

Written Evidence submitted by Esme Madill ASY0006

1. I am a solicitor based at Islington Law Centre and I work on the Breaking the Chains project, a joint project of Islington Law Centre and Shpresa Programme, which works to improve outcomes for Albanian asylum-seeking children and young people. This paper is supplementary to my oral submissions to the Home Affairs Select Committee on Wednesday 7 December 2022 and includes comments on the Prime Minister's statement regarding Albanian small boat crossings made on 13 December 2020 and the Country Policy and Information Note (CPIN) Albania Human Trafficking Version 12.0: December 2022 (hereafter 'the CPIN').

Trafficking from and within Albania

2. The CPIN provides evidence of risk of trafficking and re-trafficking: §2.4.1 'Albania is a source country for trafficking ... domestic trafficking is becoming an increasingly significant phenomenon ... limited data on the numbers ... but ... likely to be in the thousands ... while re-trafficking occurs there is limited evidence on the scale or nature of this'
3. The statement in the CPIN 'In general, male victims of trafficking are not at real risk of serious harm or persecution' §2.4.8 is unevicenced and surely unsustainable in the light of paragraph §2.4.9 which begins 'there is limited information about the experience and treatment of male victims of trafficking, including the scale, nature and frequency of re-trafficking and other harm'.
4. Importantly the CPIN continues to assert notwithstanding the preceding general statements, that victims of trafficking are not generally at risk and generally can relocate and be protected adequately by the Albanian state, though each case will depend on its particular facts and circumstances: see §§2.4.4; 2.4.7; 2.5.8; 2.6.1.
5. There is clearly a tension, visible in the writing of the document, between the objectives of providing guidance that will enable claims to be rejected and providing guidance that is founded in the evidence. It is difficult to see how caseworkers, conscientiously examining individuals' particular circumstances, in the light of this guidance and the evidence to which it refers, can reject all or even most claims.
6. In the CPIN, under the heading 'The information in this section has been removed as it is restricted for internal Home Office use', much has been redacted which could be unfair to and disadvantage claimants since neither they, nor their representatives, are able to access, refer to and, when appropriate, challenge the information upon which caseworkers are basing their decisions:

- a. Is Home Office decision making to be based upon secret information and secret policy? That is unacceptable and potentially unlawful.
- b. Is the means by which the Secretary of State intends to go from the current 55% recognition rate in Albanian asylum applications ¹to all Albanians in the backlog being removed based on secret policy and secret information?
- c. Decision making about life and death issues that relies on policy, substantial parts of which are secret, will not survive judicial scrutiny.
- d. **Can the committee be asked to require disclosure of the complete, unredacted documents**

The claim that people are unfairly exploiting the modern slavery system

7. What is the evidence that the ‘modern slavery system’ is being exploited? There appears to be none in the CPIN or the Prime Minister’s statement. If there is evidence of that, the solution is effective decision making resulting in conclusions that those exploiting the system are not Victims of Trafficking and can be removed. The solution is not to raise the threshold as the current threshold is required by the ECAT and the ECHR, so raising the threshold will be incompatible with them.
8. See *Rantsev v Cyprus and Russia* (2010) 51 EHRR 1, §286 – article 4 of the ECHR ‘may, in certain circumstances, require a state to take operational measures to protect victims, or potential victims, of trafficking. In order for a positive obligation to take operational measures to arise in the circumstances of a particular case, it must be demonstrated that the state authorities were aware, or ought to have been aware, of circumstances giving rise to a credible suspicion that an individual had been or was at real and immediate risk of being, trafficked or exploited’
9. What is meant by ‘objective evidence of modern slavery’? At present, ‘objective evidence’ is provided by the multiple indicators referred to in the statutory guidance² as well as by the individual’s testimony in so far as it is thought to be sufficiently credible and reliable.

Removing Albanians from the UK

10. The Prime Minister states ‘we have sought and received formal assurances from Albania confirming that it will protect genuine victims and people at risk of re-trafficking, allowing us to detain and return people to Albania with confidence and in line with ECAT’.

11. In light of the CPIN at paragraph §2.5.1 referring to ‘a comprehensive legislative and policy framework’ put in place by the state but recognizing ‘there has been a gap in effectively implementing these measures’:
 - a. Have the assurances been published yet? Their content and monitoring and enforcement mechanisms will require detailed scrutiny
 - b. The current country evidence, including the CPINs indicates that whatever the intentions of the Albanian state, it is not able to protect all citizens, including, presumably, the 55% of asylum applicants³ who get protection in the UK
12. The Prime Minister goes on to say ‘As a result of these changes, the vast majority of claims from Albania can simply be declared unfounded’. Yet nothing said by the Prime Minister nor evidence in the CPIN, justifies or provides evidence in support of that expectation . An analysis of recent data from the Home Office⁴ shows that Albanians referred into the National Referral Mechanism are recognised as being victims of exploitation at a very similar rate to that of other nationalities and over 55% of their asylum applications are granted at first instance.
13. The Prime Minister further states ‘over the coming months, thousands of Albanians will be returned home, and we will keep going with weekly flights until all the Albanians in our backlog have been removed’.
14. Nothing said in his statement identifies a reasonable, evidence based, refugee and human rights convention consistent foundation for that objective. The statement suggests that the government is abandoning the obligations under the Refugee Convention, ECHR and ECAT not to remove asylum seekers until satisfied, following the most anxious scrutiny of all relevant evidence, through a process in which only the highest standards of fairness will suffice, that removal will not violate the UK’s obligations under those conventions.
15. A publicly stated commitment to removing all Albanians in the backlog is irreconcilable with those obligations and is particularly irreconcilable with the repeated acknowledgment in the CPIN that the individuals’ circumstances have to be considered to determine whether the individuals in question are at risk, will receive a sufficiency of protection or be able to internally relocate.
16. We need to be very careful about the language used when referring to any particular community. Albanians are currently being singled out and vilified in the national press on the basis of their race or ethnicity. Apart from our legal obligations under the Refugee Convention and the general duty on all public authorities found in the [Race Relations \(Amendment\) Act 2000](#), to promote race equality and to make this aim explicit in their policies, practices and procedures, it is not in the public interest in a society in which diversity is a strength that should be championed, for any racial or community group to be

scapegoated for the failure of the government to tackle organised crime. Where victims of abuse are blamed for their own victimhood, the only beneficiaries are the perpetrators.

17. We have already seen the impact of the current media coverage of Albanian criminals on the Albanian children and young people we represent. These children and young people are the victims of Albania trafficking gangs and other traffickers, and their mental and physical health has already been seriously compromised by their experiences of exploitation for the purposes of sex trafficking, forced labour, debt bondage and domestic servitude. The use of language indicating that asylum claims by Albanians are all ill-founded causes fear and distress to our young clients. Those awaiting consideration of their asylum claims fear that these are hopeless and that they are bound to be removed to a country where they fear persecution. This exacerbates existing mental health problems and places them at risk of further exploitation and harm in the UK. Those already recognised as refugees are finding that their recovery from their experiences is hampered as the hostility in the media triggers their existing trauma responses, and on a practical level causes them to experience discrimination and racism on a daily basis as they attend college, university and apply for jobs.

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