

POLICY PAPER



“Efficiency of asylum procedures and challenges faced by domestic institutions for the treatment and management of irregular migrants”



unicef 
for every child

C1-EU-NPA
CLUSTER ONE EU NEGOTIATIONS PLATFORM – ALBANIA



KOMITETI SHQIPTAR I HELSINKIT



unicef 
for every child

C1-EU-NPA
CLUSTER ONE EU NEGOTIATIONS PLATFORM – ALBANIA



KOMITETI SHQIPTAR I HELSINKIT

POLICY PAPER

“Efficiency of asylum procedures and challenges faced by domestic institutions for the treatment and management of irregular migrants”

Published on december 2023

This publication of the Albanian Helsinki Committee (HLC) was carried out in the framework of the project C1 - EU - NPA, “Improving the Debate on Policies and Accountability to Fulfill Basic Rights, through the creation of the Negotiation Platform of Cluster 1 Albania.”, implemented by four Albanian organizations, the Center for the Study of Democracy and Governance, the Albanian Helsinki Committee, the Institute for Political Studies and the Albanian Institute of Science, with the financial support of the Embassy of the Kingdom of the Netherlands in Tirana.

The views expressed in this document are those of the Albanian Helsinki Committee and do not necessarily represent the views of the donor and implementing organizations.

Document prepared by:

Ardita Kolmarku, *Lawyer/Project Manager, Albanian Helsinki Committee*

Ardita Matlija, *Project Assistant, Albanian Helsinki Committee*

All rights are reserved to the author. No part of this publication may be reproduced without his permission and citation.

Autor: ©Albanian Helsinki Committee

Rr. Brigada e VIII-te, Pallati “Tekno Projekt” Shk. 2 Ap. 10, Tirana-Albania

PO Box No. 1752 Tel: 04 2233671

Mob: +355 694075732

E-mail: office@ahc.org.al

web site: www.ahc.org.al

TABLE OF CONTENTS

POLICY PAPER.....	7
“The efficiency of asylum procedures and challenges encountered by domestic institutions in handling and managing irregular migrants”.....	7
Genesis of the treatment of the phenomenon through a Policy Paper	7
Executive Summary.....	9
Efficiency of asylum procedures from the standpoint of the Screening Process of the European Commission (Albania, 2022) and the reflection of data on current status	14
1.1. Narrative of ‘blood feuds’ between real purpose and misuse for asylum.....	14
1.1.1 Recommendations on addressing the blood feud narrative.....	17
1.2 Steps undertaken to update the domestic legal framework	18
1.2.1 Recommendations on the proper management of the process for updating the domestic legal framework	20
1.3 Treatment of asylum-seekers and domestic institutional capacities for handling and managing them, from the optics of the European Commission	21
1.3.1 Presentation of statistical data on asylum-seekers for the period January-December 2022 and January-July 2023.....	23
1.3.2 Accommodating and infrastructure capacities of the Asylum Receiving Center (Babrru)	25
1.3.3 UNICEF recommendations on assessing the needs, vulnerability and experiences of Albanian and non-Albanian children in the context of migration	26
1.3.3.1 Access to child-friendly asylum and protection services	26
1.3.3.2 Child Protection System Strengthening.....	27
1.3.3.3 Inclusion of refugee and migrant children into national child protection systems.....	27
1.3.3.4 Strengthening the evidence base on children on the move.....	28
1.3.4 Statistical data and findings and recommendations in the context of AHC’s monitoring mission in the Closed Center Kareç	28
1.4 Processing of statistical and qualitative data about the identification and treatment of irregular immigrants	30
1.4.1 Data on the situation and functional capacities of the Temporary Reception Centers	35
1.4.2 Recommendations for improving the situation of treatment of the phenomenon of irregular immigration	36
1.4.3 ‘The phenomenon of illegal border crossing and aiding it’ as a direct consequence of illegal migration, under the optics of judicial practice	38
1.4.4 Recommendations from the analysis of judicial decisions:	40
ANNEX	42

List of Abbreviations

AHC	Albanian Helsinki Committee
BPS	Border Police Station
CC	Criminal Code
CM	Council of Ministers
CSDG	Center for the Study of Democracy and Governance
DCM	Decision of the Council of Ministers
EC	European Council
ECHR	European Convention on Human Rights
EU	European Union
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders
FTF	Foreign Terrorist Fighters
INSTAT	Institute of Statistics
IOM	International Organization for Migration
LBMD	Local Border and Migration Directorate
RMSA	Albanian Services for Refugees and Migrants
SPAK	Special Structure Against Corruption and Organized Crime
UNICEF	United Nations Children's Fund

POLICY PAPER

“The efficiency of asylum procedures and challenges encountered by domestic institutions in handling and managing irregular migrants”

Genesis of the treatment of the phenomenon through a Policy Paper

The Albanian Helsinki Committee (AHC) in cooperation with some civil society organizations, under the leadership of the Center for the Study of Democracy and Governance (CSDG), is implementing the initiative “Improving the Debate on Policies and Accountability for the fulfillment of criteria of Cluster One of the Negotiating Chapters,” supported financially by the Embassy of the Kingdom of the Netherlands in Tirana.

The complex nature of migration patterns from Albania toward different European countries, along with the influence of visa liberalization on the free movement of Albanian citizens within the Schengen area of the European Union in 2010, has affected the continued trends of emigration and the later return and repatriation of Albanian citizens. This phenomenon, which has affected not only European countries, is of public interest and has been in the focus of domestic and foreign institutions, especially those with responsibilities for the proper functioning and implementation of mechanisms and legal procedures in the field of migration and asylum, the European Union itself, and civil society organizations that are engaged in the protection of and respect for human rights and freedoms.

In recent years, the potential of the development of our country’s status at the regional, European, and broader level, together with the advancement and strengthening of the main economic sectors, primarily tourism, has spurred the need for taking measures to improve procedures used for the treatment and management of issues that have to do with emigrants in our country, who may be jobseekers and students, or irregular migrants, refugees, or asylum-seekers.

The Screening Report published recently by the European Commission for Albania for 2022 sheds light also on these important issues that require real reflection. The Report stresses the need for the Albanian State to update its National Strategy for Migration and the accompanying Action Plan to guarantee the effective and sustainable implementation of the Strategy. Furthermore, one of the concerns emphasized in the report is the lack of an inclusive overview of existing cases of blood feuds. This phenomenon, which represents a wound in the Albanian society, has been used as a cause for Albanian citizens to seek asylum in different countries of the European Union and elsewhere.

The purpose of this Policy Paper consists in the evaluation of the efficiency of the asylum system, the management and treatment of irregular immigrants, aiming to present a clear and impartial overview on the challenges and difficulties that a series of actors encounter, including domestic institutions responsible for the treatment and management of requests filed by asylum-seekers, irregular migrants

localized and accommodated in closed institutions in our country, and the protection guaranteed for Albanian emigrants who turn into asylum-seekers abroad. Among others, this document seeks to contribute to the development of more effective and humane policies and practices of migration and asylum, in order to address the needs of asylum-seekers, irregular migrants, and Albanian emigrants out of the country.

The data analyzed in this policy paper, deriving from different inclusive sources of information, were processed through analytical and comparative methodology. Pursuant to this methodology, AHC filed several requests for information, which received responses within legal deadlines for access to information, from responsible institutions such as the General Directory of Development for Migration and Asylum at the Ministry of Interior, the Directory of Policies for Asylum, Foreigners, and Citizenship at the Ministry of Interior, and the General Directory of State Police. The Department for Borders and Migration was the one that responded beyond this deadline, a few days before the event for the presentation of the draft of this document was presented.

Furthermore, for the purpose of this analysis, a series of other alternative resources of the organization (AHC) itself were used, such as research data of AHC on the judicial practice of courts of general jurisdiction in our country on the phenomenon of ‘illegal border crossing and assistance for it,’ reports of local and international monitoring and evaluation mechanisms, as well as information exchanged with the Closed Center for Foreigners, following the monitoring visit in its premises by AHC in March 2023.

The findings and positions reflected in this Policy Paper that was drafted by experts of the Albanian Helsinki Committee aim at encouraging critical thinking and the identification of sustainable solutions, by enabling constructive dialogue among experts, representatives of responsible institutions, international and local civil society organizations, the media, and other stakeholders, in the field of asylum and irregular migration.

This document also reflects the recommendations of AHC itself about the measures that may be undertaken to improve the way for addressing challenges of irregular migration, difficulties of asylum-seekers, and Albanian emigrants who turn into asylum-seekers abroad, with the goal being to guarantee human dignity, humane treatment, and the rights of these categories by guaranteeing their safety and well-being.

The findings and recommendations addressed through this Policy Paper were discussed at a joint consultation table organized on November 8th, 2023, with the participation and valuable contribution of representatives of the Ministry of the Interior and its dependent structures with direct competences in the field of asylum and migration, as well as representatives of Embassies accredited in our country, experts and civil society activists. The suggestions and recommendations addressed were evaluated taking in consideration the need for their implementation in relation to the referenced data, the concrete monitoring period, the objectives and goals of the evaluation of the measures taken for the applicability of the recommendations left by the Screening Report.



EXECUTIVE SUMMARY

In a fast-changing global landscape, where migration patterns are increasingly complex, Albania's efforts to manage migrant and refugee flows are evident. In spite of steps undertaken by institutions responsible for managing migration and asylum within the Albanian territory, the need arises for conceiving and implementing them in a sustainable form and in close cooperation with regional neighbors and international actors.

At present, Albania is affected by the *brain drain* phenomenon, the emigration of individuals with high skills and educated from the country, a concern not only for our country but also for the region. This phenomenon not only leads to the loss of talent and expertise, but it may also have negative effects in the economy and social development. Many Albanians with higher education and advanced graduate studies seek better and promising opportunities abroad, often because of well-paid jobs and the perspective for sustainable careers in their homeland. According to INSTAT data, the period from 2011 until 2019 has seen a relatively balanced migration pattern, with 120,754 individuals migrating to Italy, 92,159 to Greece, and 40,468 to Germany, but a considerable number have not returned until 2019. Moreover, these migration trends are contributing to the aging of Albania's population.

In parallel with emigration abroad, the country continues to face different challenges in terms of managing borders and the asylum system, due to limited resources and insufficient capacities of domestic authorities for borders, asylum, and migration. These deficiencies are reflected in special periods of flows of migrants and asylum-seekers, with added focus on irregular migrants. Overall, we consider that by giving priority to the expansion of capacities of receiving centers and authorities, the promotion of community integration and encouragement of regional and international cooperation, Albania may strengthen the effective management of complex cases that are primarily linked with irregular migration. This document explores the steps taken by our country and describes in a comprehensive approach the measures that can be taken to improve the way of addressing the challenges of irregular migration, the difficulties of asylum seekers, as well as Albanian immigrants who become asylum seekers abroad, with the aim guaranteeing respect for the rights and dignity of these categories by guaranteeing their safety and well-being.

Also challenging in the context of the European integration process remains the further improvement of the domestic legal framework on migration, aiming at more complete alignment with the EU's *acquis* and at real addressing in an inclusive environment of recommendations outlined in the Screening Report of the European Commission, by updating the National Strategy on Migration and the Action Plan pursuant to it, strengthening the Emergency/Contingency Plan and prioritizing readmission agreements with countries of origin of asylum-seekers, Albania may create a sustainable and coherent legal and policy framework that not only protects its national interests, but also promotes in a more advanced manner the rights and freedoms of asylum-seekers and irregular migrants, the regional and international stability, security, and cooperation in the context of border management and migration.

In the law no. 79/2021 "For Foreigners" and the Instruction of the Minister of the Interior no. 174, dated 12.09.2022 "On the procedures for the treatment of foreigners with irregular stay in the territory of the Republic of Albania", the classification of immigrants into several categories is foreseen as:

a) subject to refusal of entry b) applicant for international protection c) potential victim of trafficking d) irregular immigrant e) unaccompanied minor. The statistical and qualitative data made available by the local responsible institutions reflect that the treatment of foreigners in our country is carried out taking this categorization into consideration.

For the 9-month period of 2023 (January-September), it results that 117,789 foreign citizens were subjected to the process of minimal border verification. Based on official data made available, it results that during 2022, fines were issued for violation of the deadline of stay for 526 citizens, while in the six months of 2023, 220 foreign citizens were punished by fines. The use of falsified documents with the purpose of illegally crossing the national territory has been found to be a common practice, with a slight reduction in 2023. More specifically, in 2022, 137 foreign nationals were detained in this situation, while 73 citizens have been detained for the first 6-month period of 2023. Failure to meet the conditions to enter our country, provided for in articles 6 and 9 of law no. 79/2021 “For foreigners”, was the reason for the refusal of entry of 2101 foreign citizens during the year 2022, while in the 6th month of 2023, 643 foreign citizens were refused entry. It is worth considering that rejection measures must be accompanied by reasoned and transparent decision-making, to prevent misunderstandings and misinterpretations of the law.

Information made available by the Authority Responsible for Border and Migration and the Receiving Center for Asylum in Babrru indicate that the measure of minimal length of stay of asylum-seekers in this institution is an indicator of a fast system for processing data, in accordance with the urgency that is often linked with the needs of asylum-seekers for security and stability. Authorities need an average of 10-15 days to carry out essential administrative processes, including initial evaluations, health examinations, and procedural information. These deadlines enable a more complete assessment of the needs of asylum-seekers and simplify the provision of necessary services during their transitory passing inside the Receiving Center for Asylum. Meanwhile, maximal deadlines for the accommodation of asylum-seekers vary from 8 up to 10 months, which in AHC’s evaluation, represents an overextended time. Although the subject of this paper is not the analysis of concrete cases, relatively long deadlines shed light on the challenges linked with complex cases, procedural complications, and potential obstacles in the process of administrative and judicial processing of decision-makings issued on requests for asylum. Therefore, maximal time deadlines dictate the need for systematic improvements in the efficacy of processing and fast resolution of cases in order to avoid extended stays that may also worsen the psychological condition and challenges of integration for this category of asylum-seekers. Also, keeping in mind the capacity of the Receiving Center for accommodating up to 220 asylum-seekers, we consider that the current functional administration of 18 employees is not sufficient for guaranteeing the provision of adequate services in cases of inflows of asylum-seekers.

Compared to 2022, when the number of individuals seeking asylum in the Republic of Albania was 125, in the first 7 months (January-July) of 2023, there were 123 requests. This considerable increase belongs to the number of asylum-seekers from Afghanistan, Iraq, Iran, Somalia, and Yemen. If the progressive increase of the number of requests continues until the end of 2023, this indicator requires added vigilance of asylum authorities and inclusive systematic analysis, because there is a complex group of regional and global factors that have led to the increase of insecurity and instability in some countries of the world, including geopolitical, social-economic, and humanitarian factors. This would

help better the authorities to plan and accommodate in advance the needs and multiple challenges linked with the increased inflow of foreign migrants and asylum-seekers, especially from regions affected or “invaded” by internal and external conflicts, political turmoil, and widespread violations of human rights.

Based on data made available by authorities responsible for asylum, there is a notable fact that there have not been refusing asylum decisions for the period 2022-2023, while there have also been cases when asylum-seekers have withdrawn voluntarily from their requests for international protection (asylum). Authorities do not provide detailed information about the analysis of the causes and factors that have led to the voluntary withdrawal, while there is a lack of information about the location of these citizens. Such data underscore the need for more accountability and transparency by responsible institutions, such as the National Commission for Asylum and Refugees and the Ministry of Interior. It is important to ensure a fair and efficacious review of requests for asylum even in cases of voluntary withdrawal, in keeping with international standards for human rights.

Cooperation and the coordination of efforts among key institutions such as the Ministry of Finance and Economy, the Ministry of Health and Social Protection, the National Employment Service, and the State Labor Inspectorate, is important for increasing the well-being and standards of treatment of asylum-seekers, as well as for facilitating their reintegration in the society. By reorganizing efforts and adding resources, the Government not only may contribute to the social-economic advancement of asylum-seekers, but it may also ensure their sustainable integration in the Albanian society.

In recent years, data from credible sources have indicated continuously that after adults, youth aged between 15 and 29 years represent the second largest group of international migrants. This trend has been continuing since 1990, pointing out the urgent need for an approach focused on addressing the needs, weaknesses, and experiences of children in the context of migration, including Albanian and non-Albanian children. UNICEF recommendations underscore the critical aspects of this effort. It should be stressed that every action undertaken with regard to children on the move should have as a priority their best interests and non-discrimination, placing their well-being above their migration status. The access of children to asylum, whether coming with their families or unaccompanied, is considered essential and should be protected.

During the period January-December 2022 and January-July 2023, it results that there were no instances of citizens who obtained the status of refugees/complementary protection who left Albania on their own will but during this period, before the review procedure of their requests for asylum, about 3,137 Afghan citizens withdrew their request for temporary protection and voluntarily left our country. These statistical data create premises for the categorization of our country as a country of transit migration, which is not a destination for these citizens.

The last administrative measure of detaining an individual in the Closed Center of Kareç is taken toward foreigners who are the subject of an expulsion procedure, after all potential alternative measures have been executed, or if responsible authorities evaluate that these measures may not be applied on the foreign citizen, even if he's readmitted. Data made available from the Director for Borders and Migration reflect that compared to 2022 and 2021, there is an almost similar trend of presence of foreigners in this Center. More concretely, in 2021, 69 foreign citizens were identified while there

were 65 such in 2022. An increase of 11 citizens was noticed during the 9-month period of 2023 (34 foreign citizens), against the same number of foreign citizens in the same 9-month period of 2022 (23 foreign citizens).

The monitoring mission in the field undertaken by AHC observers in March 2023 highlighted inappropriate infrastructural conditions in the premises of the Closed Center for Foreigners (Kareç), which do not ensure the minimal standards for humane treatment. In order to address the concrete situation, improvements are required in terms of taking measures to guarantee the fulfillment of the essential principles of respect, dignity, and humane treatment of irregular foreign citizens detained and placed at this institution. The collaborative efforts of domestic authorities that work in partnership with international organizations (such as IOM) reflect important steps undertaken in order to correct deficiencies and reinstate the dignity and rights of this category of citizens.

Data provided by the Department for Borders and Migration highlight that, during the 9-month period January–September 2023, a total of 5,803 irregular foreign immigrants were caught in our country, whereby 4,139 were first-timers and 1,665 were repeating ones. This marks a considerable decrease by 3,071 cases, which is a drop of -34% compared to the same period of the previous year (2022). It is thought that added controls on the green border in the operational area Kakavija/Kapshtica, where FRONTEX forces are established, have had an impact on the declining trend. During the nine months of 2022, 8,875 irregular immigrants were caught, with 6,059 being first-time offenders and 2,816 repeating ones. In total during 2022, 11,216 irregular immigrants (8,335 first time offenders and 3,881 repeating ones) were localized and caught. The year 2022 is considered a period with a lower number of irregular immigrants in comparison to 2021, during which 18,496 or about 66% foreign irregular immigrants were localized and caught (10,062 first time offenders and 8,434 repeating ones). In our opinion, besides the importance of the analysis of statistical data on the number of first-time irregular immigrants, the number of repeating offenders at about 50% between the two years is worth studying in an empirical and in-depth manner, in order to be translated into inclusive measures of a preventive nature that do not violate international standards and humane treatment, while aiming to reduce this phenomenon. Irregular immigrants caught in the territory of the Republic of Albania appear to have come from Bangladesh, Afghanistan, Algeria, Eritrea, Syria, Somalia, and Nepal. Over 95% of them are male and aged between 20 and 50 years.

With regard to the identification of third country citizens seeking to transit through the territory of Albania onward toward EU countries, official data indicate that there has been a decrease of about 6280 individuals, or a drop of 33,95% compared to 2021, noticed during 2022. Meanwhile, at present, there is a lack of data for the first nine months of 2023.

The irregular or illegal forms used by foreign migrants to enter the territory of Albania, such as the phenomenon of migrant smuggling, is criminally punishable according to our Criminal Code and represents a serious threat to the security of the borders of the Republic of Albania, but also a concrete threat to respect for human rights and freedoms. This is a phenomenon that all the region's countries, European countries, and others are faced with, in spite of the democratization of preventive and punishment criminal policies that governments have undertaken. Based on the research data analyzed from the sample of 106 decisions of Judicial District Courts, it results that in 86 cases, the factual circumstances were qualified as illegal border crossing, envisaged by article 297 of the Criminal

Code, while in 5 cases, it appears that the defendants with their actions met the criteria of criminal offenses of “Falsification of identification documents, passports, or visas” (envisaged by article 189/1 Criminal Code). Meanwhile, in 19 cases, the Court qualified the actions of the accused as “Assistance for illegal border crossing” in the classical form and in qualifying circumstances. In terms of humane treatment, it is a positive fact that Albanian courts, whose decision-making was analyzed, did not issue criminal decisions for foreigners who crossed the border illegally. In fact, they are mentioned only in the analysis of the circumstances, and the entire process was conducted against the defendant accused of carrying out their transport, for the criminal offense “Assistance for illegal border crossing,” envisaged by article 298 of the CC. In general, this policy pursued by the courts that were researched, in principle appears fair, given that irregular emigrants should be treated on the basis of administrative procedures envisaged in specific legislation for foreigners and should not be subject to prosecution of the material criminal legislation.

Data from these judicial decisions, which have been researched by AHC, also provide sporadic information about financial profits of smugglers who provide assistance for illegal border crossing, which varies from 100 to 500 euros. There have also been cases when assistance for illegal border crossing was provided by well-structured groups and, therefore, the amount of money paid for the entire trip until arrival at the final destination amounted up to 9000 Euro. AHC notes that the sophisticated forms of cooperation between criminal groups in the region for smuggling are not investigated or are scarcely investigated. As elaborated in the reviewed judicial practice, it is clear for authorities responsible for borders and migration that the main directions of entry of irregular immigrants into our country are still those evidenced at the border with Greece. Statistical data report that with regard to the route/main directions that they undertake, the main ones remain the region of Korça, mainly at the Kapshtica area; the region of Gjirokastra, mainly at the Kakavija area; and the region of Saranda, mainly in the Konispol area (Qafë Botë). More concretely, the inflow of irregular migration has focused mainly at the road crossings of the districts of Vlora and Korça with about 75% of caught and registered emigrants (43% in Vlora and 35% in Korça). The use of the green border also allows for fairly easy crossing and the better road infrastructure near the border crossings of Kakavija and Kapshtica is targeted as an appropriate transport itinerary toward Montenegro and Kosovo, with the destination being EU countries, mainly Germany.

Researched data underscore the critical need for a more humane, reintegrating, and rehabilitating approach for addressing the multi-faceted challenges posed by the phenomenon of illegal migration. With an added emphasis on the identification of key factors that encourage and push Albanian citizens to migrate illegally in a repeated manner, it is recommended that the bodies of criminal justice reflect in their investigative and judicial practice a unified humane approach.

There have also been cases when Albanian citizens have sought asylum in different European and non-European countries. The experience elaborated also in a series of research studies has indicated that through the years, there have been tendencies for the phenomenon of blood feuds to be misused by Albanian citizens in the context of asylum procedures. This misuse presents an important challenge both for asylum authorities in EU countries and for real asylum-seekers and Albanian institutions that should provide accurate and verifiable data regarding them. According to data provided by the General Directory of State Police, from November 2022, it appears that in the Republic of Albania

there are 1,187 families affected by the phenomenon of blood feuds and 95 families have left the country while 67 families are registered as isolated. On the other hand, it results that responsible structures of police at the local and central level are working to establish a database system that would highlight categorized data and would serve domestic and international institutions. Applying an inclusive approach that includes cultural sensitivity and cooperation with national authorities, the EU and other receiving countries may have a more objective overview of the truthfulness of these causes while preserving the integrity of their asylum systems. Such measures are important for ensuring that asylum is granted to those who truly face persecution and threats to their lives, in keeping with international humanitarian obligations.

Efficiency of asylum procedures from the standpoint of the Screening Process of the European Commission (Albania, 2022) and the reflection of data on current status

1.1. Narrative of 'blood feuds' between real purpose and misuse for asylum

The phenomenon of blood feuds has been a disturbing issue for Albanian society for a long time and it is deeply engrained into cultural and traditional norms. This phenomenon has assumed a new dimension in the context of asylum procedures for the European Union (EU) and other countries out of it. Through data reflected in this section, we will seek to share in an objective manner the information borrowed from official sources of information and analyze somewhat the truthfulness of claims of misuse of blood feuds by Albanian citizens in the asylum process, outside the territory of our country.

In our country, this phenomenon has been historically part of the social structure of the country's mainly northern areas, often serving as a tool to resolve conflicts between families or communities. Deeply rooted in the concept of honor and revenge, the experience of these fights has resulted in a cycle of violence, claiming numerous lives and causing social rifts.

It is claimed that some Albanian citizens who seek asylum in the EU and other countries have exploited the narrative of blood feuds as a tool to enhance their asylum requests. In fact, for such a precedent, it was the local organization, Albanian Helsinki Committee, that has raised the alarm since 2012. In its annual report about its activity, AHC brought to the attention of the public and expressed concern that "more than 11 macabre murders" were registered in the country under the cover of 'blood

feuds.⁽¹⁾ Through the years,⁽²⁾ the disturbing phenomenon of the isolation of families (among whom also minors) has caused AHC public reactions,⁽³⁾ while public appeals have been addressed to the Government and relevant state bodies to seriously evaluate this concern and take concrete measures to effectively resolve this phenomenon.⁽⁴⁾

Also, in 2015, the Ombudsman, in its special report, found among others, “based on data obtained from authorities of foreign countries in cooperation with Albanian law enforcement structures, it results that many of the Albanian asylum-seekers have cheated with the motives of blood feuds and they obtained and presented falsified documents claiming to be members of families that are part of blood feuds and that their lives are at risk in Albania.”⁽⁵⁾

Although it is undoubtedly true that there are real cases of persecution and life threats as a result of blood feuds, the misuse of this cultural practice during the process of depositing and reviewing asylum requests represents a challenge for the very integrity of the asylum system. This exploitation not only undermines the credibility of legitimate asylum-seekers, but it also creates difficulties and a burden on human resources and the capacity of the receiving countries’ asylum systems.

Reporting by local bodies urged the Assembly of the Republic of Albania to draft a Resolution on the Prevention of the Phenomenon of Blood Feuds in Albania.⁽⁶⁾ The National Council in the Fight against Blood Feuds⁽⁷⁾ was entrusted with the competence of drafting a National Strategy. In the official websites of local institutions, AHC experts have not been able to identify any finalized strategy for this purpose and there is no easily accessible data electronically on by-laws that were envisaged to be approved by the Council of Ministers, pursuant to articles 4, 5, and 6 of law no. 9389/2005.

From the standpoint of the European Commission and the cases and precedents that have become public in the country, but not only, the cases of blood feuds have seen a decline. “However, there is a

⁽¹⁾ AHC referred this finding in the publication of Shqip Newspaper on September 13, 2012, according to which, “in Dukagjin and Puka alone, 11 were murdered for blood feuds this year. AHC, “Report on the situation of respect for human rights in Albania for 2012,” published in January 2023. Access online: chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://ahc.org.al/wp-content/uploads/2017/04/Raport_te_te_drejtave_te_njeriut_Klinika_ligjore_19_dhjetor-2012_shqip.pdf

⁽²⁾ AHC, Press release, “Blood feuds – the phenomenon of a painful past that remains current,” posted on January 27, 2022. Access online: https://www.facebook.com/KomitetiShqiptarIHelsinki/photos/a.330295387093998/4489802447809917/?type=3&locale=hi_IN

⁽³⁾ AHC, Press release, published on November 14, 2017. Access online: <https://www.cna.al/2017/11/14/gjakmarrja-denoht-rende-por-ngujimi-vazhdon>

⁽⁴⁾ <https://telegraf.al/aktualitet/komiteti-shqiptar-i-helsinki-reagon-gjakmarrja-denoht-rende-por-ngujimi-vazhdon/>

⁽⁵⁾ Ombudsman, Special Report “On the phenomenon of blood feuds in Albania,” published in December 2015, p. 27. Access online: <chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://www.avokatipopullit.gov.al/media/manager/ëbsite/reports/RAPORT%20I%20VE%20C3%87ANT%20C3%8B%20%20nr.%202.%20per%20gjakmarrjen.pdf>

⁽⁶⁾ Resolution, published in the Official Gazette no. 38, dated 18/03/2015. Access online: <https://qbz.gov.al/eli/rezolute/2015/03/05/38-1/3fd74c03-ecea-42fd-ab72-cea6d6feb97c>

⁽⁷⁾ Established by law no. 9389, dated 04.05.2005 “On the creation and functioning of the Coordinating Council for the fight against blood feuds”

lack of precise overview on existing cases and blood feuds are still frequently cited by Albanian citizens lodging asylum applications in the EU. The country should ensure the issue of blood feuds is treated as a violation against fundamental values and principles and treated as a criminal issue. Systematic monitoring of existing cases should be available to assess the situation periodically.⁽⁸⁾

Based on preliminary information made available by the General Directory of State Police,⁽⁹⁾ it results that according to data administered since November 2022 in the Republic of Albania, 1187 families have been affected by the phenomenon of blood feuds. A total of 95 families have moved out of the country while 67 families are registered as isolated. Currently, it results that the State Police in our country has not referred any criminal proceedings to the Prosecution Office about the phenomenon of blood feuds. It was made known that the Directory for the Investigation of Serious Crimes at the General Directory of State Police is in the process of collecting data about the phenomenon of blood feuds, based on information requested from Local Police Directories in the districts. The collected data are expected to be reflected in a database dedicated to the phenomenon, which will guarantee the generation of categorized data for families in blood feuds, members of the families, their age, minors, isolated families, departed families, etc.

Although the responsible authority of the State Police avoided providing a response on the difficulties encountered by police structures to follow and refer cases related to the phenomenon of blood feuds in the country, it is considered that the partial data referred above indicate a need to take urgent measures and add steps to fully identify the data, as well as to register and process them in a categorized manner. The lack of such detailed, inclusive, and objective data increases the difficulties and burden on responsible asylum and migration authorities of receiving European and non-European countries, which are targeted by Albanian asylum-seekers. If such data were collected fully and easily processable, they would help distinguish authentic cases of persecution related to blood feuds and fabricated confessions that seek to obtain the asylum status. The lack of concrete data and complications of understanding the domestic cultural context that accompanies blood feuds present substantial challenges for the accurate evaluation of support and admissibility of such claims.

Because of the lack of unified practice, based on differences in legal systems between European and non-European countries, the decision-making of 2012 of the Upper Tribunal of the United Kingdom drew our attention. During the review of the case, upon evaluation of the evidence, it admitted that the Albanian state did not offer appropriate protection for those in active blood feuds, especially in the north of the country.⁽¹⁰⁾ Data reflected in this Policy Paper do not seek to express views on the rhetoric that accompanied the decision-making of authorities of the United Kingdom on legislative restrictions on asylum rights, but in our opinion, the data of Albanian law enforcement authorities could be of substantial use for the creation of practice and serve as reasons for asylum-seekers to file administrative and judicial claims who are refused the right to international protection. In providing this evaluation, we take into consideration the lack of a standardized framework for evaluating the

⁽⁸⁾ European Commission, Screening Report on Albania, published on July 24, 2023, p. 53. Access online: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/AL%20Cluster_1%20Draft%20screening%20report_external%20version.pdf

⁽⁹⁾ Letter no. 8245/1 prot., dated 04.10.2023, "Response," General Directory of State Police

⁽¹⁰⁾ <https://dosja.al/aktualitet/analiza-e-the-guardian-femijet-shqiptare-vijne-ne-britani-per-siguri--i277813>

legitimacy of asylum requests related to blood feuds, a difficulty that further complicates the decision-process for asylum authorities of the receiving European and non-European countries.

1.1.1. Recommendations on addressing the blood feud narrative

- As long as our country is in the process of establishing an electronic data system on the phenomenon of blood feuds, based on declarative media articles of domestic and foreign legal researchers who provide expertise on issues of asylum and migration, it is suggested to involve first line (of reception) officers of European and non-European asylum and migration authorities in inclusive training programs on cultural complications of blood feuds in Albania in order to facilitate a better understanding of the context within which these claims by Albanian citizens seeking international protection in receiving countries stem from.
- It is suggested to establish clear guidelines and operating standards, based on convention principles affecting asylum and migration issues (but also those against trafficking of human beings), for verifying claims related to blood feuds. Taking concrete measures to avoid harmful, political, and discriminating rhetoric would guarantee asylum decision-making based on credible evidence.
- It is recommended to strengthen cooperation between the authorities of receiving countries with local Albanian authorities, religious communities, non-governmental organizations, and the media, given that the data collected and processed by these actors might guarantee concrete evidence on the truthfulness of specific cases and also help verify the legitimacy of asylum requests related to blood feuds.
- Given that blood feud has been specified as one of the factors for migration, according to the 2021-2025 National Strategy on the Albanian Diaspora and the accompanying Action Plan, it is recommended that measures are taken by the President of the Republic, in his capacity as head of the Coordinating Council in the Fights against Blood Feuds to play a proactive role in convening periodical meetings of the Council, in order to discuss and finalize the long-term National Strategy for preventing and fighting this phenomenon. If they are still lacking, it is suggested that the Council of Ministers takes concrete measures to draft by-laws, which would formalize and open the way to cooperation of the Coordinating Council with state bodies and local government, as well as instruct the constitution of the Council's Technical Secretariat.

1.2. Steps undertaken to update the domestic legal framework

The legal framework currently in force in our country on migration, though partially aligned with the EU's *acquis*, requires revisions and improvements to address the challenges and developing perspective in the context of migration and asylum.

According to the evaluation of the European Commission, *“Albania should update its National Strategy for Migration and its related action plan. The contingency plan for a possible substantial number of arrivals of migrants and asylum seekers needs to be updated to include appropriate budget allocations and clear modalities for its triggering. Albania should continue to seek concluding readmission agreements or arrangements with countries of origin.”*⁽¹¹⁾

The official information provided by the General Directory of Development for Migration and Asylum at the Ministry of Interior⁽¹²⁾ makes known that through the Inter-institutional Working Group, this Ministry is guiding the process for drafting the National Strategy on Migration 2024-2030 and its Action Plan. During the consultation, it turned out that the Strategy was drawn up narratively, but the budget forecast is considered the Achilles' heel for the finalization of this process. It is worth emphasizing that the previous National Strategy on Migration and the Action Plan for its implementation, extended their legal effects until the end of 2022. The start of 2023 finds our country lacking a national strategy, while in February 2023, it was made known that the technical secretariat at the Ministry of Interior prepared the final report on the situation of the implementation of the previous strategy, which was submitted and discussed at meetings of monitoring bodies. The draft of the new strategy, which was compiled by the working group, is expected to be subjected to publication and public consultation, based on law no. 146/2016 “On public announcement and consultation.”⁽¹³⁾

Stemming from the deficiencies that initially accompanied the National Strategy of 2017, among which the lack of addressing the phenomenon of abuse of the visa regime, and the failure to identify measures to fight the causes of migration and lack of support by state bodies for categories in need,⁽¹⁴⁾ we evaluate that the drawn lessons should serve for the inter-institutional group to take concrete measures to promote and advance legal emigration policies in the EU or non-European countries, or the reintegration of returned Albanian citizens.

⁽¹¹⁾ European Commission, Screening Report on Albania, published on July 24, 2023, p. 88. Access online: chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/AL%20Cluster_1%20Draft%20screening%20report_external%20version.pdf

⁽¹²⁾ Letter no. 9903/1 prot., dated 10.10.2023, General Directory of Development for Migration and Asylum at the Ministry of Interior.

⁽¹³⁾ It results that in June 2023, the Leading Group presented the vision and specific objectives of the new National Strategy on Migration 2024-2030. Access online: <https://mb.gov.al/migracioni-prezantohet-vizioni-dhe-objektivat-specifike-te-strategjise-se-re-2024-2030/>

⁽¹⁴⁾ AHC, Research Report “On the rights and freedoms of emigrants, asylum-seekers, and refugees in Albania in the period 2012-2017”, published in July 2018, p. 93. Access online: <chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://ahc.org.al/ep-content/uploads/2018/09/Migrantet-Shqip.pdf>

The Contingency Plan was drafted for the first time by the Ministry of Interior in 2015 (“Plan for reaction to mixed migratory flows”),⁽¹⁵⁾ while depending on migration flows, and pursuant to the strategic objectives of migration by local state authorities, it is made known that it will be updated in the future, as another recommendation of the EC.⁽¹⁶⁾

Even earlier, the latest functional strategy in the country on Migration 2019-2022 envisaged among others the drafting of a contingency plan, including an operational plan that covers reaction and response activities, which should be updated.⁽¹⁷⁾ Based on Order no. 592, dated 06.12.2019 “On the establishment of the Working Group on the Approval of the Contingency Plan,” its drafting and implementation was made possible.⁽¹⁸⁾ Updated versions cannot be found on the official websites of institutions responsible for asylum and migration; such transparency should be guaranteed before the public. We assess that from the phase of evaluation and monitoring of the effects of the previous contingency plan and then updating the existing one, measures should be taken for preliminary inclusive and non-formal consultation with international bodies and groups of interest in the country, including local non-government bodies. Considering the continued support provided in important processes such as drafting and consulting legal acts, by-laws, and regulatory ones, it is our opinion that international bodies should not avoid the contribution practical knowledge that actors that are part of the Albanian civil society sector, activists, and experts focusing on issues of asylum and migration, possess.

In view of the evolution of migration patterns and the local potential for managing increasing migration flows, it is indispensable that Albania evaluates the taking of fast and uninterrupted steps to improve the Emergency Plan, in order to effectively cope with the situation of migrants and asylum-seekers. The provision of clear budgets and clear modalities for the smooth functioning of this plan would help in better coordinated response by responsible bodies for tackling flows and emergencies that may be caused by illegal and uncontrolled migration.

With regard to measures taken by the Albanian state for entering into readmission agreements with countries of origin (where asylum-seekers or irregular migrants usually come from), the Ministry of Interior makes it known that the national mechanism and the return policy for immigrants in irregular situations in their countries of origin has encountered obstacles with regard to the lack of readmission agreements and implementation protocols with these countries; with regard to our national legislation, relevant procedures have been approved pursuant to the law on foreigners for the process of identification at the border and the treatment of all categories of immigrants, including those in

⁽¹⁵⁾ National Strategy for the Governance of Migration and the Action Plan 2019-2022, version Draft, p. 19. Access online: <https://mb.gov.al/ep-content/uploads/2018/11/STRATEGJIA-KOMB%C3%8BTARE-P%C3%8BR-QEVERIS-JEN-E-MIGRACIONIT-DHE-PLANI-I-VEPRIMIT-2019-2022.doc>

⁽¹⁶⁾ Idem, Letter no. 9903/1 prot., dated 10.10.2023.

⁽¹⁷⁾ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mb.gov.al/ep-content/uploads/2021/02/Strategjia-Komb%C3%8BTare-p%C3%8Br-Migracionin-dhe-Plani-i-Veprimit_2019-2022.pdf

⁽¹⁸⁾ Ministry of Interior, “Report on Monitoring the Implementation of the Action Plan of the National Strategy on Migration 2019-2022”, p. 27, 47. Access online: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://akpa.gov.al/wp-content/uploads/2021/05/Qershor-2019-Qershor-2020_Raport-vjetor-i-Strategjise-Kombetare-per-Migracionin-2019-2022.pdf

vulnerable situations, for the purpose of referring them to relevant structures.⁽¹⁹⁾ It results that the responsible structures of the Ministry of Interior have drafted and submitted to the Ministry for Europe and Foreign Affairs for further review the procedures of 10 draft readmission agreements with third countries of origin such as Morocco, Afghanistan, Iraq, Iran, Pakistan, Algeria, India, Egypt, Tunisia, Bangladesh. While the same draft agreements have been shared through diplomatic channels with the mentioned countries for the start of negotiations, to date, Albanian authorities have received no response from these countries.⁽²⁰⁾

Given the importance of bilateral cooperation in the management of migration, not only Albania, but also third countries of origin should prioritize negotiations and the conclusion of readmission agreements. Although the formalization of these agreements remains a political will of each party, the fundamental rights and freedoms of citizens, namely the right to live freely (article 5 of the ECHR) and freedom of movement (article 2, protocol 4 of the ECHR), should be guaranteed and evaluated as substantial human rights, in the face of hesitation by countries vis-à-vis this cause.

Beside the difficulties that local authorities face with regard to entering into and signing readmission agreements with third countries of origin, we evaluate that added attention should be devoted to the growing phenomenon of “*brain drain*” and the flows of Albanian emigrants toward European countries, and their subsequent return to the homeland.⁽²¹⁾ According to data from INSTAT, it results that during the period 2011-2019, the flow of emigration spread equally, more concretely: 120.754 persons left for Italy and had not returned until 2019; Greece received 92.159 emigrants; and 40.468 persons left for Germany.⁽²²⁾ The experiencing of growing outflows is seen as a factor that is influencing the aging of society in our country.⁽²³⁾ Beside these disturbing statistics, the hope that the dynamic of migration might produce the return of Albanian emigrants in following years, should be studied more in-depth in order to develop projections that serve the effective and sustainable reintegration of compatriots at the time of their return to our country.

1.2.1. Recommendations on the proper management of the process for updating the domestic legal framework

- It is suggested to include in the National Strategy for Migration and the Action Plan inclusive elements, without being limited to, inclusive measures of integration, effective protocols for bor-

⁽¹⁹⁾ Idem, letter no. 9903/1 prot., dated 10.10.2023.

⁽²⁰⁾ Idem.

⁽²¹⁾ According to data from INSTAT for 2022, 46,460 Albanians left as emigrants. this figure appears to be 10.5% larger than that of 2021, when the number of those who had left was about 42,000. However, it is noticeable in public statistics that emigration in 2022 saw the highest levels since 2014.

⁽²²⁾ INSTAT, “Albania’s diaspora in figures,” p. 27. Access online: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.instat.gov.al/media/7848/diaspora-ne-shifra-2020.pdf>

⁽²³⁾ Idem, INSTAT, p. 24.

der management, simple asylum procedures, and sustainable solutions for social inclusion and the well-being of migrants during the period of the conduct of procedures for the review of the request for international protection. Moreover, the Action Plan should be adapted to facilitate the uninterrupted implementation of the revised strategy, envisaging specific mechanisms, responsible authorities, and the distribution of necessary financial and human resources for its effective implementation.

- Creating a strong legal framework that describes efficacious response mechanisms, strategies for the distribution of resources, and coordination mechanisms among relevant actors, Albania might guarantee the provision of a more coordinated and more effective response to possible migration crises, thus minimizing social, economic, and security consequences that are linked with unexpected flows of migrants and asylum-seekers.
- The formalization of readmission agreements with the third countries of origin of asylum-seekers or irregular migrants helps Albania create a legal framework for regular and timely return of irregular migrants and those whose request for international protection has been rejected, thus facilitating a more systematic and sustainable approach to the management of migration. Moreover, such agreements encourage expanded cooperation, mutual understanding, and shared responsibilities among countries, thus contributing to the overall stability and security of the region.

1.3. Treatment of asylum-seekers and domestic institutional capacities for handling and managing them, from the optics of the European Commission

It may be said with confidence that the flow of foreign citizens into Albania has become a significant feature, which is worth analyzing to categorize migrants who choose our country for opportunities of employment, education, asylum, and shelter. Positive cultural developments also in the field of tourism have affected the experience of evident change in our country from a source to a destination country.

Data shared by responsible local institutions with the European Commission, made public in the Screening Report, indicate that at the end of 2021, the number of individuals who possessed a valid residence permit in Albania reached 14,921, thus reflecting a visible growing trend in the country's attraction for foreign citizens. The considerable increase of applications for residence permits, which reached 9,106 in 2021, underscores an increase in the number of individuals seeking long-term shelter and who see Albania as a sustainable destination. However, this transition has not been without challenges. Albania has had to face the role of a transit country, especially for irregular emigrants from the Middle East and North Africa, who seek to cross through our country on the way to different member countries of the European Union. This situation has presented considerable logistical and humanitarian challenges, requiring an inclusive approach for managing irregular migrant flows, while there is a need to respect international standards for human rights and dignity.

Infrastructure taking care of receiving migrants has seen partial improvements. More concretely, the two accommodating places of residence in the country, envisaged in law no. 10/2021 “On asylum in the Republic of Albania” and law no. 79/2021 “On foreigners,” are the Asylum Receiving Center (Babrru)⁽²⁴⁾ and the Closed Center for Foreigners (Kareç).⁽²⁵⁾

The key differentiation in the categorization of those accommodated in these institutions consists in the procedural legal status that is recognized for them; concretely, all those who have filed a request for international protection are admitted and accommodated in the Asylum Receiving Center, while foreign citizens who are the subject of expulsion from the territory of the Republic of Albania are accommodated in the Closed Center for Foreigners.

The evaluation of the European Commission for the infrastructure of responsible authorities for foreigners and migration remains “*The overall staffing of the ASP’s Department for Border and Migration remains limited, despite recent increases. Permanent training structures should be established in compliance with basic training standards for EU border guards. The capacity of the reception centers is sufficient for the migration pressure Albania is currently facing. The only closed reception center for third-country nationals who are the subject of return procedures still awaits urgent refurbishment. Albania should ensure adequate reception capacities and establish alternative to detention for children, women at risk and people with serious medical conditions, as provided for in the Law on foreigners. Coordination with child protection and anti-trafficking departments should improve. The high turnover of officers at the border should be addressed. Border and Migration Police officers should increase their capacities to identify refugees and migrants with specific needs. Unaccompanied minors travelling from Albania to EU Member States are a source of concern. Greater attention should be given to the successful reintegration of returnees, especially the most vulnerable. 90 Migration counters established in municipalities should be formalized and strengthened to facilitate reintegration and more police officers should continue to be trained to escort returnees to Albania. With regard to the accelerated integration request, the process for Albania to be granted observer status in the European Migration Network has been initiated.*”⁽²⁶⁾

⁽²⁴⁾ According to article 3, paragraph 27 of law no. 10/2021 “On Asylum in the Republic of Albania,” the Receiving Center for Asylum is the structure assigned for the collective admission and accommodation of those seeking international protection

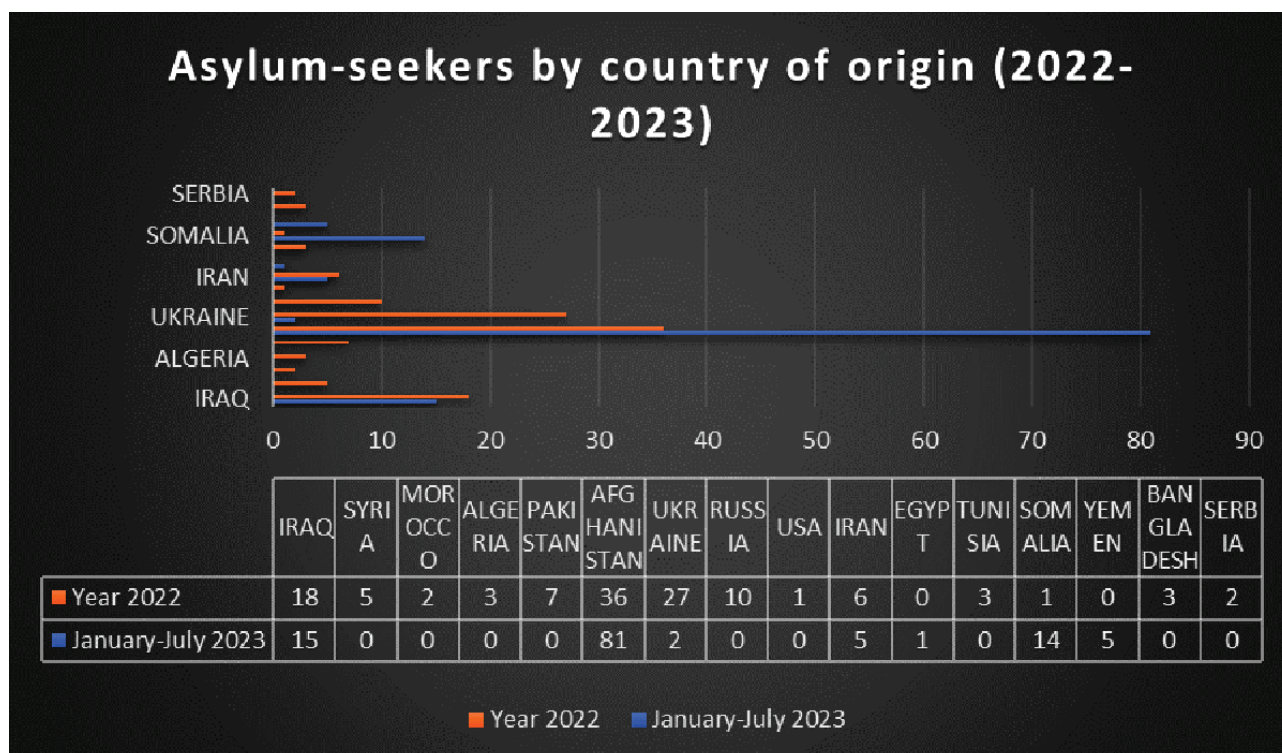
⁽²⁵⁾ Envisaged in article 114 of law no. 79/2021 “On foreigners”.

⁽²⁶⁾ European Commission, Screening Report on Albania, published on July 24, 2023, p. 88-89. Access online: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-07/AL%20Cluster_1%20Draft%20screening%20report_external%20version.pdf

1.3.1. Presentation of statistical data on asylum-seekers for the period January-December 2022 and January-July 2023

According to data made available by the Responsible Authority for Border and Migration, namely the Sector of Asylum and Foreigners in the Ministry of Interior,⁽²⁷⁾ for 2022, there were 125 requests for international protection in the form of asylum in the Republic of Albania. meanwhile, for the 7-month period, January – July 2023, there is an increase in the number of requests, namely 123 asylum requests.

With regard to the specifications of asylum-seekers by country of origin, it results that for the period January-July 2023, there is an increase of the number of citizens from countries of the Middle East, namely countries such as Afghanistan, Iraq, Iran, Somalia and Yemen.



Based on an analysis of this growing trend, it is indispensable that relevant authorities apply responsible and proactive measures whose priority is the protection and well-being of asylum-seekers, also guaranteeing the integrity and efficiency of the asylum process. moreover, encouraging international cooperation and dialogue, and exploring sustainable solutions, will be important instruments in addressing complex issues that underscore the recent increase of asylum requests in the Republic of Albania.

⁽²⁷⁾ Information provided by the Sector for Asylum and Foreigners, by e-mail, on 09.10.2023. Some of the responses for specific questions were coordinated in cooperation with the Receiving Asylum Center.

For 2022, at the conclusion of the procedures for asylum, it results that 24 asylum-seekers, out of 125 (i.e. 19.2%) met the criteria to obtain the status of international protection. During 2022, there appear to be no refusal decisions for international protection. 18 individuals appear to have interrupted procedures for international protection, withdrawing the request for asylum in the RA, or leaving on their own, without notice, from the Asylum Receiving Center. Data made available by the responsible authority create ambiguity on the fate of requests by 83 foreigners who filed requests for international protection (asylum), but there is no information on the continuation of the process.

During the period January-July 2023, at the conclusion of the procedures for asylum, it results that 11 asylum-seekers, out of 123 (i.e. 8.9%), met the criteria to obtain the status of international asylum. As in 2022, in this period of 2023 as well, there were no refusal decisions. Three individuals interrupted procedures for international protection (asylum). In this case too, data indicate ambiguity on the fate of asylum requests for 103 asylum-seekers. During the consultation, the representatives of the Ministry of the Interior announced that these asylum seekers have left, and the local authorities have no knowledge of their whereabouts.

On the other hand, failure to issue decisions of refusal of international protection for these citizens by the Responsible Authority for Asylum at the Ministry of Interior, leads to the lack of complaints with the National Commission for Asylum and Refugees. We emphasize that earlier, AHC was a member of this Commission, but since 2021, in a regressive manner, it was decided by DMC no. 669, dated 10.11.2021⁽²⁸⁾ to change the composition of the Commission. On the matter, AHC reacted by an open letter⁽²⁹⁾ to the Minister of Interior of the time, while the latter, in the process of a parliamentary interpellation, made known the invitation to AHC and any non-governmental organization to attend, as a guest, the meetings of the Commission. AHC was not invited to any planned meeting and, apparently, based on data, meetings have been lacking, but on the other hand, the criteria envisaged for members of the National Commission on Asylum and Refugees (such as being equipped with a 'secret' level security certificate), if extended over invitees, would create difficulties for effectively following these meetings as part of the civil society sector.

Moreover, the number of foreign citizens who interrupted procedures for international protection (asylum) unexpectedly should be analyzed carefully by responsible structures. The lack of clarity of the Responsible Authority about the circumstances that pushed these citizens to interrupt this procedure creates a cloud of insecurity over the fate of these individuals, leaving their situations unresolved and putting their well-being at risk.

Incomplete data about the statistical difference between the total of citizens who filed requests for international protection, those who met the criteria and legal conditions to obtain the status of asylum-seekers, and those who interrupted the relevant legal procedure voluntarily, may be considered linked with the lack of decisive actions by responsible authorities.

⁽²⁸⁾ Published in the OG no. 175, dated 11.11.2021. Access online: <https://qbz.gov.al/eli/vendim/2021/11/10/669/fea13562-1449-4767-9ed9-9abba882ac1e>

⁽²⁹⁾ Open Letter "Albanian HELSINKI COMMITTEE EXPELLED WITHOUT REASON FROM MEMBERSHIP IN THE NATIONAL COMMISSION FOR ASYLUM AND REFUGEES", published on April 13, 2022. Access online: https://ahc.org.al/leter-e-hapur-komiteti-shqiptar-i-helsinkit-perjashtohet-pa-arsye-nga-anetaresia-ne-komisionin-kombetar-per-azilin-dhe-refugjatat/#_ftn3

1.3.2. Accommodating and infrastructure capacities of the Asylum Receiving Center (Babrru)

With regard to data provided for 2022 (the period January – December 2022) and the 7-month period of January-July 2023, the responsible authority notes that the minimal length of stay of asylum-seekers in the Receiving Center is 3-4 days. With regard to the average length of stay, it is referenced as 10-15 days, while maximal length of stay is estimated at 8-10 months.

In accordance with article 44 of law no. 10/2021 “On Asylum in the Republic of Albania,” the Asylum Receiving Center should guarantee minimal living conditions, including accommodation; food; health insurance; minimal hygiene conditions. Also, in the context of partnerships with various subjects, in accordance with the rights of seekers and refugees, the Center conducts educational programs and free legal counseling for them.

The categorization of citizens who arrive and are accommodated in the Asylum Receiving Center is realized by the responsible Directory for Borders and Migration, based on the evaluation of needs that are identified and referred, such as: family, individual citizens, persons with disabilities, unaccompanied children, etc.

During the period January-December 2022 and January-July 2023, it results that there have been no cases of citizens who benefited the status of refugee/complementary protection who left Albania upon their own will, but during the mentioned period, before the review of procedures for the review of their requests for asylum, 3,137 Afghan citizens withdrew their request for temporary protection and left upon their own will from our country. These statistics create premises for the categorization of our country as a transit migration country, which is not a destination for these citizens.

The Asylum Receiving Center has a reception capacity for 220 persons while at present, 15 personnel and three additional employees contracted by the Ministry of Interior carry out their duties there. With regard to human resources, among the needs identified by the Center itself, are those about insufficiency in the following positions: IT specialist, Finance Specialist, Doctor, Nurse, Worker, Maintenance Worker, Night Custodian, Sanitary Worker, and Social Workers.

The latest monitoring mission of AHC at the Asylum Receiving Center is from June 2019. Lastly, AHC undertook the initiative to monitor this institution based on practice and on the Cooperation Agreement between AHC and the General Directory of State Police. However, the obligation to draft and sign a direct agreement with the Receiving Asylum Center has made this process to depend on the finalization and approval of this joint act.

In its earlier monitoring visit, AHC observers pointed out that the staffing pattern of the center did not envisage a lawyer, while the Directory of Borders and Migration, as well as the RMSA organization are specified as main partners in free legal assistance for asylum-seekers. Based on information from the letter by the responsible Authority, this vacancy has been avoided. However, deficiencies and difficulties have been encountered by responsible staff of psychologist, doctor, translator of special

Arab languages, etc.⁽³⁰⁾ As long as the current human resources, as well as the their management of situations have not been the subject of monitoring by AHC, we are not able to provide updated data; and, earlier difficulties and obstacles do not seek to prejudice or misinform on current conditions, but the current functional administration of 18 employees consider that they are not in reasonable proportionality with the capacity of 123 persons who have filed requests for international protection in the period January-July 2023.

1.3.3. UNICEF⁽³¹⁾ recommendations on assessing the needs, vulnerability and experiences of Albanian and non-Albanian children in the context of migration

In recent years, data from reliable sources has consistently shown that compared to adults, young people aged 15 to 29 make up the second largest group of international migrants. This trend has continued since 1990, highlighting the urgent need for an approach focused on addressing the needs, vulnerabilities and experiences of children in the context of migration, Albanian and non-Albanian. UNICEF's recommendations outline a narrative that underlines the critical aspects of this effort. It should be emphasized that any action taken regarding children on the move must prioritize their best interests and non-discrimination, placing their well-being above their migration status. Access to asylum for children, whether they come with their families or unaccompanied, is considered essential and must be protected.

1.3.3.1. Access to child-friendly asylum and protection services

- The best interest of the child and the principle of non-discrimination should be primary considerations in all actions that concern children on the move and should take precedence over migration status.
- Access to asylum for children whether they are in families or arrive separated or unaccompanied should be upheld.
- Establish and ensure quality child-appropriate reception conditions and safe environments for

⁽³⁰⁾ For more information about data on the findings of the monitoring mission, please read “Monitoring Report – On the rights and freedoms of emigrants, asylum-seekers, and refugees in Albania,” drafted by AHC, p. 35 onwards. Access online: chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://ahc.org.al/ëp-content/uploads/2020/03/Raport-monitorimi_Mbi-te-drejtat-dhe-lirite-e-emigranteve-azilkerkuesve-dhe-refugjateve-ne-Shqiperi_compressed.pdf

⁽³¹⁾ Fullani, A., Alimehmeti, E., Unaccompanied and Unprotected: Assessing Protection Gaps for Unaccompanied Foreign Children in Albania, UNICEF Albania, Tirana 2023.

children and women, notably unaccompanied and separated children on arrival, including ensuring access to asylum and protection services that are age and gender appropriate, guardianship systems, access to basic services - education, mental health and psychosocial support, social protection, training and skills programs, and integration support.

- Develop and promote minimum standards for temporary accommodation and reception centers hosting refugee, migrant and asylum-seeking children.
- Identify unaccompanied and separated children, ensuring access to legal counseling and guardianship support in the asylum or other applicable legal and temporary procedures.

1.3.3.2. Child Protection System Strengthening

- Enhance the capacity of the social service workforce, particularly related to case management, legal guardianship, safeguarding and gender-based violence and ensure that refugee, migrant and asylum-seeking children enjoy the same rights as local children with adequate access basic services.
- Alternative family and community-based care services for children, for both refugee, migrant and asylum-seeking children and local children through availability of a range of inclusive and alternative care options accessible to all children regardless of their nationality.

1.3.3.3. Inclusion of refugee and migrant children into national child protection systems

- Encourage national systems to further develop linkages between refugee and migrant responses and child protection systems strengthening to respond to humanitarian and other emergencies and build capacities for local children in a same manner (as an example, the current model of response that UNICEF has been supporting in Shengjin to Afghans under the status of temporary protection in partnership with the embassy of the United States of America in Albania).
- Promote the mainstreaming into national systems of child protection services for refugee/migrant children (including identification of child protection cases, case management, and guardianship), grounded in the principle of the best interest of the child, and with a focus on UASC as a vulnerable group.

1.3.3.4. Strengthening the evidence base on children on the move.

- Promote the development of national systems to collect official data on refugee, migrant and asylum-seeking children generally, and unaccompanied and separated children in particular, disaggregated by age, sex and disability.

In addition, research led by UNICEF suggests that there are legal and capacity gaps to protect unaccompanied and separated children arriving in Albania. The domestic legal and regulatory framework assessment regarding the rights, treatment and protection of foreign unaccompanied and separated children arriving in the Albanian territory shows the need for important legal amendments, in addition to changes of practical coordination measures plans, effective cooperation, and development of capacities in relevant institutions. Regulatory framework completion and the addressing of institutional capacities for its implementation are immediate needs and of paramount importance in strengthening state authorities and stakeholders to effectively respond to migration, while preventing and combating all forms of violence against children and human trafficking.

1.3.4. Statistical data and findings and recommendations in the context of AHC's monitoring mission in the Closed Center Kareç

Data made available by the Directory for Borders and Migration reflect that a comparison between 2022 and 2021 shows a slight difference in the transfer of foreign citizens to the Closed Center Kareç, after they are identified in the local border/territory. More concretely, in 2021, 69 foreign citizens were identified while 65 were identified in 2022. An increase of 11 more citizens was also seen in the 9-month period of 2023 (23 foreign citizens).

In March 2023, AHC undertook a monitoring visit in the premises of the Kareç Closed Center. The functioning of this institution is enabled by DMC no. 1083, dated 28.10.2009 "On the establishment of the Closed Center," detailed through Order no. 117, dated 09.02.2010 of the General Director of State Police "On the approval of the Internal Regulations for the Organization and Functioning of the Closed Center for Foreigners."

The institutional capacity of this center makes it possible to accommodate about 100 persons; however, on the day of the monitoring, only 10 foreign citizens were found in the institution. In AHC's view, the amendment of law no. 79/2021 "On foreigners" should have been accompanied also with addressing the proposal to the PM about the approval of a new decision for improving the functioning of the Center and for updating the Internal Regulations on the organization of this institution, depending on needs.

The current staffing structure envisages 37 employees to fulfill legal duties and the normal activity

of the institution. At present, no vacancies are mentioned. Considering the number of accommodated persons (in situations of inflows), the time of their stay, and the relevant needs of the accommodated, in order to guarantee the respect for foreign citizens' rights and freedoms, it is suggested that there be close cooperation with the General Directory of State Police. In spite of the positive will of specialists in the current staff and of the detained persons toward one another, the engagement full time of licensed interpreters to guarantee the sharing of accurate and objective information has been viewed as indispensable. Also, the fact that the staffing structure does not envisage a lawyer, in spite of efforts to provide legal assistance in cooperation with international bodies, in AHC's evaluation, does not guarantee the provision of systematic legal assistance by professionals. The inclusive and organic approach in providing legal assistance to detained citizens who are accommodated in the Closed Center should include the creation of sustainable infrastructure that encourages continued engagement of legal professionals and interested parties, ensures the integration of local legal expertise, and gives priority to the development of long-term strategies to address the complex legal needs of this category.

At the conclusion of the visual observation of the premises, monitors noticed a disturbing presence of humidity, heavy moss smell, lack of heating, and worn-out ceilings, which create question marks about human treatment and respect for article 3 of the ECHR. Through information provided by the institution that was being monitored, the team found out that specialists of the General Directory of State Police highlighted the issues and, in cooperation with IOM, plan to start works for the reconstruction of the institution.⁽³²⁾

Considering the weight of the situation encountered in the field, and appreciating the partnership and support provided by international organizations for domestic authorities, in the absence of institutional budget resources, we reiterate the urgency of quick interventions, starting with an intervention plan that seeks to address immediate issues.

AHC observers recommended the taking of measures to enrich the library of the institution with books in English or Arab languages, as well as new publications that draw the attention of those accommodated in the Center. Furthermore, sports, recreational, and social-cultural activities in the external premises of the institution, found to be scarce by AHC observers, were justified by the institution by the lack of a dedicated budget to adjust the premises. With understanding for the provided argument, AHC suggests the prioritization of developing the external premises in the context of the overall budget allocation. A potential recommendable strategy includes the encouragement of partnerships with external actors, including local communities, businesses, and non-government organizations, to secure additional funds and resources for improving the external premises. Cooperation with these actors might cultivate a feeling of shared responsibility and engagement of the community in encouraging a social recreational environment, besides financial support.

Monitors noticed the absence of a card-phone system while the communication of the detained with the external world is done through personal mobile phones, under supervision by the institution's staff. The institution under monitoring said that the satellite network did not work since the Center was established. AHC reiterates the taking of measures to enable the communication of the detained in privacy, through card-phones, as required by article 1, chapter II, part III of DMC no. 1083/2009.

⁽³²⁾ Letter no. 971/1 prot., dated 17.05.2023 "Response to letter no. prot. 284, dated 27.04.2023, on the recommendations and monitoring by the Albanian Helsinki Committee," by the Closed Center for Foreigners.

In AHC's view, every extralegal solution might be cause for violation of security, privacy, and personal data of the citizens accommodated in this institution and/or their family members or friends.

During conversations with the individuals accommodated at the Center, claims were presented to AHC observers that airing was only allowed in the last month as this right had been restricted without any justifying arguments. There is no special register in the institution for documenting the participation of accommodated citizens in shared activities or their airing in the external premises of the Center. The institution rejected this claim with the argument that during the summer, all individuals were enabled to go out for air, double the time specified in the daily regime.

In light of this correspondence exchanged with the institution under monitoring, we find that it is indispensable to take concrete measures to re-evaluate policies and practices inside the Center to ensure protection and promotion of the fundamental rights and well-being of the accommodated citizens. The inability to document in a systematic manner the level of guarantees for the right to airing and the involvement of the accommodated in joint activities, represents a concrete and impactful challenge for evaluating the general well-being of the detained and securing the effectiveness of institutional programs and initiatives. From the consultation process carried out at the joint table of on November 8th, 2023 (about 8 months after the field verification process), the responsible authorities of this institution announced that the infrastructural improvements undertaken recently reflect a different reality. As a result, AHC assesses the need to carry out another verification visit in the field, with the aim of encouraging the promotion of positive practices of reflection by the local authorities against the need to provide adequate conditions to foreign citizens

1.4. Processing of statistical and qualitative data about the identification and treatment of irregular immigrants

Based on information provided by the Department for Borders and Migration, it results that during the 9-month period January–September 2023, a total of 5,804 citizens were caught in our country who were irregular immigrants; of these 4,139 were first-time offenders and 1,665 were repeating ones. This marks a considerable decrease of 3,071 cases, a -34% decrease compared to the same period of the previous year (2022). It is thought that of influence in the downward curve have been added checks in the green border in the operational area Kakavija/Kapshtica, where FRONTEX forces have been deployed. During the first 9 months of 2022, 8,875 irregular immigrants were caught, with 6,059 being first-time offenders and 2,816 repeating ones. In total, in 2022, 11,216 irregular immigrants were localized and caught in our country (8,335 for the first time and 3,881 repeating ones). The year 2022 is considered a period with a lower number of irregular immigrants compared to 2021, during which a total of 18,496 or 66% foreign citizens were localized and caught in our country as irregular immigrants (10,062 first-time offenders and 8,434 repeating ones). We consider that aside from the importance of the analysis of statistical data on the number of first-time irregular immigrants, the number of repeating offenders at about 50% of a difference between the two years is worth studying in an empirical and in-depth manner, in order to translate it into immediate logistical and legal measures

that should be undertaken by domestic authorities to reduce the effects of this phenomenon. Irregular immigrants caught in the territory of the Republic of Albania are mainly coming from Bangladesh, Afghanistan, Algeria, Eritrea, Syria, Somalia, and Nepal. Over 95% of them are male and aged between 20 and 50 years.

The effective management of irregular immigrant flows is of great importance for national security while it is worth prioritizing:

- a) Strengthen measures and systems for the identification and registration of every irregular foreign citizen who enters our territory or attempts to transit through the Republic of Albania.
- b) Promote and increase cooperation with foreign partner agencies to exchange information regarding the identification of foreign terrorist fighters (FTF) or individuals with ties to violent extremist groups who may be hiding inside mixed migration flows. Failure to identify and address these individuals accurately increases the threat of violent extremist elements or terrorist foreign fighters who circulate within our country's territory.

With regard to the identification and capture of third-country citizens who attempt to transit from Albania by road toward EU countries, official data note that there has been a decline of 6280 individuals, or a drop of 33,95% compared to 2021, noticed during 2022. Meanwhile, at present, there is a lack of data for the first nine months of 2023.

Statistical data for 2022 and the period January-June 2023 show that the main directions of entry into our country by foreign irregular immigrants remain mainly those on the border with Greece. Responsible domestic authorities report that with regard to the main roads/directions they undertake, the main ones remain the region of Korça, mainly in the Kapshtica area; the region of Gjirokastra, mainly the area of Kakavija; and the region of Saranda, mainly in the Konispol area (Qafë-Botë direction). The use of the green border also allows for relatively easy crossing, while the best road infrastructure is near the border crossings of Kakavija and Kapshtica; the most appropriate transport itinerary is that toward Montenegro and Kosovo, with the destination being mainly EU countries, primarily Germany. The interview process has shown that irregular immigrants are clear about their goal, the itinerary they should follow while transiting Albania, procedures followed for seeking asylum, and then movement toward neighboring countries.

Data reflected in the accompanying Annex of this Policy Paper indicate that in September, reflect that in 2022 a relatively stable trend is observed with a slight decrease between the months of April and September. Compared to data from 2021, the trend is on the rise. The main motivation for citizens leaving their countries of origin is guided by unemployment as they seek improved prospects in EU countries. There are also individuals who leave their countries of origin due to continued conflicts, joining family members who have already started similar travels. In both scenarios, citizens offering assistance for realizing such travel/journey are mainly motivated by economic profits.

Based on statistical data for 2022, the main points of entry into our country for foreign citizens who are irregular immigrants remain stable, especially on the border with Greece. These entry points are as follows:

- a) The district of Korça had 6599 irregular immigrants identified during 2022. Compared to 2021,

when a total of 14,877 persons were caught, there was a visible decrease of about 55,6% of the number of caught immigrants.

- b) In the district of Gjirokastra, mainly in the Kakavijë area, during 2022 there were identified 2,420 irregular immigrants. This represents an increase of 15,1% compared to the 2,053 persons identified during 2021.
- c) In the district of Vlora, mainly in the Konispol area (Qafë-Botë direction), 1,262 irregular immigrants were identified in 2022. This marked a considerable increase of 79,4% from 259 persons caught during the same period in 2021.

Based on the data cited above, the flow of irregular migration focused mainly on the road points of Vlora and Korça, with about 75% of registered caught emigrants (43% in Vlora and 35% in Korça).

Analyzing the time of capture, it is evident that the third quarter of 2022 saw an increase in the number of irregular immigrants, with September seeing the highest figures. This increase in the movement of immigrants may be attributed to their concerns for nearing colder weather that would make transit in the Albanian territory more challenging. As a result, they are motivated to move faster toward EU countries in the north.

An analysis of responsible institutional authorities identifies several external factors with an impact on the upward trend in the number of irregular immigrants toward our country, such as:

- Closing of the Northern Balkan (Macedonia-Serbia-Hungary) route
- Continued increase of the number of immigrants arriving in Greece
- Geographic position of the country and its favorable terrain
- Establishment of camps by Greek authorities in the vicinity of the border with Albania (Ioannina and Thessaloniki)
- The inability of Greek authorities to control the situation at the border
- Increase in smuggling of immigrants in Greece and Albania, by providing transport up to the border
- The situation in Turkey (economic pressure or increased presence of immigrants), as well as conflicts with countries of origin in South/Central Asia, Middle East and North Africa also appears as an affecting factor mainly during the nine months of 2023.

The process of border verification of persons on the second line is a process as important as inevitable as it helps provide identifying data for national and international databases. Meanwhile, for the 9-month period of 2023, it results that 117,789 foreign citizens were subjected to this minimal verification process at the border; for 2022, such data is lacking from the Department on Borders and Migration.

Foreign citizens who are subjects of this second-line verification process were accommodated in

appropriate premises for realizing controls; at the conclusion of the control process in the second line, measures and procedural steps are realized in keeping with articles 7, 8, 9 and 14 of law no. 71/2016, amended.

Different administrative measures were applied toward some of the foreign citizens who were subjected to this verification process. Based on official data made available, it results that during 2022, fines were issued for overstaying the deadline of stay in the territory for 526 citizens; in the six months of 2023, 220 foreign citizens appear to have been fined. From a comparative analysis, if the situation remains similar until the end of 2023, data appear promising in a considerable reduction of the number of foreign citizens who violate legal provisions in force and stay in our country beyond the 180-day deadline.

Also, the use of falsified documents for the purpose of illegal state border crossing was found to be a used practice, with a slight reduction in 2023. More concretely, in 2022, 137 citizens were detained after being found in this situation, while 73 citizens were detained in the first six months of 2023. The use of falsified documents for the purpose of illegal crossing of a state border presents multiple challenges, including but not limited to, threats to national security, economic consequences, and a strain on law enforcement levels.

Failure to fulfill the conditions to enter our country, envisaged in articles 6 and 9 of law no. 79/2021 'On foreigners,' has been grounds for refusal of entry to 2101 foreign citizens during 2022, while 643 foreign citizens were denied entry into the country in the first six months of 2023. Edited data on these cases as well as refusal measures by responsible border authorities should be evaluated positively with regard to the country's international reputation and the approach of domestic mechanisms for the implementation of the legal framework. Refusal measures should be accompanied by argued and transparent decision-making in order to avoid misunderstandings and misinterpretations of the law.

Through this Policy Paper, we seek to inform the public regarding the distinction between the process of verification of foreign citizens in irregular situations who are found/detained at the border and those who are found in the territory:

Finding/capture of a foreign citizen in irregular situation in the territory	Finding/capture of irregular foreign citizen at the border
<p>The foreign citizen is accompanied by border and migration police services or other services of State Police to the premises of the Commissariat of Border Police or the Local Directory for Border and Migration in order for the migration specialist to carry out the selection process.</p>	<p>If the finding/detention of the irregular foreign citizen occurs at the border, the BPS patrol officer conducts the accompaniment of the irregular foreigner to the BCP under security measures. Afterwards, the BPS patrol officer drafts the service report describing every bit of information accurately. The selection process at the border is done by the shift supervisor or personnel assigned at the BPS. After the selection the specialist at the BCP or the Border Police Commissariat takes relevant measures to send full documentation to the Local Directory for Borders and Migration.</p>
<p>Always, before the selection process, the migration specialist conducts a detailed physical inspection. This inspection is done to highlight evidence and data about the citizenship or country the foreigner came from. Also, it helps verify documentation, identify falsification elements, entry stamps, etc. Persons are informed about the purpose of these inspections in a language they understand. The inspection is conducted by an employee of the same sex and in full respect of the principles of human physical and psychological integrity.</p>	
<p>Upon physical inspection, the specialist drafts the relevant service report and, according to the law and/or by-laws, undertakes the necessary administrative actions. The specialist drafts the order of departure, expulsion and/or detention in the Closed Center. Afterwards, the migration specialist in the Border Police Commissariat or Local Directory for Borders and Migration takes relevant measures to send full documentation to the General Directory for Borders and Migration.</p>	

The process of selection of the foreign citizen in irregular situation concludes within a short period of time, namely 10 hours. This process, which is conducted by the shift supervisor/interviewing specialist at the BCP and the migration specialist at the Border Police Commissariat or the Local Directory for Borders and Migration, includes among others the taking of some preliminary and very important measures for realizing a transparent procedure, that is easily understandable and clear for the foreign citizen. The latter is offered health assistance (if the situation requires), and in any case, is guaranteed preliminary information about the process and procedures to be followed, individual interview in the presence of an unselected interpreter among the group of immigrants/refugees, filling and signing the selection form, and registration in the module under the status ‘irregular foreigner’ together with a note on the reason/s for surpassing the 10-hour deadline for procedural actions.

Respect for the mentioned legal procedures serves as a starting point in the efficient treatment and guaranteeing of the rights of irregular foreign citizens, during contact with the administration and responsible officers for asylum and migration. Sensitization and periodic inclusion of these officials in training programs would serve positively to understanding the inciting factors and challenges that this category of citizens faces. Guaranteeing a rigorous process of selection and the involvement of official licensed interpreters would serve to secure the neutrality of the process, facilitating effective communication among foreigners and local authorities, and reducing potential bureaucratic obstacles that may appear. Local authorities, through information made available, have not fully identified the challenges and obstacles that the selection process encounters, while practice has shown that access of foreign citizens to an understandable process in their mother tongue is often difficult and impossible to be guaranteed within the 10-hour legal deadline. The analysis of exclusive cases that surpassed the 10-hour procedural deadline and the causes/reasons that led to them would serve positively to monitoring mechanisms of oversight to address effectively the need to review procedures and take additional measures to address obstacles and vacancies that may be the cause for such delays.

1.4.1. Data on the situation and functional capacities of the Temporary Reception Centers

As highlighted above, AHC did not undertake any monitoring visit to any of the Temporary Reception Centers; therefore, the data reflect the information provided by the Directory for Borders and Migration.

A) Reception Center for Emigrants in Gërhot, LDBM Gjirokastra

Gjirokastra County, identified by documents and judicial practice as one of the *hotspots* preferred for entry of emigrants, including those in irregular situations, has in its territory two Temporary Reception Centers. The first reception center is located in the former building of the GOS in Kakavija and the second one near the LDBM Gjirokastra, and they function with full organizational capacity. The first one has a receiving capacity of 15 beds while the other has an expanded capacity of 60 beds. In parallel with these two Reception Centers, in Gjirokastra, there is also the Social Center with a

capacity of 15 beds. In the last one, mainly categories of vulnerable emigrants are sheltered, such as women and minors, or unaccompanied minors, because of 24-hour personnel on duty.

An analysis of statistical data indicates that after capture, during 2022, 33 foreign citizens were transferred to the Temporary Social Association, while in 2021, there were no transfers to this institution. There was an increase in the number of cases during the first nine months of 2023, with 32 foreign citizens transferred to this Social Center. The growing number of these cases is a result of the increase of the number of citizens who are part of vulnerable categories, such as women and children, who access the Albanian territory to transit toward European countries.

There is a need for the development and expansion of support services inside the Social Center, providing tailored assistance that addresses the specific needs of the vulnerable foreign citizens. This includes access not only to health care, but also psychological support, educational opportunities and vocational training for women, facilitating their integration in our country, should these citizens file a request for asylum in our country. It is also assessed that institutions of oversight should take measures to develop a long-term policy legal framework, aiming at addressing the root causes of migratory flows that include the vulnerable categories of immigrants. Such situations raise the need to engage in joint tables of discussion with regional and international partners, as well as countries of origin, to identify paths and practices that should be followed by them to improve the social-economic conditions, offer sustainable alternatives to migration, and strengthen border controls to prevent the exploitation and smuggling of migrants.

B) Migrant Reception Center at BPS Kapshtica

The Center for the Registration and Temporary Accommodation of irregular immigrants has a capacity of 120 accommodation spots (60 for women and 60 for men), and includes 17 completed premises. While 10 premises are adapted for accommodation, one of them serves for registering and selecting foreign citizens, 2 for sanitary services, 2 toilets, one kitchen, and one laundry room.

C) Migrant Reception Center in Qafë Botë, Saranda, LDBM Vlora

This Center has a capacity for temporary accommodation of 60 persons.

1.4.2. Recommendations for improving the situation of treatment of the phenomenon of irregular immigration

- Based on data for repeating irregular immigrants who access the borders of the Albanian territory illegally and periodically, we recommend the promotion of opportunities to draft empirical research/analyses to identify and study the defining factors, such as difficult social-economic conditions, lack of legal clarity, or infrastructural barriers. The analysis of these impactful factors would serve update policies based on concrete evidence, which serve the smooth management of irregular migration flows.



- We recommend that the implementation of advanced technology for supervision and strengthened border security measures could improve the discovery and prevention of illegal repeated migration, reducing the chances for repetition.
- In our opinion, the creation of cooperation frameworks with countries of origin to address the root causes of irregular immigration, such as economic inequality, political instability, and social turmoil and civil conflicts/wars, is a mechanism for deterring irregular migration.
- Keeping in mind the fact accepted by responsible local authorities, such as the Directory for Borders and Migration, that the current infrastructure in our country is not sufficient for addressing major inflows of immigrants and asylum-seekers, we recommend increased attention by institutions of oversight, such as the Council of Ministers, for allocating appropriate budget funds in order to address this issue.
- Based on results of verifications in the second line of foreign citizens, we assess that efforts should be made to evaluate the effectiveness of current measures and to identify every affecting factor that would serve to strengthen border control mechanisms, increased procedures of monitoring, and the implementation of effective strategies for inter-regional and international cooperation to prevent the increase of cases for which the application of administrative measures is envisaged.
- It is recommended to apply an inclusive collaborative proactive and systematic approach, in order to address the phenomenon of the use of falsified documentation for illegal border crossing in the Albanian state territory. Among the measures that may be undertaken we suggest the strengthened cooperation between responsible national and international actors to improve the collection and exchange of information about such cases; application of methods to make functional sustainable and advanced technological systems, on biometric verification, and the strengthening of control processes at border crossing points; increased awareness campaigns in cooperation with civil society to inform and educate citizens about the legal consequences and social implications of involvement in or facilitation of illegal border crossing through falsified documents; effective monitoring of the implementation the regulatory legal framework in order to promote punishment both for providers of falsified documents but also users, in order to prevent the spread of this phenomenon.
- Refusal for entry of foreign citizens who do not meet the conditions envisaged in the domestic legal framework should be accompanied by transparent and well-argued decision-making as well as by the application of an informative, legal approach toward foreign citizens, in order for them to better understand the binding domestic legal provisions. It is worth taking proactive measures according to a well-organized schedule for the involvement of migration officials in dedicated training programs for the updated legal framework in force.

1.4.3. 'The phenomenon of illegal border crossing and aiding it' as a direct consequence of illegal migration, under the optics of judicial practice

Earlier, AHC experts have analyzed 106 decisions, issued by five judicial district courts (namely those of Saranda, Korça, Shkodra, Pogradec and Përmet), which belong to the 7-year period of time between 2015 and 2021 for two criminal offenses, namely "Illegal border crossing" envisaged by article 297 of the Criminal Code and "Assistance for illegal border crossing," envisaged by article 298 of the Criminal Code.

An analysis of this sample indicates that in 86 cases, factual circumstances have been qualified as illegal border crossing, envisaged in article 297 of the Criminal Code, while in 5 cases, the defendants appear to have committed elements of the criminal offenses of "Falsification of IDs, passports, or visas" (envisaged by article 189/1 of the Criminal Code) or the criminal offense of "Assistance for illegal border crossing" (envisaged by article 298 of the Criminal Code). In 19 cases, the court qualified actions undertaken by the defendants as "Assistance for illegal border crossing" in the classical form, and in accentuated circumstances.

In resolving the analyzed cases, the courts used two kinds of adjudications, the ordinary one and the abbreviated one. In about 24.5% of the cases (or 26 cases), they applied abbreviated adjudication. The most used form of punishment is that of fines in 73% of the cases, followed by a sentence of imprisonment in about 17% of the cases, while a smaller number carries the application of alternative imprisonment sentences for 3% of the cases. More concretely, a sentence by fine was applied for 77 cases, qualified under the criminal offense of 'Illegal crossing of state borders,' while the highest level of the fine issued by the court is 150.000 lekë and the lowest fine is 40.000 lekë.

Based on statements before responsible investigation bodies, it results that the majority of foreign migrants come from Syria, followed by citizens of Morocco, Afghanistan, Palestinian, and Iraq. Migrants are forced to leave their countries due to the situation of war that their countries of origin face. They leave being organized in groups of two or more families and in groups of individuals they know or because of the common goal of leaving and have thus traveled together along the itinerary of the journey.

The consolidation of roads passage until the arrival in the Albanian territory is another key element that is very telling about the manner of action. Initially, they travel to Turkey and then cross the border into Greece. Further on, they head toward our country's southeast as the next crossing point. These countries generally serve as transit countries and emigrants in no case indicate any goal to stay in these countries; their destination remains that of European countries.

There are three ways of interaction among foreign migrants and smugglers: meeting with smugglers, in the vicinity of border crossing points, while the latter enable the inclusion of refugees in other larger groups whose shared goal is the same destination; 2. Identification by the migrants themselves of the smugglers or assistance by other individuals in the neighboring countries who earlier used the same way to cross illegally into another state territory; 3. Communication on social networks and apps with smugglers who help them through acquaintances with certain individuals or through as-

sistance offered by taxi transport. Also, the processing of data reflected in decision-making provides sporadic information about the financial profit of the smugglers, varying between 100 and 500 euros. There have also been cases when assistance for illegal crossing of state borders has been provided by well-structured groups and, as a result, the awarded amount until arrival at the final destination is up to 9000 euros.⁽³³⁾

It has been disturbing to see the elaboration of collaboration in 12 decisions, out of the total of 19 decisions qualified under article 298 of the CC. However, the argument used by the panels of judges based on conclusions of investigative processes indicates a superficial process that does not appear to have cast light on structured criminal activities of smuggling of migrants and, as a result, remains the competence of review by courts of general jurisdiction.

The serious consequences of the loss of life of some of the citizens crossing the border illegally while receiving assistance from identified perpetrators, among whom a female infant, remains one of the most serious cases analyzed by the Saranda Judicial District Court.

From the sample of analyzed decisions, only in one case, the Shkodra Judicial District Court ruled for innocence of the defendant who was accused for committing the criminal offense “Illegal crossing of state borders” according to article 297 of the CC and the prosecution body asked for a fine of 500.000 leks. The decision-making of the court is seen as based on facts and evidence as long as the defendant crossed without avoiding border control by responsible authorities, having a biometric passport as an ID, and was not aware why he was not registered by them.

In general, foreigners entering the territory of our country in violation of criteria established by law are categorized as foreigners of irregular stay and are subject to measures for their expulsion from our territory. The courts whose decisions have been analyzed do not appear to have issued criminal decisions on the foreigners who were assisted to cross the border illegally. In fact, they are only mentioned in the analysis of the circumstances of the facts and the entire process against the individual (defendant) accused of transporting them, for the criminal offense of ‘Assistance for illegal border crossing’ envisaged in article 298 of the CC. In general, this policy pursued by the Courts under review appears just in principle as irregular emigrants should be treated on the basis of administrative procedures envisaged in specific legislation for foreigners and should not be subject to prosecution of the material criminal legislation.

Only one case reviewed by the Pogradec Judicial District Court is viewed as an exception and in violation of the positive practice.⁽³⁴⁾ In this case, the Court convicted by two months a Palestinian citizen who, based on the facts of the case, appears to have crossed the border illegally. Based on the circumstances of the case, it results that defendant had departed from his country of Palestine for the purpose of getting to European countries. The itinerary the defendant pursued went through the territory of Turkey and then that of Greece. At the Turkish-Greek border, the defendant appears to have met a Syrian citizen whom he did not know. The latter assisted the defendant to get on a truck against payment. The defendant traveled for three days until police found him during an inspection at the

⁽³³⁾ Korça Judicial District Court. Decision 41-2021-430,1284 dated 08.04.2021

⁽³⁴⁾ Pogradec Judicial District Court, Decision no. 43-2021-430 dated f26.04.2021

Albanian border. Also, based on the investigation, the Turkish driver of the truck whose destination was Shkodra was not aware of the presence of the Palestinian citizen on his truck.

On the other hand, the Shkodra Judicial District Court made a decision to issue a security measure for a defendant who was an Iraqi citizen who had the status of asylum-seeker.⁽³⁵⁾ It appears that the Court issued the security measure of ‘arrest in prison’ for this citizen, charged with ‘assistance for illegal border crossing’ committed in collaboration according to article 298/3 of the CC. Based on an analysis of the judicial decision, it results that this citizen acted as an organizer and was the person with the main role among other collaborators. The arguments provided by the Court to accept the prosecution’s request to issue a personal security measure in this case was based on the threat posed by the criminal offense and the presumed risk of the person under investigation fleeing.

1.4.4. Recommendations from the analysis of judicial decisions:

We suggest to the prosecution offices of judicial district courts whose decisions were analyzed to evaluate with appropriate care the elements that point out the special forms of collaboration in committing the criminal offense envisaged by article 298 of the Criminal Code, in order for investigations into the criminal offense to pass without delay for material competence to the Special Prosecution against Corruption and Organized Crime. Considering the importance of fast and decisive action in the fight against such crimes, there is a need for fast and accurate evaluation of evidence and relevant testimonies, considering the broader implications for the integrity of the judicial system and the well-being of society in general. In defense of uninterrupted transition to the specialized jurisdiction of the Special Anti-Corruption Structure (SPAK), it is advisable to aim at taking measures to strengthen the integrity of legal processes and support the principles of transparency and accountability in criminal justice.

- We suggest to First Instance Courts to give priority to the implementation of the specific law in cases when the subject of the offense includes foreign citizens, pursuant to law no. 79/2021” On foreigners”. Foreign citizens should be considered subject of departure from the Albanian territory and not criminal punishment according to our legislation. Under such reasoning, we encourage the taking of measures by first instance judicial instances to harmonize judicial practice in order to protect the rights and dignity of individuals, in spite of their citizenship.
- In order to promote the promotion of guaranteeing the principles of transparency and efficiency of justice, we suggest to the Courts to devote more attention to arguments for judicial decisions, avoiding the use of sample forms and standard and formal language that does not make full, clear, and logical reasoning of the decisions and the proper individualization of the decisions possible. It is indispensable that the courts keep in mind the legal arguments of the parties and the reflection of convincing legal arguments for their admission or rejection, based in an individualized manner

⁽³⁵⁾ Shkodra Judicial District Court, Decision no.1477 dated 0.05.2021

on the factual circumstances of each case. This approach, tailored to the unique factual circumstance of each case, is essential for ensuring the issuance of impartial and well-argued decisions.

- We suggest to responsible institutions such as the Ministry of Finance and Economy, the Ministry of Health and Social Protection, National Employment Service, and the State Labor Inspectorate, to coordinate among them in order to take concrete measures to build action plans for the application of strategic policies approved for the employment of returnees and citizens convicted for illegal border crossing for employment purposes, in favor of increasing the well-being of the latter and their easier short-term reintegration in society.
- We suggest to responsible institutions of criminal justice to improve the application of criminal policy, from a humane, reintegrating, and rehabilitating approach, regarding the phenomenon of illegal migration, taking into consideration the inciting and encouraging factors as well as the social-economic circumstances that persons under investigation are faced with, all of which have an impact on the phenomenon of repeat offenses.
- We suggest to the General Directory of Borders and Migration to increase the quality of border supervision and the strengthening of cooperation and interaction with international agencies such as FRONTEX, in keeping with national legislation, as well as international directives, such as the European Union Strategy on voluntary return and reintegration.

ANNEX

Table 1. Year 2022/2021 – Main citizenships

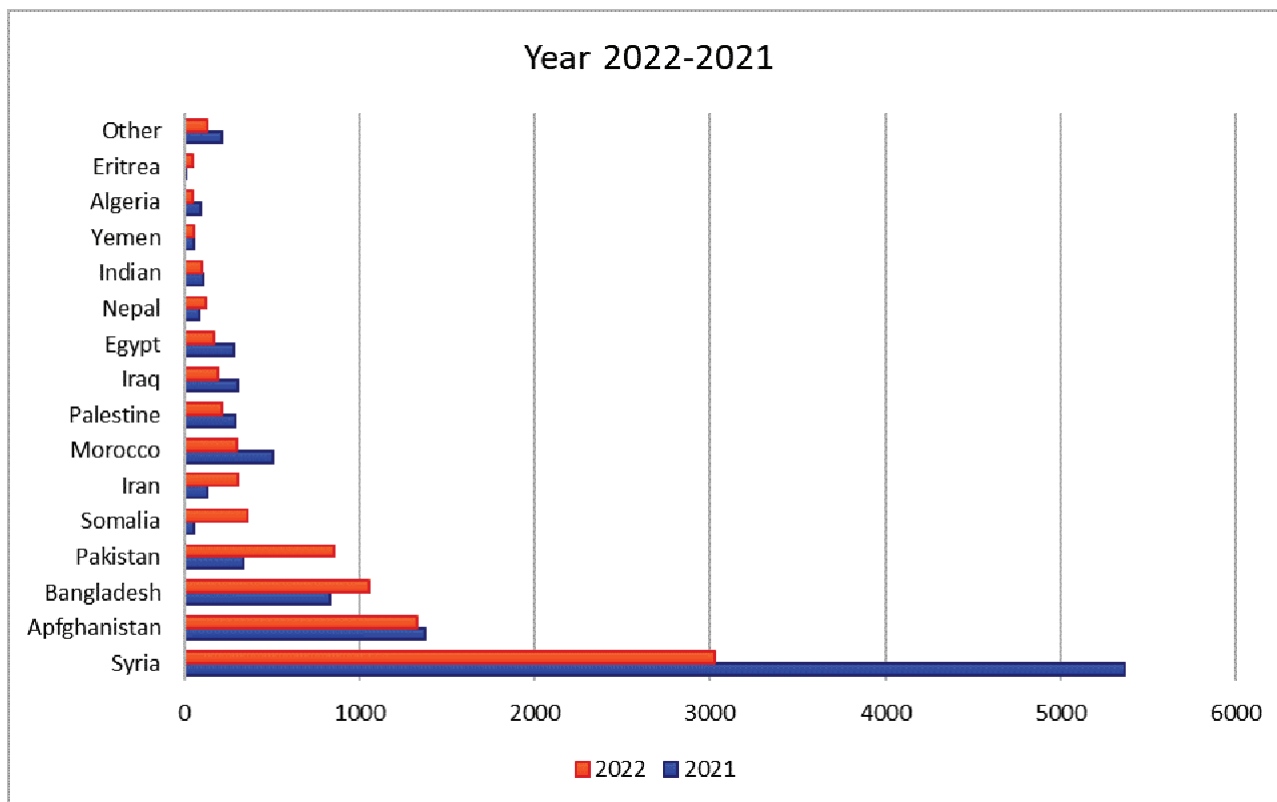


Table 2. Year 2022/2021 – Transferred and departed voluntarily

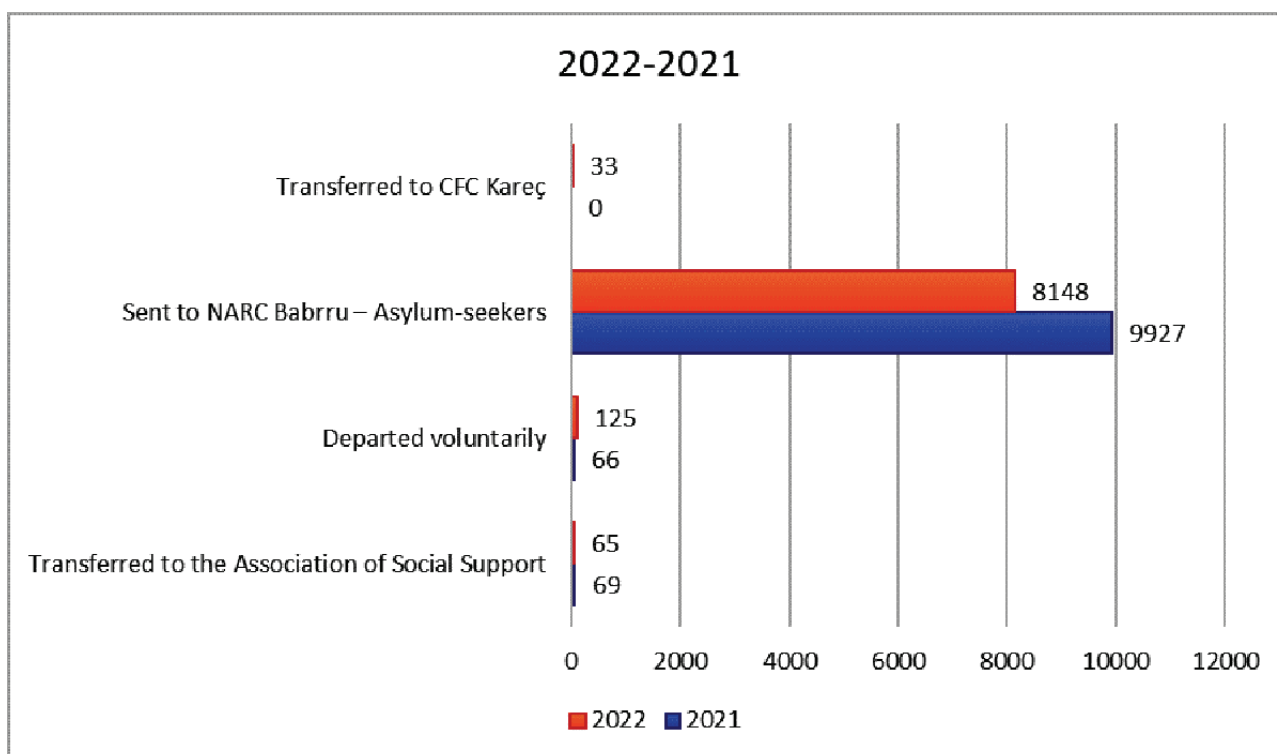


Table 3. Year 2022/2021 – Location of capture of immigrants

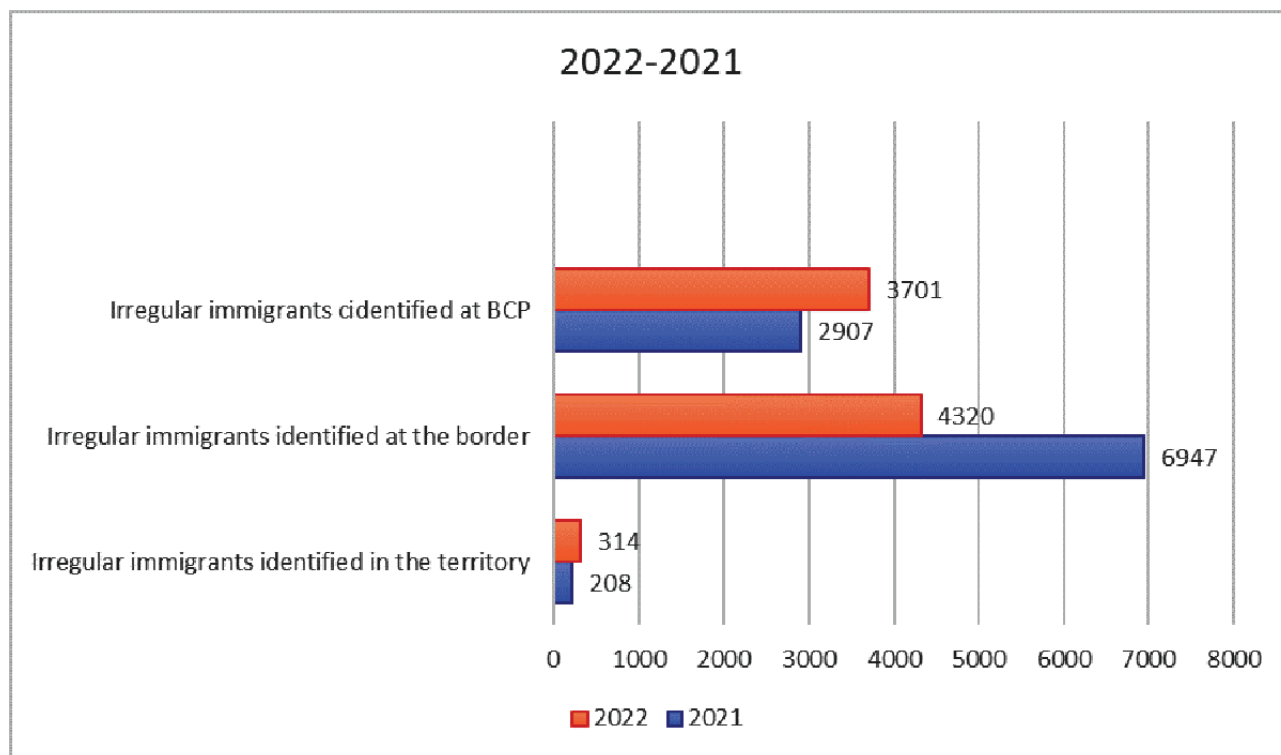


Table 4. Year 2021/2022 – Data on some main LDBM

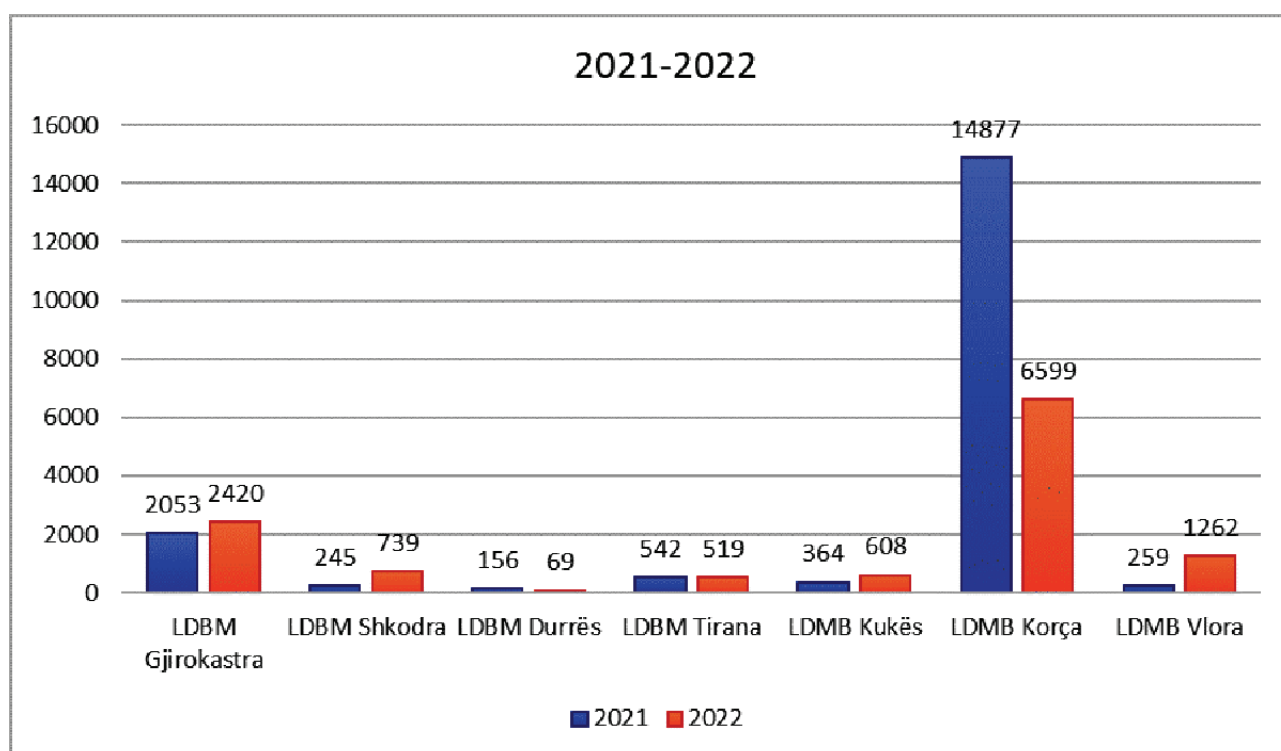


Table 5. 9 months 2023/9 months 2022 – Main citizenships

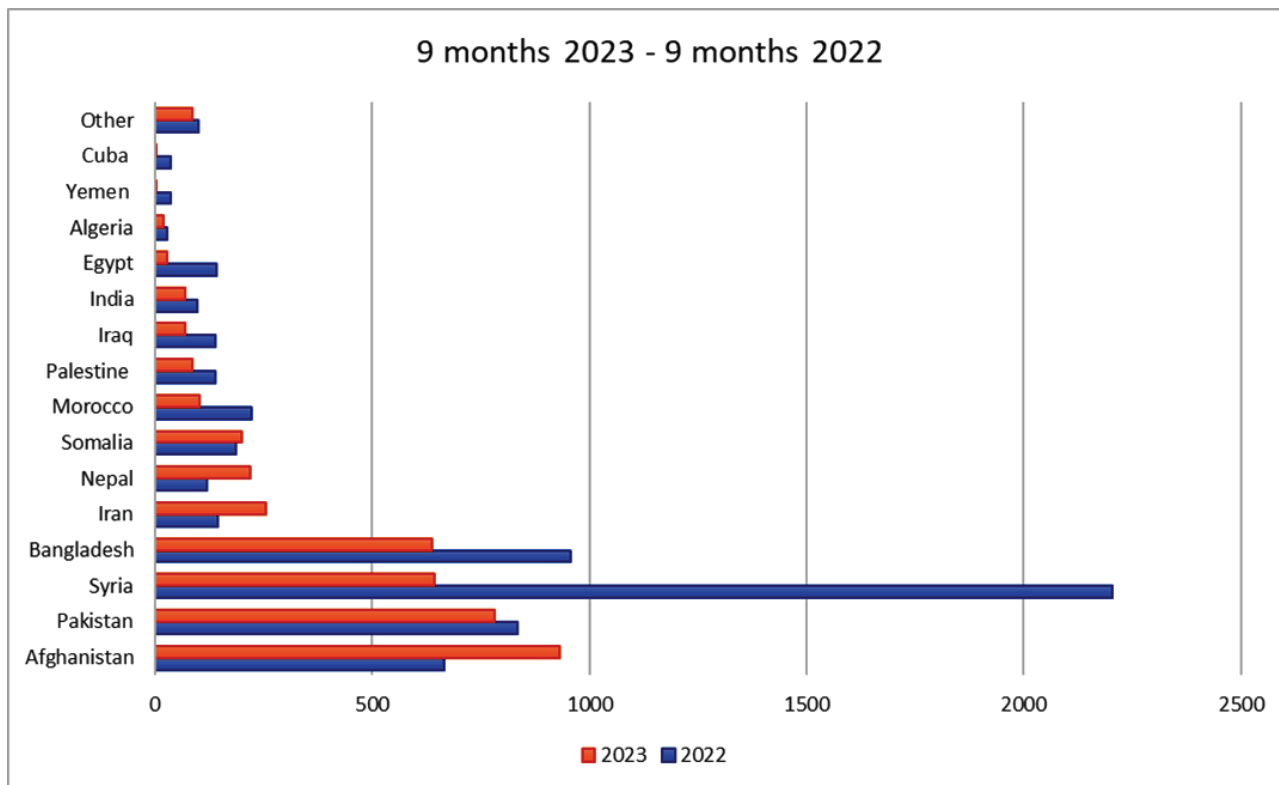


Table 6. 9 months 2023/9 months 2022 – Transferred or departed voluntarily

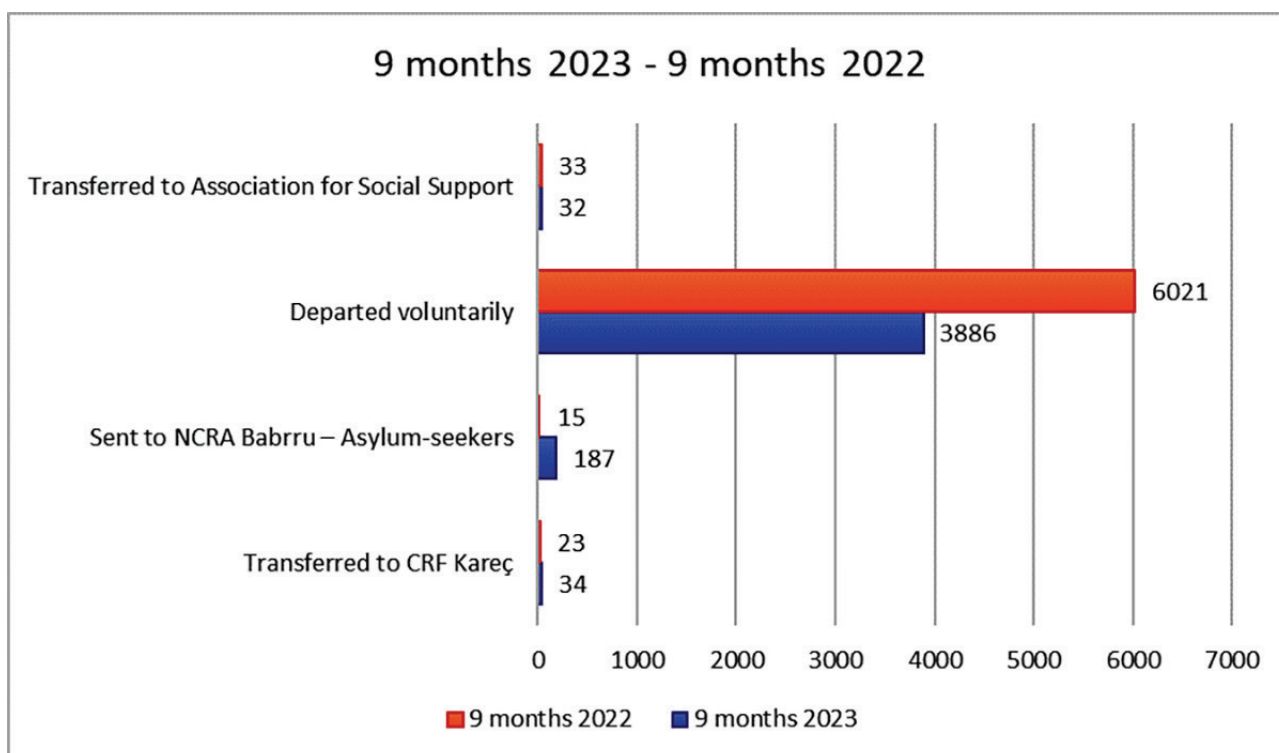


Table 7. 9 months 2023/9 months 2022 – Location of capture of immigrants

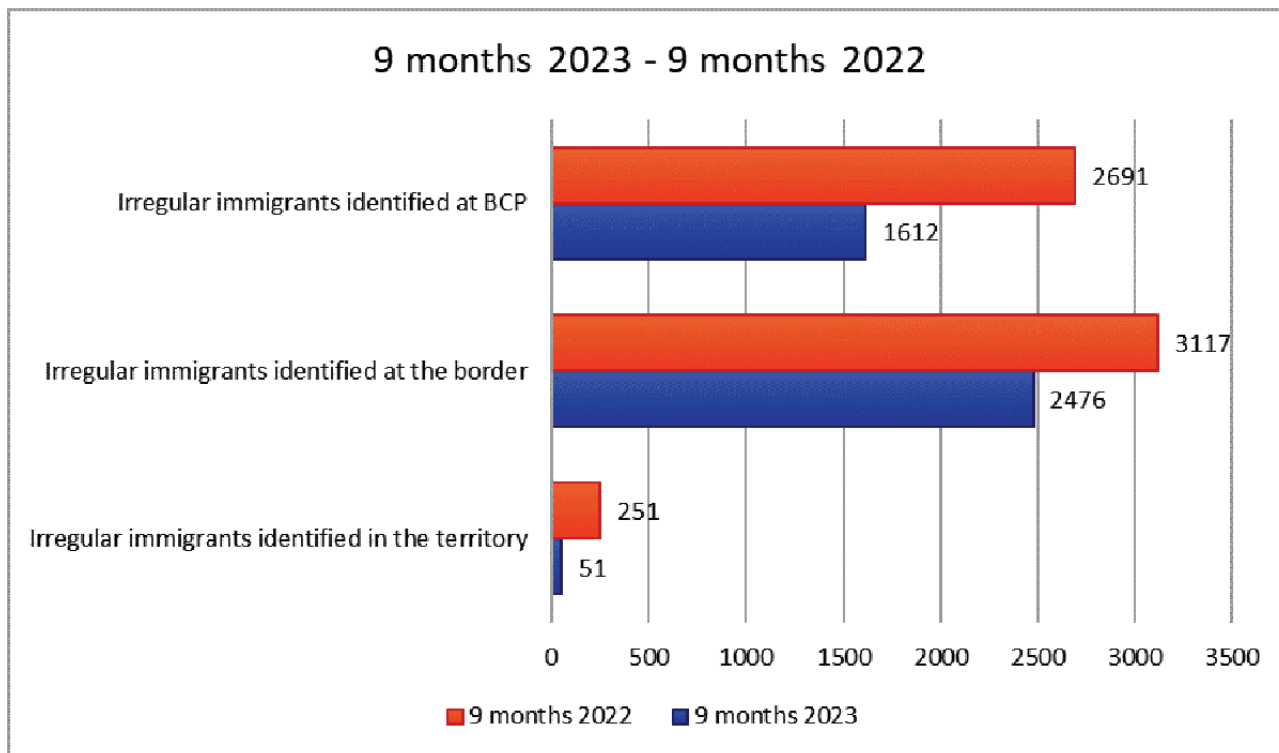
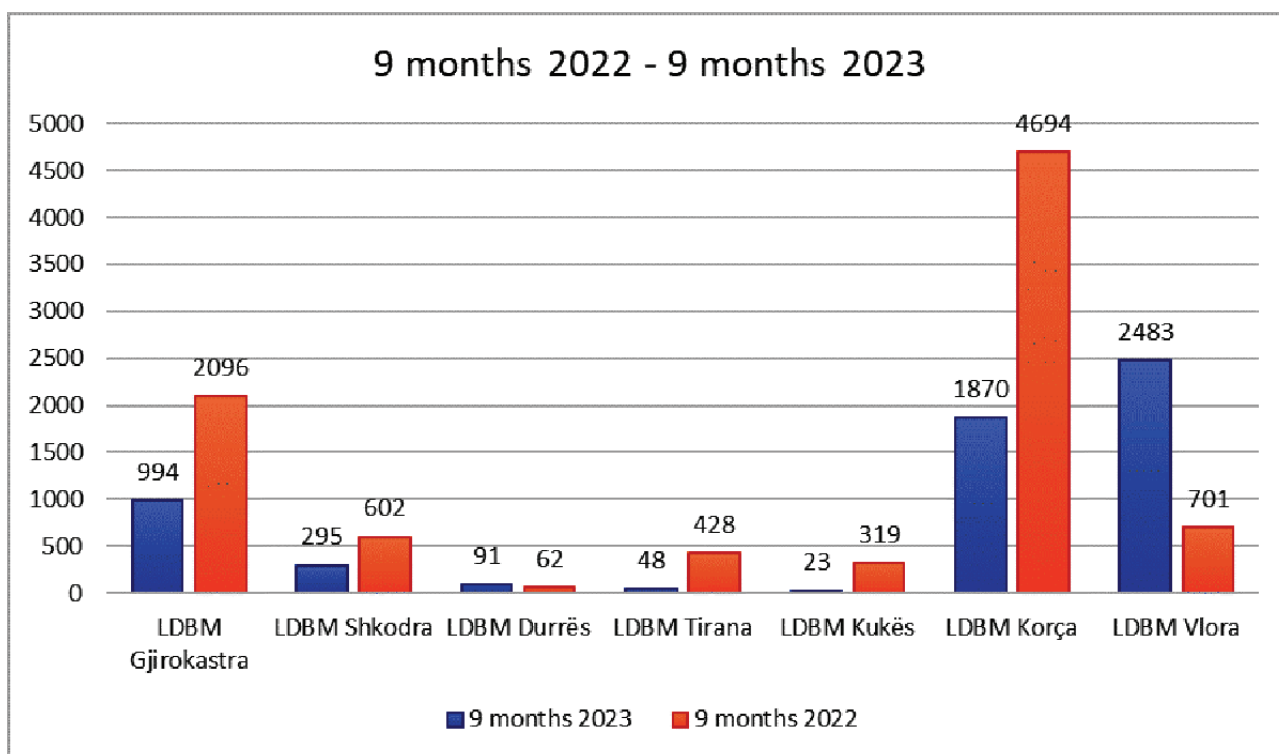


Table 8 - 9 months 2023/9 months 2022 – Data on some main LDBM





unicef 
for every child

C1-EU-NPA
CLUSTER ONE EU NEGOTIATIONS PLATFORM – ALBANIA



KOMITETI SHQIPTAR I HELSINKIT

ALBANIAN HELSINKI COMMITTEE

Rr. Brigada e VIII-te, Pallati “Tekno Projekt” Shk. 2 Ap. 10, Tirana-Albania
PO Box No. 1752 Tel: 04 2233671
Mob: +355 694075732
E-mail: office@ahc.org.al
web site: www.ahc.org.al