

# RETURN AND READMISSION

## THE CASE OF ALBANIA



HELLENIC REPUBLIC  
MINISTRY OF INTERIOR  
PUBLIC ADMINISTRATION  
AND DECENTRALISATION



IOM International Organization for Migration  
ONM Organizata Nderkombetare per Migracionin



**Combating Irregular Migration in Albania and the wider region**  
Targeted support to capacity building within the framework of readmission  
support to Albania

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August 2006



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**Editor: Caroline Mackenzie**

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## LIST OF ABBREVIATIONS

<b>EU</b>	European Union
<b>CARDS</b>	Community Assistance for Reconstruction, Development and Stabilisation
<b>DAR</b>	Directory for Asylum and Refugees
<b>DBM</b>	Directory for Border and Migration
<b>DG JHA</b>	Directorate-General for Justice and Home Affairs in European Commission
<b>DG Relex</b>	Directorate-General for External Relations in European Commission
<b>DR</b>	Directory for Refugees
<b>INSTAT</b>	Institute of Statistics
<b>EC</b>	European Community
<b>AVR</b>	Assisted Voluntary Return
<b>MoI</b>	Ministry of Interior
<b>MoJ</b>	Ministry of Justice
<b>MEI</b>	Ministry of European Integration
<b>MOLSA</b>	Ministry of Labour and Social Affairs
<b>MFA</b>	Ministry of Foreign Affairs
<b>RA</b>	Readmission Agreement
<b>MPO</b>	Ministry of Public Order
<b>SAA</b>	Stabilization Association Agreement
<b>IOM</b>	International Organization for Migration
<b>OSCE</b>	The Organization for Security and Co-operation in Europe
<b>PAMECA</b>	Police Assistance Mission of the EU to Albania
<b>GDP</b>	Gross Domestic Product
<b>BCP</b>	Border Crossing Point
<b>NSM</b>	National Strategy on Migration
<b>TIMS</b>	Technological Information Management System
<b>TCNs</b>	Third Country Nationals
<b>UNHCR</b>	United Nation Refugee Agency
<b>DCM</b>	Decree of the Council of Ministers
<b>VT</b>	Victim of Trafficking



# INTRODUCTION

Return migration plays a crucial role for a country like Albania, that has one of the highest rate of migration compared to its population in Central and Eastern Europe, and which is also likely to become a destination country for external migratory flows in the coming years. Placed also in the context of integration into the European Union, return migration to Albania takes a special importance considering the external political pressure to meet EU standards in the field of asylum and migration including provisions for return migration. Albania is the first country in Europe to have negotiated and signed a readmission agreement with the European Community for the return of its own citizens and third country nationals, as part of the negotiations for the stabilization association agreement and with the EU. However, besides the good political will of the parties to this agreement to facilitate its implementation, it is expected that the Albanian administration faces several difficulties and challenges in its implementation.

Is Albania prepared to fully and successfully implement the agreement through proper resources and facilities? How can Albania avoid the *readmission trap* of TCNs returned to Albania and stranded in the country due to lack of adequate return procedures and readmission agreements with countries of origin? How can Albania address the issue of return in a broader perspective, including the reintegration of its citizens?

These are the core questions that this research paper tries to address and provide an answer for. Both chapters cover return and readmission issues from the Albanian perspective, and focus in particular on the negotiation and implementation of the existing bilateral Readmission Agreements and the EC/Albania Readmission Agreement. The main challenges that the implementation of readmission brings upon are highlighted and several recommendations on how to best face them are provided. Since Albania is the only country of the region to have signed a Readmission Agreement with the EC, and, as such, it might eventually offer best practices to be followed by other countries that are experiencing the same process. For this purpose we believe that this research comes into the right moment and place.

The research itself takes place in the context of a project undertaken by IOM with the support of the European Commission and the Hellenic Ministry of Interior, Public Administration and Decentralization with the aim to support the Albanian authorities to fully and successfully implement their obligations under the EC/ Albania Readmission Agreement. It also complements the interventions successfully developed by IOM towards managing irregular migration in Albania most notably the elaboration and implementation of the National Strategy for Migration and Capacity Building of Albanian authorities to develop and implement comprehensive migratory policies.

*“It is hoped that this publication will found to be informative and will stimulate thinking of important aspects of readmission and the application of readmission agreements and, as such, provide a valuable policy tool for policy makers, practitioners and researchers alike”.*

The authors

# MIGRATION, RETURN AND READMISSION AGREEMENTS

By Sonila Danaj, Teuta Grazhdani and Arolda Elbasani

## INTRODUCTION

The change of regime at the beginning of the 1990s was characterized by large flows of emigration from Albania to western countries, in particular to member states of the European Union. Although most were labour migrants, many of them were not able to regularize their stay in these countries. As a result, they became irregular migrants in their EU host countries and the EU was keen to remove them from its territory. Consequently, under the European Commission's mandate on justice and home affairs, many countries in the European Union and elsewhere negotiated readmission agreements with the Albanian government for the return of its citizens residing illegally in their territory. The Albanian government has been very responsive in signing and implementing these agreements in accordance with Albanian constitutional law, but also in order to demonstrate its willingness to respect EU requirements and to maintain good relations with other countries. The final step towards signature of the Stabilization and Association Agreement (SAA) with the European Community has been the negotiation and signature of a readmission agreement with the European Community.

This chapter presents the background to this Readmission Agreement. The first section gives a brief history of contemporary Albanian migration and focuses specifically on return migration and the government policy. The second section presents an analysis of prior bilateral readmission agreements between Albania and other countries. This is followed by an analysis of negotiations for the EC/Albania Readmission Agreement in the third section. We conclude with findings and recommendations.

### 1.1. ALBANIAN MIGRATION SINCE 1990

#### 1.1.1. Migration flows and patterns

Albania currently has the highest rate of migration, relative to its population, in Central and Eastern Europe. Since 1990, it has experienced massive internal and external migration of its population. During the period from 1989 to 2001, approximately 710,000 people, or 20 per cent of the total population, were living outside the country. Of these, 600,000 are thought to have emigrated and a further 110,000 are children born in migration (INSTAT, 2004: 34). However, this is a conservative figure and the actual number of Albanian migrants abroad is probably higher.

The largest settlements of Albanian migrants abroad are to be found in Greece and Italy, due to geographical proximity, cultural affinity, and knowledge of the language. Specialists have estimated that approximately 600,000 Albanians live in Greece, 250,000 in Italy, and the rest in other European countries and other parts of the world (Barjaba, 2004; Barjaba and King, 2005: 13, 15). However, it is difficult to obtain accurate figures, when the large number of irregular migrants cannot easily be counted.

Albanian emigration is characterized as recent, intense, largely economically driven, and essentially a form of “survival migration”. As a result, there is a high level of undocumented migrants, substantial flows of migrants moving in and out of the country, especially to Greece, and finally, the movement of people is both dynamic and rapidly evolving, especially towards new destinations and along new routes of migration (Barjaba, 2004). However, although these characteristics were relevant for the period up to 2000, the situation has since evolved, after the introduction of reforms in the country. Over time, the ratio of regular to irregular migration has improved, thanks to regularization programmes in host countries.

Here it should also be mentioned that Albanian migration is a gendered process. This has been manifested in several ways, as can be seen in the uneven balance in numbers of female and male migrants (INSTAT, 2004). In the early 1990s, migrants were predominantly male, but the number of female migrants increased in the late 1990s and throughout 2000, mainly because of family reunification. However, in recent years, the number of female students and highly skilled migrants has increased, which implies that Albanian women are now choosing to migrate.

Three migration flows can be identified in general, each of them having its own specificities and migration motives, thus imposing the pursue of various migration policies.

### ***First flow: 1991-1992***

Between 1946 and 1991, Albanian emigration was virtually non-existent. Following the collapse of the communist totalitarian system, Albania had to undergo a long and severe transition to democracy and this process stimulated emigration. In March 1991, after the fall of the dictatorship and the first democratic elections, more than 24,000 Albanians landed on Italian shores in the space of few days, an event seen as a national crisis for both Italy and Albania. Following Italy's implementation of the Martelli law,<sup>1</sup> as the first major attempt to regulate immigration in Italy, the number of immigrants exploded.

According to the European Union Council's High Level Working Group on Asylum and Migration:

[...] the first political and opening up of the country (late 1991/early 1992) was marked by major unrest and massive migration; around 50,000 people to Italy (half of them were forced to return temporarily) and around 30,000 to Greece. (HLWG, 2000:13).

From 1992 to 1996, the flow of irregular migrants remained constant, despite this period was characterized by the economic progress and political stabilization. According to UNFPA (1997: 3), it is estimated that, between 1990 and 1995, the number of emigrants represented 9-11 % of the total population in 1995. Not only did unskilled migrants leave the country during this period, but also highly skilled migrants, leading to a “brain drain” situation. Whereas outflows of unauthorized migrants in 1991 and 1992 were the result of extraordinary individual or collective initiatives, the following years saw the establishment of ‘professional’ organizations offering transport services for clandestine migration. Smuggling and trafficking flourished in Albania and was later to take on serious and worrying dimensions (CeSPI, 2003).

### ***Second flow: 1997-1998***

During this period, Albanian politicians optimistically assumed that the initial migration flow would slow down once democratic reforms had been introduced. However, the country then experienced a severe socio-economic crisis and civil unrest in 1997, sparking a second outflow of migrants. This

crisis was caused by the collapse of the pyramid schemes, which led to a breakdown in institutional structures. At least one-third of the Albanian population had deposited their savings in the pyramid schemes. Losses were estimated at USD1.2 billion, the equivalent of 50 per cent of the country's GDP in 1996, and much of the money lost was capital accumulated by Albanian emigrants (King and Vullnetari, 2003, quoting Olsen, 2000). This resulted in a serious setback for the ongoing reforms and provoked a substantial flow of migrants to the EU countries. Between December 1996 and April 1997, some 30,000 migrants landed in Italy and 40,000 more in Greece, though the majority were subsequently repatriated (HLWG, 2000:13).

During this period, the nature of the migratory flow shifted once more, both in terms of character and of destination. While statistics do not illustrate this shift, experts suggest that migrants were no longer predominately male, as more women were leaving, in part due to family reunification that generally is the main reason for the emigration of Albanian women (Misja, 1998).

### ***Third flow: the “invisible” flow***

So far the Albanian migration towards the EU has been described as mainly characterized by two big flows, the one dating at the beginnings of 91 and the second one in 1997 accompanied by a steady flux through the years. Instead, it can be argued that there is a third one that did not reflect the dimensions of the first two but which brought the important message that Albania was still unstable and economically insecure and migration flows were likely to continue if not properly managed. This happened during the Kosovo crisis in 1998-1999 and, according to different sources, led some 100,000 Albanians leaving the country (Kule et al., 2002).

Among the repercussions of the Kosovo crisis for Albania was the manner in which it facilitated migration to EU countries (mainly through Italy, as a means for reaching the UK, Germany, and Belgium). Presenting themselves as Kosovars, Albanians sought asylum in several EU member states. This situation was made easier by the lack of identification documents<sup>2</sup> for displaced Kosovars and by their common language. This movement was known as a “silent movement” as the Albanian authorities were much more concerned about recovering from the events of 1997 and continuing the reforms, than about handling the displacement of the Kosovo population and their own nationals.

### ***Migration in 2006***

With the beginning of the new millennium, migration patterns seem to have changed, as has the attitude of Albanians towards leaving. They now have a more realistic image of Europe, which is no longer as attractive as at the time of the fall of communism. Restrictive policies adopted by major host countries, stigmatisation of immigrants by the media, serious accidents in which hundreds of clandestine migrants lost their lives,<sup>3</sup> and migrants' reports on their experiences shared with their communities at home have all contributed to this new image of Europe (CeSPI, 2003). The introduction of reforms in Albania has also contributed, while the fight against forms of illegal migration and cross bordering has now been intensified (NSM, 2005:10).

In recent years, an interesting new trend has emerged: migrants have shifted their attention from neighbouring countries to more distant countries such as the United Kingdom, USA and Canada, where there are better economic prospects and possibilities for legal migration and/or regularization. (NSM, 2005: 10).

### **I.1.2. Return migration: reasons for return**

Migratory flows from Albania have primarily reflected the economic and political situation in the country. In the early 1990s, Albanian migration was predominantly a 'survival strategy' (de Soto et al., 2002; Kule et al., 2002; King and Vullnetari, 2003). Overall poverty, poor basic services and infrastructure, high rates of unemployment, lack of personal security, political instability and weak legal and law enforcement systems are common contributing factors. On the other hand, pull factors, such as cultural attraction, the urge to experience a different world beyond the totalitarian isolation, career opportunities, better lifestyles and future for children, have also influenced the decision to migrate and/or to stay abroad (Barjaba, 2004).

Together with this massive emigration from Albania to other countries, there has also been some return migration to Albania, ranging from voluntary to forced return. Within this spectrum, returns has taken many different forms, including individual voluntary return, organized voluntary return (through IOM and other organisations), and forced return. However, little is known about return migration to Albania, since there is no official data on returns to Albania and research on this question is limited.

Expulsion is the most common form of forced return to Albania and predominantly from Italy and Greece, the preferred destinations for Albanian migrants. A recent report published by CeSPI suggests that a decrease in the number of Albanians expelled from Italy between 1999 and 2001 may be attributed to the possibility that Albania and Italy might negotiate a readmission agreement.<sup>4</sup> However, the number of expulsions remains high (Coslovi and Pipierno, 2005: 20). The National Strategy for Migration (NSM) notes that 30,000 individuals were expelled or readmitted to Albania in 2003 (NSM, 2005: 12).

IOM's Assisted Voluntary Return (AVR) programme reports that the vast majority of returns to Albania come from the United Kingdom: of the 747 individuals assisted to return from the United Kingdom in 2002, 547 were Albanian. In Belgium, 108 Albanians were assisted in 2002, compared to 82 returnees in 2003, and 21 for the first 10 months of 2004. These two countries returned the highest numbers of Albanians in 2001, but in 2000, Germany headed the list of host countries with 111 Albanians, followed by Belgium with 80.<sup>5</sup>

#### ***Conditions influencing return migration***

In theory and practice return migration may be due to a number of different factors such as: the local conditions, which led to emigration, may have change; the migrant may wish to invest the capital acquired in emigration and start a business in the home country; or return is tied to the failure of a migratory project or to forced return. In particular, some factors have influenced return migration to Albania, including:

- migrant's status in the host country;<sup>6</sup>
- degree of integration in the host country;
- role of remittances for households back at home;
- facilities for return.

Analysis of these factors provides an overall "picture of return" and, to some degree, explains official "attitudes" and policy initiatives on return.

An IOM study carried out in 2002 (Hulst et al., 2003) demonstrated that migrants had many reasons

to return to Albania, but the overriding factor was rejection of their application for asylum.<sup>7</sup> When linked to the migrant's perception of successful migration as "having been able to learn a foreign language, earn money and send remittances home,<sup>8</sup> and overall better conditions of life in the host country", it is evident that the economic situation plays a strong role in the decision to migrate, or indeed to return home. The same study provides some interesting insights into the reasons why migrants might re-migrate or not return:

The desire to re-migrate is however, strongest among those who have no employment, confirming the general trend that, if employment is not found, emigration is the only perceived alternative. The loss of remittances was significant. The study shows that even asylum seekers who were unable to gain regular full-time work were remitting substantial sums of money home whilst they were abroad. Thus, return poses problems not only for the individual returnee, but also for his or her family and local community. In addition, the receiving family often has to support the returnee. In the first interview, over half of the respondents reported having no independent income at all. Most had to rely on their families for support (Hulst et al., 2003: 30-46).

Another recent IOM study shows that remittances accounted for 13.7 per cent of GDP in 2004 and, compared to the previous year, had increased by 2.3 per cent (De Zwager et al., 2005: 21-24). Recent developments in Albania's financial sector are believed to have influenced this increase.

However, there are several other reasons, both causal and consequential, influencing a person's decision to return to Albania, such as the response of the civil society and the government to migration and return, and the status of readmission agreements with Albania.

There is a notable absence of migration management initiatives from the civil society, both in terms of research and in addressing the immediate concerns and needs of migrants. Considering the government's response toward migration in general, it can be said that migratory flows and their impact in the Albanian society have certainly had a major influence on people's attitudes toward migration. In this context, three aspects are of particular importance: the commitment of Albanian authorities to bringing back their citizens, their capacity to handle returns, and their ability to ensure its sustainability.

The Albanian government has given high priority to its integration in the EU, including the fulfilment of criteria required in the field of migration. Although progress has been made on legislative and institutional aspects,<sup>9</sup> there has not been concurrent progress on practical implementation. The Albanian authorities are ambivalent about return, because of the contribution of remittances to Albania's GDP on one hand, and external political pressure to meet EU standards in the field of asylum and migration, including provisions for return migration, on the other. However, in recent years, both the previous and the current governments appear to have taken a more proactive approach to various issues relating to migration, including maximizing remittances through the promotion of legal channels of migration and encouraging migrants' contribution to the country's overall economic development.

With the opening of negotiations for a Stabilization and Association Agreement with the European Union, it may be argued that Albania has now entered a new stage of state development and that migration will at last be considered part of national policy. The drafting of the National Strategy on Migration, and engagement of the Albanian authorities to its successful implementation, are some of the positive signs of this new attitude.



### **I.1.3. Return policy on Albanian nationals and third country nationals**

In recent years, progress has been made on developing migration policies, the most significant step being the development of a National Strategy on Migration (NSM) and its Action Plan.<sup>10</sup> The aim of these two policy documents is to provide Albania with a comprehensive policy on migration management and to link migration management to national development along the lines of a common EU immigration policy. In fact, this strategy emphasizes that management of emigration flows, rather than immigration policy, is an immediate priority, given that Albania is likely to remain a country of emigration for a number of years (NSM, 2005: 1). The NSM sets out three phases in return migration:

- return of country nationals to Albania from EU member states and the process of their reintegration,
- return of third country nationals to Albania from EU member states,
- return of third country nationals to their country of origin.

#### ***Return of Albanian nationals***

The NSM makes several provisions on return and reintegration of Albanian migrants, along similar lines to those specified in other policy documents, such as the National Strategy for the Fight against Human Trafficking, the National Strategy for the Fight against Child Trafficking, the National Strategy on Employment and Vocational Training, and their action plans. The Action Plan on Free Movement also contains provisions on return of Albanian nationals, which relate mainly to implementation of readmission procedures, including the need for training police personnel in readmission issues. However, the impact of policy measures on return has not yet been measured.<sup>11</sup>

On the legislative level, the NSM represents a commitment to assist returnees, as stated in the Law on Emigration for Employment Purposes. Article 13 of this law refers to the promotion of voluntary return by migrants and of their economic and social reintegration. The Ministry of Labour, Social Affairs and Equal Opportunities (MOLSAEO) is responsible for the care and social protection of returnees. However, because of the broad scope of assistance required and the lack of capacity to handle these tasks, this law has not yet been implemented. The NSM also states that the definition of categories of voluntary returnees eligible for reintegration assistance and of types of assistance should be the subject of a Council of Ministers Decision. In general, these policy documents and the respective legislation envisage financial and social support for vulnerable groups and the broad categories of voluntary returnees, but they do not make provision for migrants who have been forcibly returned.

With regard to forced return, despite the “clear commitment to return, particularly with the conclusion of the EU/Albania readmission agreement”,<sup>12</sup> an analysis of the National Strategy for Migration affirms that return migration and readmission, as mechanisms allowing returns are not yet addressed as a government priority at the same extent with the prevention of illegal migration and legislative and institutional reforms of the existing migration system. Further, the signing of several readmission agreements, which in most cases have been requested by other governments,<sup>13</sup> is seen primarily as facilitating EU integration and receiving economic support, rather than as part of a national agenda for reform.

In the same line, the programme of the recently elected<sup>14</sup> government makes no specific reference to its commitment to readmit Albanian citizens who do not have the right to remain in another country. This programme emphasizes the return of qualified and skilled migrants and the government's commitment to reversing the brain drain, ending human trafficking, assuring full employment for all Albanians as a way of preventing further migration and of motivating emigrants to return, and thus of integrating migrants fully in Albania's political, economical and social life and its future development.<sup>15</sup> Although these are important and laudable objectives, the new Government has not yet specified how they are to be implemented. Yet, given that the government had been in power for barely six months at the time of writing this report, it is perhaps too early to ascertain the impact of these measures.

Back to the analysis of NSM provisions, it can be implied that there is a growing interest in this issue, given the growing number of readmission agreements signed by Albania over recent years. According to Zenelaj, one of the negotiators of readmission agreement with the EU, "readmission agreements are a positive instrument of pressure for the countries of origin or transit to implement return and to manage the border".<sup>16</sup> The NSM and its Action Plan identify the need for proper implementation of readmission agreements with EU countries, starting with the identification and delegation of responsibilities and authorities:

[...] there is a need to clarify and strengthen the entities responsible for screening and processing returnee migrants, in particular with regard to readmission. Overall data collection recording and analysis concerning return migration needs to be improved. Within this framework, further cross-ministerial collaboration is required between the Ministry of Public Order, which deals with the returns process, and Ministry of Labour and Social Affairs, which deals with the reintegration process. Within this context, further information is needed concerning the place of return which does not always conform to the place from which the migrant originally moved from, in particular within the context of high levels of internal migration in Albania. (NSM, 2005: 24)

Specific measures for the return to Albania of country nationals proposed under the Action Plan include institutional and legal changes, as well as capacity building for authorities in preparation for implementation of returns and for reintegration assistance. These measures foresee such actions as:

- clarification of structures' responsibilities in dealing with irregular migration;
- creation of reception facilities for irregular migrants at the country's main border points;
- preparation and dissemination of leaflets on voluntary return through consular services throughout the EU;
- drafting and implementation of joint employment programmes with small businesses and other reintegration services;
- capacity building in the National Employment Service and its regional and local offices (see Annex 1).

The implementation of such measures and others related to reintegration, must not be seen as an effort to merely reduce the number of those returnees who try to re-emigrate, but also as a service to the development of the country and the fight against poverty.

### ***Return of Third Country Nationals (TCNs) to Albania***

As mentioned earlier, the NSM does not give priority to the development of an immigration policy,



since Albania is expected to remain a country of emigration for the foreseeable future. Consequently, the only reference to a specific immigration policy is to be found in the section in the NSM relating to “Return of third country nationals to Albania by EU members States”. The policy on return of TCNs is viewed within the framework of implementation of the EC/Albania Readmission Agreement (RA), and specifically in the clause relating to TCNs.

The NSM Action Plan envisages the implementation of readmission agreements, including the agreement with the European Union and other bilateral agreements relating to TCNs. Specific actions foresee the planning, rehabilitation/construction, and operation of detention premises for TCNs awaiting return. Planning of these detention facilities is included in a feasibility study to be completed by mid 2006<sup>17</sup>.

### ***Return of TCNs to Countries of Origin***

Although the NSM Action Plan contains several provisions enabling the return of TCNs from Albania to their countries of origin, implementing these returns is likely to be difficult, given the current lack of readmission agreements between Albania and countries of origin. As shown in Table 1, planned measures and activities laid down under these provisions are very broad. Also, there is no budget allocation for this strategy, due to the lack of data on TCNs likely to be returned via Albania through implementation of the EC/Albania RA.

**Table 1: RETURN OF THIRD COUNTRY NATIONALS BY ALBANIA TO THIRD COUNTRIES**

No.	Measure	Activity
11	Provide necessary information to returnees concerning voluntary return possibilities offered in their home country.	<ol style="list-style-type: none"> <li>1. Appoint responsible persons in border police to deliver the information.</li> <li>2. Design and distribute posters and leaflets with information on voluntary return and its advantages, as well as rights of migrants.</li> </ol>
12	Facilitate return procedures in the countries of origin, with regards to the issuance of necessary identity and travel documents.	<ol style="list-style-type: none"> <li>1. Contact and inform Embassies in Albania.</li> <li>2. Contact through Albanian embassies abroad and relevant ministries in third countries.</li> </ol>
13	Negotiate and sign Return and Readmission Agreements with third countries.	<ol style="list-style-type: none"> <li>1. Identification of countries of origin and transit countries with which readmission agreements need to be signed.</li> <li>2. Preparatory meetings with representatives of countries of origin and transit countries for drafting and signing readmission agreements.</li> </ol>

Source: NSM Action Plan 2005: 69

## **I.2. GENERAL OVERVIEW OF BILATERAL AGREEMENTS**

Faced with huge pressure from irregular emigration, Albania was asked by the Italian authorities to sign its first bilateral readmission agreement with Italy in 1998. In fact, the reasons why the Albanian authorities agreed to sign this readmission agreement and others later vary from country to country. For example, as Coslovi and Pipierno (2005) note, Italy's financial support for Albania might have been an important factor, since the Italian State Aid for Development provided the Albanian Government with three grants of a total of 61,724,235 Euros, between 2000 and 2002:

Faced with the weakness of its own apparatus and its extreme dependence on international aid, Albania agreed to comply with the Italian requests for cooperation in the control and management of illegal migratory flows, including the readmission of its own citizens expelled and turned back by Italy. It is for this reason that it has been abundantly rewarded with a strong financial commitment from Italy, and with particularly generous privileged immigration quotas (Coslovi and Pipierno, 2005: 22).

Since then, Albania has signed 10 readmission agreements (RAs) and it is in the process of signing seven more agreements (see Table 2). The agreement with the European Community is the most recent one signed by Albania. Since the EC/Albanian RA is in fact a framework agreement covering bilateral agreements with individual EU member states, ongoing negotiations on these agreements with eight member states have been suspended, in favour of negotiations on implementation protocols, within the framework of the EC/Albania RA. These bilateral negotiations will therefore continue with those states with which Albania has already negotiated an agreement (Zenelaj 2005a). A number of RAs have been ratified by the Albanian Parliament, but are not yet come into force because they have not been ratified by the other party's parliament.

To date, Albania has only been able to sign RAs with countries of destination for both Albanian emigrants and TCNs transiting through Albania. However, according to the AVR Department in IOM Tirana, Albania lacks RAs with countries of origin of TCNs.<sup>18</sup> Negotiations on readmission agreements with Turkey and Moldova, two major home countries for TCNs transiting through Albania to Europe, have not yet begun, since both countries have thus far refused to respond to Albania's invitation.<sup>19</sup> As a consequence, several steps need to be undertaken to foster RA negotiations with TCNs' countries of origin. Readmission agreements concluded by Albania include references to several international agreements and conventions.<sup>20</sup>

An analysis of Albania's bilateral agreements shows that there is no standard format, as each agreement has different chapters and content. This is also true of the implementation protocols attached to each agreement. The agreement with Italy, for example, provides for readmission to be carried out within 48 hours after receiving the request (article A.2), while the protocol with the UK provides for five days' notification of the planned return (article 8.1). Summarizing the above statements, we can conclude the different readmission agreements contain different clauses and implementation procedures, thus reflecting the outcome of negotiations with various parties.

Table 2: STATUS OF READMISSION AGREEMENTS, May 2005

	<b>Country</b>	<b>Year of Signature</b>	<b>Status</b>
1	Italy	1998	In force
2	Hungary	2001	Undergoing ratification process
3	Belgium	2001	Undergoing ratification process
4	Germany	2002	In force
5	United Kingdom and Northern Ireland	2003	In force
6	Lithuania		To be signed
7	Luxembourg		To be signed
8	Slovenia		To be signed
9	Slovakia		To be signed
10	Poland		To be signed
11	Czech Republic		To be signed
12	Benelux - Belgium, Netherlands Luxembourg <sup>21</sup>		To be signed
13	EU	2005	Undergoing ratification process
14	Switzerland	2000	In force
15	Multilateral agreement	2000	In force
16	Bulgaria	2002	In force
17	Romania	2002	In force
18	Croatia	2003	Protocol to be signed
19	Bosnia		To be signed
20	Macedonia	2004	Undergoing ratification process
21	Turkey		Under negotiation
22	Moldova		Under negotiation

*Source: Albanian Ministry of Foreign Affairs, Directorate of Treaties and International Agreements*

The main actors involved in the negotiation of bilateral RAs on behalf of the Albanian government were the Ministry of Foreign Affairs (MFA), the Ministry of Public Order (MOPO, currently being restructured and renamed the Ministry of Interior, Mol) and the Ministry of Labour and Social Affairs (MOLSA, renamed Ministry of Labour, Social Affairs and Equal Opportunities, MOLSAEO). MFA took the lead on negotiations and for signatures, while MOPO provided technical advice and implementation and MOLSA organized social support for returnees, especially for vulnerable target groups such as victims of trafficking.

In general, MFA is responsible for coordinating bilateral negotiations between Albania and other countries at the political level.<sup>22</sup> It also signs and keeps records of RAs, as for all international agreements signed by Albania. The consular section in the Directorate of Treaties and International Agreements distributes information and informs operating structures about commitments made by Albania under various international agreements, including RAs (MEI official, 2005a). MFA communicates these decisions to the secretary-generals of the ministries involved, who then distribute the information to the directories concerned (MEI official, 2005b).

### **I.3. NEGOTIATING THE READMISSION AGREEMENT WITH THE EUROPEAN UNION**

The latest Readmission Agreement signed by Albania is the frame multilateral agreement with the European Community. The following analysis of the negotiations and outcome of this RA is based mainly on personal interviews carried out by the authors, together with a review of documents and press articles on this matter. This section examines the negotiating structure and positions, the position of the government and of the opposition, and reflections made by the media.

#### **I.3.1. The negotiations**

In February 2003, Albania opened political negotiations for a Stabilization and Association Agreement (SAA) with the European Community. The Readmission Agreement was negotiated at the same time as the SAA, as specified under article 80 of the SAA.

These political negotiations took place in three rounds in May, September and November 2003, tandem with technical negotiations of SAA. Both parties initialled the RA on 17 December 2003 and signature took place in April 2005. It was ratified by the European Parliament in early September 2005 and by the Albanian Parliament in January 2006<sup>23</sup>.

#### **I.3.2. The negotiating teams**

##### ***The European Commission team***

The EU negotiating team, headed by Martin Schieffer of the Directorate-General for Justice and Home Affairs (DG JHA), included representatives and legal experts on readmission and return of DG JHA, country specialists from the Directorate-General for External Relations (DG Relex) and the head of the EU delegation in Albania. DG Relex was responsible for the preparation and organization of the negotiations, while DG JHA provided technical expertise on the issue.

##### ***Albanian team***

The Albanian team was initially led by the then Minister of Integration, Sokol Nako, and his successor, Ermelinda Meksi. It included representatives from the relevant line ministries – MFA, MOPO, MOLSA, Ministries of Justice and of Finance (Albanian Council of Ministers, 2003a). MOPO played a leading role during all the negotiations and coordinated the working group which included representatives from key departments in line ministries involved in the readmission process. Each

ministry contributed to the process in areas for which they would take responsibility following ratification of the agreement.

The first condition for selecting negotiators for the RA was their involvement in the technical negotiations for the SAA. They were also appointed on the basis of their official positions within their Ministries as heads of directorates with experience in dealing with the European Union, in particular with questions relating to Justice and Home Affairs (JHA). Their previous involvement with similar negotiations or issues relating to international agreements of this stature was the third condition. The group has subsequently remained unchanged, apart from the arrival of a new MOLSA negotiator, who joined the team during the second round of the RA negotiations.

### ***The Albanian team: Ministry of European Integration***

The Ministry of European Integration<sup>24</sup> took the leading role in negotiating the RA with the European Community, as it was also responsible for the negotiation of the SAA (Zenelaj, 2005b; Bushati, 2005). It was given this role despite that fact that previous bilateral or multilateral agreements had been negotiated by MOPO as the implementing structure, with MFA providing diplomatic support for international treaties and agreements. Within the Ministry of Integration, responsibility for the RA fell mainly on the Directorate for Legislation Approximation, in particular the Sector for Justice and Home Affairs, the head of which was one of the negotiators for the RA. This ministry provided legal expertise to ensure that the agreement's articles:

- did not contradict the Albanian Constitution;
- were in accordance with the adaptation of the Albanian law to the *acquis*;
- guaranteed personal data protection in accordance with the Communities directives on the issue;
- ensured that administrative issues relating to justice and home affairs were covered (Bushati, 2005).

### ***The Albanian team: Ministry of Public Order (MOPO)***

MOPO was also a central negotiator, not only for its responsibility for border management, treatment of aliens in Albania and of public order in general, but also for its role as the future implementation structure of the EC/Albania RA. MOPO had previous experience as it had negotiated the readmission agreement with Italy, and this had proved quite successful for both parties. MOPO's negotiator was also a key negotiator for the SAA (Dade, 2005). Since completion of these negotiations, however, MOPO's structure has changed. The new MOPO negotiator was supported by experts in several different MOPO directorates and offices, such as the Directorate for the Border Management and Control, police stations and offices dealing visas and passports, the Directorate for Refugees and other related sectors and offices responsible for these duties.

Some of the RA negotiators thought that MOPO was not well prepared for the RA, in that it lacked the necessary structures for dealing with the peculiarities of the agreement and did not have data supporting Albania's demands for constructing the appropriate infrastructure to accommodate returnees, especially for TCNs and stateless people. Furthermore, they lacked the human resources and a trained police force required for implementation of the agreement (Zenelaj, 2005b).

However, the MOPO representative claimed that, despite these difficulties, they were responsible for implementing readmission agreements already in force in Albania and could thus provide detailed

explanations on actions to be undertaken during the drafting and negotiation of the agreement, as well as during implementation of the EC/Albania RA by Albanian institutions (Dade 2005).

### ***Other Albanian ministries involved in the negotiations***

In general, the *Ministry of Foreign Affairs* is involved in all stages of negotiations of international bilateral or multilateral treaties and agreements on the behalf of the Albanian government. The MFA negotiator for this agreement provided expertise in two areas: representation of the Albanian position vis-à-vis the European Union, and coordination of input from other ministerial sections, relating to consular services and legal aspects of international agreements. MFA structures involved in the negotiations included the Directorate for European Integration, the Directorate for Legal Affairs and Treaties and the Directorate of Consular Service (Ibrahimi, 2005).

*The Ministry of labour and Social Affairs*,<sup>25</sup> which would be responsible under the agreement for providing shelter for minors, and Integration of women and in particular for victims of trafficking was represented by the head of the Directorate for Legal Issues. MOLSA's migration sectors provided all the necessary documentation for the negotiator representing MOLSA's position relating to these groups of migrants (Shtylla, 2005).

The *Ministry of Justice* was represented on the negotiating team by the head of the Directorate for Codification, who was responsible for the formulation of articles for the agreement, their conformity with the Albanian Constitution, the drafting of amendments presented by Albania to the Union representatives. As a result, the Ministry of Justice's negotiator was also named head of the group of technical negotiators, thus underscoring his role and that of the Ministry of Justice in negotiations for the EC/Albania RA (Zenelaj, 2005b).

As opposed to other Ministries, the *Ministry of Finance* did not have a permanent representative in the negotiations. Experts from this Ministry were invited to participate in group discussions and to assist in the calculation of costs that Albania would have to assume once the agreement came into effect (Zenelaj, 2005b; Dade, 2005).

### **1.3.3. Stabilization and Association Agreement (SAA) and Readmission Agreement**

The draft SAA includes a clause on readmission, as in similar EU association and cooperation agreements with third countries in recent years (Schieffer, 2003). Article 80 of the SAA stipulates that "the parties will agree to conclude an agreement [...] regulating the specific obligations [...] for readmission, including an obligation for the readmission of nationals of other countries and stateless persons" (European Commission, 2003b: 41).

For Albania, signing the RA was a clear expression of its desire to be considered for future EU membership and the conclusion of the SAA negotiations marked a major step towards union membership.<sup>26</sup> The inclusion of the readmission clause in the draft SAA gave the European Union a clear political opportunity to demonstrate its commitment to signing the SAA. Furthermore, Albania explicitly asked the EU that the RA's preamble include a statement that this agreement was executed in accordance with Article 80 of the draft SAA agreement and was part of the negotiations for finalizing the SAA. This was accepted by the EC representatives. The Albanian team also requested that 'the RA should enter into force simultaneously with the SAA, since it constitutes a direct obligation of the contents of article 80 of the draft SAA' (Albanian Council of Ministers, 2003a: 31).<sup>27</sup> Yet the EU representatives made it clear that the RA would be ratified by the European Parliament, whereas

the SAA would have to be ratified by all member state parliaments, which could take up to two years (Albanian Council of Ministers, 2003c).

The European Union team negotiated the EC/Albania RA in parallel with the SAA in order to force the Albanians to accelerate negotiations for the RA. Only during the second technical round, did it become clear that these were two different agreements with different ratification procedures. In conclusion, Albania has signed the RA and is still waiting to sign the SAA.

### **I.3.4. The negotiating process**

#### ***Timing and schedule for negotiations***

The European Commission had been given a mandate<sup>28</sup> to launch negotiations for the conclusion of a RA with Albania in November 2002, and the invitation and draft text were presented to the Albanian authorities in March 2003. Albania agreed to enter into negotiations with the EU immediately and both parties met for negotiations in May and September 2003, followed by a final round in November (European Commission, 2004a: 4).<sup>29</sup>

The agreement was signed in April 2005 by Ermelinda Meksi, Albanian Minister of Integration, and Dashnor Kaja, Vice-Director of the State Police, on behalf of the Albanian Government, and Commissioner Fratini, Vice-President of the European Commission, on behalf of the European Union. It was ratified by the European Parliament in early September 2005, and by the Albanian parliament in January 2006. The agreement will come into force following notification by the parties that the respective internal legal procedures have been completed (European Commission, 2004b: Article 22).

#### ***Political negotiations***

To improve implementation of the RA, the Albanian team wanted to tie the signature to:

- signature of the SAA
- visa facilitation and liberalization regimes (widely mentioned in the Albania media as the direct benefit of the SAA);
- financial assistance from the EU;
- support for further readmission negotiations with countries of origin, such as Turkey and Moldova.

The EC negotiating team made it clear that they did not have the authority to negotiate visa facilitation or liberalization as this was not a part of their mandate (Zenelaj, 2005c). However, Albania was promised that this matter would be considered by EU member states' representatives and that approaching the standards for the SAA would play in favour of a facilitated visa regime for Albanian citizens wanting to travel to the EU (Bushati, 2005). To date, this regime has still to be established.

The EU team subsequently offered the Albanian government financial support for building the infrastructure and capacities necessary for implementation of the RA. Most negotiators indicated that part of the funds under the CARDS Programme<sup>30</sup> would be allocated to structures responsible for the RA's implementation. Although no exact figures were quoted, estimates ranged from 1 to 2 million euros (Bushati, 2005; Dade, 2005; Shtylla, 2005; Zenelaj, 2005c). The fourth issue of concern,



support for Albanian readmission agreements with countries of origin, has not yet been fulfilled, though Albania has taken some steps towards entering into negotiations with these countries.

### ***Technical negotiations***

The technical negotiations focused on timing and Albania's capacity to meet obligations arising from this agreement. The following analysis is based on minutes from the second round of negotiations provided by official sources within the Ministry of Integration, interviews conducted with the Albanian RA negotiators, and official declarations by the Albanian Council of Ministers. In this context, it would be noteworthy to mention the negotiations on the agreement were carried out article by article and the following analysis is focused only on those issues which, in the course of negotiations, were considered the most sensitive by negotiating teams.

Albanian negotiations and proposals were mainly based on Article 3 relating to "Readmission of Third Country Nationals and Stateless Persons". During the second round of negotiations, the Albanian team demanded that the paragraphs be rewritten, pointing out that an Albanian visa was not sufficient proof that Albania had been used as a transit point, and that evidence that the person has actually used the visa was needed.

The EC team agreed to write a common declaration reflecting this common interpretation of Article 3 (Albanian Council of Ministers, 2003a: 9; 2003c), in order to facilitate implementation of the TCNs clause. The Albanian team claimed that the country lacked the capacity for its implementation due to:

- lack of reception capacities and unreasonable costs related to reception of a large number of TCNs;
- lack of personnel qualified in dealing with readmission;
- lack of readmission agreements with third countries of origin such as Moldavia, Turkey and China;
- lack of a national legislative framework for readmission matters (NSM, 2005: 8).

As a result, Albania initially demanded a five-year derogation period before the TCN clause came into force. The demand was later reduced to two years, as the Albanian negotiating team realized that it would take three years to sign and ratify the agreement. With two years of derogation, they would have five years to build the necessary infrastructure and capacities for its implementation (Dade, 2005; Zenelaj, 2005c).

The parties agreed on the content of Article 4, and on changes in Article 3 which reflect Article 5 (covering return of TCNs and stateless people). The Albanian team, with the support of UNHCR, raised the issue of exclusion of asylum seekers from requests for readmission (Zenelaj, 2005c). The EC delegation explained that "the prevailing principle is that a member country can request readmission only after the conclusion of the procedures for asylum application and its refusal". The parties therefore agreed that there is no need to make separate mention of asylum seekers (Albanian Council of Ministers, 2003a).

Notwithstanding, an additional clause on readmission by error was included. It establishes an obligation for the requesting party to take back returnees, when additional facts prove that they were not eligible for readmission after readmission had taken place. This is valid for both own and third country nationals (Albanian Council of Ministers, 2003b). However, no reference was made to the human rights of migrants trapped by these administrative procedures, nor to the protection they would be given.



Finally, further clarification and explanations were provided relating to the documents required to provide prima facie evidence of nationality, for the role of implementing protocols, and for nebulous terms used in different clauses of the agreement such as 'other bodies', 'competent authority' 'conditions to be established', and 'reasonable time period'.

There were few, if any, changes to the remaining articles of the agreement. In relation to implementation procedures, the EU team indicated that technicalities for return procedures would be defined in protocols, and, in its opinion, there was no reason to include these in the framework agreement. The Albanian team accepted the EU's conditions.

### **I.3.5. Perceptions of losses and benefits**

The government officials sought to give a favourable perception of the RA and its future benefits. Almost all officials interviewed stressed that the signing of the RA with the European Union was inevitable as a "pre-condition, set in the draft SAA". Other officials invoked the sovereign duty of a State to counter emigration using regular channels, and always referred to the need to act as a partner with the EU. As a high official in MOPO suggested, "we have created many problems with our illegal migration to the EU countries. As Albanians, we should take our responsibilities and give guaranties" (Rugji, 2005).

However, on the question whether Albania could have negotiated better conditions for the RA, the opinions of Albanian negotiators seem to be divided. One of the principal negotiators argued that "more than negotiation, my experience, at least, shows that there we have to do with an exam. We prepare to negotiate on the deadlines and periods, not standards. With the readmission agreement, we tried to reach a logic of deadlines" (MEI official, 2005b). Others suggested that there had been more space to negotiate and then explained the reasons for the limited response by Albanian negotiators. As well as having very little time to prepare and limited experience in negotiating with the EU, the technical expertise of the team was, according to one negotiator, weak: "we studied the bilateral agreements, but we can not say there was enough expertise. MOPO [the principal body for negotiating and implementing bilateral agreements] was weak; it did not have special structures on readmission" (MEI official, 2005b).

It is quite plausible that institutional weaknesses and differences could have led to limited consideration of Albania's capacity for implementation prior to or during negotiations. Furthermore, lack of prior assessment of the situation might have had a negative impact on the Albanian team's negotiating position. The MOPO official quoted above, who considered the MOPO expertise as insufficient, argued in a self-critical mood, that "when we say no, it does not mean there is a feasibility study behind. We often come across the problem that implementing institutions do not consider the implementation possibilities". Even the EU team seemed to be concerned about Albania's negotiating position. One representative of the European Commission pointed out that "this is actually one of the challenges faced by Albania that they feel [...] that they have to do things quickly and sign on quickly, even though we say it again and again and again: please do not make all these promises if you can't plead them" (Kruse, 2004: 22).

In conclusion, it can be argued that although there was a strongly shared opinion among Albanian officials that the RA had to be signed as a pre-condition for the SAA or for integration, Albania might have been in a better position to negotiate if the ministerial team had received more institutional backing and greater access to technical expertise, if a feasibility study on implementation capacities had been carried out in advance, and if it had more experience in negotiating with the EU.

### **1.3.6. Government and Opposition Parties' positions on the RA**

The Albanian government fully supported the process, emphasizing the fact that RAs are part of the EU's conditions for negotiating the SAA. The correlation was also made clear in declarations made by the then Minister of Integration, Sokol Nako (*Korrieri*, 2003b), and his successor, Ermelinda Mexsi (*Shekulli*, 2003a, 2003b; *Koha Jonë*, 2003c). Both Ministers explicitly stated that RAs were part of the process of establishing border management and security standards and of creating the institutions required for implementing the SAA.

Only one newspaper article, citing Fatmir Mediu, member of the Republican Party then in opposition, declared that Albania should not passively accept the EU's conditions and should serve its national interests more (*Koha Jonë*, 2003h).<sup>31</sup> In an interview with Fatmir Mediu, Kruse came to the conclusion that the RA was a government issue and that parliament, and in particular the opposition parties, had not been consulted on the matter (2004: 21).

In September 2005, the party in opposition at the time of negotiations became the leading party in government. Although members of the opposition had not been involved directly in the negotiations, the new government declared its commitment to signing the SAA as soon as possible, thus demonstrating that it would not oppose ratification of the RA in parliament.

### **1.3.7. Media coverage**

To date, there have been no public opinion polls and no public debate on the RA with the EU. During interviews with the negotiators, they claimed that surveys had not been conducted by any institution, not even by governmental institutions, to ascertain public opinion on the return of migrants. In order to analyze media coverage of the RA negotiations, the authors of this research reviewed articles published in six best-selling daily newspapers (*Shekulli*, *Koha Jonë*, *Gazeta Shqiptare*, *Korrieri*, *Panorama* and *Tema*) during the three negotiating rounds in 2003, and at the time of signature in April and September 2005.. Generally speaking, Albanian newspapers provided brief descriptions of the negotiations, but little, if any, analysis or opinions.

There was very little media coverage during the three rounds of negotiations and the initialling of the RA in 2003. Several articles misinformed readers by stating that the Albanian Government had signed the RA during each round (*Koha Jonë*, 2003a, 2003f; *Panorama*, 2003c).<sup>32</sup>

During the first and second round of negotiations, the Albanian press published alarming reports that the EU and Albania might accept a British proposal to build a refugee camp in Albania. The promise of financial support for asylum centres and centres for other categories of irregular migrants was frequently mentioned (*Koha Jonë*, 2003a, 2003b; *Gazeta Shqiptare*, 2003b, 2003c, 2003d). The government realized that the public was misinformed about the real intentions of the RA, and therefore asked Fatbardh Zenelaj, negotiator and representative of Ministry of State for Integration, to write an article explaining the readmission agreement, the negotiating process, and the reasons why Albania should sign it (*Korrieri*, 2003d). As a result, the conclusion of the third round of negotiations was regarded by the media as a success for the Albanian government and the European Union (*Shekulli*, 2003e; *Korrieri*, 2003g; *Koha Jonë* 2003f, 2003g; *Gazeta Shqiptare*, 2003g).

For the next year and a half, there was limited discussion in the media. This silence ended with the signature of the EC/Albania Readmission Agreement by the two parties in 2005. *Shekulli*, in its article 'Brussels, the return of Albanian illegal emigrants signed' (2005a), expressed concerns that

the RA increased the risk of return by large numbers of irregular Albanian migrants and that the implementation procedures needed to be clarified.

Articles in *Koha Jonë* and *Korrieri* expressed a more critical view of the actions of the Albanian Government. They were alarmed about the potential return of large numbers of emigrants, as the agreement implied the involvement of “Europolice and Eurojustice in the identification and localization of the clandestines and their consecutive return, either voluntary or forced” (*Koha Jonë*, 2005a; *Korrieri*, 2005a). They also claimed that the RA was a serious threat to Albanian emigrants in the EU and was in fact a “present” given by the current government at the request of the EU. Both newspapers informed the public that there would be funds for better border management to prevent illegal migration and the returnees would be offered support for their social and economic reintegration. Furthermore, they noted that there had been serious talks on the construction of refugee camps for TCNs using Albania as a transit point during their migration to EU member states (*Koha Jonë*, 2005a; *Korrieri*, 2005a, 2005b).

Clearly, the Albanian press was confused about the negotiations and the contents of the RA. They conveyed a sense of fear about potential consequences of this agreement. The return of illegal emigrants was seen as a negative outcome because their remittances were a major source of income for many families at home. Also, from the Albanian standpoint, emigration is seen as the answer to immediate economic problems at home and therefore a solution, rather than a question of security (AIIS, 2004: 15). On the other hand, there was a fear that the clause on TCNs would turn Albania into a refugee camp, which Albania could not afford due to a lack of infrastructure, and of human and financial resources.

Yet the media changed their position as the negotiations proceeded and, once the process was over, they claimed that the RA was a success for the Albanian government, citing the benefits gained in facilitating visa applications (*Korrieri*, 2005c) and in obtaining financial support from the EU's CARDS programme (*Shekulli*, 2003f). The media changed their position again once the RA had been signed in April 2005, though this might be attributed to criticism of government actions in the period leading up to elections.

## CONCLUSIONS

During the communist period, there was literally no emigration out of Albania, but a large number of migrants left the country for the European Union and other western states in the early 1990s. Analysis of the different phases of migration shows that the main reasons for migrating were economic, although sometimes political instability was a contributing factor. After fifteen years of migration, there have been cases of return migration, followed by attempts to establish return policies, both in receiving countries and in Albania. Although Albania is primarily interested in the return of skilled migrants, pressure from receiving countries to remove irregular migrants from their territories has pushed Albanian government into signing and implementing 10 bilateral and multilateral Readmission Agreements. These RAs were negotiated primarily with receiving countries and a multi-lateral agreement has now been finalized with the EU.

Analysis of these negotiations suggests that Albania's willingness to comply with readmission agreements is based on an overall political will to move towards EU membership, which demands fulfilment of conditions relating to border and migration management. Despite some reluctance and scepticism expressed in the Albanian press and by the then opposition parties, the EU position has been backed by financial aid and the possibility of visa regime facilitation, which provide good

incentives for a developing country such as Albania. Albania has to face now the challenge of implementing a multilateral agreement with the EU without being able to learn from other countries' experiences, since similar agreements with the EU have been early negotiated only by Macao, Sri Lanka and Singapore, none of which have a land border with a European member states or are seeking EU membership. Albania will have to handle the return of many of its own nationals and of TCNs who have been or will become irregular migrants in the EU and also address their needs once they arrive in the country.

# II. IMPLEMENTATION OF BILATERAL READMISSION AGREEMENTS AND FUTURE IMPLEMENTATION OF THE EC/ALBANIA READMISSION AGREEMENT

By Sonila Danaj and Elizabeth Warn

## INTRODUCTION

The EC/Albania Readmission Agreement is a framework agreement between Albania and Member States of the European Union.<sup>33</sup> This agreement sets out the modus operandi for the return of irregular migrants and will be complemented by bilateral implementation protocols.<sup>34</sup> The principal clauses define the return of Albanian nationals,<sup>35</sup> i.e. of irregular Albanian migrants to Albania, and of third country nationals (TCNs) to Albania. The agreement was ratified by the European Parliament in September 2005 and by Albania in January 2006 and comes into force for the return of own nationals in 2006 and for TCNs in 2008.

When the RA was initiated in December 2003, the parties accepted that Albania would not have the capacity to implement the agreement until it came into force (Zenelaj, 2005b; Dade, 2005). In 2006, Albania still faces difficulties with implementation of the RA, including verification, handling, and referral of Albanian nationals in Albania and provision of reintegration services in order to guarantee a sustainable return. Successful implementation of the EC/Albania RA depends on *how it is implemented*, whether existing bilateral practices remain the norm and whether Albania and EU member states implement it strictly according to the text of the agreement.

As highlighted in a European Parliament report (2005: 6), implementation of the clause relating to TCNs is likely to create a greater set of difficulties. It could create a readmission trap for TCNs returned to Albania without being able, or willing, to return to their countries of origin, with little expectation of being able to re-enter the EU because of their irregular status there. In short, individuals could be stranded in Albania without papers or prospects of a place to settle.

This chapter examines and highlights the overall challenges for implementation of the EC/Albania agreement and makes some recommendations for change. Since Albania remains the only country in Europe to have signed and ratified<sup>36</sup> such an agreement with the European Union, this research can serve to assess the flow of potential returnees and the problems to be faced within the implementation of such agreements, and provide lessons for the future.

This report is based on personal interviews with officials of Albanian ministries involved in readmission procedures and with experts in irregular migration and border management, together with a careful review of readmission agreement texts and responses to a questionnaire distributed to border crossing point personnel at Mother Teresa International Airport and the ports of Durrës and Vlora.<sup>37</sup> The role of the main actors in the implementation of readmission agreements is examined first.

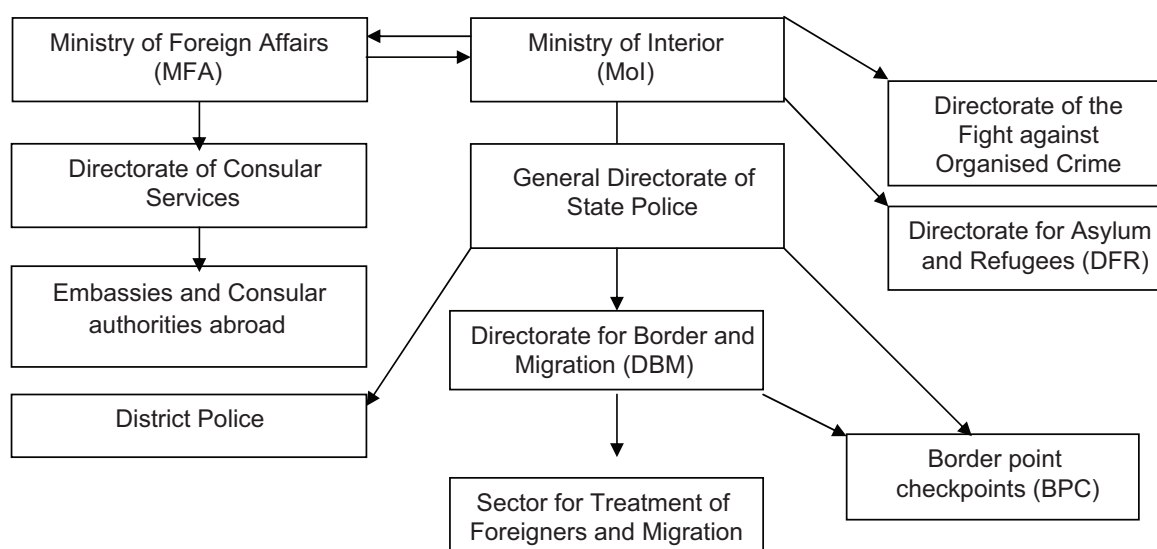
## II.1. ACTORS INVOLVED IN IMPLEMENTING THE READMISSION AGREEMENT

Implementation of RAs is mainly the responsibility of the Ministry of Interior (Mol), delegated to the State Police's Directorate for Border and Migration (DBM).<sup>38</sup> DBM is a new structure created in October 2004 and is responsible for all matters related to border and migration, including readmission. Prior to this date, competencies for these questions were divided between several entities within the Ministry and no one entity had overall responsibility of handling irregular migrants.<sup>39</sup> Within DBM, responsibility for return and readmission issues has been allocated to a single specialist in the Sector for the Treatment of Foreigners and Migration.<sup>40</sup>

Other Mol directories involved in migration issues include the Directorate for the Management of Information and Technology, which is responsible for data collection, processing, and training of police officers in data collection and management. Currently, data is collected manually in all border-crossing points, apart from 10 crossing points where the Technological Information Management System (TIMS) has been installed.<sup>41</sup> In addition, the Counter-Trafficking Unit, in the Directorate of the Fight against Organized Crime, deals with victims of trafficking (VoTs) and other trafficking-related issues,<sup>42</sup> while the Directorate for Refugees handles all issues related to asylum seekers and refugees.

The Ministry of Foreign Affairs (MFA), through the Albanian Consulates in EU countries, takes responsibility for verifying identities, where necessary, and receiving and responding to individual readmission requests (as required in the RA with the Benelux countries). In these cases, the MFA's Directorate of Consular Services, together with the State Police (through its District Police units), is involved in verification of national identity.

**Figure 1:** Albanian actors involved in implementation of RAs<sup>43</sup>



## II.2. RETURN OF ALBANIAN NATIONALS AFTER 2006

The Albanian Constitution recognizes the return and admission of nationals, stating that every Albanian citizen will be accepted back to Albania. This is also confirmed by Law no 8772, dated 19 April.2001, for the Control and Guard of the State Border of the Republic of Albania. Article 22 of

this Law charges the Border Police with the responsibility to admit and take in Albanian nationals and foreign individuals crossing the border illegally. People leaving the country irregularly may be punished by a fine and/or up to two years of imprisonment;<sup>44</sup> however, this sanction has rarely been applied.

So far, return of Albanian nationals has taken place using a variety of voluntary and involuntary methods and for several categories of returnees. Once the EC/Albania agreement comes into force, it will be left to be seen which categories of TCN will be returned, i.e. whether they will be victims of trafficking, failed asylum seekers, etc, as well as the potential numbers.<sup>45</sup> Information from EU sources suggests that not all categories of irregular migrants will be returned.

### **II.2.1. Current readmission procedures**

As described in the first chapter, readmission to Albania has, until now, taken place through implementation of existing bilateral agreements. There is no standard format for RAs, as each agreement uses different forms and contains different articles. The RA with Italy, for example, provides for readmission to take place within 48 hours after receipt of a request (article A.2), whereas the UK protocol requires at least five days' notice before the scheduled date of return (article 8.1) (Elbasani, 2005). Similar differences can be found in implementation protocols attached to each agreement, which contain a range of implementation procedures and responsible entities.<sup>46</sup> This complicated situation creates difficulties in ensuring proper implementation of the RAs. Readmission procedures and existing practice in Albania will be examined from two perspectives: verification of identity and handling of readmission requests, and readmission procedures in Albanian territory.

#### ***Verification of identity and handling of readmission requests***

The normal readmission procedure between Albania and requesting states requires that identities be checked in order to establish or assume citizenship. This procedure takes place prior to submission of the request for readmission to the country concerned. *Verification of nationality* is carried out using various methods, including checking of identity documents (passports, identity cards, etc.), checking of travel documents and testimonies, and, in some cases, hearings in the presence of diplomats from the requesting country.

In practice, according to the Albanian border authorities, Albanian citizens are returned to Albania by relevant authorities in EU member states without prior contact with Albanian consulates or authorities. This has occurred especially in Italy and Greece<sup>47</sup> where readmission takes place at the border and all procedures are carried out at the respective border points directly and without the involvement of the central structures.<sup>48</sup>

In rare cases, Albanian consular authorities are called on to verify the identity of individuals, where they have no documents and where there is a doubt about their citizenship (Arn, 2006). In these situations, the request is passed on to MFA's Directorate for Consular Services. The request is then forwarded to Mol's State Police, which in turn contacts the District Police for verification of the identity of the person concerned. However, under this procedure, DBM is not informed of the request, since the State Police deals with verification and forwards information to the Albanian Consular Services in the returning country (DBM, 2006).

Under normal procedures, once authorities in the host state have established or assumed by all possible means that the individual is Albanian, a request for readmission is submitted to the



appropriate Albanian authority, as outlined in the RA protocols, together with a request for a one-way travel document (*laissez-passer*) for return to Albania. The readmission request should be in writing and provide sufficient details about the individual's identity, including time and date set for his or her arrival.

After submission of the request for readmission by the returning state, the Albanian authorities can begin the *procedure of verification* (nationality, personal data, prior criminal records, if any) required for readmission. Depending on the results of this procedure, the Albanian authorities can agree to admit or not the person. Readmission can be rejected if it is not proven that the returnee holds Albanian citizenship, or if there is insufficient information to enable verification of identity, i.e. that the host country has not provided sufficient details on the returnee's residence in Albania for TIMS or the District Police to permit verification of his or her identity.

In most cases, Albanian authorities are only informed of the return, once the individual has arrived on the territory of Albania and has been registered by the Border Police. There have been several reported cases where border authorities did not receive prior notification of the returnee's arrival. Thus official procedures of notification, as outlined in bilateral RAs, are not always followed and return is carried out on the basis of a 'gentleman's agreement', i.e. tacit consent to accept all Albanian nationals with no further procedures.<sup>49</sup>

When a person is returned without prior notification, the Albanian authorities need time to verify the returnee's identity, personal details and criminal record at the border. This can take several hours since, with the exception of large cities, there is a shortage of communication systems. Verification of the returnee's identity can take place in the district where the returnee is registered, and is usually carried out manually (Koti, 2005; Kalamishi, 2005).

### ***Handling of Kosovar returnees***

A complicating factor for Albania has been the return of Kosovar Albanians. During the Kosovo crises, large numbers of Albanians migrated to the EU and Western Europe and requested asylum under the pretext of being Kosovar rather than Albanian. Although not specifically mentioned during interviews with border police, discussions have shown that a considerable number of Kosovars are being returned to Albania.<sup>50</sup> According to a border official, no further checks were made on Kosovars being returned to Albania, and they are left to make their own way home (Koti, 2005). This situation seems to be symptomatic of the lack of importance given to this problem. Similar cases relating to referral of Macedonian Albanians returned to Albania have also been reported.

Although citizens of Albania and Kosovo are both considered to be Albanian, the EC/Albania RA does not require Albanian authorities to readmit Kosovars as 'own nationals'.<sup>51</sup> Because of this potential of returning people to Albania by mistake, the Albanian negotiating team asked for inclusion of the article on readmission in error during the negotiations (Zenelaj, 2005b). Such difficulties with current procedures demonstrate the importance of training border personnel in the detailed provisions in these readmission obligations.

### ***Referral mechanisms in Albania***

Once an individual has been returned or readmitted, there are three main issues to be resolved: categorization, appropriate referral, and treatment of vulnerable categories.



Categorization of Albanian nationals entering the territory is based on a simple interview at the border by a controller supervised by other colleagues and the chief controller. However, these interviews are not very reliable, as there is no standard questionnaire. Controllers handle cases of inadmissible (INADs)<sup>52</sup> and deportees who, once they have been identified and categorized, are released if there is no pending criminal case against them. INADs and deportees are allowed to go home unless they are identified as wanted for criminal investigation, in which case they are taken to the criminal police bureau at regional police headquarters. Asylum seekers are referred to the pre-screening team (Koti, 2005; Kalamishi, 2005).

So far, these interviews have also been the only way of determining whether an individual requires special assistance. However, unless returnees inform authorities that they are victims of human trafficking or prostitution networks, border police have no way of identifying those who should be referred to specialized services (Zuriqi, 2005).

Officers from the Anti-Trafficking Unit have expressed their apprehensions about DBM's ability to handle identification of victims of trafficking (VoTs).<sup>53</sup> In addition, they are concerned that the simplistic procedures for verification could lead to VoTs being mistakenly identified as normal irregular migrants and thus released without referral to the appropriate bodies. Currently, there are few special measures for helping VoTs and minors, though attempts are being made to create a national referral system for VoTs at border points. These efforts include the presence of a female officer at every border crossing point requiring support for vulnerable groups such as women and minors and of specialists (social workers, psychologists, legal advisors) capable of responding to their needs and of providing advice on referral procedures (Koti, 2005; Kalamishi, 2005).

Delays in procedures for identifying and screening returnees have also been beset with problems relating to facilities for receiving national irregular migrants at border points. While temporary facilities for screening foreign nationals exist at eight border points, there is no provision for handling Albanian nationals, even though the number of returning Albanian nationals is higher than that of TCNs. Although each Police Commissariat has two temporary accommodation rooms,<sup>54</sup> many facilities at border points are extremely poor and not equipped for more than short verification periods.

At present, airport checks at the International Mother Teresa Airport are undertaken directly at a counter located outside, with only a small corridor where individuals may have to wait for some hours before they are allowed to leave. According to border officials, it can take up to eight hours to verify the identity of a person registered as residing within two hours' drive from Tirana.<sup>55</sup> Lack of adequate facilities is more serious at land border crossing points between Albania and Greece, such as Kakavija, or at border points with Kosovo where there are no temporary accommodation facilities, and where, given to the high number of crossings, there are often long queues. These border points do not have temporary accommodation facilities. Since the authorities believe that verification is a relatively fast procedure, there has been no attempt to create facilities.

## **II.2.2. Preparations for the implementation of the EC agreement**

Given the deficiencies described above, entry into force of the EC/Albania RA raises questions on how it will be implemented. If current practices continue, the Albanian authorities will have a limited role in identifying, registering, collecting data, and handling returnees before the individual arrives in Albanian territory. For their current procedures to become fully effective and to enable them to collect and collate data efficiently, TIMS must be fully operational.

However, data collection is not the only issue; in-depth interviews have shown that existing implementation methods under bilateral agreements already give rise to confusion. Despite the different requirements of 24 member states, the existence of a common framework agreement with Albania should facilitate efforts to ensure harmonization of implementation protocols. For example, common readmission procedures and equivalent responsible entities will assist Albanian authorities in implementing the RA efficiently with all EU member states.

### ***Improving readmission procedures***

Verification of a returnee's nationality is a key element for the EC/Albania RA, since Article 2.1 on readmission of own nationals states:

Albania shall readmit, upon application by a Member State and without further formalities other than those provided for in this agreement, all persons who do not, or who no longer, fulfill the conditions in force for entry to presence in, or residence on, the territory of the requesting Member State provided that it is proved, or may be validly assumed on the basis of prima facie evidence furnished, that they are nationals of Albania.

When an individual request for readmission has been submitted by the requesting authority to the responsible Albanian readmission entities, readmission can only take place after an official response has been made by the Albanian authorities (the 14 day rule). This procedure will increase the role of DBM and enable the collection and centralization of data, verification of requests and authorization of readmission procedures. More efficient collaboration between MFA and MoI will also facilitate verification of identity and provision of travel documents for the returnee.

With procedures centralized by DBM, notification of the arrival of returnees to both the sending party and the border authorities will become more effective and lead to avoidance of errors such as those relating to Kosovars described above. Furthermore, if the RA were implemented in accordance with its provisions today, the problem of long verification periods would no longer exist, since verification could be carried out directly by the entities responsible for readmission, rather than at the border. However, readmission requests are currently handled by a single official. If the current workload of several border officials were transferred to this person, it would be physically impossible to respect the 14 day verification period of the agreement. As a result, full implementation of this procedure may not be desirable, or advisable from the point of view of EU member states.

### ***Categorization of returnees***

In order to introduce these changes, the identification questionnaire should be improved, preferably during the first quarter of 2006, if the deadlines are to be respected. With a draft standardized questionnaire, based on the Austrian risk analysis model, the Border and Migration Police will be able to enter data into the TIMS system. At the border points where TIMS is operational, the border control and the returnee data processing systems will, in time, interlinked with the criminal records database. With these tools, border officers will be able to ascertain whether the returnee is a repeat migrant, a VoT, or wanted by the police. However, installation of the electronic data system is scheduled for 2007, since installation of the infrastructure will not be completed until late 2006 (Barragan, 2005). Thus, the formal categorization procedures will not be operational when the agreement comes in force.

Once returnees have arrived in Albania, new difficulties arise over the categorization of returnees. According to the EC/Albania RA, readmitted migrants are considered 'irregular migrants' returning to their country of origin. However, VoTs are a group with special needs and protection. In order to assist VoTs and reintegrate them back into society, one option lies in host countries in the EU providing social and economic integration before returning them to Albania. Alternatively, the authorities of the sending country could share information on these returnees with Albanian authorities prior to their readmission, in order to give Albanian authorities the necessary time to provide support for vulnerable groups.

Prior notification of individuals to be readmitted would also help avoid prolonged periods of verification at the border. Although, most interviewees told researchers that verification procedures usually did not take more than 12-24 hours, though Albanian authorities could face delays when large numbers of Albanian nationals are returned at the same time.

### ***Structural weaknesses***

The expected implications of implementation of the EC/Albania RA highlight the structural weaknesses in processing requests, in particular within MoI, given that it will probably be allocated an even greater role.

As mentioned above, within the Sector for Foreigners, there is currently one specialist dealing with readmission under the 11 bilateral agreements currently in force, in addition to a number of other duties. As this is a new responsibility for a newly created sector, knowledge of readmission implementation procedures is lacking. The Head of the Sector for the Treatment of Foreigners has stated that at least three more people are needed to deal with issues related to RAs: one expert for Albanian returnees, another for TCNs and cases of expulsions, and a legal expert (Toska, 2005c). The Readmission Unit, as defined in the National Strategy for Migration (NSM) has still not been created, and the legal basis for another unit must be established with staff responsible for examining and responding to written requests from various EU countries and capable of speaking more than one European language, including English.

In order to implement readmission according to the EC/Albania RA, the Readmission Unit would also be responsible for verification of identity in collaboration with the District Police. The unit would then be responsible for notifying border police of future readmissions and their entry into Albanian territory. These tasks cannot obviously be accomplished by a single person, due to the high workload. Such increases in case load may lead to errors on readmission and cause further problems.

Furthermore, although international organizations have run training sessions and ICITAP alone has trained almost 50 per cent of the current border police officers, knowledge of the RAs and their provisions at border points is poor, since border police are frequently moved to different posts and replaced by new officers. Further, the Border Police reports to both DBM and the District Police and this double dependency makes it difficult to create an effective system of checks and balances. In fact, border points tend to report to the District Police, and are legally not obliged to report to both structures, what makes more difficult the communication between the two structures.

In order to exercise its competences, DBM needs greater autonomy within the Albanian State Police. MoI has made restructuring one of its priorities for 2005-2006, including a proposal for an amendment to the law "On Border and Migration Police" (Toska, 2005d).

### ***Reintegration and sustainability***

In Albania, little research has been undertaken into the impact of return migration and assistance to return migrants, despite the fact that “[...] it is likely that returns will be more sustainable if the returnee is able to reintegrate successfully, and if the migrants wish to re-integrate.”(IOM, 2004b: 10). To date, reintegration has only been provided through limited and specific project interventions, mainly by focusing on individuals who have returned voluntarily to Albania.

As mentioned in chapter I, there are a myriad of legislative provisions and measures in the National Strategy on Migration, all of which have yet to be implemented. Without their implementation, there is no guarantee that returnees will not try to migrate irregularly as soon as they can. In addition, until the TIMS system, is operational in 2007, there will be no way to prevent people from going back to the EU via irregular smuggling routes, via FYROM to Greece, to work on the black market (MILS Supplement, 2005a). This will lead to Albania being faced with ‘circular irregularity’ and will counter the objectives of the RA, the prevention of irregular migration.

## **II.3. RETURN OF THIRD COUNTRY NATIONALS AND STATELESS PEOPLE TO ALBANIA**

The clause covering TCNs will come into force in 2008, owing to a two-year derogation. It focuses principally on irregular migrants, rather than asylum seekers or victims of trafficking who face specific difficulties,<sup>56</sup> and represents perhaps the greatest challenge for the Albanian Government with regard to implementing the EC/Albania RA.

Despite the introduction of significant measures in Albania in recent years, migrants continue to transit through the country to the EU.<sup>57</sup> Having borders with two EU member states by land and sea and a history of being a transit route could mean that the readmission of TCNs will probably be of significant concern for Albania in the next few years.

### **II.3.1. Establishing arrival procedures**

#### ***Procedures under existing bilateral agreements***

There is very little information on the return of TCNs under existing agreements. There appears to be a gentleman’s agreement with the EU that TCNs will not be returned to Albania at the present moment, due to the lack of necessary infrastructure (NSM, 2005: 25). According to one DBM official, very few TCNs have been returned to Albania so far, though some isolated cases have been reported to the Sector for the Treatment of Foreigners since 2004. However, a specialist from this Directorate claimed that no TCNs had been readmitted, and that those that had been identified as TCNs were not returned under the provisions of the EC/Albania RA (DBM, 2005a).

This seems to indicate confusion in the responsible authorities about the status of returning TCNs: are they being returned to Albania under provisions of RAs, or are they irregular migrants picked up at the border? One DBM official stated that he had never come across return and readmission practices and procedures, owing to low numbers of TCNs (DBM, 2005b). It would appear that, in some cases, persons were returned without a formal readmission request to the relevant authority within Ministry of Interior (Sector of Treatment of Foreigners). Furthermore, it implies that border

authorities are not aware that they can return an individual readmitted in error to the host country (Koti, 2005).<sup>58</sup>

According to border personnel at the Mother Teresa Airport, they are handling cases where returns are taking place without informing Albanian authorities and without complete information on the returnee being given to border police. In addition, there appears to be difficulty in coordination between the central authorities and border personnel, since the District Police's Unit for Foreigners and Migration reports to the State Police, which transmits those reports to DBM.<sup>59</sup>

Nevertheless, there is evidence at the border points that there have been cases where TCNs have been returned to Albania on the assumption that they transited through Albania, even though there was no evidence to support this claim (Toska, 2005d). In one case reported at the port of Durrës, the person was readmitted from Italy and retained at the port for two weeks, after which the border authorities had to release him. According to an interview with the individual, there was no evidence that he had transited from Albania and it was difficult to identify his nationality or origin, since he was mentally unstable and his language was incomprehensible. However, because the port authorities had accepted him into Albania, he could not be sent back to Italy.

### ***Pre-screening***

Even after taking into account all these considerations, it can be concluded that the mechanisms relating to treatment and handling of irregular migrants (other than asylum seekers) have characteristically been weak in Albania. This is due in part to the relatively recent transfer of competence for migration from the Directorate for Asylum and Refugees (DAR) to DBM and to the reliance on pre-screening as a means of handling all categories of irregular migrants.

The Pre-screening procedure was introduced in 2001 in order to strengthen the structures for handling irregular migrants in Albania, but its institutional weaknesses have not yet been successfully addressed. According to the Pre-screening Handover Proposal to Albanian authorities, pre-screening procedures were originally intended to "prevent the unlawful expulsion of asylum-seekers and to provide assistance to victims of trafficking and those illegal migrants who express their intention to return to their countries of origin".

At present, when irregular migrants are identified on Albanian territory or at the border, they are referred to an interagency roving team, made up of representatives from UNHCR, OSCE, IOM and Mol's Directorate for Asylum and Refugees, which is expected "to provide an early indication as to whether an individual who approaches, or is apprehended by, the authorities may be a refugee, economic migrant or victim of trafficking" (pre-screening handover). Once this pre-screening has taken place, these returnees are referred to the relevant authority so that they can:

- apply for asylum;
- be provided further assistance at the national centre for VoTs;
- take advantage of the IOM AVR programme, if the individual wishes to return voluntarily to their country of origin.

One of the problems with this complex referral mechanism is that to date, individuals who do not fall into one of the categories defined above, i.e. individuals who are not asylum seekers, self declared victims of trafficking, or individuals who wish to return voluntary to their country of origin, fall out of this system, and are not provided for within any specific regime. As identified in a recent report "the system currently does not offer solutions for situations in which irregular migrants, detected by the authorities either at point of entry or within the territory of Albania, clearly do not wish to return to their country of origin or former habitual residence" (Becker, 2005).

In the past, the Mol's Counter-Trafficking Unit was responsible for VoTs, and pre-screening was handled by DFR, even though this is now technically DBM's responsibility. Although no single entity was responsible for handling irregular foreign nationals in Albania, this referral system<sup>60</sup> worked effectively to ensure that each category of migrant could benefit from the appropriate protection of the Albanian State. However, little attention was paid at the time to what happened to irregular migrants who did not want to return voluntarily to their country of origin, nor was it clear which entity should be responsible for this category of migrant. Interviewees suggested that individuals who were not wanted by the police for criminal activities were released and no further action was taken (Koti, 2005; Kallamishi, 2005).

Now that DBM has assumed responsibility for all issues related to the handling of foreign citizens, pre-screening procedures are being reviewed and may lead to these returnees being handed directly to the Albanian Border and Migration Police. Yet, as in the case with readmission, DBM personnel will require extensive training and capacity building to take on this task, while at the same time taking advantage of DFR's experience in pre-screening.

### ***Grounds for readmission***

The return of a TCN to Albania, with the implementation of the EC/Albania RA, will require more circumstantial evidence than in the case of an Albanian national, for whom presumption of national identity is sufficient. For TCNs, there must be proof that they have resided or transited through Albania. The RA states that the TCN "hold[s] or at the time of entry held a valid visa or residence authorization issued by Albania; or entered the territory of the Member states after having stayed on, or transited through, the territory of Albania" (Article 3, a and b). Yet, it is difficult to prove that an irregular TCN ever transited Albania in the first place, particularly if he or she does not have any identity documents.<sup>61</sup>

As outlined in the EC/Albania RA, "means of evidence" must be attached to an EU member state's request to Albania. As mentioned in RA Annex 4, means of evidence can include entry and departure stamps, documents and bills of any kind, tickets and/or passenger lists of air, train coach or boat, and information from a courier. The RA also states that "official statements made, in particular, by a border authority staff and other witnesses who can testify to the person concerned crossing the border" can be considered sufficient proof of conditions for readmission, especially for Albanians arriving in Greece and Italy.

In other words, even a bus ticket found on the person is valid evidence of transit, and will suffice, in principle, to authorize return of the individual to Albania. On the other hand, especially with irregular migrants in EU states, it is likely that returnees will have lost, hidden or destroyed any identification or supporting documentation upon interception by the authorities, thus destroying evidence of transit. Given that readmission is dependent on evidence of the individual's transit through Albania, the question remains whether TCNs or stateless persons in reality can, or will, be returned to Albania.

## **II.3.2. Return of TCNs to Albania**

### ***Potential TCN caseload***

Based on experiences in other states, including EU member states with bilateral agreements containing third country clauses, it has been suggested that the number of individuals returned



to Albania will be extremely limited. Representatives of EU member state have encouraged their Albanian counterparts by suggesting that they are more likely to return TCNs to their country of origin, rather than to Albania as a country of transit.<sup>63</sup> In fact, returning TCNs to Albania makes little sense, if they seek to return to the EU the next day.

It has been privately acknowledged by EU experts that, where individuals cannot be returned to their country of origin as they may face torture or degrading treatment, TCNs will be sent to Albania, if it can be proved that they have transited Albania. In addition, it may prove easier and more cost-effective to send irregular TCNs to Albania than to their country of origin and nothing in the RA prevents EU member states from doing this.<sup>64</sup> Nor does it ensure that return to country of origin is the first and only option.

Furthermore, the RA text raises unanswered questions regarding the possibility for asylum applications to be processed in Albania, rather than in an EU member state where the asylum claim may have been originally lodged. During the RA negotiations, UNHCR sought “to avoid duplication of the readmission agreement to asylum seekers not ‘lawfully present in the territory’.” Its representatives requested that Article 3.2 include a provision to exclude asylum seekers to whom a final decision had not been granted unless Albania took responsibility for examining the readmission request. They were also concerned about provisions regarding transit (UNHCR, 2005). During interviews with asylum officials,<sup>65</sup> there have been also problems relating to the treatment of individuals whose asylum request had been rejected in the “requesting state” with regard to their eligibility for lodging an application in Albania.

According to one migration expert, an EU member state can request that an application be examined in the last country of transit (Debruycker, 2005), but it would nevertheless be responsible for ensuring that the individual being sent back to Albania will not be returned to a country where they face persecution or torture. This presents an alarming scenario for Albania: individuals who have been readmitted to Albania by a member state will then apply for asylum to avoid being sent back to their country of origin. Such cases will take advantage of existing procedures, which do not allow for a fast track examination, and will therefore remain in the territory for a long period.

For Albania, one important difficulty in planning for the return of TCNs relates to the potential numbers and flows. At this stage, migration experts have acknowledged that it is impossible to know how many TCNs might be returned to Albania under the EC/Albania RA or which categories of migrants will come under the terms of the agreement. Given the existing facilities for collecting data, it is not possible at the moment to estimate the number of irregular migrants likely to be returned from EU member states and the reports that are available are neither conclusive, nor complete. Even when the agreement comes into force in 2008, it will be difficult to calculate numbers, since such returns also depend on EU member states’ capacity to handle and detain irregular migrants, as well as on political decisions on returning irregular migrants.

Another conditioning factor will be whether the agreement will be implemented retroactively. According to the Directorate for Refugees, “many people who used Albania as a transit country will be returned back. Not only those people, but also people for whom it cannot be verified if they transited Albania or not – due to a lack of evidence and due to the fact that Albania does not have effective integrated border management” (Totozani, 2005b). If readmission is possible for individuals for whom it can be proved that they used Albania as a country of transit within the last 15 years, the numbers could be even more alarming. The EC/Albania RA does include one safeguard, which requires that the readmission request must be submitted within one year (maximum) after the requesting state’s competent authority has ascertained that a TCN or stateless person is an irregular migrant (EC/Albania RA, Article 10). Thus, it is less likely that Albania will be asked to readmit individuals who transited Albania in previous years.

## ***Facilities for reception of TCNs to Albania***

One of the fundamental arguments cited by the Albanian authorities for not receiving TCNs in Albania is lack of adequate reception facilities. At present, while facilities exist for accepting VoTs and asylum seekers, no such facilities exist for irregular migrants.<sup>66</sup> The Albanian Government has already requested an assessment of the capacity and resources required for handling and referral of irregular migrants and for ensuring reception conditions that meet international accepted standards. The preliminary findings of this assessment show that the first step should be the creation of a reception centre which will cater for various categories of irregular migrants including both those already in Albanian territory and TCNs readmitted to Albania within the framework of readmission agreements.<sup>67</sup> The category of irregular migrants which are envisaged to be accommodated in such a centre are, however, individuals who are not asylum seekers and VoTs, nor irregular migrants who wish to return themselves voluntarily or participate to Programmes of Assisted Voluntary Return. While voluntary return will remain the preferred option, there will be cases where irregular migrants will be detained prior to removal. Such measures should only be used as a last resort to prevent the risk of absconding or where less coercive measures have proved inadequate. Conditions for their detention must respect principles for humane treatment recognized by international and EU organizations.

The final report of the assessment process will include a definition of the measures to be taken to ensure that these principles and human rights standards are integrated into the management of services offered by the new facility. It will also examine and make recommendations on such issues as the centre's legal basis and institutional structures, the budget and resources to be allocated to its construction and management, design and location.<sup>68</sup>

While funds have already been set aside for creation of the centre,<sup>69</sup> the Albanian state budget will have to allocate resources for running the centre, once it has been constructed, and these are expected to be high. In addition, an entity must be created to supervise and manage the centre, and take responsibility for activities related to readmission, handling, detaining and removing irregular migrants from the territory of Albania.

All Government authorities agree that it is unlikely that there will be sufficient state resources for managing the centre or for providing the necessary facilities, over the long term, for the needs of individuals in the centre, in line with the standards set. Senior MoI officials (2005) have warned that adequate plans and budgets must be prepared prior to the establishment of the centre in order to ensure provision in the state budget for 2007. While adequate planning is certainly necessary, it is unlikely, given past experience, that state funds allocated for a reception centre will cover even the basic running costs for the centre and its staff, let alone for the 150 migrants expected to be received.<sup>70</sup>

As a result, the Albanian authorities responsible for the running the centre will have to rely on support from international donors, a move which authorities believe is both necessary and correct, considering that the return of irregular migrants is more beneficial to the EU than to Albania.

In line with European requirements and international standards, and in particular to ensure alignment with the EU *acquis*, Albania will also have to draft several complementary measures to facilitate the operation of the centre (e.g. monitoring mechanisms, post-detention procedures, etc.). In particular, it is important that government agencies

- work directly with irregular migrants in Albania (found on its territory or TCNs) to facilitate their return to their home countries through less restrictive detention options



- (i.e. regular reporting to the responsible authorities; deposit of a financial guarantee; obligation to stay at a designated place, etc.);
- encourage the development of assisted voluntary return;
- provide special support for vulnerable categories.

In addition, an in-depth revision of the related legal basis should be carried out. Indeed, according to an IOM report published as part of the feasibility study.

the limited legal basis for detention of foreigners prior to removal in the centres and the removal as such is not very clear and many contradictions are found in different dispositions of the Law on Foreigners and other by laws. This situation does not respect the principle of clear procedures and transparency thus, creates possibilities for infringements of the human rights and abuse by the responsible authorities (IOM, 2005: 1).

Planning for detention is only the tip of the iceberg. The process of returning TCNs will also be extremely complex and costly for Albania. At present, the authorities are not returning individuals to their countries of origin and, as with detention, the legal basis for removal remains incomplete and needs further elaboration. When asked about TCNs, officials spoke of the construction of the detention centre, but there is no mention of other costs and measures to be taken, once these people are in the country. In conclusion, there is still much to be done for returnees of third countries, especially when they are unlikely to be returned to their country of origin, due to lack of RAs between Albania and these countries.

### ***Regularization of irregular migrants***

In the long term, steps to introduce regularization may range from measures which tolerate returnees' irregularity to "granting on the part of the state, of a residence permit to a person of foreign nationality residing illegally within its territory" (Apap et al, 2005). There is no single solution for resolving the problem of irregular migrants on Albanian territory. Because of the lack of provisions for these returnees, authorities may be forced to take ad hoc decisions on whether to tolerate irregular foreigners and on which type of regime to offer them.

Over time, Albania may face the same problems as the EU member states, with the threat of a revolving door of irregular migrants back into the EU. In the case of stateless persons, a solution must be found quickly, whether through regularization or citizenship, in order to avoid turning Albania into a country of immigration or a secure transit route to the EU.

### ***Readmission agreements with countries of origin***

Negotiating and implementing RAs with countries of origin is of particular importance. Nevertheless, as Rochow points out, "... it is certainly difficult to imagine how Albania would conceive third countries to conclude readmission agreements that work in its own interest, lacking the political weight that the EC can bring into negotiations" (2005: 8). This comment is particularly striking, considering that EU member states have to face their own difficulties in negotiating corresponding RAs with sending and transit countries. What can Albania hope to offer third countries in return for the signing of a readmission agreement?

To date, of the five countries having signed RAs with the European Union, only Russia, has a

common border with the EU. However, its relation to the EU is very different to that of Albania, and it has far more leverage, as has been shown in its negotiations for visa facilitation. For Albania, however, the imposition of visa restrictions on TCNs represents the loss of an important bargaining tool in negotiating RAs that the EC itself is considering in its negotiations with third states – visa facilitation and possibly liberalization.

This begs the question: what can Albania offer third countries in return for signing of a readmission agreement? To suggest that avoidance of the readmission trap can be achieved with a string of reciprocal agreements seems to be simplistic, as other factors such as cost and willingness of third countries to accept their nationals are certainly just as important.

## **II.4. CHALLENGES FOR IMPLEMENTATION: RECOMMENDATIONS**

As remarked by a MOLSAEO expert (2005a), “we will start thinking of solutions, when the problem is present. Why should we plan programmes and allocate budgets, when they might not be needed at all?” (2005a). Yet, it is essential that, having identified the main weaknesses in the implementation of current agreements, Albania must take steps to face the challenges in implementing the EC/Albania RA.

- *Structural change:* All these new procedures demand the introduction of one very significant structural change: the creation of a readmission unit, directly responsible for implementation of RAs.
- *Strengthening the border:* Albania must strengthen its borders to meet eligibility criteria for EU membership. Furthermore, border controls are necessary: to prevent Albanian returnees from re-migrating irregularly and the irregular transit of TCNs. This will require a range of measures, such as creating institutional instruments, and funding for training equipment and personnel.
- *Safeguarding the asylum system:* Albania must prepare for dealing with demands by manifestly unfounded claimants by setting up a fast track system for asylum seekers. It must also establish specific procedures for verifying whether applications for asylums have already been made and rejected in an EU member state, especially where returnees seek to make a new application once they have returned to Albania.
- *Calculating the budget:* Returning Albanian nationals and TCNs under the provisions of the RA will demand additional financial resources. For Albanian returnees, the most significant costs will be facilitation for their reintegration in their home community, as this has implications for both sustainability and equality of treatment vis-à-vis the local community. Measures relating to TCNs may require greater funding. However, overall costs are difficult to calculate and will depend on the number of returnees of Albanian and other nationalities.
- *Preventing the readmission trap:* To prevent the readmission trap, the Albanian authorities must introduce a number of measures. These should include offering migrants an opportunity to return voluntarily before any attempt is made to remove the individual from the territory, and strengthening existing voluntary assisted returns programme. This requires promotion of the assisted returns programme in Europe and encouragement of returnees to make use of its benefits once they have arrived. Where there is no possibility for voluntary return,

resources and infrastructure must be put in place for handling cases of enforced return, as these do not currently exist in Albania.

- *Negotiating readmission agreements with countries of origin:* In order to ensure the return of individuals to their countries of origin, the Albanian Government must identify the main countries of origin and negotiate readmission agreements with them. Based on limited information on countries of origin, these negotiations would include Turkey, Pakistan, Moldavia, and China and should be given priority status by the government. Continuous monitoring will be needed to ensure that this information is relevant and up to date.
- *Investigating possible solutions for tackling the problem of irregular migrants in Albania:* In cases where there is no possibility for voluntary return or for the removal of the individual from the territory, in the long term other possibilities should be investigated. Possible options include, a potential tolerated status of the irregular migrant. Such a measures should be considered as a last resort.
- *Regularising irregular migrants*  
As a longer-term, as Albania becomes a country of destination, rather than of transit, regularisation possibilities should be investigated for irregular migrants. Existing regularisation programmes could be tailored to meet the needs of Albania, based on the magnitude of actual flows.
- *Tightening visa regimes:* Albania will need to tighten its visa regime for foreign nationals entering Albania, and eventually align its visa policy with the EU black list. This will help to prevent individuals using Albania as a “legal” stepping stone for illegal entry into the EU, and reduce the risk of their being returned via Albania.

## CONCLUSIONS

Strengthening border checks, visa regimes, and other measures alone will help reduce irregular flows of migrants (Barbullushi, 2005), but not remove them altogether, since there will still be strong pressure to migrate. The recommendations outlined above should be accompanied by proactive lobbying at EU level for more opportunities and channels for legal migration.

The analysis in this section implies that Albania will not be able to implement the EC/Albania RA, at least during the first phase after it comes into force. This situation could have serious implications for Albania's future. Unlike other countries, such as Macao, Sri Lanka, Singapore and Russia, with which the EU has signed RAs, Albania has common borders with EU member states and it aspires to membership of the European Union. It was for this reason that the EC/Albania RA was included among criteria for signing of a Stabilisation and Association Agreement.

The Albanian case is, therefore, unique and without precedent. The RA will be difficult to implement, since neighbouring countries do not have RAs with the EU and have not signed RAs with Albania. As a result, in order to respect the provisions of the EC/Albania RA, Albania will also need to negotiate third country RAs. In the mean time, non-implementation may have a negative influence on the relationship between Albania and the EU, and on Albania's candidacy for EU membership.

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## ENDNOTES

- <sup>1</sup> The “Martelli” law was an attempt to control and monitor immigration and thus to pave the way for the introduction of a quota system. It stipulated that any immigrant - legal or illegal - who could prove that he or she had come into the country before the end of 1989 be granted a two year residence permit.
- <sup>2</sup> Most identification documents were destroyed by the Serbian military forces when leaving Kosovo (Serbia and Montenegro).
- <sup>3</sup> According to UNDP (2000: 37), more than 340 people were drowned or lost in the Otranto Channel in 1999.
- <sup>4</sup> Police authorities expelled 6,980 individuals in 1999, 5,489 individuals in 2000 and 3,833 in 2001 (Coslovi and Pipierno, 2005).
- <sup>5</sup> Profiling of irregular migrants and analysis of the reintegration needs of potential returnees from Kosovo (Serbia and Montenegro), Albania and FYROM, Italy, the United Kingdom and Germany, (IOM, 2004).
- <sup>6</sup> Whether regular or irregular.
- <sup>7</sup> Surveying of the returnees took place after their actual return to their countries of origin by means of two in-depth interviews with the same respondent. The first interview (conducted approximately a month after the arrival) focused on returnees’ personal data, their migration and stay abroad, their return back home and initial experiences of reintegration. The second interview, devised to evaluate in more detail the reintegration process for the individual returnee, took place three months, on average, after the first interview.
- <sup>8</sup> For some other respondents, the assessment was predominantly negative, mainly because they did not earn enough money abroad.
- <sup>9</sup> For example, approval of the Law on Emigration for Employment Purposes, 20 March 2003.
- <sup>10</sup> The process leading to the adoption of the National Strategy for Migration was divided in two steps: drafting of the policy document (approved by the Albanian Council of Ministers in 19 November 2004) and a general debate on migration in the Albanian society leading to the formal adoption of the National Action Plan for Migration (on 5 May 2005). The strategy is limited to a period of five years from 2005 to 2010.
- <sup>11</sup> The draft National Strategy for the Fight Against Child Trafficking is still not in force, the National Strategy on Trafficking has no provisions on return, and the Action Plan on Free Movement has still not been implemented (NSM, 2005:24).
- <sup>12</sup> This has been emphasized in the Chapter on Return (NSM, 2005).
- <sup>13</sup> As it will be argued later in this paper, see I.2.
- <sup>14</sup> General elections were held on 3 July 2005 and won by the Democratic Party and its Coalition partners. Mr. Sali Berisha became the new Prime Minister after 8 years of governing with the Socialist Party.
- <sup>15</sup> Cf. the Democratic Government Programme 2005-2009, presented in the Albanian Parliament, on 9 September 2005. The Government offers emigrants the opportunity to return and invest in their country with the incentive of a three-year exemption from taxes on profits and personal income. Albania’s diplomatic and consular network will be restructured and will significantly improve its services to Albanian emigrants with, for example, a 24 hour service using information technology.
- <sup>16</sup> Notes of the Discussion Meeting on the draft project proposal for AENEAS, 2004 submission, 11 February 2005.
- <sup>17</sup> This research has been undertaken by IOM, and funded by the European Commission and co-funded by the Hellenic Ministry of Interior, Public Administration and Decentralization. For further information, please contact the IOM Mission in Tirana.
- <sup>18</sup> Since no return through readmission of third country nationals has taken place from Albania, the source to be used to identify the country of origin for this category is the AVR Scheme. The AVR



Department reported that 20 TCRs returned home from Albania between February and June 2005, of whom 11 were Chinese and six were Turkish. These two nationalities appear to have the highest number of returnees over 2004 as well.

<sup>19</sup> As reported by the AVR Department in Tirana.

<sup>20</sup> The 1951 Convention on Refugee Status, amended by the Protocol of 31 January 1967 on the Refugee Status, the International Conventions on Extradition and Transit, and the 1950 Convention on Fundamental Freedom and Human Rights, (esp. Art.3).

<sup>21</sup> This in fact refers to the implementation protocol for the EC-Albania Readmission Agreement, and not to the agreement per se.

<sup>22</sup> Note that the MFA had a more limited role during the negotiations with the EU, which were led and coordinated by the Ministry of Integration due to the leading role of this ministry in the negotiations for the SAA agreement with the European Community. The negotiations with the EU and their specificity will be explicated in more detail in section I.3.

<sup>23</sup> This agreement came into force in May 2006.

<sup>24</sup> Now the Ministry of European Integration.

<sup>25</sup> Now the Ministry of Labour, Social Affairs and Equal Opportunities.

<sup>26</sup> Initially, SAAs were seen as an intermediary step towards European Agreements signed with the Central European Countries in early 1990s, but at the Thessalonica Summit, it was decided that SAAs would be the first and the last contractual agreements between association and membership into EU for the Western Balkan countries. For more on SAAs, see Phinnemore 2003.

<sup>27</sup> Several authors have argued that, although drawn up on a theoretically reciprocal basis, the RA largely works in the interests of the community, putting the main burden of readmission on its counterparts, see Kruse, 2004; Schieffer, 2003: 356.

<sup>28</sup> By the European Council.

<sup>29</sup> An initialing ceremony was organized in Brussels in December 2003, after which the RA with Albania was submitted to the European Council of Ministers with proposals for decisions on its signature and conclusion.

<sup>30</sup> Community Assistance for Reconstruction, Development and Stabilization, the European Union's aid programme for the Western Balkans.

<sup>31</sup> It is therefore not clear to what extent there was any political opposition at the time.

<sup>32</sup> It was also mentioned in various newspapers that the RA negotiations were part of the second overall technical round of negotiations for the SAA (*Panorama*, 2003b; *Korrieri*, 2003c).

<sup>33</sup> With the exception of Denmark, which opted out.

<sup>34</sup> With the exception of the Benelux countries, which have negotiated a multilateral protocol with Albania.

<sup>35</sup> This chapter does not cover the return of EU nationals from Albania, and nor does it focus on the return of TCNs to the EU.

<sup>36</sup> In January 2006.

<sup>37</sup> Twenty-two questionnaires were completed at border crossing points at Mother Teresa Airport, and the ports of Durrës and Vlora, survey carried out by Arolda Elbasani, March-May, 2005.

<sup>38</sup> The Directorate of Border and Migration operates under the supervision of the State Police and is divided into three units: Sector for Treatment of Foreigners and Migration, Sector of Border Services and Sector for Integrated Border Management and Trainings. It handles all migration-related issues, both centrally and in the field, throughout the national territory.

<sup>39</sup> Prior to 2005, MoI was the Ministry of Public Order (MOPO). Competences were allocated between these entities, even though, under the Law on Border Police (1998), handling irregular foreigners was the responsibility of the border police.

<sup>40</sup> This Sector is also responsible for verification of documentation for Albanian and third country nationals, data collection, information exchange within the Ministry and with other Ministries, training, monitoring of foreigners on Albanian territory, and, in the future, running a closed reception centre for non-asylum seekers (Law No. 8772 dated 19.04.2001, Article 4).



<sup>41</sup> TIMS contains four separate systems (border control, criminal records, case management, and criminal intelligence) and is used to record entry data for all Albanians and foreigners entering or exiting Albania, as well as registration of citizens requesting new passports and can be used to check individuals' criminal records.

<sup>42</sup> In late 2005, a Deputy Minister for Counter-Trafficking was appointed and a Counter-Trafficking Unit established within Mol. This unit is responsible for monitoring of implementation for the National Strategy to Combat Trafficking in Human Beings (NSCTHB), data collection, and coordination with other Ministries, cf. Ministry of Interior (2006).

<sup>43</sup> Adapted from Elbasani (2005), and based on the institutional set up as of April 2006.

<sup>44</sup> Penal Code, Article 297, "On illegal crossing of state border".

<sup>45</sup> In a workshop organised by IOM in Tirana, 3-5 October 2005, participants from EU member states suggested that it was impossible to calculate approximate numbers of irregulars to be returned after the agreement comes in force.

<sup>46</sup> For example, the RA with Italy specifies the General Directorate for Border Police and its three border points (Durrës Port, Vlora Port, and Mother Teresa Airport) as responsible authorities, while the agreement with Greece also includes border crossing points. The agreement with Germany specifies the General Directorate for State Police as the responsible entity and the RA with Benelux countries specifies that the readmission request is "presented to the Albanian diplomatic mission in these countries".

<sup>47</sup> There is no bilateral RA between Albania and Greece. However there is an agreement for police collaboration between the respective Ministries of Interior (17 July 1992).

<sup>48</sup> This is owing to the fact that different agreements specify different authorities as being responsible for handling readmission requests. In the case of the Italian agreement the border police are the designated responsible entity.

<sup>49</sup> The Specialist responsible for RAs in the Sector for the Treatment of Foreigners indicated that 40-50 cases of readmission have been reported to his office during 2005 (personal communication.).

<sup>50</sup> This is due to many Kosovars identifying themselves as Albanians to authorities in EU member states.

<sup>51</sup> There is nevertheless some confusion owing to the fact that the term citizenship and nationality are used interchangeably in Albanian.

<sup>52</sup> INAD is an acronym for inadmissible, a term used for individuals who have not been admitted to another country for whatever reason.

<sup>53</sup> Verification of these groups was carried out by the District Police's Anti-Trafficking Units at border crossing points until July 2005, when this responsibility was handed to DBM, under Article 5 of the "Cooperation Agreement to establish a national referral mechanism for the enhanced identification of and assistance to victims of human trafficking" (Minister of State for Coordination, 2005: 53). However, Service Order No. 562, dated 27 September 2005, states that this competency was transferred to the Border and Migration Police (point 2). This has caused confusion among the police institutions on their role in, and contribution to, national referral systems.

<sup>54</sup> At the International Mother Teresa Airport and the Port of Durrës, an additional room is available.

<sup>55</sup> Information obtained during an assessment visit by IOM, Tirana, within the framework of the current project, on 11 August 2004.

<sup>56</sup> The difficulties involved in processing asylum requests in Albania will also make readmission of TCNs a major issue in implementation of the RA.

<sup>57</sup> There has been increasing detection of document fraud in Albania. *Korrieri* (5 December 2005) reports that police found 300 falsified passports in the region of Korça. Five people were arrested and charged with human trafficking and falsification of documents. Increases in document fraud have led to greater use of air transport for irregular migrants. However, the RA does not apply in cases where visas or residence authorizations issued in Albania have been obtained by use of forged or falsified documents (Article 5).

<sup>58</sup> For example, a 16-17 year old Romanian girl was returned by Italy, as she claimed to be Albanian. The authorities at the International Airport discovered that she had stayed in Elbasan, Albania for two weeks before traveling to join her mother in Italy. She had stated that she was Albanian, in order to go back to Italy at a later stage. When asked whether they knew that they could return people brought into Albania on error, the official said that they did not make use of such a practice, implying that he did not know it existed.

<sup>59</sup> Further research is required to determine what kind of information is being provided to returnees.

<sup>60</sup> Ministry of Public Order, Instruction (No.1382, of 8 February 2001), together with a Memorandum of Understanding (MoU) signed by partner organizations in April 2002. This Instruction was revised and Instruction No. 2008 was signed on 12 October 2004. It now also covers border areas.

<sup>61</sup> The RA specifies that states are not obliged to readmit individuals who have “only been airside transit via an international airport” (Article 3.2a). Thus these individuals will not fall within the provisions of the RA.

<sup>62</sup> The EC Green Paper on Return states that return to a transit state could be considered when “a direct return to the country of origin is not possible or appropriate” COM 2002, 175 final “Green Policy on a Community Return Policy on Illegal Residents”.

<sup>63</sup> Although a reading of the EU acquis in this field puts country of origin as the first choice of return for irregular migrants, it does not make this a formal obligation whenever possible.

<sup>64</sup> Interviews carried out by IOM Tirana, with asylum officials, unpublished data.

<sup>65</sup> Individuals who wish to return voluntarily to their country of origin are currently accommodated at the national reception facility for victims of trafficking as a temporary solution.

<sup>66</sup> Who do not have any legal status in Albania, and are neither asylum seekers nor victims of trafficking.

<sup>67</sup> Since there is little information on the number of TCNs likely to be returned to Albania, the centre will probably cater for irregular individuals returned to Albania and other categories of irregular migrants, though not asylum seekers and VoTs.

<sup>68</sup> Under the EU CARDS national funding programme for Albania for 2004.

<sup>69</sup> NSM indicates that its Action Plan provides for a budget of several million euros for implementation of the strategy between 2005 and 2010. Initially, only 5,000 euros was allocated to NSM implementation in the 2005 State budget.

## ANNEX 1

Return of Albanian Nationals to Albania by EU Member States		
No.	Measure	Activity
5	Implementation of readmission agreements.	<ol style="list-style-type: none"> <li>1. Clarify, through a by law, the competencies between the structures of MoPO, dealing with irregular migration.</li> <li>2. Creation, through a by law, of reception facilities for irregular emigrants, in the main border points of the country and especially in Rinas Airport.</li> </ol>
6	Preparation and dissemination in the EU of leaflets on voluntary return (including status, rights of emigrants and reintegration services in the country) through consular services.	Publication and dissemination of leaflets providing information on return procedures, available social services for reintegration, etc (support of the emigrants' associations and local/international organizations can also be utilized).
7	Reception at border points in the country, for returned unaccompanied minors (not part of the category of trafficked victims).	Creation of relevant referral mechanisms at entry points, and provision of necessary facilities for the reception
8	Broaden the reintegration services, in order to guarantee permanent return.	<ol style="list-style-type: none"> <li>1. Drafting and implementation of joint employment programmes with small businesses.</li> <li>2. Provision of career guidance, job placement and vocational training.</li> </ol>
9	Capacity building for the National Employment Service and its regional and local offices staff.	Specific training programmes related to the assistance that should be provided to returnees.

Table 1 Source: Action Plan of the National Strategy on Migration 2005:68

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