherited more than adequate security coverage from the communist regimes and most countries had to scale down their police forces as the governments began to rationalise and adjust to market economies. Albania had more police per capita than much of Western Europe and, therefore, reduced its police personnel from 12,000 to about 9,700 in late 2007. Whilst the reduction in police staff was necessary, the capacity and management continuity of several key units was adversely affected. In June 2007, parliament adopted a

²⁸ CIA World Factbook

²⁹ UNODC Report 'Crime and its impact on the Balkans', published May 2008

³⁰ UNODC Report 'Crime and its impact on the Balkans', published May 2008

³¹ UNODC Report 'Crime and its impact on the Balkans', published May 2008

³² USSD Albania 2007

³³ UNODC Report 'Crime and its impact on the Balkans', published May 2008

³⁴ USSD 2007

new State Police Law which provides for improved management of human, material and financial resources. The new law devolves these functions from the Ministry of the Interior to the police.³⁵ This is an important step towards professionalising the police and addressing corruption. A new organisational structure for the police was approved by the Minister of the Interior. The law brings Albania into compliance with international standards and moves it closer to accession into Euro-Atlantic institutions.³⁶

- 3.7.7** In March 2007 the Albanian parliament approved a bill promoting cooperation with Europol in an effort to address organised crime syndicates. This has allowed a considerable number of international arrest warrants to be executed, resulting in extradition of suspects to Albania to face court proceedings.³⁷ The Home Office announced in February that the UK had been successful in its bid to lead the EU Police Mission in Albania for the next 3 years, in partnership with the Albanian government. The Mission will work with the Albanian police to deal with the threat from organised crime in-country, thereby helping to improved Albanians' confidence in their police service.³⁸
- 3.7.8** Organised crime is believed to have achieved its current proportions because of corruption. Corruption generally involves the use of public office for private gain. This can include petty corruption such as the extortion of bribes by civil servants, and grand corruption such as major procurement fraud. It also includes embezzlement of public funds at all levels. The level of overall corruption is difficult to measure but can be measured to some degree by victim surveys.³⁹ Albania was ranked 105 out of 180 countries surveyed in Transparency International's 2007 Corruption Perception Index.⁴⁰ Some 60% of the Albanian population considers corruption a more problematic issue than unemployment or low salaries. Surveys differ as to which sectors of government are considered the most corrupt, but the judiciary, customs, the national privatisation agency and health services generally rated as the most problematic. Other fields of concern are the tax administration and the police.⁴¹
- 3.7.9** In its efforts to address the problem, the government adopted the UN Convention against Corruption in 2006 and has aligned its Criminal Code with the Council of Europe Criminal Law Convention on Corruption. The government has also drafted a new anti-corruption strategy for 2007-2013. The strategy shows a positive change in approach from short-term solutions to more effective and sustainable measures. Albania has adopted public procurement legislation, passed legislation on bribery, and improved its institutional capacity by creating a new task force in the chief prosecutor's office to combat corruption and financial crime. Prosecutors, judicial police and judges have been trained on anti-corruption legislation.⁴²
- 3.7.10** Although Albania has one of the best legislative frameworks against corruption in the Balkans, the number of public officials convicted for corruption is growing, which is probably more reflective of growing capacity for prosecution than growing incidence. Recent arrests have been made of a number of high officials, including the Deputy Minister for Public Works and Transportation; the Secretary General of the Ministry of Labour and Social Affairs; the Director General of Roads; directors and specialists at the regional agencies of the Tax Office and Department of Forests, and others.⁴³ By August 2007, prosecutors had opened 555 penal proceedings for abuses of government office, arbitrary action and distortion of equality in public procurement tenders. Of these 36 were specifically for corruption and 28 of those resulted in investigations. Authorities prosecuted 17 officials.⁴⁴ During 2007, the High Council

³⁵ EU Progress Report 2007

³⁶ US State Foreign Operations Appropriated Assistance: Albania 28 April 2008

³⁷ UNODC Report 'Crime and its impact on the Balkans', published May 2008

³⁸ <http://www.egovmonitor.com/node/17357>

³⁹ UNODC Report 'Crime and its impact on the Balkans', published May 2008

⁴⁰ Freedom House: Freedom in the World 2008

⁴¹ UNODC Report 'Crime and its impact on the Balkans', published May 2008

⁴² EU Progress Report 2007/Freedom House: Freedom in the World 2008

⁴³ UNODC Report 'Crime and its impact on the Balkans', published May 2008

⁴⁴ USSD Albania 2007

of Justice removed one judge and reprimanded 6 others for incompetence or corruption. In November 2007, parliament recommended for the second time that the President dismiss the prosecutor general for incompetence and corruption; the president dismissed the prosecutor general and appointed a new one the same month.⁴⁵

3.7.11 A report issued in May 2008 by the United Nations Office on Drugs and Crime (UNODC) concludes that the Balkans have become a low-crime region since the decade-long turmoil that followed the break-up of Yugoslavia. Organised crime is also receding as a major threat. The smuggling of drugs, guns and human beings through the region is in decline, although the Balkans remains the premier transit zone for heroin destined for Western Europe (about 100 tons each year). Heroin trafficking by ethnic Albanians, the single most notorious Balkan crime phenomenon, has apparently diminished in its scale, based on an analysis of statistics provided by West European law enforcement agencies. Human trafficking seems to have been at its peak in the 1990s - the numbers of victims detected in Western Europe indicate a greatly reduced flow from previous estimates.⁴⁶ There has been progress in the fight against trafficking in human beings in Albania, which the government has continued to investigate and prosecute vigorously.⁴⁷ In general, levels of crime against people and property (like homicide, robbery, rape, burglary, and assault) are lower than in Western Europe, and the number of murders is falling throughout the region. The UNODC report attributes the lower levels of crime to a number of specific regional factors; greater regional stability and democracy have put an end to war profiteering; assistance from the international community has helped place the region on the path to a fast recovery and; closer integration with the rest of Europe has opened borders and reduced the lure of illicit trans-frontier trade.⁴⁸

3.7.12 Sufficiency of protection. The Albanian Government has undertaken several measures to combat organised crime and corruption and there are mechanisms in place to deal with police officers who are corrupt. Prosecutions against corrupt police officers and government officials are evident. However, some links between rogue officials and organised crime may remain and where there are links to serious organised crime or corruption the state may not be able to provide sufficient protection.

3.7.13 Internal relocation. The law provides for freedom of movement within Albania and the Government generally respected this right in practice. Internal migrants must transfer their civil registration to their new community to be entitled to government services, and must prove they are legally domiciled either through property ownerships, a property rental agreement or utility bills. Many cannot provide this proof and thus lack access to essential services.⁴⁹ Whilst there may be some difficulties accessing local services, internal relocation to escape localised threats from organised criminals/gangs or the attention of provincial rogue police will not generally be unduly harsh.

3.7.14 Conclusion. The Albanian authorities are making significant efforts to combat organised crime and corruption and, as a result, are able to provide sufficient protection in most cases. However, relatively high levels of organised crime remain within Albania and such 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. However cases should only be certified as clearly unfounded where it is clear that in the individual case there is sufficiency of protection or that internal relocation is clearly available.

⁴⁵ UNODC Report 'Crime and its impact on the Balkans', published May 2008

⁴⁶ UNODC Report 'Crime and its impact on the Balkans', published May 2008

⁴⁷ EU Progress Report 2007

⁴⁸ UNODC Report 'Crime and its impact on the Balkans', published May 2008

⁴⁹ USSD Albania 2007

3.8 Involvement with opposition political parties

- 3.8.1** 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.
- 3.8.2 *Treatment.* See 2.1 - 2.2.** A number of political parties operate throughout the country (main parties grouped by the coalition to which they currently belong are listed in the FCO Country Profile 28 February 2008). Political parties operate without restriction or outside interference. The two major parties differ more with regard to the personalities of their respective leaders rather than political platforms or ideologies.⁵⁰
- 3.8.3 *Sufficiency of protection.*** The Democratic Party is currently in power in Albania and although the authorities do not legislate against, prosecute or persecute opposition political parties some rogue elements of its local/regional organisation may do so. However, there is no evidence of this nor any evidence that individual members of any political party would not be able to access protection from the authorities should they need it.
- 3.8.4 *Internal relocation.*** The law provides for freedom of movement within Albania and the Government generally respected this right in practice. Internal migrants must transfer their civil registration to their new community to be entitled to government services, and must prove they are legally domiciled either through property ownerships, a property rental agreement or utility bills. Many cannot provide this proof and thus lack access to essential services.⁵¹ Whilst there may be some difficulties accessing local services, internal relocation to escape localised threats from members of an opposing political party will not generally be unduly harsh.
- 3.8.5 *Conclusion.*** Albania is a parliamentary democracy and political parties are able to register and contest elections. There is no evidence of persecution or a breach of Article 3 of the ECHR. 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 Humanitarian Protection and is likely to be clearly unfounded.

3.9 Trafficking of women

- 3.9.1** 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.

Treatment. Albania is no longer considered a major transit country for human trafficking but remains a source country, although less so than in recent years.⁵² The Albanian government has undertaken significant efforts to fight this crime more efficiently and effectively created a legislative, organisational and operational framework covering the areas of investigation and prosecution, protection and prevention. Cross-border cooperation with neighbouring countries has improved with the signing of a number of bilateral agreements mainly in the fields of law enforcement and border control. First results of the country's overall efforts indicate continued vigorous efforts mainly in investigation and prosecution, whereas the government's efforts to protect and reintegrate victims remain modest.⁵³ Despite progress, trafficking in human beings persists and this remains a significant challenge for Albania. The authorities recognise this: in February 2007, Albania became the first country to ratify the Council of Europe Convention on Action against Trafficking in Human Beings (and the convention against transnational organised crime). It has a comprehensive national anti-trafficking strategy and an improved legal framework to protect the rights of victims of trafficking.⁵⁴ As a result of the national

⁵⁰ Freedom House: Freedom in the World 2008

⁵¹ USSD Albania 2007

⁵² USSD Albania 2007

⁵³ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.07, pub June 2008

⁵⁴ FCO Human Rights Annual Report 2007

strategy to combat the problem, there has been a reduction in trafficking across the Adriatic and Ionian seas over the last few years. However, although transnational trafficking is on the decline, internal trafficking is reported to be increasing. A number of traffickers have been successfully tried and convicted in Albanian courts but, due to weak witness protection programmes, only about 10% of victims have been willing to testify against trafficking defendants.⁵⁵ (see Section on Organised Crime/Corruption above)

- 3.9.2** Since 2004, trafficking in human beings has been a criminal offence. The law provides for penalties of 5 to 15 years' imprisonment for trafficking in persons; 7 to 15 years' imprisonment for trafficking women for prostitution; and 15 to 20 years' imprisonment for trafficking in minors. Aggravating circumstances, such as the kidnapping or death of a victim, can raise the severity of the punishment to a maximum of life in prison. Prison sentences may be supplemented by fines. The law provides that a government official convicted of exploitation for prostitution receives 125% of the standard penalty. The law also mandates the sequestration and confiscation of assets derived from organised crime and trafficking. The Agency for the Administration of Sequestered and Confiscated Assets administers sequestered and confiscated assets, including those of persons found guilty of trafficking related crimes. Despite several court-ordered seizures during 2006, however, there were no cases of forfeited assets successfully liquidated and the agency did not distribute any funds to victims.⁵⁶
- 3.9.3** By the end of 2007 police referred 51 new trafficking cases to the General Prosecutor's Office, which investigated 65 persons on trafficking charges. Authorities referred 43 cases to the Serious Crimes Court; the court prosecuted 62, of whom 57 were convicted, sentences ranging from 2 to over 10 years imprisonment. The government took action during 2007 against police officers, customs officials and border police who facilitated trafficking by accepting bribes, tipping off traffickers or furnishing travel documents to traffickers.⁵⁷ In 3 separate cases, the Ministry of Interior arrested 12 police officers accused of human trafficking in 2007, including 6 officers with direct responsibility for anti-trafficking at the border. Prosecution of these and other cases remain ongoing.⁵⁸
- 3.9.4** In addition to improving the legislative framework, Albania has created an institutional framework to tackle trafficking. The Office of the National Coordinator for the Fight against Trafficking in Human Beings was established in October 2005 within the Ministry of Interior as the main coordinating body and focal point for anti-trafficking activities. A 3-year renewable and adaptable national strategy was adopted for 2002-2005 and introduced a comprehensive and ambitious action plan to implement the goals. The government has a child trafficking strategy and action plan based on UN Children's Fund (UNICEF) guidelines that are intended to prevent recruitment of potential victims and protect victims, including those returned from abroad. A National Referral Mechanism was established for the referral of potential victims for assistance and protection services as well as long-term rehabilitation.⁵⁹ However, coordination problems and lack of resources continued to hamper the complete implementation of the National Referral Mechanism.⁶⁰
- 3.9.5** The National Reception Centre for Victims of Trafficking was established for reception and initial assistance services for victims including legal and other counselling, health provision, and education including professional skills training. In the implementation of its many programmes and efforts, the government is cooperating widely with both international organisations and local NGOs. There are plans to create a central database of data on trafficking. A victim case-tracking database is being developed with the support of the OSCE but is not yet fully operational. The government stepped up its efforts during 2007 to secure effective identification of victims.⁶¹ An Evaluation Report on the implementation of the National

⁵⁵ Freedom House: Freedom in the World 2008

⁵⁶ USSD Albania 2007

⁵⁷ USSD Albania 2007

⁵⁸ US Trafficking in Persons Report 2008

⁵⁹ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.07, pub June 2008

⁶⁰ USSD Albania 2007

⁶¹ Report by the Commissioner for Human Rights 27.10.07-2.11.07

Strategy against Trafficking in Human Beings 2005-2007 sets out in detail the government's achievements to date. An updated National Strategy on Combating Trafficking in Persons for 2008-2010 building upon the framework of the previous Strategy was launched in May 2008. Iva Zajmi, Deputy Minister of the Interior and National Co-ordinator for Anti-Trafficking of Humans has stated that the Strategy requires, for the first time, financial budgeting for the implementing and supporting agencies.⁶²

- 3.9.6** Between 2005 and 2007 Albania signed and ratified 14 agreements and conventions of international and regional cooperation in a number of areas. A number of bilateral agreements facilitating cooperation with neighbouring police forces from Italy, Montenegro, Macedonia, Greece and the UK have been signed, resulting in improved cross-border cooperation in law enforcement.⁶³ In March 2007 the Albanian parliament approved a bill promoting cooperation with Europol in an effort to address organised crime syndicates. This has allowed a considerable number of international arrest warrants to be executed, resulting in extradition of suspects to Albania to face court proceedings.⁶⁴ The Home Office announced in February that the UK had been successful in its bid to lead the EU Police Mission in Albania for the next 3 years, in partnership with the Albanian government. The Mission will work with the Albanian police to deal with the threat from organised crime in-country, thereby helping to improved Albanians' confidence in their police service.⁶⁵
- 3.9.7** Other measures taken by the Albanian government include: steps to enforce mandatory education and increase participation of marginalised groups; implementation of awareness raising campaigns targeting at risk groups; combat of corruption resulting in administrative and criminal sanctions to officials found complicit in human trafficking; the Ministry of Interior took over funding of the national toll-free 24-hour hotline for victims and potential victims of trafficking from the UN Office for Drugs and Crime and IOM in November 2007; the Ministry of Education includes in its high school curriculum awareness of the dangers of trafficking; the government continued implementation of an anti speedboat law, outlawing virtually all water crafts along the Albanian coast and leading to a significant drop in trafficking in persons to Italy, most of which had been accomplished in the past by boat. The Ministry of Labour, Social Affairs and Equal Opportunities implemented a micro-loan programme for female victims of trafficking to help them start small businesses, foster reintegration and prevent re-trafficking.⁶⁶
- 3.9.8** The Government's ability to fund protection and assistance services was limited; however it operated one victim care shelter in Tirana. The government provided sporadic in-kind assistance to 4 additional NGO-managed shelters, such as the use of government buildings and land.⁶⁷ Several NGOs were active in addressing victims' needs, including medical care, reintegration services as well as temporary shelter. The International Organisation for Migration (IOM) operated a re-integration centre in Tirana that provided counselling and medical services, job training, and some legal assistance.⁶⁸ In July 2007, five shelters signed a Memorandum of Understanding to strengthen cooperation and coordination among the shelters. These included the Vatra 'Hearth' Psycho-Social Centre in Vlora, the 'Different and Equal' association in Tirana, 'Another Vision' association in Elbasan, the 'Life and Hope' shelter in Gjirokastra and the National Reception Centre for Victims of Trafficking.⁶⁹
- 3.9.9** The identified victims all stem from the country's poorer regions and disadvantaged backgrounds with no or only rudimentary education. Poverty, lack of access to education and family circumstances continued to contribute to the causes of trafficking. Victims are trafficked to Greece, Italy, Macedonia and Kosovo, with many trafficked onward to Western European

⁶² The Albanian Initiative: Coordinated Action against Human Trafficking (CAAHT), Annual Conference Report 2008

⁶³ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.07, pub June 2008

⁶⁴ UNODC Report 'Crime and its impact on the Balkans', published May 2008

⁶⁵ <http://www.egovmonitor.com/node/17357>

⁶⁶ US Trafficking in Persons report 2008/EU Progress Report 2007

⁶⁷ USSD Albania 2007

⁶⁸ US Trafficking in persons report 2008

⁶⁹ The Albanian Initiative: Coordinated Action against Human Trafficking (CAAHT), Annual Conference Report 2008

countries.⁷⁰ The main forms of recruitment of female victims of trafficking continued to be marriage under false pretences or other false romantic relationships to lure victims abroad for sexual exploitation. Due to the poor economic situation, men and women from organised criminal groups also lured many women and girls from all over the country by promising them jobs abroad.⁷¹

- 3.9.10** According to the USSD 2007, the Albanian government did not prosecute victims of trafficking and refrained from discriminatory treatment against them. However, it further stated that victims of trafficking often faced significant stigmatisation from their families and society. According to several shelters, the protection of returned victims who reported their traffickers continued to be a serious problem. Perpetrators continued to threaten victims and many victims were afraid to prosecute their cases in the judicial system because of this.⁷² Although the numbers of trafficked Albanian women and children appears to be decreasing, credible reports indicate that many are faced with the danger of being recycled into trafficking. However, the extent to which re-trafficking exists is undocumented and unclear.⁷³
- 3.9.11** Four factors have been identified as hampering sustainability of efforts made by the Albanian government to combat human trafficking: lack of determined implementation of the National Action Plan and the national referral mechanism, shortcomings in the identification of potential trafficking victims, lack of resources and police attitudes not being conducive to children's and other victims' protection.⁷⁴ The Trafficking in Persons Report (TPR) issued in June 2008 stated that the government does not fully comply with the minimum standards for the elimination of trafficking but is making significant efforts to do so.⁷⁵
- 3.9.12** The TPR moved Albania from Tier 2 to the Tier 2 Watch List this year for three reasons: its failure to provide evidence of increasing efforts to combat trafficking in persons over the past year, particularly in the area of victim protection; the government had not demonstrated that it was vigorously investigating or prosecuting complicit officials; and also that the government did not appropriately identify trafficking victims during 2007. However, the latter failure arose from an incorrect application by anti-trafficking police of the national referral mechanism for a number of months, in that only those victims proactively identifying themselves as such were recorded.⁷⁶ There is no evidence that this problem is still continuing. The need to improve the identification process has already been acknowledged in the government's own Evaluation Report. The TPR also criticised the government for allowing its national anti-trafficking plan to expire. This was replaced in May by the National Strategy on Combating Trafficking in Persons for 2008-2010.
- 3.9.13 *Sufficiency of protection.*** Within the last few years, the Albanian government has introduced a comprehensive legislative and operational framework to provide protection against traffickers. A number of traffickers have been successfully tried and convicted in Albanian courts. The sentences for convicted traffickers were appropriately severe, ranging from 5 years' imprisonment with fines to 16 years' imprisonment with fines.⁷⁷ The government has also demonstrated its commitment to combating corruption by imposing administrative and criminal sanctions on officials found complicit in human trafficking
- 3.9.14 *Internal relocation.*** The law provides for freedom of movement within Albania and the Government generally respected this right in practice. Internal migrants must transfer their civil registration to their new community to be entitled to government services, and must prove they are legally domiciled either through property ownerships, a property rental agreement or utility

⁷⁰ US Trafficking report 2008

⁷¹ US Trafficking report 2008

⁷² USSD 2007

⁷³ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.07, pub June 2008

⁷⁴ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.07, pub June 2008

⁷⁵ US Trafficking report 2008

⁷⁶ US Trafficking report 2008

⁷⁷ US Trafficking report 2008

bills. Many cannot provide this proof and thus lack access to essential services.⁷⁸ Whilst there may be some difficulties accessing local services, internal relocation to escape localised threats will not generally be unduly harsh. The government operates one victim care shelter in Tirana and several NGOs are active in addressing victims' needs, including medical care, job training, reintegration services as well as temporary shelter.⁷⁹

3.9.15 **Caselaw.**

VD (Trafficking) Albania CG [2004] UKIAT00115. 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. The Tribunal noted the 2003 (at that time CG) case of **UKIAT 00023 K** (see below) but found that this turned on the particular facts of that case and should not be relied upon in support of the proposition that, in general terms, there is a real risk that a particular individual would become a victim of trafficking or that there is in general insufficient protection for trafficked victims.

K [2003] UKIAT 00023 (withdrawn as country guidance on 1 December 2004) the IAT accepted that women from the north east of Albania form a particular social group.

3.9.16 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. The effectiveness of these measures is likely to have contributed to the decline in trans-national trafficking. It is considered that these factors in addition to the guidance given in the case of VD (above) suggest that, in general, sufficiency of protection is available for individuals in this category and that most applicants will be able to relocate to escape any localised threats. A grant of asylum will not, therefore, be appropriate. A grant of Humanitarian Protection may be appropriate where the individual circumstances indicate that return is likely to breach Article 3. Claims will only be clearly unfounded where the claimant clearly has access to sufficiency of protection or internal relocation is clearly available.

3.10 **Victims of domestic violence**

3.10.1 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.

3.10.2 Treatment. Domestic violence against women, including spousal abuse, remained a serious problem in 2007. In many communities, particularly those in the north east, women were subject to societal discrimination as a result of traditional social norms that considered women to be subordinate to men. In 2006, parliament with the assistance of the Women's Legal Rights Project, enacted an expansion of the Law against Domestic Violence, adding administrative penalties such as protection orders. The law, which entered into force on 1 June 2007 helped raise awareness of the issue and help available for victims through the legal system and NGOs. Implementation of the law is still in the early stages and has been sporadically enforced. Further parliamentary and executive measures are necessary to complete the full scheme of support for victims.⁸⁰ In November 2007 a special unit dealing with

⁷⁸ USSD Albania 2007

⁷⁹ Country of Return Information Project: Country Sheet May 2007

⁸⁰ USSD Albania 2007

domestic violence and the protection of minors was established within the Tirana police force.⁸¹

- 3.10.3** The law criminalises rape, including spousal rape, however spousal rape was not reported or prosecuted in practice, and often neither the authorities nor the public considered it to be a crime, subsequently spousal rape was often not reported or prosecuted in practice. The law imposes penalties for rape and assault depending on the age of the victim. For rape of an adult, the prison term is 3 to 10 years.⁸²
- 3.10.4** The law provides equal rights for men and women under family law, property law and in the judicial system. In practice cultural traditions resulted in men often being favoured over women. Women were not excluded, by law or in practice, from any occupation; however, they were not well represented at the highest levels of their fields. The law mandates equal pay for equal work; however the government and employers did not fully implement this provision. According to a 2006 AI report, women earned 20 to 50 per cent as much as men. Men owned 92 per cent of the land and earned 84 per cent of the gross domestic product, although women continued gradually to gain economic power.
- 3.10.5** The government has a department of equal opportunities at the Ministry of Labour, Social Affairs and Equal Opportunity which covers women's issues, including domestic violence. The government did not fund specific programmes to combat domestic violence or assist victims although NGOs did. The Women to Women organization, a Sweden-based NGO, reported that there were approximately six domestic violence hot lines that operated throughout the country. The hot line that served mainly the northern part of the country received approximately 24 calls per month from women reporting some form of violence. Shtreheza, an NGO that operated two shelters for battered women in Tirana, reported an increase in cases of domestic violence, mainly due to better awareness and access to help.⁸³
- 3.10.6 Sufficiency of protection.** The law guarantees equal rights for men and women and promotes equal opportunities in order to eliminate direct and indirect discrimination and in general the authorities are willing to offer sufficiency of protection to women in Albania. However, discrimination and violence against women persist especially in the north of the country and individuals may not be able to access sufficiency of protection due to cultural constraints. In some cases, the actions of individual police officers may not be appropriate and therefore may not amount to sufficient protection.
- 3.10.7 Internal relocation.** The law provides for freedom of movement within Albania and the Government generally respected this right in practice. Internal migrants must transfer their civil registration to their new community to be entitled to government services, and must prove they are legally domiciled either through property ownerships, a property rental agreement or utility bills. Many cannot provide this proof and thus lack access to essential services.⁸⁴ Whilst there may be some difficulties accessing local services, internal relocation to escape localised threats from family members will not generally be unduly harsh.

3.10.8 Caselaw.

DM (Sufficiency of Protection – PSG – Women – Domestic Violence) Albania CG [2004] UKIAT 00059 Heard on 15 March 2004, promulgated on the 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

⁸¹ Amnesty International Annual Report 2008

⁸² USSD Albania 2007

⁸³ USSD Albania 2007

⁸⁴ USSD Albania 2007

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 [2002] 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.

3.10.9 Conclusion. There is societal discrimination and violence against women in Albania particularly in the north of the country and although in general the authorities are able and willing to offer sufficiency of protection, there may be individual cases in which the attitude of individual police officers may limit the protection offered. 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. Most claimants will be able to internally relocate to escape localised threats from members of their family. Therefore, in most cases a grant of asylum or Humanitarian Protection will not be appropriate and cases are likely to be clearly unfounded.

3.11 Gay men

3.11.1 Some claimants will apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of the Albanian authorities or ordinary Albanian citizens due to their sexual orientation.

3.11.2 Treatment. As in previous years, NGOs claimed that police targeted the homosexual community for abuse. According to the Albanian Gay and Lesbian Association, the police arbitrarily arrested homosexuals and then physically and verbally abused them while they were in detention. The Albanian Human Rights Group reports that during the year police harassed members of the Albanian Gay and Lesbian Association and other known homosexuals, sometimes searching their homes without a warrant.⁸⁵

3.11.3 It was reported in June 2008 that same-sex consensual relations have been decriminalised by the Albanian Parliament but an open discussion regarding homosexuality remains taboo in Albania. Since 2004 the age of consent for heterosexual and homosexuals is 14. Albania does not recognise marriages or civil unions of any kind between same sex partners. A draft anti-discrimination law has been submitted to the parliament; among its provisions it addresses equal opportunities for all irrespective of sexual orientation.⁸⁶

3.11.4 LGBT persons are routinely subject to intolerance, physical and psychological violence and seen by many persons as suffering from an 'illness.' There were reports from the OSCE Mission, human rights NGOs and LGBT groups whom the Commissioner met that the LGBT community suffers abuses not only from the general public, but that there have also been cases of mistreatment by the police. The recent Naser Muhed Saidik Almalak case (relating to the arrest of 5 individuals in Tirana) highlighted shortcomings in police arrest and detention procedures when dealing with LGBT persons, but also discrimination, arbitrariness, maltreatment and the public disclosure of the health status of some of the arrested persons.

3.11.5 Sufficiency of protection. Although homosexuality is legal in Albania there is continuing societal discrimination against gay men and in some circumstances the attitude of individual police officers may limit the effectiveness of any protection offered by the state.

⁸⁵ USSD Albania 2007

⁸⁶ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.0, pub June 2008

3.11.6 Internal relocation. The law provides for freedom of movement within Albania and the Government generally respected this right in practice. Internal migrants must transfer their civil registration to their new community to be entitled to government services, and must prove they are legally domiciled either through property ownerships, a property rental agreement or utility bills. Many cannot provide this proof and thus lack access to essential services.⁸⁷ Whilst there may be some difficulties accessing local services, internal relocation to escape localised threats from a rogue local police or ordinary members of the Albanian population will not be unduly harsh.

3.11.7 Caselaw.

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.

3.11.8 Conclusion. There is societal discrimination against gay men in Albania and the police may not be able to offer sufficient protection in all cases. However, this discrimination will generally not amount to persecution. The IAT found in **UKIAT 00067** that there was no evidence to support the view that gay men would be subject to any actions from either the authorities or the populace that would amount to persecution or breach Article 3 of the ECHR. However, there cannot be said to be an openly gay and lesbian community in Albania and there is no evidence of national protection specifically in relation to gay men and lesbians. In the circumstances, where such a claim is refused it will not normally be appropriate to certify as clearly unfounded.

3.12 Prison conditions

3.12.1 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.

3.12.2 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 claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.

3.12.3 Consideration. Despite some improvements, conditions inside Albania's prisons and detention centres remained poor during 2007. Problems included overcrowding, poor hygiene, air quality, insufficient resources and access to medical care. Physical abuse of prisoners and corruption of prison guards and officials remained a problem. In 2006, 178 guards and officials were dismissed for corruption or misconduct.⁸⁸ At the end of 2007 there were 4,554 people in pre-trial detention centres and prisons when capacity allows for a maximum of 3,616.⁸⁹

3.12.4 In all places of detention (arrest, pre- and post-trial) living conditions and infrastructure were, in general, sub-standard. The government was investing in refurbishing old buildings or construction of new prison facilities across the country, but sufficient results yet remained to be seen. The Directorate General of Prisons has drafted "Standing Rules" for a series of prisons aiming to improve living conditions, to promote humane treatment and to prevent degrading treatment, use of violence and torture. There has been some progress in the implementation of European Committee for the Prevention of Torture (CPT)

⁸⁷ USSD Albania 2007

⁸⁸ USSD Albania 2007

⁸⁹ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.07, pub June 2008

recommendations, yet many remain unaddressed. An inter-ministerial supervisory commission was established in 2006 charged with the coordination of institutions responsible for the implementation of CPT recommendations. As a rule, the government was investigating every corruption allegation through internal control mechanisms.⁹⁰

3.12.5 Improvements noted to date include: overcrowding in places of arrest was reduced due to the completion of transfer of pre-trial detention from the Ministry of Interior to the Ministry of Justice; in every district nationwide the government is building new prisons or adapting existing ones; the government had issued a decree addressing both quantity and quality of food in detention places; the 1996 Mental Health Act was finally being implemented and a new institution for the mentally disabled was being constructed; the government also planned to increase the use of alternatives to imprisonment, thus tackling overcrowding from this perspective as well. Efforts were ongoing to improve the juvenile justice system with the pilot project introduction of distinct and separate juvenile justice sections at 6 district courts; moreover, the government was working with UNICEF to draft a special law on juvenile justice.⁹¹

3.12.6 Conclusion. Whilst 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, 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 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. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

4.2 With particular reference to Albania the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period as set out in relevant Asylum Instructions.

⁹⁰ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.07, pub June 2008

⁹¹ Report by the Commissioner for Human Rights/visit to Albania 27.10.07-2.11.07, pub June 2008

4.4 Medical treatment

- 4.4.1** Claimants may claim they cannot return to Albania due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.
- 4.4.2** The Albanian population enjoys a reasonably long life expectancy, the longest in the Balkans, only 2 years below the EU average. A number of vaccine-preventable diseases are still common. There are indications of an improvement in infant mortality over the past decades but Albania's infant mortality rates continue to compare unfavourably with other countries in the region. There has been a significant shift in the causes of death over the past decade; cardiovascular problems and cancer have replaced infectious and parasitic disease as the leading causes of death.⁹²
- 4.4.3** Albania ranks low among HIV/AIDS prevalence rate countries, but it exhibits all the risk factors that may lead to a rapid increase. The reported incidence (0.1%) is low but underreporting is likely and there are indications that the incidence of the disease is on the rise. Sixty per cent of the 116 HIV cases registered were reported between 1993 and 2003. 30 new cases were reported between November 2003 and July 2004.⁹³
- 4.4.4** Since the 1990s government services, including health care, have suffered several setbacks. During this transitional period, almost a quarter of the city health centres and two thirds of the village health posts were destroyed or in bad condition. Most hospitals were reduced to providing emergency care only and about 30% of the country's medical staff abandoned their posts.⁹⁴
- 4.4.5** A basic primary health care system was established prior to 1990. Albanian health care services are delivered in poor facilities with inadequate equipment. Most of the doctors have not been trained in general practice. A typical health post is staffed by a nurse or midwife and provides maternity care, child health services and immunisations. In urban areas, large polyclinics provide specialist outpatient care and also act as the first point of contact for medical care. Tertiary care (specialised consultative care) remains quite limited and is located mainly in Tirana. Secondary grade care is provided mainly by district hospitals of which there are 20 with 100 to 400 beds, and 22 smaller hospitals. District hospitals provide a minimum of 4 basic services; internal medicine, paediatrics, general surgery and obstetrics/gynaecology.⁹⁵
- 4.4.6** Hospitals remain publicly owned, most of them by the Ministry of Health. It plans to reorganise hospitals at 3 levels: national, regional and district. In spite of the relatively low numbers of hospital beds, Albania has a low hospital admission rate. In 2005 the country had 671 health centres, 1675 ambulances, 50 polyclinics, 1845 child consulting rooms and 51 hospitals with a total of 9284 beds.⁹⁶
- 4.4.7** Private health services reappeared in Albania at the beginning of the 1990s. New legislation and reform of the health sector paved the way for the development of various types of private services and facilities. The private sector provides a good distribution of drugs via a network of about 750 private pharmacies around the country. Dental care is almost entirely privatised although free dental care is available in emergencies and for children up to the age of 18 in school-based clinics. Private medical care has been developing rapidly. Most private services are provided in diagnostic centres and specialised outpatient clinics located in large urban

⁹² Country of Return Information Project: Country Sheet May 2007 (a network of NGOs for the collection and transfer of specific information on reintegration possibilities for potential returnees)

⁹³ Country of Return Information Project: Country Sheet May 2007

⁹⁴ Country of Return Information Project: Country Sheet May 2007

⁹⁵ Country of Return Information Project: Country Sheet May 2007

⁹⁶ Country of Return Information Project: Country Sheet May 2007

areas, particularly Tirana. There are no private hospitals or inpatient facilities yet in Albania. Most private sector facilities are well equipped and organised.⁹⁷

- 4.4.8** Social health insurance was introduced in 1995. The Health Insurance Institute (HII) is a national statutory fund which was granted autonomy as a quasi-governmental body accountable to parliament. Insurance coverage is being extended in a series of planned stages. Individual contributions to the national fund are, in principle, compulsory but very few people are currently insured in Albania. Official figures estimate 600,000. Most of the unemployed, including children, women who work at home, and the elderly, are automatically covered by the state budget.⁹⁸
- 4.4.9** The Article 3 threshold will not be reached in the great majority of medical cases and a grant of Discretionary Leave will usually not be appropriate. Where a case owner considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment, making 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.

5. Returns

- 5.1** 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, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.2** Albanian nationals may return voluntarily to any region of Albania at any time by way of the Voluntary Assisted Return and Reintegration Programme (VARRP) implemented on behalf of the UK Border Agency by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Those wishing to avail themselves of this opportunity for assisted return should be put in contact with the IOM offices in London on 0800 783 2332 or www.iomlondon.org.

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