

## The Rights of Albanian Emigrants and Returnees in Albania

Although Albania has improved its legal framework for migration, there are weaknesses in relation to the implementation of the framework, including a lack of financial resources and well-trained human resources.

Ersida Sefa

Albanian Helsinki Committee<sup>1</sup>

### The migration phenomenon in Albania

Migration is an important phenomenon in Albania. Official statistics indicate that the number of people who attempt to make an irregular border crossing is still high<sup>2</sup>. During 2008, border police stopped 16,032 potential emigrants from crossing the Albanian border irregularly. The main driver continues to be the lack of employment opportunities and poverty in Albania. While border control and management have been strengthened (EC, 2008), reflected in the large number of apprehended potential irregular migrants, there are still cases of irregular migration from and into Albania. Due to its nature, it is not easy to collect accurate data on the number of irregular border crossings. Migration issues are considered a priority for Albania due to the high number of emigrants, with around 27.5 per cent of the population living abroad (IOM, 2008). The fight against irregular migration has been included in the EU's agenda for Albania and migration management is an integral part of government policy in Albania.

The return of irregular migrants to and from Albania is carried out in two ways: voluntary return and forced return. The number of voluntary returns of irregular immigrants is quite limited, as the majority of irregular emigrants leave Albania at any cost due to poverty and lack of opportunities to earn a living. Forced return is mainly covered by the readmission agreements that Albania has signed with most European countries and with the European Union,

which is one of the main tools used to fight irregular migration.

### Legal framework for migrants in Albania

Over the past few years, Albania has made progress in approving new legislation for migrants and border management in order to fulfil its obligations under its Association and Stabilisation Agreement with the EU, the various readmission agreements, and other international standards. The legal framework in this area has been improved and it is almost complete.

More concretely, the Albanian Government has approved the National Strategy on Migration (DCM No.760, 2004) and its Plan of Action (DCM No.296, 2005), which foresee all the necessary steps to be taken by the Albanian Government for the development of a comprehensive state policy on migration; to address important issues relating to the protection of the rights of Albanian emigrants abroad; and for the establishment and consolidation of Albanian communities abroad. Among the problems faced by Albanian communities abroad is a lack of information regarding their rights and duties in receiving countries, as well as difficulties related to their economic and social integration. The services provided by Albanian organisations abroad are not at the level that they should be to assist Albanian emigrants in the integration process. The diplomatic missions (embassies) should also play a more active role in this regard.

Albania has established cooperation with its neighbouring countries for border control and migration management, in particular, through the establishment of joint border crossing points (JBSPs). In September 2007, Albania adopted a new National Strategy for Integrated Border Management and a related Action Plan. This Strategy and the existing Strategy on Migration provide a series of consolidated measures aimed at improving the performance of the institutions involved in border control.

In July 2008, a new law on foreigners was approved setting out principles and regulations for foreigners entering Albania and guaranteeing their rights. The new law 'On the control and supervision of the State Border', approved in January 2009, provides a good legal basis for the respect of the rights of migrants at border crossing points<sup>3</sup>. It is, however, too early to assess the effectiveness of its

implementation.

The legal framework for migration in Albania is also governed by various international instruments ratified by Albania. Efforts to channel migration fluxes have focused on the seasonal employment of Albanian citizens under bilateral agreements. Albania has already signed such agreements with Greece, Italy and Germany, but there has been a low implementation rate. This situation must be primarily addressed by policymakers, because the Stabilisation Association Agreement (SAA) with the EU also serves as a promotional instrument for seasonal employment, which in turn stimulates the signing of bilateral agreements, increasing possibilities for legal immigration.

Additionally, Albania has started negotiations for visa liberalisation with the EU and is working on the production of a biometric passport; the computerisation of civil registry data has already been completed.

### Problems in practice

Albania has made progress on the adoption of new migration legislation in conformity with European standards, but the main problem is with the implementation of the legal framework, and, notably, the lack of financial resources and well-trained workforce.

Despite the progress made, one of the problems encountered by AHC during its monitoring activities was the non-application of the provisions of the readmission agreements in relation to people returned to Albania by other countries. The return of illegal migrants from other countries is done without preliminary notification and without the necessary documents translated in both languages – procedures that are necessary to guarantee the rights of returnees.

### Infrastructure at border crossing points

While progress has been made at some border crossing points (BCPs) in terms of reception facilities for readmitted persons, further investment is needed at many others. Readmitted persons stay at the BCPs until their registration and identification procedures are finalised, except when they are convicted of, or being investigated for, a criminal offence. Problems occur when the legal procedures for notification of returnees are not respected, which often results in 100 to 150 returnees arriving at once at the same BCP without identification documents. These people are of different ages, some with health problems,

1 Founded on 19 December 1990, the Albanian Helsinki Committee (AHC) is the first organisation for the protection of human rights and freedoms in Albania. The AHC's leading mission is to contribute to improving respect for human rights and strengthening the rule of law in accordance with the Helsinki Final Act and other international legal obligations undertaken by the Council of Europe and United Nations, and in line with human rights norms promoted by the European Union. Migrants' rights have been one of the main areas of AHC activity since 2000. AHC's activities and interventions in this field have been realised due to the financial support and the contribution of the Norwegian Helsinki Committee, which is one of AHC's main partners.

2 For more information, see the Report of Albanian State Police on the Progress Work during 2008, available from: <www.mrp.gov.al>.

3 The AHC has offered legal and other assistance to improve the legal framework in this field in conformity with human rights standards.

and consist of minors, women, trafficked persons, and so forth. Under these circumstances, the legal procedures take time and readmitted persons stay at the BCP for several hours and even days (when there are problems with their identification). The situation is becoming more problematic due to the limited number of border police, the condition of the premises, the lack of phytosanitary, veterinary and health services, and inadequate quantities of food. Some BCPs have undergone reconstruction, such as Hani i Hotit, and improvements have been made in others<sup>4</sup>. However, in some of the BCPs, infrastructural capacity is poor; only 15 out of 26 have been linked electronically via the Total Information Management System (TIMS) and equipped with the relevant facilities. The current infrastructure does not allow for returned persons to be treated in compliance with European and international human rights standards. There is a need to ensure facilities that offer services for women and children, and persons claiming to be victims of human rights violations (particularly at Kapshtica, Tushemisht, Tre-Urat, and Saranda Harbour BCPs). In addition, there is a lack of facilities built in compliance with the law for those deported through penal precession and returned to Albania. A lack of proper facilities for interviewing returnees was noted at some border crossing points, including: Qafe Bota, Gorrice, the GOS point at Bajza, Saranda, and the Port of Vlora. Lack of heating and food, as well as lack of logistical and technical equipment is a concern at almost all BCPs.

On the matter of the implementation of obligations undertaken by the Albanian Government in connection with the Strategy on Migration, and in accordance with the the EU Aquis, institutional coordination is needed, as well as the speedy enactment of legislation for the reintegration of Albanian migrants who have voluntarily returned. Towards reintegration, the Albanian Government should ensure the insurance of work permits and the effective implementation of the law, as well as recognising and acting in potential migration zones and conducting information campaigns for migrants and foreigners residing in Albania (SOROS, 2008).

### *Professional capacities of border control point administration*

Several specialised training sessions have been conducted for BCP staff by the Training Department of the General Directorate of State Police, in close cooperation with different international and national actors<sup>5</sup>. AHC has contributed in this direction, organising four different training sessions with the border administration in Korca, Shkodra, Tirana and Gjirokastra region on respecting human rights. A broader, longer-term training policy aimed

at building capacity to detect falsified documents, illegal migrants or victims of trafficking has yet to be implemented. Although there are training sessions for staff from the respective institutions on border management, a lack of sufficient border staff and high staff turnover have been identified as issues.

### *Monitoring of the rights of Albanian emigrants*

The observation of the rights of Albanian emigrants who live in Greece and of rights violation cases (of Albanians) before the Greek courts and the European Court of Human Rights (ECHR) in Strasbourg is an important tool in protecting migrant's rights. Several cases brought against the Greek State for the violation of the rights of Albanian emigrants have been won at the ECHR in Strasbourg and reparation ordered<sup>6</sup>.

In addition, AHC has noticed that Albanian organisations abroad are charged with the task of tackling the problems of Albanian emigrants who live out of the country. Such organisations need to be more organised, cooperative and professional, and to network among themselves in order to provide better lobby groups to advocate for the rights of Albanian emigrants. State authorities should also strengthen their cooperation with Albanian organisations abroad; the State should play an active role in increasing their professional capacities and meet frequently with them in order to better understand their needs and help them fight for the rights of Albanian emigrants. ■

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4 However, Shkodra Lake BCP is still not operational.

5 Such as PAMECA, ICITAP, Delegation of European Commission, International Organization for Migration (IOM), and different embassies, among others.

6 AHC has been cooperating closely with the Greek Helsinki Monitoring on the observation and monitoring of the rights of Albania migrants. For more information see <[www.ahc.org.al](http://www.ahc.org.al)>.