



Institute for Democracy and Mediation
Instituti për Demokraci dhe Ndërmjetësim

POLICY BRIEF

Vulnerable Asylum Seekers and Irregular Migrants in Albania

Trends, Challenges, and Policy Solutions

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INTRODUCTION

The ongoing migration crisis is one of the most pressing global challenges on the international agenda today. More than one million refugees and migrants, most of them fleeing war and terror in Syria, have arrived in the European Union since 2015. The staggering number of people who moved to escape danger in their countries produced one of the biggest humanitarian crises since the Second World War, sparking tensions across Europe, mostly related to political cohesion, solidarity, and the resilience of hosting countries.

Since 2015, a growing number of migrants continue to use Western Balkan countries as transit route to Western Europe. During the first quarter of 2018, Albania has witnessed an increased influx of irregular migrants entering the country, mostly via the southern border with Greece.¹ This paper analyses recent and emerging irregular migration influxes in Albania, mapping out trends, challenges, and policy options, with a particular focus on vulnerable groups of asylum seekers and irregular migrants, such as unaccompanied and separated children, women, and minors who might potentially be victims of trafficking, exploitation, and abuse.

Despite the fact that the EU member states have stepped up their efforts to put forward a common European migration policy, they are still struggling to respond to the influx of migrants in a timely manner. Yet, three years after the peak of the refugee crisis in 2015, EU states continue to disagree on how to handle irregular migration from outside the Union and how to best share the burden among themselves.²

The migration crisis became a major focus of international politics. Ongoing concerns that migrants might pose a threat to the national security, economy, and cultural values of the destination countries, have rapidly increased xenophobic sentiments and encouraged the rise of far-right, anti-immigrant parties across the EU. Many member states reintroduced border controls, erected fences to hustle away migrants,

1 European Commission (2018a). Communication from the Commission to the European Parliament, the European Council and the Council. Progress report on the Implementation of the European Agenda on Migration. Brussels, 16.5.2018. accessed on 20 December 2018, from https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20180516_progress-report-european-agenda-migration_en.pdf

2 The *Dublin Regulation* sets the procedures for asylum applications in the European Union. Yet Spain, Greece, and Italy have been frontline countries of first arrival. The disagreements between EU member states have been the result of an unprecedented increase in the number of refugees and other migrants entering Europe and of unequal distribution of quotas under the Dublin system. For more information on why the EU member states have failed to agree on a common approach to irregular migration, see <https://www.dw.com/en/where-do-eu-countries-stand-on-migration/a-44356857>, accessed on 20 January 2019.

Though the numbers of irregular migrants and asylum seekers have settled down since the peak of 2015, there is an increased activity of irregular transit movement of migrants via the Western Balkan corridor during 2018.

Recently, a growing number of migrants and refugees opt for a new transit path through Albania to make their way towards Western Europe.

In 2018, there was a sudden resurgence in arrivals of women and children, who used Albania as a transit route.

enacted anti-immigration austerity policies³ and implemented other strict measures to impede the surge of irregular migrants. Against this backdrop, the lack of co-ordination and disagreement over the distribution of refugee quotas,⁴ as well as an intensification of security-driven discourses (describing migration as a threat to national sovereignty and state security), have fueled harsh

debates among the EU countries, undermining common, fundamental values such as democracy, solidarity, freedom, and human rights.

Mediterranean countries like Greece, Italy and Spain, which served as the major entry gateway for a vast number of irregular migrants, bore most of the burden of EU's illegal migration. The majority of refugees arrived through the so-called "Western Balkan Route" (WBR), which begins in Turkey, continues through the Balkan countries, and ends in Western or Northern Europe. Given their geopolitical position, the Balkan countries have become a hotspot for irregular migrants seeking alternative routes to enter the EU.⁵ There was an overflow of refugees and migrants in the autumn of 2015, when the majority of nearly 880,000 people crossed from Turkey into Greece, with the majority of them travelling through the Western Balkans to Central and Northern Europe.⁶

Though the numbers have fallen sharply since 2015, reports indicate an increase in irregular transit movements via the Western Balkan corridor during 2018, aiming for the Croatian border and onwards to Slovenia.⁷ These data have been confirmed by movements observed during the first quarter of 2018 in Albania, Montenegro, and Bosnia and Herzegovina.⁸

The influx of irregular migrants intercepted in Albania during 2018 was around 5,730 foreign

3 These include particularly hard-line policies and measures to counteract the irregular entry or stay of migrants into the EU area. For example, France introduced heavy penalties and doubling the time a migrant can be held in detention. Italy has prevented humanitarian ships carrying migrants saved in the Mediterranean from docking in the country's ports. Austria enacted stronger external borders. For more details, see: <https://www.dw.com/en/new-french-immigration-bill-provokes-backlash/a-42714458>, accessed on 20 January 2019.

4 Distribution or 'relocation' among Member States of persons in clear need of international protection. The European relocation scheme reflects the capacity of the Member States to absorb and integrate refugees. For more explanation, see https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_annex_en.pdf, accessed on 22 January 2019.

5 For the main Mediterranean routes of irregular migrants (the Western Mediterranean; Eastern Mediterranean; Central Mediterranean), see <https://epthinktank.eu/2015/04/27/irregular-immigration-in-the-eu-facts-and-figures/>, accessed on 20 January 2019.

6 European Commission (2016). Implementing the European Agenda on Migration: Commission reports on progress in Greece, Italy and the Western Balkan. Retrieved from http://europa.eu/rapid/press-release_IP-16-269_en.htm

European Commission (2018b). Albania 2018 Report. Strasbourg. Retrieved on 20 December 2018, from <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>

7 European Commission, 2018a, op.cit.

8 Ibid.

The massive irregular flows of migrants raise the risk of vulnerable groups falling prey to human trafficking and sexual exploitation. Failure to properly identify the needs of the most vulnerable categories of irregular migrants and asylum seekers enables criminal activities to flourish and leaves these categories defenceless.

nationals, almost five times higher than in 2017.⁹ The share of women and children went up as well in 2018.¹⁰ Many declare to have arrived directly from their country of origin, escaping conflicts. Compared to previous years, the sudden spike in arrivals is mostly due to higher arrival rates of Syrian families as opposed to simply individual travelers.¹¹

Many migrants resort to smugglers and criminal networks to avoid detention and cross borders illegally, often due to a scarcity of other viable and safe avenues for migration. This increases the risk for vulnerable categories (such as unaccompanied and separated children, women, and minors) to fall prey to human trafficking and sexual exploitation. Vulnerable categories need special protection and assistance, as their human rights are at particular risks of being violated. Therefore, the failure of state authorities to properly identify the most vulnerable categories of irregular migrants and asylum seekers, as well as their psycho-social and legal needs, at an early stage and during the pre-screening process at the cross-border points, allows criminal activities to flourish and potentially exacerbate the already precarious situation of these groups. Moreover, inappropriate differentiation of these groups can hamper the follow-up steps that would channel them into

appropriate services, and further leave them in 'limbo'.

This study relies on desk research, including legal and political reports, journals, and policy research studies, in order to map the situation and give an overview with regards to the existing literature and empirical research conducted in Albania on the vulnerable categories of asylum seekers and irregular migrants. In addition, it draws on 12 face-to-face, semi-structured interviews with key national stakeholders in Albania (representatives from border and migration authorities, law enforcement agencies, institutions in charge of child protection, civil society, and the United Nation High Commissioner for Refugees (UNHCR) in order to get more insights into the current migration influxes and, more particularly, the challenges of vulnerable categories of immigrants such as unaccompanied minors and women.

The next section provides an overview of recent migration flows in Albania followed by a discussion on the challenges that affect vulnerable categories and concluding with policy recommendations to address identified problems.

9 Interview with senior official from Border and Migration Authority in Albania, 17 January 2019.

10 Ministry of Interior in Albania. (2018). National Strategy on Migration Governance and Action Plan 2019-2022. Retrieved on 05 February 2019, from <https://konsultimipublik.gov.al/Konsultime/Detaje/116>

11 Interview with UNCHR representative, 22 December 2018.

TRENDS: ALBANIA ON THE WESTERN BALKAN ROUTE

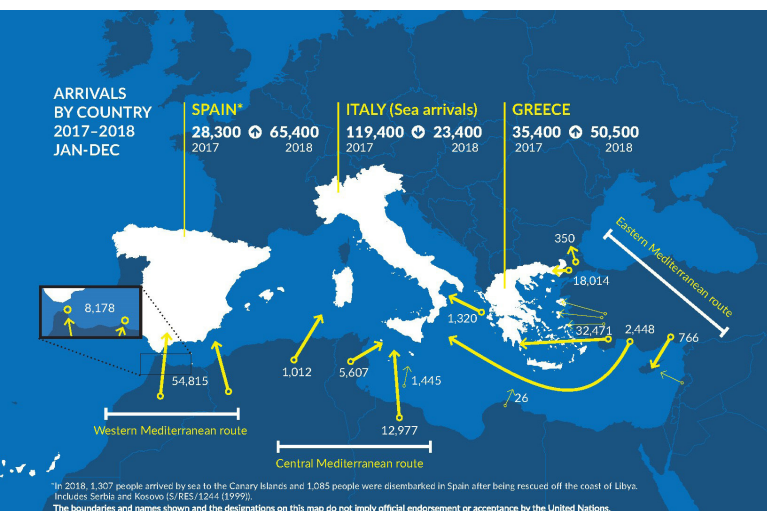


Figure 1. Arrivals by Country 2017-2018 (UNCHR, 2018)

In the first half of 2018, most refugees and migrants arrived in Europe via Greece. Almost 22,000 arrivals, by land or sea, were recorded in Greece at the end of June 2018, compared to 17,900 in Spain and 16,600 in Italy, during the same period. However, by the end of July, Spain had become the primary entry point for refugees and migrants into Europe, with around 27,600 arrivals, compared to 26,000 in Greece and 18,500 in Italy.¹² The surge of refugees and migrants entering Greece contributed to an increase in the number of arrivals in the Western Balkans region as well.

As a result, the European Parliament underlined

the important role of the Western Balkans countries in its migration agenda, by emphasising the need to strengthen cooperation in the fight against migrant smuggling and trafficking in human beings along the Western Balkans route.¹³ The transit pathway for migrants and refugees seeking international protection put great pressure on the Balkans states to handle the unprecedented flows of irregular migrants. Although in terms of magnitude the traffic of refugees through the Western Balkan route peaked in 2015, when the region became the primary transit route for mixed irregular migratory flows from the Eastern Mediterranean into the EU, the wave has started to escalate again in 2018.¹⁴ This hints at a revitalisation of irregular flows. As such, it is important to draw on the lessons learned about managing unprecedented peak of irregular migrants in 2015 and build a comprehensive approach for systematically managing irregular migrants, while also strengthening mechanisms for refugee protection, especially for the most vulnerable groups.

Migrants and refugees traveling from Greece to Albania continue their journey through Montenegro, Bosnia and Herzegovina, and Croatia to reach Western European countries such as Austria and Germany. Compared to last year, more cases of irregular border crossing along the Western Balkan route have been reported in 2018, especially on the newly emerged paths (that is,

- 12 UNHCR (2018). Desperate Journeys January – August 2018 Refugees and migrants arriving in Europe and at Europe's border, accessed on 10 December 2018, from https://data2.unhcr.org/en/documents/download/65373#_ga=2.5993333.75710540.1546799348-1282330311.1523825154
- 13 European Parliament (2018). The European Council and the Western Balkans Overview of discussions since the Lisbon Treaty, accessed on 05 February 2019, from [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/615678/EPRS_BRI\(2018\)615678_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/615678/EPRS_BRI(2018)615678_EN.pdf)
- 14 Šabić, S and Borić, S (2016). At the Gate of Europe: A Report on Refugees on the Western Balkan Route. Zagreb: Friedrich Erbert Stiftung, SOE, accessed on 10 December 2018, from https://www.irmo.hr/wp-content/uploads/2016/05/At-the-Gate-of-Europe_WEB.pdf.



Figure 2. Routes in use through South Eastern Europe (UNHCR, 2018)

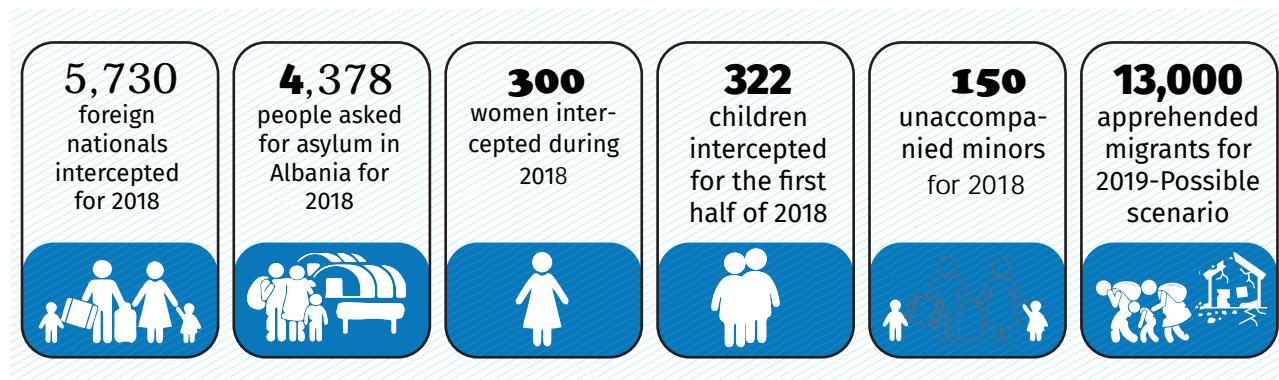
Albania, Montenegro and onwards to the EU).¹⁵ With the rise in the number of irregular migrants transiting through the Western Balkans, the number of criminal organisations facilitating their movement has also increased.¹⁶

Albania has been affected by mixed migration flows,¹⁷ which include, above all, refugees and asylum seekers, migrants, unaccompanied and separated minors, trafficked victims, and persons.

Like its Balkan neighbours, Albania is not a destination country, but mainly a transit one. In the past few months, the number of migrants and refugees sneaking across the Greek – Albanian border and intercepted by the Border and Migration Police in Albania has increased significantly.¹⁸ Most of the apprehended migrants come from Syria, followed by Pakistan, Iraq, Algeria, Libya, Morocco, Palestine, Afghanistan, Yemen, and Iran.¹⁹ According to UNHCR Albania, the country is managing the migrant influx in accordance with international and EU standards, guaranteeing them the right to seek asylum.²⁰

During 2018, around 5,730 foreign nationals have been intercepted in Albania, out of which 15% of arrivals were women and children (around 300 women and 150 unaccompanied minors) a number almost five times higher than in 2017. During 2018, 4,378 people asked for asylum in Albania, compared to 307 during the entire 2017. Moreover, the number of arrivals for the first half of 2019 is around 3500, out of which 2600 have lodged asylum requests.²¹

Given such high waves of illegal migrants and asylum seekers in the past few years, Albania has also witnessed an increased influx of vulnerable categories of migrants. In 2016, the number of



15 For more information on the closed Balkan route, see <https://www.dw.com/en/potential-eu-albania-asylum-deal-could-help-keep-germanys-angela-merkel-in-power/a-44340062>, accessed on 22 January 2019.

16 Interview with expert from Law enforcement agency, 24 December 2018.

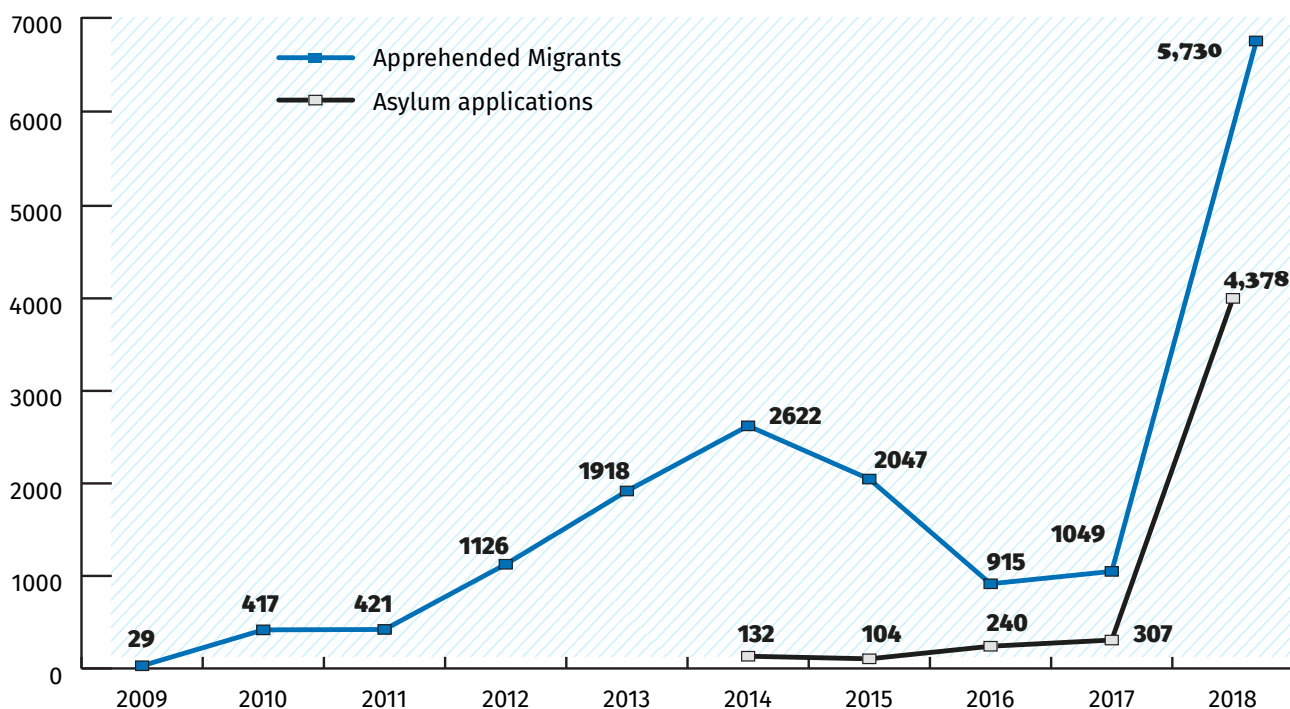
17 Mixed movements (or mixed migration) refers to flows of people travelling together, generally in an irregular manner, over the same routes and using the same means of transport, but for different reasons. For more information see <https://www.unhcr.org/asylum-and-migration.html>, accessed on 22 January 2019.

18 MYLA (Macedonian Young Lawyers Association). (2017). 2017 CSOs Report on Irregular Migration for South-Eastern Europe. Skopje. Retrieved on 10 December 2018, from <http://myla.org.mk/wp-content/uploads/2018/08/2017-CSOs-Report-on-Irregular-Migration-for-South-Eastern-Europe.pdf>

19 Ministry of Interior in Albania, 2018, op.cit.

20 Interview with UNHCR representative, 22 December 2018.

21 Interview with an official from Border and Migration department, 29 June 2019



Graph 1. Comparison of apprehended migrants and asylum

children apprehended was 227 (7 identified as unaccompanied minors) and that of women was 164. The number of unaccompanied children in 2017 was 24.²² As for the first half of 2018, the number of intercepted children was 322, of which 272 were referred for asylum.²³ While the number of those seeking asylum has been increasing, it is estimated that more than 7,500 asylum requests and 13,000 migrants will be recorded in 2019.²⁴ The Albanian government has intensified its efforts to ensure that pre-screening at the border is conducted in accordance with standards.²⁵ For example, in 2017, the reception capacity was doubled at the National Reception Centre, and additional reception facilities were also added at the border.²⁶

Furthermore, the Government is in the process of reinforcing coordination with other line ministries,

which are fundamental in providing an effective response, particularly the Ministry of Health and Social Welfare. Individuals arriving in Albania and requesting asylum must be given the opportunity to have their case analysed, as outlined by the Law on Asylum in the Republic of Albania, Law No. 121/2014.

The UNHCR has been supporting Albanian institutions in determining effective responses to such situations, ensuring that asylum seekers and refugees have access to basic asylum procedures, are accommodated in a dignified manner, and have their needs adequately addressed, particularly in the case of women and children at risk. However, most migrants seek to continue their journey to places where they have relatives or support communities.²⁷

²² Ikonomi, L. (2018). Study Report. "On the Rights and Freedoms of Migrants, Asylum Seekers and Refugees in Albania, during 2012 – 2017". Tirana: Albanian Helsinki Committee.

²³ Ministry of Interior in Albania, 2018, op.cit.

²⁴ Ikonomi, 2018, op.cit.

²⁵ Pursuant to Guidance 293/2015 'On procedures for the treatment of foreign nationals with irregular residence in the territory of the Republic of Albania'.

²⁶ European Commission (2018b). Albania 2018 Report. Strasbourg. Retrieved on 20 December 2018, from <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>

²⁷ Interview with UNCHR representative, 22 December 2018.

III. CHALLENGES: SHEDDING LIGHT ON THE MULTIPLE VULNERABILITIES OF AT-RISK CATEGORIES

There has been an increase in the inflows of regular migrants between 2015 and 2018. Although the number of vulnerable children and women apprehended in 2018 is less than that of men, it is sharply increasing. In Albania, these groups experience several obstacles, such as a lack of adequate access to psycho-social support legal counseling, and appropriate accommodation services, tailored to meet their specific needs as vulnerable categories. In the meantime, Albanian migration authorities are faced with the pressure to better identify and refer them to responsible institutions.

Historically, Albania has been a country of origin for asylum seekers and irregular migrants into the EU,²⁸ something which has drawn the attention of Albanian public authorities to the management of irregular outflows. As such, the Albanian authorities have been mainly concerned with emigration, rather than immigration issues. However, given the changing nature of migration trends in and through Albania, it is important that policy practices adapt. This involves better addressing of the needs of vulnerable categories

and better management of challenges related to the pre-screening process and the lack of facilities for these groups.

A. Challenges in the pre-screening process

1. Border Police is the institution in charge of identifying migrants and refugees entering Albania. While the pre-screening procedures are in place,²⁹ proper identification and registration of unaccompanied minors remains a challenge for border authorities.³⁰ In the absence of identification documents, the border and migration police have to rely either on the statements provided by minors or by their accompanying persons or families, even when there is no evidence confirming a relationship between them,³¹ the lack of qualified interpreters and multidisciplinary evaluation teams complicates the process,³² increasing the risks for children, who can either declare themselves as adults (to evade administrative obstacles) or fall prey to human traffickers. Building on law 18/2017 “On the rights and protection of children”, state institutions have currently issued a Decision of

28 Ikonomi, 2018, op.cit.

29 The Pre-Screening System serves to identify at an early stage the irregular migrants who may be classified as subject to refusal, asylum seeker, potential victim of trafficking, irregular migrant, or unaccompanied minor, and to channel them into the appropriate procedures. Guideline 293/2015 ‘On procedures for the treatment of foreign nationals with irregular residence in the territory of the Republic of Albania.’

30 Interview with expert from State Agency for the Protection of Children's Rights in Albanian, 20 December 2018.

31 Ministry of Interior in Albania, 2018, op.cit.

32 Interview with and expert form Terres des Hommes, 11 January 2019.

the Council of Ministers³³ to fill in the legislative gap on unaccompanied immigrant children.³⁴ However, failure to identify at an early stage unaccompanied or separated minors (profiling) is also a failure to refer on time those groups which are most in need of international protection.

2. According to Article 35 of the Law on Asylum, an unaccompanied minor asylum seeker should be questioned in the presence of a psychologist, social worker, or someone who knows the child. However, this requirement has so far been rarely respected, because some border crossing points do not ensure the appropriate cooperation between the border police and child protection services.³⁵ Moreover, services offered by the psychologists should be procured from the municipalities, but so far there are no detailed guidelines on procurement services, which should be offered in the framework of individual protection plan for minors. This remains a challenge for municipalities which should procure these services based on quality and not the best value.³⁶
3. Within the current legal framework (that is, the Law on Foreigners and on Asylum) there are specific provisions concerning the protection of unaccompanied minors, such as the use of detention as a last resort measure, family tracing, identification, and referral to relevant authorities. Yet, uncertainty and lack of

coordination among relevant institutions in charge of vulnerable categories³⁷ can lead to inadequate assistance, which can result in the infringement of fundamental rights. The new DCM,³⁸ which entered into force on March 2019, provides a more standard form of engagement and detailed regulations on coordination among child protection units and border authorities.

4. The professional and legal capacities of the law enforcement agencies and border authorities, especially in terms of human right regulations and standards, are often not adequate to properly address the rights of immigrants, and particularly those of vulnerable categories.³⁹ Their capacities to identify and safeguard these vulnerable categories are insufficient.⁴⁰
5. Standard procedures for the identification of foreigners and a national referral mechanism for potential victims of trafficking do exist.⁴¹ However, Albania continues to remain an origin, transit, and destination country for trafficking in human beings. Despite the government's increased efforts, Albania does not fully meet the minimum standards for combating illegal trafficking.⁴² The identification of victims of gender-based violence is unclear since the standard interviewing process does not ask such information. In general, the appointed staff has limited technical capabilities to identify victims of sexual and domestic violence or of trafficking. Proper identification is difficult also

33 DCM No. 111, date 06.03.2019 "On procedures and regulations for return and readmission of children".

34 Interview with an expert from State Agency for the Protection of Children's Rights in Albanian, 20 December 2018.

35 MYLA, 2017, op.cit.

36 Interview with CSO's representative operating in the area of child protection, 16 May 2019.

37 Ibid.

38 DCM No. 111, date 06.03.2019 "On procedures and regulations for return and readmission of children".

39 Vathi, Z. & Zajmi, I. (2017). Children and Migration in Albania. Latest Trends and protection measure available. Tirana: Terre des Hommes.

40 Interview with an official from Border and Migration authorities in Albania 14 January 2019.

41 Guideline 293/2015 'On procedures for the treatment of foreign nationals with irregular residence in the territory of the Republic of Albania' provides measures for identification mechanisms and referee of potential victims of trafficking and unaccompanied minors; Decision no. 582, dated 27.7.2011 for approval of standard operating procedures for identification and referral of victims/potential victims of trafficking.

42 The government continued to penalise victims for unlawful acts committed as a direct result of being subjected to human trafficking. For more information, see United States Department of State, 2018 Trafficking in Persons Report - Albania, 28 June 2018, available at: <https://www.refworld.org/docid/5b3e0bc34.html> [accessed on 21 December 2019].

due to the short time of their stay in shelters and the transitory nature of their movements.⁴³ Finally, this process is hampered by the fact that the categorisation of (potential) victims of trafficking depends on the self-declaration of victims, who might often feel threatened to collaborate with border police.⁴⁴

6. The law on Asylum takes a gender-sensitive approach⁴⁵ in addressing the needs of female asylum seekers, but this should also be reflected in the implementation process. Evidence suggests that there is a lack of female screening staff at most border crossing points.⁴⁶ Women who have their head covered, for example, tend either to refuse to talk to border authorities or ask a male family member to respond on their behalf; which results in a procedure that is not in line with the pre-screening rules foreseen for the identification of potential victims of trafficking.⁴⁷ Apart from the cultural sensitivities of approaching female members of particular immigrant groups, at-risk women (victims of potential victims of trafficking or human smuggling), might have potential security risks (due to their marginalised and exploitative status) that can be better addressed by female staff members.

B. Lack of facilities for vulnerable categories

7. Facilities for vulnerable categories, especially for unaccompanied or separated children, at the emergency/permanent reception centers are not fully equipped or up to standard. There is a general lack of psychological and social assistance for these categories.⁴⁸ Although the Asylum Law grants special privileges to unaccompanied minors, such as the right to a legal custodian (Article 16), the right to having their application reviewed as a matter of priority, the right to infrastructure and living conditions appropriate for their age, and so on, these rights are not clearly defined in the bylaws and other regulatory frameworks, such as Guideline 293/2015.⁴⁹ With the entry into force of the new DCM,⁵⁰ Border and Migration authorities should refer the cases of foreign unaccompanied minors to Child Protection Officers (ChPOs), who are responsible for following court proceedings, preparing assessment reports and the individual protection plans for the unaccompanied minors.⁵¹ In practice, the ChPOs do not have the necessary legal expertise to follow and assist these cases during any legal or administrative procedure, considering the fact that ChPO's education background is social work. Moreover, the limited number of ChPOs in each municipality (1 for 3000 children),⁵² increases their backlog, which makes it difficult for them to properly and promptly assist the cases of unaccompanied minors.⁵³

43 Ministry of Interior in Albania, 2018, op.cit.

44 Interview with an official from Border and Migration authorities in Albania 14 January 2019.

45 This means that, when there are no females during the pre-screening process with immigrant women, the evaluation team requests the presence of female staff members in the border-crossing points. Interview with an expert from migration and border authorities in Albania, 14 January 2019.

46 Ikonomi, 2018, op.cit.

47 For instance, if immigrant women refuse to talk to male members of the pre-screening team. Direct communication with potential victims of trafficking could help to address security challenges and ensure better protection of such groups. Immigrant women are also more willing to talk to female staff members.

48 Interview with CSO's representative operating in the area of child protection, 15 January 2019.

49 Guideline 293/2015 'On procedures for the treatment of foreign nationals with irregular residence in the territory of the Republic of Albania'.

50 DCM No. 111, date 06.03.2019 "On procedures and regulations for return and readmission of children"

51 DCM No. 578 , date 3.10.2018, "On Procedures for Referring and Case Management, Preparation and Content of Individual Protection Plan, Financial Budgeting for its implementation, as well as Implementation of Protection Measures".

52 Law 18/2017 "On the rights and protection of children"

53 Interview with CSO's representative operating in the area of child protection, 16 May 2019.

8. Despite their vulnerable status, unaccompanied minors and vulnerable women do not benefit from tailored services in term of accommodation facilities.⁵⁴ According to the Law on the Protection and Rights of the Child, the child protection units of each municipality are in charge of accommodating unaccompanied minors but, so far, such mechanisms have not been fully implemented.⁵⁵ Moreover, although the accommodation center for irregular migrants in Karrec, Albania has seen some infrastructure improvements, facilities for unaccompanied minors and other vulnerable categories do not exist.⁵⁶ The actual regulatory framework does not provide detailed guidelines on foster care arrangement procedures and residential centers for the accommodation of unaccompanied children.
9. Until now, the transportation of vulnerable categories of migrants to residential centers and other institutions is often not done in a timely manner.⁵⁷ Civil society organisations (CSOs) have been active in finding accommodation when there were no available rooms in the temporary centers, but such assistance is mainly project based. This means that the placement of minors in alternative accommodation places or in special reception structures is a fragmented procedure, which does not guarantee the minors' safety during their stay.

54 This problem was highlighted as well during the interview with an expert from migration and border authorities in Albania, 14 January 2019. The expert stressed that such vulnerable categories should be accommodated in specific multi-disciplinary centres, which should offer tailored-made services.

55 Ikonomi, 2018, op.cit.

56 European Commission, 2018b, op.cit.

57 Interview with CSOs' representative involved in immigration issues in Albania, 15 January 2019.

CONCLUSIONS

Although Albania is not part of the EU's asylum system, it fulfills its responsibilities and provides support to asylum seekers and refugees in line with all the principles for the protection of human rights, international protection, and security,⁵⁸ but also in accordance with the country's resources. Similar to other Western Balkans countries, Albania has been experiencing a sharp increase in the number of migrants and refugees coming into the country from outside the region. While existing institutional and regulatory frameworks have so far allowed Albania to cope with irregular migration flows, the country's asylum system could be overcrowded in the future by unexpected fluctuations in the number of arrivals, making it necessary to prioritise based on the needs of the most vulnerable categories.

Albania is benefiting from EU technical assistance on border management, but the current influx of asylum seekers fleeing from wars and persecution requires greater attention from state authorities, which should also prepare for a possible future crisis scenario. Women and children appear to comprise a significant share of the illegal migratory flows transiting through Albania, and they are most vulnerable to the risk of becoming victims of trafficking or sexual exploitation in the course of these mass movements.

This paper explored current immigration trends in Albania and outlined some of the main challenges that the country faces, particularly in handling the vulnerable categories of immigrants, that is, women and children. Our analysis tackled several shortcomings during the pre-screening process of vulnerable categories, which include, among others, challenges in the identification of vulnerable categories during the pre-screening procedures; limited cooperation with social protection units and border authorities; difficulties


in the process of identifying victims of gender-based violence; limited professional and legal capacity of the law enforcement agencies and border authorities; absence of female screening staff at most border-crossing points; the lack of appropriate accommodation facilities especially for unaccompanied or separated children at the emergency/permanent reception centres; and scarce legal, psychological and social services.

Albania has the legitimate right to control its borders from unauthorised entries of foreigners. Yet the inability to properly identify the needs of particular categories of immigrants can lead to irreversible decisions, such as expulsions or forced 'turn backs'. While Albania has enacted legislation and introduced mechanisms to manage irregular migration flows, several shortcomings can impinge on the ability of competent authorities to manage these waves. In the absence of a blueprint for institutional crisis-response, the lessons learned on how to establish sustainable mechanisms to manage unexpected flow of migrants targeting vulnerable migrants are worth internalising.⁵⁹ Migration is a phenomenon that cannot be stopped, but at least it can be managed more effectively, especially when it comes to vulnerable categories of migrants and asylum seekers.

The following set of recommendations has been designed to guide state authorities in addressing these challenges more appropriately and efficiently.

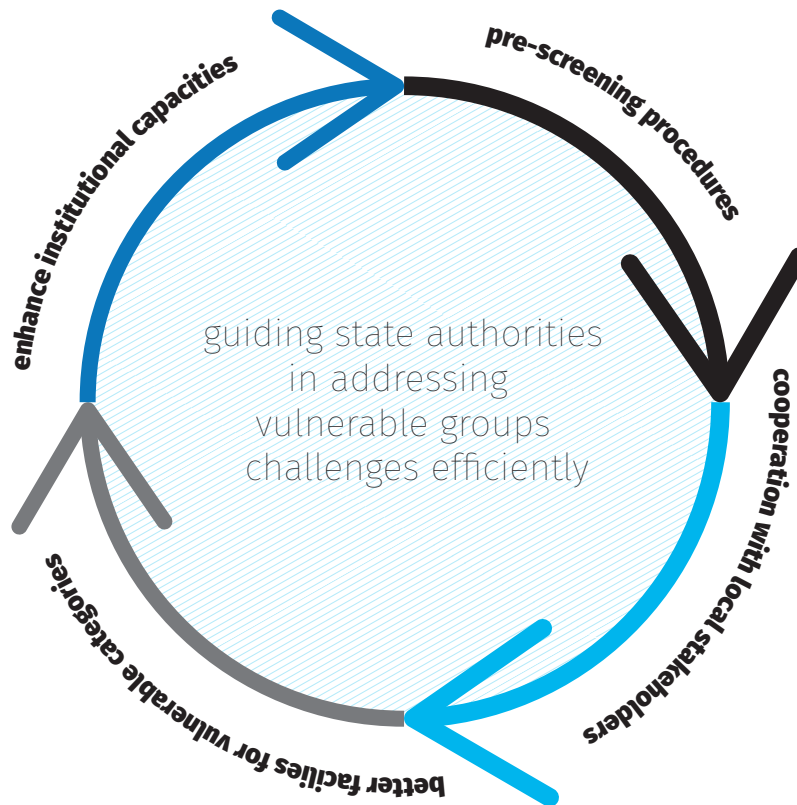
58 The obligation to respect European and international standards on asylum derives also from Article 80 of the Stabilisation and Association Agreement.

59 Collet, E. and Le Coz, Camille. (2018). *After the Storm: Learning from EU response to the migration crisis*. Brussels: Migration Policy Institute Europe. Retrieved on 10 December 2018, from https://www.migrationpolicy.org/sites/default/files/.../EUCrisisResponse_FINALWEB.pdf



An early differentiation, identification of arrivals, and proper referral system could help address potential security risks in cases of vulnerability to human trafficking, violence, exploitation, and abuse. Thus, protecting the fundamental rights of migrants requires inter alia, better standards for asylum procedures and protection mechanisms to be granted to the vulnerable. The focus should shift from a law-enforcement and security concern perspective towards a more human-rights-centered approach.

RECOMMENDATIONS



1. During pre-screening procedures special attention should be paid to the identification of vulnerable groups. To that end, public institutions should:

- Update the pre-screening procedures at border crossing points by establishing 'Vulnerability Risk Assessment Guidelines' for better and proper identification of all vulnerable categories, in particular unaccompanied minors, smuggled or trafficked women, and victims of domestic violence. The procedure might include age-related examination, as well as psycho-social and health assessments criteria, to be carried out in cases of unaccompanied children;
- Align safeguard measures with EU/international standards;
- Enhance the capacities of border and migration authorities on handling asylum procedures to better identify and assess the claims of vulnerable categories, and especially to improve their skills in the early differentiation of arrivals, according to their individual profile and identification of potential cases of trafficking;
- Ensure that legal aid is provided regularly during the screening process, as a right foreseen by the Law on the Rights and Protection of Children (Law No. 18/2017). Strengthen inter-sectional collaboration between Child Protection Officers-ChPOs and municipalities' legal departments, to better assist with cases of unaccompanied minors in court proceedings;
- Guarantee proper identification and better inter-institutional referral mechanisms that would translate into appropriate access of vulnerable migrants and refugees to specialised and targeted assistance;
- Consider additional gender-sensitive measures when addressing women's needs during the pre-screening process. Appointing more female staff members as pre-screening specialists could help better identify the needs of potential victims of human smuggling or cases of domestic violence;

- Conduct capacity building activities to raise the awareness of vulnerable categories about their rights and type of services offered to persons in need for international protection.

2. Operationalise a clear and time-efficient procedure for cooperation with local stakeholders. To that end, public institutions should:

- Ensure that the procedure for the cooperation of border and migration specialists with psychologists and social workers in the case of vulnerable categories is done systematically and in a timely manner;
- Guarantee that the established mechanism which institutionalises procedures for cooperation with child protection units in municipalities is fully operational,⁶⁰ so that border authorities can be more pro-active in the coordination efforts on child protection and assistance. While, new DCM marks significant progress made on the regulatory framework, its implementation and effectiveness could be periodically assessed and monitored from by civil society actors, working on migration issues;
- Improve the efficiency of law-enforcement agencies in detecting and preventing illegal migration by increasing their coordination efforts to dismantle smugglers and organised crime groups.

3. Offer more facilities for vulnerable categories. To this end, public institutions should:

- Ensure that vulnerable categories have prompt access to support services such as legal advice, translation, and psychological assistance to facilitate the pre-screening process at all stages;
- Create more child-friendly and safe spaces at border crossing points and asylum centers for unaccompanied minors to ensure protection from abuse and violence;
- Issue detailed guidelines on foster care arrangement procedures and provide a list of hosting institutions and residential centers for the accommodation of unaccompanied children;
- Provide alternatives to detention, especially for

vulnerable categories, and ensure appropriate accommodation, in line with international standards, regardless of their status as either asylum seeker, irregular migrant, or refugee;

- Set up public monitoring bodies and external oversight mechanisms to ensure systematic monitoring and evaluation of services provided to vulnerable categories.

4. Update the regulatory framework and enhance institutional capacities on immigration. To that end, public institutions should:


- Continue to revise and harmonise the legal framework with EU legislation, reflecting the most urgent needs of vulnerable groups. These efforts should build on the regulatory and institutional framework on irregular migration that is currently in place in the country. Given a potential increase in the numbers of migrants, a whole set of standard procedures should be enacted to deal with these at-risk groups of migrants and to ensure that Albania complies with the international human rights standards. More specifically, Albania should:
 - Update Directive 235/2015 and revise the Law on Asylum to include specific clauses (such as better identification and referral during the prescreening) targeting unaccompanied minors and vulnerable women;
 - Establish specific safeguards instructions and align those with international standards.

This paper found that, the lack of proper identification mechanisms at an early differentiation phase and non-efficient referral and safeguard procedures may adversely affect the ability of at-risk migrants to access asylum systems and ensure that their rights and needs are met. Therefore, the paper underlines the need of state authorities to ensure greater resilience and enhanced cooperation in managing unexpected migration flows by establishing proper identification and referral mechanisms for the most vulnerable categories of irregular migrants and asylum seekers.

⁶⁰ DCM No. 111, date 06.03.2019 “On procedures and regulations for return and readmission of children”.

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ANNEX

i. Albanian state authorities in charge of border control, access to territory, and asylum

Ministry of Interior through the Border and Migration Department of the Albanian State Police and Directorate for Asylum and Citizenship have the main responsibility for handling the migration and asylum system in Albania.

Border and Migration Department is under the supervision of the State Police and is in charge of processing foreigners who enter, transit, or stay on the territory of Albania. It operates at both the national and regional level and is responsible for:

- preventing and countering illegal migration through integrated border management;
- controlling the legal residence of foreigners in Albania;
- ensuring voluntarily returns;
- releasing eviction orders;
- preventing illegal foreigners and deporting them to their country of origin and/or last transit country;
- implementing Readmission Agreements with other countries;
- conducting pre-screening procedures for foreign nationals at the borders and informing them about integration in Albania;
- ensuring regional cooperation with other countries by exchanging information and data about illegal migration;
- identifying potential victims of trafficking and unaccompanied minors;

- identifying smuggling networks.

The Border and Migration Department collaborates closely with the Directorate for Asylum and Citizenship regarding foreign nationals apprehended in the country.

The Directorate for Asylum and Citizenship works on the basis of the Law for Asylum in the Republic of Albania 121/2014 and is responsible for asylum seekers and refugees. This Directorate is in charge of reviewing, logging, and collecting the necessary information⁶¹ for asylum applications. Since 2017, it has been in the process of being restructured.

The National Commission for Asylum and Refugees is the decision-making authority for all complaints presented by asylum seekers against the decisions of relevant institutions and is in charge of managing the possible fluxes of refugees. This structure is foreseen in the Law for Asylum but is not yet operational.

The reception capacities for Asylum Seekers

The National Reception Centre in Babrru

Following a request for asylum, asylum seekers are sheltered in the National Reception Centre in Babrru,⁶² which has the capacity to accommodate 180 people. Given that this centre is an open facility, individuals accommodated there are free to work, go out, and conduct other personal activities. This centre is hosting people whose requests for asylum have been refused and are awaiting a final decision by other relevant state structures. The asylum seekers have the right to stay in this reception centre for the duration of their refugee status procedure. If asylum seekers are able to find accommodation outside the

61 It is responsible for handling applications, processing, examining and hearing and collecting other data necessary to complete the documentation for any asylum application.

62 In accordance with the Law for Asylum in the Republic of Albania 121/2014, on 4 of May 2016, the government issued the Decision of Council of Ministers (DCM), no. 332 for the "Organisation and Functions of National Reception Centre in Babrru".

reception centre and can enjoy minimum living conditions, the Asylum Directorate removes them from the centre. Since the centre is open, there is always the risk for unaccompanied minors who might leave the centre to cross the border illegally and fall prey to trafficking.

The closed centre in Karrec

This centre was established by DCM no. 1083, on 28 October 2009, to accommodate irregular foreign nationals that are arrested in Albania. The infrastructure has improved in recent years but still does not have any facilities for unaccompanied minors. The accommodation equipment and security system should be upgraded as well to accommodate their needs.

Other institutions

State Agency for the Protection of Children's Rights in Albania- responsible for protecting the rights of minor asylum seekers and irregular migrants.

Other institutions involved in the monitoring process are the UNHCR, Civil society, Ombudsman's office.

ii. The legal framework and harmonisation with EU legislation

The Albanian legal framework on asylum seekers protection has been improved over the past years and is now more in line with EU standards. According to the EU Progress Report 2018, Albania has made efforts to integrate and implement parts of the *acquis* with respect to asylum laws and international protection.

Cooperation on asylum issues between Albania and the European Union is reflected in Article 80 of the Stabilisation and Association Agreement. The Article stipulates that this collaboration will focus on the adaptation of Albania's legislation

in accordance with the Geneva Convention of 1951 and the New York Protocol of 1967, thus ensuring the application of the principle of non-refoulement⁶³ for individuals that might risk their lives and are denied other rights upon return to their home country.

The Albanian Constitution

Article 16.1 of the Albanian Constitution states that "the fundamental rights and freedoms and the duties contemplated in this Constitution for Albanian citizen are also valid for foreigners and stateless persons on the territory of the Republic of Albania, except in cases where the Constitution specifically attaches the exercise of particular rights and freedoms to Albanian citizenship".

The law on Asylum in Albania (Law No. 121/2014)

Albania has revised the Law on Asylum in October 2014, with the intent of harmonising the current legislation with EU directives. This law offers the conditions and procedures for granting and withdrawing the refugee status, and protection in the Republic of Albania. The law also covers the rights and obligations of asylum seekers, refugees, and persons under protection, preservation of the refugee status and its subsidiary protection, the right to family reunification, and specifies conditions for integration of refugees and persons under subsidiary protection.

Law No. 121/2014 on Asylum is partially harmonised with:

- Council Directive 2001/55/EC of 20 July 2001 on minimum standards, giving temporary protection in the event of a mass influx of displaced persons and stipulating measures to promote a balance of efforts between Member States receiving such persons and bearing the consequences thereof.
- Council Directive 2003/9/EC of 27 January 2003

63 Article 33 (1) of the 1951 Convention relating to the Status of Refugees, which states that: "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

on minimum standards for the reception of asylum seekers.

- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.
- Council Directive 2005/85/KE of 1 December 2005 on minimum standards for procedures used in the Member States to grant and withdraw refugee status.
- Directive of European Parliament and Council 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

One of the novelties of this law is the establishment of the no-refoulement principle. The law also provides administrative structures to appeal the decisions of the asylum directorate, which constitutes an additional support for the fundamental rights of asylum seekers and refugees. This law provides that the National Asylum and Refugee Commission is the only competent decision-making authority for appeals against the decisions of the authority responsible for asylum and refugees.

The law on Foreigners 108/2013

The Law on Foreigners 108/2013 and its bylaws have improved the procedures for irregular foreigners in Albania

Other regulatory framework

Law 18/2017 “On the rights and protection of children”.

DCM No. 111, date 06.03.2019 “On procedures and regulations for return and readmission of children”.

National Strategies

The National Strategy on Migration Governance and Action Plan 2019 – 2022.

The National Strategy on Integrated Border Management 2014–2020.

International Agreements

Albania has signed and ratified the Geneva Convention of 1951 that guarantees the rights of refugee and the 1967 Protocol on the Status of Refugees.

Article 13 of the Universal Declaration of Human Rights (1948) recognises the freedom of movement, hence the right to leave any country, particularly those where human rights are violated. Hence, every person is entitled to emigrate.

The government cooperates with the UNHCR and other humanitarian organisations, such as Terres des Hommes and Caritas, to provide protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The police have allowed UNHCR to monitor the processing, detention, and deportation of some migrants.