

Albania – Europe’s reluctant gatekeeper

by Ridvan Peshkopia

Post-communist Albania has become a transit point for refugees, asylum seekers and economic migrants. Asylum policies and procedures put in place under UNHCR and EU tutelage are fragile and serve the interests of Europe, not Albania.

Prior to 1990 Albania was isolated from East and West, strictly controlled all movement across its borders and did not recognise the 1951 Refugee Convention. Border controls collapsed as the post-communist authorities were keen to allow Albanians to leave the poverty-stricken country. People smuggling – both across the Adriatic Sea to Italy and over the Albanian-Greek border – increased dramatically. The smuggling industry has been boosted by the ease with which Albanian visas can be obtained, Albania’s dire need for foreign currency and high rate of corruption among public officials.

In the early 1990s UNHCR persuaded Albania and other newly-elected Balkan governments to sign up to the Refugee Convention. The new regimes were eager to extend and

forge new connections with the international community and the Albanian parliament rapidly ratified the Convention in 1992. However, it took a further six years – and the threat of a mass outflow of Kosovar refugees – before the Office for Refugees (OfR), a small unit of the Ministry of Local Government, was established. The status of OfR was undefined and it found itself in an asylum and immigration legislative vacuum which left it little to do in terms of establishing procedures for refugee status determination (RSD) and refugee protection.

The development of an Albanian asylum system

Albania’s new Constitution in 1998 stipulated the right of asylum and the country’s first law on asylum was

passed. It generally meets the 1951 Refugee Convention criteria on the refugee definition, RSD and refugee protection. Under its provisions, the OfR receives asylum applications and conducts interviews and also serves as a collegial decision-making body at the first level. Rejected asylum seekers have the right to appeal to the National Commission for Refugees (NCR), an eight-member committee bringing together government agencies and representatives of two NGOs – the Chamber of Lawyers and the Albanian Committee of Helsinki. The National Commissioner for Refugees chairs the OfR and NCR.

The establishment of an asylum system based on individual applications was undermined by humanitarian catastrophes in Kosovo. Rather than considering individual cases, the

OfR responded to the needs of the Albanian government and international community to respond to the refugee crisis by accepting and then returning Kosovars as a group. In the aftermath of the massive Kosovar refugee return, OfR continued to care for some lingering Kosovar families. Procedures regarding RSD and refugee protection began to be put in place but were again set back in spring 2001 by a short-lived movement of ethnic Albanian refugees fleeing instability in Macedonia.

In October 2001 the Albanian Task Force on Asylum was belatedly established with the participation of some domestic and international actors. Its aim was to draft by-laws to fill legal gaps in refugee integration. Three by-laws drafted in spring 2002 – on education, health care and employment – were included in a law approved by parliament in August 2003. RSD procedures were established and a joint project between UNHCR, OfR and Peace through Justice, a local NGO, began to make legal assistance available for refugees and asylum seekers. In 2003 OfR was renamed the Directory for Refugees and transferred to the Ministry of Public Order (MPO), a necessary step considering that the RSD process is much closer linked with police than with local government.

In addition to the issue of determining asylum claims, the issue of providing accommodation and support for refugees and asylum seekers has long concerned the Albanian authorities and UNHCR. For years, detained, illegally smuggled people were initially kept in police stations, often without food or appropriate sanitation, dependent on the whim of the police for their needs. UNHCR provided some local NGOs with funds to arrange for accommodation of asylum seekers in privately owned houses. In October 2001 a project began to establish the first asylum seekers' reception centre. The Albanian government offered an old military barracks on the outskirts of the capital, UNHCR obtained funding through the European Commission's High Level Working Group's (HLWG) and the facility was opened in July 2003.

Illusory protection

Albania can now thus be said to have a modern asylum system, yet

in many respects it is illusory and, in effect, often serves as a tool to facilitate human smuggling towards the EU. Whatever their legal status – refugees, asylum seekers or illegal immigrants – the smuggled people strive to avoid contact with public officials and police of the transit countries. Only if the police catch them, or they decide to give themselves up (in cases when they lose connections with their smugglers), do the Albanian authorities get involved.

A UNHCR-led initiative – implemented with the International Organization for Migration and the MPO – seeks to pre-screen those who have come to the attention of the authorities. Pre-screening is designed to differentiate economic migrants, victims of trafficking and asylum seekers and to provide appropriate legal and humanitarian assistance tailored to their different needs.

This system has not significantly affected the illegal influx. Instructed by smugglers, many detained people seek asylum and are provided with shelter, food, medical assistance and legal aid. Only an insignificant number of them are sufficiently patient, too poor or simply unlucky enough to go through the RSD procedure to the end. Most reestablish broken connections with smugglers and continue their journey toward the West.

Thus, rather than building a protection system for people in need, Albania, with the assistance of UNHCR and under pressure from the EU, has established a system to support illegal immigrant smuggling. None of those who have received refugee status during recent years is thought to be in Albania anymore; their whereabouts are unknown. The bulk of the 107 people whom the asylum institutions in Albania are taking care are of Kosovars, leftovers from the massive influx of 1999. All of them experience harsh social problems.

Albania's place in Europe

For Albania, asylum policy has never been part of the national agenda but has rather been the price of advancing prospects of integration into the EU. At their meeting in Seville in June 2002 EU leaders stipulated that any country entering into cooperation or association agreements with

the EU must “include a clause on joint management of migration flows and on compulsory readmission in the event of illegal migration”. In its eagerness to sign a Stabilization and Association Agreement with the EU in December 2003 Albania agreed to this condition. The readmission requirement will not only apply to Albanian citizens but also to immigrants from other countries known to have passed through Albania on their way to the EU.

Readmission poses enormous challenges, none of which are currently being addressed. Mass return of its nationals would deprive Albania of vital remittance income. And whilst the EU has the political and economic muscle to compel illegal immigrants' countries of origin in the Middle East and Central Asia to sign similar agreements, it is not clear how Albania can possibly persuade Iran, Iraq, Pakistan and Turkey to take back their nationals. Who is to pay for their needs in Albania or the costs of the increased enforcement which will be required to prevent them attempting to return to the EU? Would the presence of large numbers of readmitted asylum seekers/economic migrants affect the stability of a poor country with high levels of unemployment? Aware of the difficulties the readmission agreement might cause, the EU and Albania have agreed to delay the implementation of some clauses for a period of two years.

The Albanian authorities have reluctantly been persuaded to undertake some steps toward legislative and administrative reform but the government has other priorities. There is no reason to believe that in the near future the Albanian asylum system might really serve refugees and asylum seekers from other countries. It is instead likely to continue to fuel and facilitate human smuggling from and through Albania to EU states. Albania needs to reorient its asylum and immigration policies to serve its own, rather than EU, needs.

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