RETURN AND READMISSION TO ALBANIA

THE EXPERIENCE OF SELECTED EU MEMBER STATES
Combating Irregular Migration in Albania and the wider region
Targeted support to capacity building within the framework of readmission support to Albania

RETURN AND READMISSION TO ALBANIA
THE EXPERIENCE OF SELECTED EU MEMBER STATES

August 2006
This research provides an understanding of the current bilateral return and readmission practices from 4 EU member states to Albania, notably Belgium, Greece, Italy and the UK, including a general introduction chapter on EU policy with a special focus on readmission. The research also looks at the implications of implementation of the EC/Albania Readmission Agreement for Albania, with regard to the return of Albanian and third country nationals. The purpose of the study is to provide practitioners and national experts with an overview of current practices compared to existing international standards in order to guide the decision-making process and to make this practical experience available for the smooth implementation of the EC/Albania readmission agreement as well as other readmission agreements in the future.

Editor: Caroline Mackenzie

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This publication was funded by the European Union and co-funded by the Ministry of Interior, Public Administration and Decentralization of the Hellenic Republic.

Publisher: International Organization for Migration, Tirana
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ISBN 978 92 9068 274 5
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<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AVR</td>
<td>Assisted Voluntary Returns</td>
</tr>
<tr>
<td>AVRIM</td>
<td>Assisted Voluntary Return of Irregular Migrants (United Kingdom)</td>
</tr>
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<td>BRA</td>
<td>Benelux Readmission Agreements</td>
</tr>
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<td>BRABA</td>
<td>Bilateral Readmission Agreement between Belgium and Albania</td>
</tr>
<tr>
<td>CARDS</td>
<td>Community Assistance for Reconstruction, Development and Stabilization</td>
</tr>
<tr>
<td>CGRA</td>
<td>Commissariat Général aux Réfugiés et Apatrides (Belgium)</td>
</tr>
<tr>
<td>CPT</td>
<td>Centro di Permanenza Temporanea e Assistenza (Temporary holding centre – Italy)</td>
</tr>
<tr>
<td>EBRD</td>
<td>European Bank for Reconstruction and Development</td>
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<td>EC</td>
<td>European Community</td>
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<td>ECRA</td>
<td>Implementation Protocol for the Benelux countries, Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorization</td>
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<tr>
<td>EP</td>
<td>European Parliament</td>
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<td>EU</td>
<td>European Union</td>
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<tr>
<td>FYROM</td>
<td>Former Yugoslav Republic of Macedonia</td>
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<td>HLWG</td>
<td>EC High Level Working Group</td>
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<tr>
<td>IA</td>
<td>Immigration Act (Belgium)</td>
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<td>ICMC</td>
<td>International Catholic Migration Commission</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
</tr>
<tr>
<td>ICTY</td>
<td>International Criminal Tribunal of Yugoslavia</td>
</tr>
<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
</tr>
<tr>
<td>IND</td>
<td>Immigration and Nationality Directorate (United Kingdom)</td>
</tr>
<tr>
<td>INS</td>
<td>Institut national de Statistiques (National Statistics Institute, Belgium)</td>
</tr>
<tr>
<td>IO</td>
<td>Immigration Office (Belgium)</td>
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<td>IOM</td>
<td>International Organization for Migration</td>
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<tr>
<td>JHA</td>
<td>Justice and Home Affairs (JHA) Council (EC)</td>
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<tr>
<td>NAO</td>
<td>National Audit Office (United Kingdom)</td>
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<tr>
<td>NGOs</td>
<td>Non-governmental Organizations</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OSCE</td>
<td>Organization for Security and Cooperation in Europe</td>
</tr>
<tr>
<td>RA</td>
<td>Readmission Agreement</td>
</tr>
<tr>
<td>RRD</td>
<td>Removal/Return Decision (Order to leave the territory – Ordre de quitter le territoire – Belgium)</td>
</tr>
<tr>
<td>SAA</td>
<td>Stabilization and Association Agreement</td>
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<td>SAP</td>
<td>Stabilization and Association Process</td>
</tr>
<tr>
<td>SECI</td>
<td>Southeast European Cooperative Initiative</td>
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<tr>
<td>TCNs</td>
<td>Third Country Nationals</td>
</tr>
<tr>
<td>TEC</td>
<td>Treaty of the European Community</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commission for Refugees</td>
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<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<tr>
<td>VARP</td>
<td>Voluntary Assisted Return Programmes</td>
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<td>VARRP</td>
<td>Voluntary Assisted Return and Reintegration Programme</td>
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FOREWORD

The coming into force of the European Community/Albania Readmission Agreement on the 1st May 2006 represents a historic step, not only in the formulation of a common EC readmission policy, but also in the development of the EC’s cooperation in the Western Balkans. Return and readmission are issues of growing relevance and concern for EU Member states as well as for third and accession countries, like Albania. They are considered as a necessary component of a well-managed and credible migration policy. In these fields, the EU is currently promoting common and transparent approaches, in order to align the fight against irregular migration in the whole region to European standards, whilst respecting the human rights of the persons concerned.

The Conclusions of the 1999 European Council meeting in Tampere referred to the international obligation of States to readmit their own nationals. This was also confirmed in the Amsterdam Treaty that confers powers on the Community in the field of readmission. The Commission was, therefore, requested to include readmission standard clauses in cooperation and association agreements between the European Community and relevant third countries. This was based on the assumption that such agreements constitute a valuable instrument for an active return policy as they set out clear obligations and procedures, which facilitate and accelerate returns of third country nationals irregularly present in the EU territory. However, the effective implementation of readmission agreements requires a continuous and close cooperation between states of origin, transit and destination of migratory flows. Recently, during the Ministerial Conference in Vienna, on 4 May 2006, Commissioner Frattini, responsible for Justice, Freedom and Security, mentioned that the smooth implementation of readmission also fosters mutual trust and good results in police cooperation and the fight against organised crime.

In light of the above, the European Commission has so far received from the Council 11 mandates to negotiate Readmission Agreements between the European Community and third countries, Albania being the first European country with which an agreement has been concluded. As reaffirmed in the Thessalonica Conclusions of 2003, the integration of the Western Balkans countries into the European Union has become a EU priority, and a prospective that is enshrined in the Stabilisation and Association Agreements signed so far by the countries of that region. The full and effective implementation of the Readmission agreement between Albania and the EC is therefore a key requirement of the SAA. The readmission agreement applies to Albania and twenty-four of the twenty-five EU member states (excluding Denmark). It sets out a reciprocal modus operandi for the return of irregular migrants and will be complemented by bilateral implementation protocols. The main clauses define the procedures for the return to Albania (or the Member States) of irregular nationals and of third country nationals having transited through its territory. The provisions for Albanian nationals entered into force as of May 2006, while the third country nationals’ clause will come into force in 2008.

This research provides an understanding of the current bilateral return and readmission practices from EU member states to Albania, notably Belgium, Greece, Italy and the UK, and gives information on policies and practices currently in place and those that are likely to be implemented under the new multilateral agreement. The research also looks at the implications of the implementation of the EC/Albania readmission agreement for Albania, with regard to the return of Albanian and third country nationals. The purpose of the study is to provide practitioners and national experts with an overview of current practices compared to existing international standards in order to guide the decision-making process and to make this practical experience available for the smooth implementation of the EC/Albania readmission agreement as well as other readmission agreements in the future.

European Commission
Direcotorate-General Justice, Freedom and Security
The formulation of a common EC return policy has been a longstanding issue for EU institutions since the European Council, at Tampere in October 1999, adopted the programme for the creation of an area of freedom and justice in the European Union, including a common policy on immigration and asylum. On 21 and 22 June 2002, the European Council meeting in Seville called for an accelerated implementation of all aspects of this programme and issued a Communication on a Community Return Policy on Illegal Residents which included an outline for a return action programme.

On 28 November 2002, following the Seville Communication and the Commission’s Green Paper of 10 April 2002, the Council formally adopted the Return Action Programme for the development of a number of short, medium and long term measures, mainly by building on experience gained from operational cooperation.

However, as stated in the Seville Communication, the limitations of operational co-operation will soon be revealed if an appropriate legal framework is not established. In the medium term, the first target is the adoption of common standards in order to facilitate the work of national authorities handling return operations and, in particular, to ensure full mutual recognition of return decisions, moving on from the first steps identified in Directive 2001/40/EC on mutual recognition of expulsion decisions adopted in May 2001.

The research presented here focuses on bilateral return and readmission practices between selected EU member states and Albania, since Albania is the first country in Europe to execute a Readmission Agreement with the European Community. As this study indicates, Albania has the highest migration rate in Central and Eastern Europe. Of the four countries selected, Greece appears to be the preferred destination country for Albanian immigrants, who represent well over 60 per cent of all third country nationals residing in Greek territory. Therefore, proper implementation of EC/Albania Readmission Agreement is of high importance for EU, as well as Greek, immigration policies and, in this regard, the Agreement is expected to facilitate readmission procedures and the exchange of relevant information between competent Greek and Albanian authorities.

In this context, the Hellenic Ministry of Interior took the initiative of providing financial support and supervision of the project – including the present research – implemented in Albania by IOM and co-funded by the EC. The aim of this project is to support competent Albanian authorities as they develop an effective return policy and, in particular, to encourage the successful implementation of the Agreement on the Readmission of Persons Residing without Authorization between the European Community and Albania.

The importance placed by the Greek Government on the smooth implementation of the Readmission Agreement with Albania and on the socioeconomic reintegration of returnees is also emphasized by its participation as leading partner in the project entitled Building on Mechanisms to effectively and sustainably implement Readmission Agreements between Albania, the EC and Concerned Third Countries, which is co-funded by the EC under the AENEAS Programme for Financial and Technical Assistance to Third Countries in the Area of Asylum and Migration.

This project takes into account the results and experience gained from the present research and will, hopefully, lead to a useful transfer of relevant expertise from the competent Greek Authorities and institutions to Albanian authorities responsible for return, readmission and reintegration of returnees, as well as to the formulation of a compendium of best practices and suggestions for European institutions which will serve as guidelines for future readmission agreements. To this end, the contribution offered by the research published here is invaluable.

Hellenic Ministry of Interior,
Public Administration & Decentralization
I.1. The EC Perspective on the Albanian Readmission Agreement

The Commission of the European Communities (EC) made the signing of a Community readmission agreement a pre-requisite for signing a Stabilization and Association Agreement (SAA) with Albania. The SAAs for each country address political dialogue, regional cooperation, trade, movement of goods, services, people and capital, justice and home affairs, and other terms of cooperation. In asking Albania to sign a Readmission Agreement (RA), the EC required Albania to take back its citizens residing illegally in the EU and to accept nationals of other countries who had passed through Albania prior to entering the EU. The EC did not impose this conditionality for SAA negotiation on other Western Balkans’ countries, although the agreements signed with Croatia and Former Yugoslav Republic of Macedonia (FYROM) subsequently contained a readmission clause. The SAA is critical for establishing a Stabilization and Association Process (SAP), which outlines the conditions for eventual accession, and to continuing EC aid (see Table I.1 for details on the approximation process vis-à-vis the EU and Albania). One may then ask why Albania was the only country of the Western Balkans for which the EC tied the signing of a RA to negotiations for a SAA and entering into a SAP.

Table I.1: Agreements between Albania and the EU

<table>
<thead>
<tr>
<th>Dates</th>
<th>Agreements</th>
<th>Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>Trade and Co-operation Agreement</td>
<td>Albania eligible for assistance under PHARE programme</td>
</tr>
<tr>
<td>1999</td>
<td>EU proposes Stabilization and Association Process (SAP) for 5 South East European countries</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Autonomous Trade Preferences with EU</td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>Feira European Council</td>
<td>All countries under SAP are candidates for EU membership</td>
</tr>
<tr>
<td></td>
<td>First year of CARDS programme</td>
<td></td>
</tr>
<tr>
<td>2002</td>
<td>Copenhagen European Council</td>
<td>Push towards integration of Western Balkans into Europe as candidates for EU membership</td>
</tr>
<tr>
<td>2003</td>
<td>Brussels European Council</td>
<td>SAA negotiations in Albania</td>
</tr>
<tr>
<td>May 2003</td>
<td>Thessaloniki Council Meeting</td>
<td>First Round of Readmission Agreement</td>
</tr>
<tr>
<td>December 2003</td>
<td>Thessaloniki Council Meeting</td>
<td>Reaffirms integration perspective</td>
</tr>
<tr>
<td></td>
<td>Readmission Agreement initialised</td>
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This chapter explores what the EC expected and hoped for in signing the RA, considers why the EC imposed this conditionality on Albania, and outlines some implementation issues that the EC will need to address to achieve its own objectives in signing this agreement. It opens with an analytic overview of the role of RAs and return modalities in migration management. Readmission agreements are formal instruments of State and Community foreign policy specifying citizenship and residence rights. Different return modalities involve individual and/or state actions. An analysis of relevant EC agreements and reports, together with Council decisions, directives and communications, suggests that the EC and its member states view RAs as a means to protect their security and the integrity of their migration systems. With the entry into force of the Amsterdam Treaty, readmission has evolved from state-led bilateral to Community-wide agreements (van Selm, 2002). Nevertheless, there is continuing tension between meeting specific EC members’ domestic economic objectives and establishing the Community’s security and foreign policy concerns with regard to migration. This tension leads to member states developing different return policies and practices, while imposing consistent EC-wide standards for readmission on Albania and other countries sending large numbers of migrants.

The chapter further argues that changing migration flows and the timing of negotiations led the EC High Level Working Group (HLWG) to treat Albania as a critical “actor in the chain” for addressing irregular migration and related security concerns (EC, 1999:Art.63, par.3). Specifically, signing a RA with the specific requirement that Albania re-admit third country nationals (TCNs) who had transited through their country was, in the view of the EC, a means for controlling illegal economic migrants, weapons, drugs and money in the region. By defining a new geography in the “Western Balkans”, the EC included Albania among the former Yugoslavia states in its regional policies and assistance. Holding out the promise of accession to these new states (the approximation process), the EC expected in return to protect and secure its own external borders through an enlarged Western European space. Given significant migration flows in Albania, signing an RA symbolized the Albanian Government’s commitment to the overall reform programme and willingness to control its borders (Boges, interview, 2005; Schieffer, communication with Smeyers, 2005).

Finally, the chapter discusses implementation issues that lie ahead for the EC in meeting its original objectives. Addressing both economic and security objectives is important for the successful implementation of the RA and returns of both Albanians and TCNs must be sustained. If TCNs are left stranded indefinitely in Albania or if readmission and return create a revolving door for Albanian nationals to the EU, implementation of the RA provisions could lead to more instability and higher financial costs for both the EC and Albania. Issues of sustainability and cost effectiveness, however, may be addressed through return and repatriation modalities coupled with technical and development assistance. The chapter argues that, by providing Albania with assistance in implementing the SAP, the EC will ultimately meet its own long-term objectives of security and economic stability.

I.2. Definitions of Readmission and Return

For purposes of this chapter, a readmission agreement is defined as:

...[addressing] procedures for one State to return aliens in an irregular situation to their home State or a State through which they passed en route to the State which seeks to return them. (IOM, 2004a: 52)

The current agreement with Albania covers the return of Albanian and of third country nationals (i.e., nationals of countries other than Albania or EC member states). Stateless persons (who do not
hold a nationality) are also included under the TCN provisions. Persons to be returned are defined as “holding a valid visa or residence authorization of Albania after having stayed on, or transited through, the territory of Albania” (Readmission Agreement, 18 December 2003).

Based on the International Organization for Migration (IOM) definition above, the term ‘return’ “refers broadly to the act or process of going back” (IOM, 2004a:56). According to IOM, return may take place within the territorial boundaries of a country (for example, in rural/urban migration, a person returns to his/her originating village) or from a transit or destination host country to the country of origin. Subcategories of return describe the way that the return is implemented (e.g., voluntary, forced, assisted, and spontaneous return) and/or describe who is participating in the return (e.g. repatriation for refugees) (ibid.:56). Subcategories also distinguish the level of volition (voluntary to forced deportation or removal) and assistance provided (unassisted/assisted).

The EC defines ‘return” (whether voluntary or compulsory) as “the process of a person going back to his country of origin, transit or another third country” (EC, 2005i). This definition treats ‘return’ from the perspective of the destination country, as any movement away from that country. Both the EC and IOM definitions consider return as a process rather than an achieved outcome. However, the IOM definition specifies that the return must be to the originating place or country of origin. As studies of return show, leaving a country to go back to a third country or country of transit does not constitute a return in any meaningful or common sense terms (Long and Oxfeld, 2003). From the perspective of the migrant or of originating communities, such movements may constitute failed attempts at return or part of a continuing migration. This lack of clarity in the EC definition with regard to outcomes is also reflected in an absence of clear implementation guidelines to achieve durable returns.

RAs, which operate at the state or community level, create a legal framework for return movements. By specifying the state’s obligation to its citizens and to those to whom the state has granted visa rights, RAs provide a legal basis for various migration management actions. Specifically, RAs allow states to maintain the integrity of their borders and boundaries without impinging on the rights of those who have a legitimate reason to stay. Without specific return modalities (forced or voluntary), however, RAs are merely formal expressions of intent. Thus, they require implementation modalities and further agreements in order to take effect. The TCN clauses are particularly problematic, since they oblige states to take back those who transited through their country. They implicitly assume a system of follow-on agreements. Where follow-on RAs do not exist or in cases involving stateless persons, countries accepting TCNs must then decide whether or not to provide formal citizenship and/or legal residence, and under what conditions, to the person readmitted. A likely, yet worse, possible outcome for the migrants, as well as for the states concerned, is that, without a universal system of RAs and return modalities, these agreements will leave many migrants stranded without a legal basis which allows them either to settle or to return.

According to Schieffer (2003:347), the chief negotiator of the Albania-EC agreement, the then Justice and Home Affairs (JHA) Council concluded, in May 1999, that, with the entry into force of the Treaty of Amsterdam, “readmission agreements would constitute a valuable instrument of an active return policy” for repatriating illegal residents from the EU. The EC intended to negotiate a comprehensive set of readmission agreements (thus allowing for onward readmission until a full return was effectuated). However, faced with obstacles and delays in the various negotiations, several EC member states negotiated their own readmission agreements with major migrant-sending states. All EC states conduct regular forced returns (deportations or “removals”) of irregular migrants and failed asylum seekers, who do not wish to return (UK, 2005). Some member states have also developed voluntary and assisted return programmes with migrant-sending states. Such programmes could be facilitated by RAs, although the principal objective in negotiating these agreements is to create a legal framework for forced returns.6
The UK, for example, has negotiated readmission agreements with Bulgaria, Romania and Albania. The UK regularly expels failed asylum seekers and irregular migrants who do not have right to residence. It has also developed a Voluntary Assisted Returns and Reintegration Programme (VARRP), funded through the Home Office and the European Commission’s Refugee Fund (IOM, 2004b:386, 390). If the person has not violated UK laws, s/he is offered the right and/or assistance to return voluntarily. Voluntary returns generally involve less protracted procedures and the cost is estimated at approximately one tenth of the cost of enforced returns (UK, 2005). Italy, on the other hand, uses bilateral RAs to promote a dialogue with countries of illegal migration and its neighbouring countries (IOM, 2004:205). In order to stem irregular migration, the Italian Government provides foreign and technical assistance to meet some of its migration objectives and has also developed assisted voluntary return programmes for minors and women trafficked for sexual prostitution. In 2004, given the large number of Albanians transiting through Belgium to reach the UK, Belgium negotiated its own RA (without provision for TCNs) to cover forced returns.  

This trend, where individual member states develop RAs backed by return mechanisms and foreign assistance, is replicated at the EC level. However, the EC has had limited success in developing consistent return and assistance modalities for implementation of its RAs. As the next section will show, the EC has adopted common standards to protect its external borders. However, in terms of implementation, the EC relies on individual member states to determine how these standards are applied in practice.  

I.2.1. Security versus economic interests  

Security considerations provide a strong impetus towards developing a common EU-wide migration regime. Nevertheless, various Member States continue to assert national sovereignty over migration and asylum matters, particularly where these affect economic interests and political fortunes. A classic division is evidenced in migration politics. The EC has assumed increasing authority over foreign policy, international security and external boundaries and flows, while member states continue to retain those aspects relating to domestic economic interests, immigration regimes, internal security and crime prevention. Member states also expect the EC to negotiate RAs in order to facilitate their own migration objectives of deporting failed asylum seekers and irregular migrants. However, faced with anti-immigrant sentiments, they are reluctant to provide reciprocal concessions. Such domestic political pressures limit the incentives the EC can offer during its RA negotiations to receiving states.  

I.2.2. Developing an EC-wide security regime  

The Treaty of the European Community (the Amsterdam Treaty or TEC of 1999) gave the Community competence in the area of migration and empowered it to conclude RAs with third states (Title IV, Art. 63(3b)). The Council adopted criteria for determining the countries with which to negotiate readmission agreements. As Schieffer (2003:348), the chief negotiator at the time, reports, the JHA Council identified six selection criteria for negotiation of readmission agreements with further third countries:  

(1) the migration pressure exerted by a third-country; (2) its geographical position in relation to the EU; (3) the fact that the country must not be a candidate country with which the EU is already negotiating about accession; (4) considerations of geographic balance and regional coherence; (5) the existence of an EU association or co-operation agreement containing a readmission clause, and (6) the added value of a Community agreement in comparison to individual Member State agreements.
Initially, the EC identified 11 countries as meeting these criteria. Albania, in particular, was one of the countries included in the first round of negotiations (and the only European country).

Even before the TEC, the General Affairs Council set up the High Level Working Group (HLWG) on Asylum and Migration in 1998 and began exerting its sway over migration matters. The EC empowered HLWG to develop cross-pillar Action Plans with specific countries of origin and transit that had high levels of migration flows. HLWG established a list of priority countries for action plans, which, in addition to Afghanistan, Iraq, Morocco, Somalia, and Sri Lanka, included Albania and the surrounding region (i.e., Kosovo). Apart from Morocco, all the countries prioritized were in conflict situations. All were experiencing large out-migration flows, as had Albania following the collapse of the pyramid schemes in 1996 and early 1997. The intensifying conflict in Kosovo was also leading to movements of refugees from Kosovo through Albania and/or directly into the EU. In light of earlier conflicts in the former Yugoslav states, the EC wanted to forestall another mass migration from the region.

The subsequent European Council meeting in Tampere in October 1999 (EC, 1999) spelled out the elements for a common EU Asylum and Migration policy, including

- partnership with origin countries;
- a common European asylum system;
- fair treatment of third country nationals (comparable rights to those of citizens);
- a comprehensive approach to management of migratory flows (IOM, 2003).

Albania represented a source and transit country for migration flows (and presumably destination country as well, but these flows were not yet of concern to the EC). The Tampere conclusions further conferred powers on the EC to negotiate and broker readmission agreements. Not surprisingly, a spate of negotiations with migrant and asylum seeker sending countries followed. Tampere established the concept of an EU-wide asylum and migration policy. One of its objectives was to achieve coherence between internal and external policies in the management of migration flows. While defining legal migrants ("who was in") and their treatment was not so contentious, determining the status and treatment of failed asylum seekers, illegal economic migrants, short-term, temporary and seasonal workers, and circular migrants ("who should or could be out") proved to be difficult. Definitions of illegal migration were already contested at the member state level, while enforcement of any regime required extensive cooperation and agreement with sending and transit states. Such definitions also had to take into account the economic needs and interests of receiving states. At the state level, there were advantages to leaving these categories ambiguous.

I.2.3. Growing security concerns and the RA negotiations

In June 2000, the Commission gave the HLWG oversight on managing (irregular) migration. The Finnish Presidency observed, "Given the Plan’s focus on Albania as a source and transit country for illegal migration and trafficking, the proposed measures are mostly prevention- and control-oriented rather than protection-based." The Albania Action Plan (EC, 2005b) focused on readmission, return, combating crime, trafficking, and reinforcing border controls. UNHCR and human rights NGOs actively voiced their concerns that asylum seekers could be returned under the proposed RA without having their claims heard. The trade-off between meeting security concerns and ensuring a consultative process was apparent in HLWG’s initial planning. The 2000 Nice European Council (EC, 2000c:para. 50) argued for partnerships with origin countries, even as HLWG, faced with pressure to act, developed a plan for Albania with little to no consultation (van Selm, personal communication).
In September 2000, the EC was given the mandate to negotiate RAs with Morocco, Sri Lanka, Russia and Pakistan, in 2001, with Hong Kong and Macao, and, in 2002, with Ukraine, Albania, Algeria, Turkey and China. Different levels of compliance and reciprocity in various agreements (as shown in Table I.2) reflected the EC’s leverage in each negotiation. As the EC quickly discovered, negotiating RAs was difficult because most states were well aware that these agreements were solely in the EC’s interest (Kruse, n.d; Schieffer 2003). Countries such as Morocco, which had already obtained preferences from France on seasonal labour exchanges, had little incentive to give up a kind of “most favoured nation” migration status.

Table I.2: Levels of EC Readmission Clauses

<table>
<thead>
<tr>
<th>Level</th>
<th>Country</th>
<th>Readmission Clauses/Practices</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Vietnam</td>
<td>Unilateral statement by EC: mere declaration versus binding obligation</td>
</tr>
<tr>
<td>2</td>
<td>Tunisia, Israel, Russia, Ukraine, Moldova, Kazakhstan, Kyrgyzstan, Belarus, Slovenia, Latvia, Estonia, and Lithuania</td>
<td>Agreement to dialogue or cooperate on readmission only</td>
</tr>
<tr>
<td>3</td>
<td>Morocco, Yemen, Laos, Cambodia, Pakistan</td>
<td>Declaration on readmission of own nationals (binding obligation for Morocco)</td>
</tr>
<tr>
<td>4</td>
<td>Jordan</td>
<td>Declaration on readmission of own nationals and negotiation of further treaties for third-country nationals</td>
</tr>
<tr>
<td>5</td>
<td>Egypt, Lebanon, Algeria, Armenia, Georgia, Azerbaijan, Uzbekistan, Croatia, Former Yugoslav Republic of Macedonia, Sub-Saharan African States, Pacific states, and Caribbean States (except Cuba, Chile)</td>
<td>Treaty obligation to admit own nationals and to negotiate further treaties concerning third-country nationals (1995 and 1999 EU clauses)</td>
</tr>
<tr>
<td>6</td>
<td>Norway, Iceland, Switzerland, Liechtenstein</td>
<td>Application of internal EC rules</td>
</tr>
<tr>
<td>7 *</td>
<td>Hong Kong, Sri Lanka, Macao, Albania</td>
<td>Full application of internal EC rules without membership or de facto reciprocity</td>
</tr>
</tbody>
</table>

* Author’s interpretation of Peer’s discussion on Readmission Agreements.

While return, asylum, and definitions of economic migrants were hotly debated and discussed in a series of EC communications and directives, these discussions were not directly linked to the readmission negotiations. The nuts and bolts of making arrangements for returning failed asylum seekers remained the responsibility of individual states and several member states continued to negotiate their own bilateral readmission and labour agreements with Albania and other relevant migrant sending states. At the time of writing, EC-wide agreements have only been concluded with Hong Kong, Sri Lanka, Macao and Albania.11

Although the EC, through its RA negotiations, had gained momentum for an EC-wide migration policy, member states continued to reassert their sovereignty over immigration matters. Reflecting sovereign concerns, the EU Parliament rejected the 2001 Communication (COM (2001) 386), which set out common criteria for admission of immigrants and a single application procedure. The EC continued to assert its authority over security and migration matters through an “actors-in-the-chain” approach outlined in a Communication adopted in November 2001 (COM (2001) 672 on trafficking). The EC argued for controlling migration flows at source/origin, transit and destination points. As
IOM has observed (2003:265), “The most sensitive points of the long chain range from “recruitment” by the smugglers in the country of origin, via passage through a number of transit countries and often to illegal work or other forms of exploitation in the country of destination.” The Communication outlined six European-wide actions to be taken:

- proposals on visa policy;
- information exchange;
- border management;
- police cooperation;
- coordination of aliens law and criminal law;

Controlling smuggling and trafficking, particularly in the context of their possible financial contribution to terrorism, argued for a European-wide approach on many aspects of migration policy that had traditionally remained in the states’ domain.12

Although the EC justified community cooperation as a move intended to improve security, the tensions in asserting such sovereignty were evidenced in the post-September 11 working document (COM 2001 (743):5). This Communication argued, “It appears that a scrupulous application of these clauses is a more appropriate way of enhancing security than to substantially change the different Proposals at stake.” At the same time, the Communication called for “common rules of return, removal, the use of coercive measures, temporary custody, and re-entry.” It stated that “These common rules, which aim to ensure adequate and similar treatment of illegal residents throughout the EU, regardless of the Member State where they are apprehended, can only be agreed at Community level (emphasis added)”. Thus, the EC posited external aspects of migration (rules of return, removal custody, coercive measures, etc.) as community level matters.

In 2001, the Laeken European Council proposed integrating policies on migration flows with EC’s foreign policy. Migration, which had traditionally been considered solely a third pillar issue (Justice and Home Affairs), became a cross-sectoral and second pillar (foreign policy) matter as well. Under the Swedish and Dutch presidencies, HLWG was given the task of coordinating migration and development policies (van Selm, personal communication, 2005). The Parliament and Council of Ministers during this period approved €10 million in development assistance for asylum and migration. They also approved a budget to implement the HLWG Action Plans. The EC expected HLWG to monitor the plans and to use existing cooperation mechanisms, such as the Stability Pact, for implementation. Sri Lanka, which welcomed the HLWG report and action plan, was encouraged to sign a RA by the UK. Albania, likewise, was encouraged to sign by Italy and Greece. Witnessing Croatia’s and Macedonia’s progress in their Stabilization Agreements, Albania was also eager to comply. In contrast, the Moroccans protested that the process was not consultative. NGOs criticized the action plans for listing existing development projects and for limiting the assistance to three organizations: UNHCR, ICRC, and IOM (van Selm, 2002:12).

I.2.4. The need for return mechanisms

With growing security concerns, the Community increasingly addressed issues relating to irregular migrants and failed asylum seekers through deportations or “removals”. Individual states were alarmed at the increasing number of irregular migrants (who had been trafficked or smuggled) in holding camps and border crossings (such as the Channel Tunnel). The majority of migrants from Iraq and Afghanistan were fleeing states in conflict and member states recognized that they therefore needed a legal basis to justify decisions and procedures for their removal.
In the Green Paper on a Community Return Policy of 10 April 2002 (COM (2002) 175), the EC argued that the issue of return was intrinsic to a comprehensive Community Immigration and Asylum Policy. The EC recognized that, without a return process, there were no clear mechanisms to legitimate or enforce residence and asylum claims. The member states also saw returns as one of the few means at their disposal for countering the profits of smugglers and traffickers, whose operations were putting people in harm's way.

In response to the growing number of deportations and a widely publicized death during a removal, the Green Paper sketched out 10 aims for developing a departure system for illegal migrants. The Paper recommended a two-step return decision procedure to give migrants an opportunity to leave voluntarily and thus to limit the use of coercive measures. An immigrant could leave voluntarily and not be subject to a re-entry ban, but non-compliance would be penalized with a re-entry ban valid throughout the EU. Although the two-step return process was intended to address human rights concerns and treat migrants with dignity, in practice it also gave migrants time to disappear by moving underground and often across a border to another state (van Selm, personal communication, 2005). The Paper also recommended allowing states to expel criminals and those who represented serious threats to national security. It was left to member states to introduce legislation that would define criteria for these categories.

The Mayor of London, Ken Livingston, well aware of the social and economic contribution of immigrants, weighed in strongly on these debates through his office in Brussels. Responding to the 2002 Green Paper, the Mayor’s office recommended voluntary returns and noted that the discussion on “forced return is not sufficient.” His office warned that, “For London, therefore, any systematic attempt to return illegal residents will not be low-profile action limited to small groups of people in a few parts of the city. It will be a large-scale social intervention that could have repercussions across many of the city’s ethnic neighbourhoods” (Pritchard, 2002:1). London, in particular, benefited from both high and low skilled migrants and immigration was having a positive impact on the city’s economic growth. Many other member states also depended on seasonal and temporary labour flows of low skilled migrants.

I.2.5. Common border management

The EC argued for better cooperation amongst member states and for development of a European-wide approach to management of its external borders (COM (2002) 233 cited in IOM, 2003:266). On a symbolic level, the EC was enlarging its own geographic space through its categories and treatment of irregular migrants. In June 2002, the European Council meeting in Seville focused on irregular migration and third country cooperation. Extending and delineating its borders, the participants argued that RAs could cover not only persons detained within its own borders, but also irregular migrants from third countries. The Heads of State and of Government approved a plan for joint external border management (IOM, 2003:267). While expanding the EU’s sphere of influence outward, member states also debated measures to counter an image of “Fortress Europe” (ibid.:277).

Following the Seville meeting, the Presidency drafted a “Road Map” specifying 23 measures and assigning responsibilities and deadlines (EC, 2002h). The measures tightened the EU’s common borders through expulsions and repatriation. The EU also initiated RAs with Hong Kong and Sri Lanka, finalized those with Pakistan, Russia, Morocco, Macao, Sri Lanka and Ukraine, and entered into new agreements with China, Turkey, Algeria and Albania. HLWG was responsible for joint management of migration flows, compulsory readmission of “illegal” migrants, and on-going assessments of relations with third countries. While directed to intensify its cooperation, HLWG
was given no deadlines for its activities, in contrast to other directives, which were expected to be achieved by the end of 2002 or 2003, at the latest. Joint border exercises and activities were subsequently carried out, but progress on negotiating the RAs proceeded slowly.

An ensuing Policy on Illegal Residents dated 14 October 2002 argued for a holistic approach to migration involving three aspects:

- effective and generous asylum system;
- consolidation of legal migration channels;
- enhanced dialogue with third countries.

While this policy engaged the different “actors-in-the-chain”, the return and readmission of migrants was notably missing from this “holistic” approach. Nevertheless, third countries on the EU’s periphery, including the Western Balkan countries with their own irregular migrants (e.g., Kosovars in Albania) were important interlocutors in this dialogue.

The Return Action Programme called for returns and cooperation between member states and third countries in return operations (EC, 2002l) and advocated the establishment of common standards for return operations and for privileging voluntary returns. Although obtaining member state agreement on the promotion of voluntary returns for legal migrants was not difficult, finding definitions for failed asylum seekers and illegal migrants and deciding how best to return them were problematic. For operational purposes, the focus remained on “compulsory readmission” (EC, 2002l). In a number of cases, member states’ immigration officers have worked together to organize joint charters or coordinate forced return operations on commercial flights.15 Nevertheless, the states have made little attempt to harmonize either voluntary or forced returns at an operational level. As IOM’s subsequent report on Return Migration: Policies and Practices in Europe (2004b) clearly details, the policies, legislation and practices on illegal entry, forced returns, detention, smuggling, trafficking, and carrier sanctions vary widely amongst member states.16

In early 2003, the EC specified practical arrangements for financial burden sharing and for cooperation among member states with regard to expulsions of TCNs (EC, 2003b), arguing that burden-sharing for transport, accommodation, and administrative costs could be better achieved by the EC (given its “subsidiary” role). A 12 March Council Directive called for assistance in cases of transit for the purposes of removal by air. The UK Select Committee on European Scrutiny (2003) protested that detention of a TCN in transit, as envisioned in the proposal, could constitute false imprisonment under British law. Indeed, if a UK officer used force to prevent a TCN from resisting transit, s/he could be committing an assault under UK law. Finally, given the fact that many airlines use UK airports for connecting flights, they feared that demands for transit operations during forced returns would be extremely high.

In its “Conclusion on Migration and Development”, issued in May 2003, (EC, 2003g), the European Council determined that migration management was the EU’s primary strategic priority. The Council laid out a post-enlargement “neighbours” policy that included Russia, Ukraine, Moldova, Belarus, Croatia, Bosnia-Herzegovina, Serbia-Montenegro, Macedonia, and the Province of Kosovo. These states were expected to form a friendly neighbourhood of “prosperity” and “peace” and to protect the EU from trans-border threats of terrorism, crime and unwanted migration. Thus, one of the EC’s current objectives is to sign RAs with these states and most are on the list for a second round of RA negotiations.

In May 2004, the Amsterdam Amendments to the Treaty on the European Union established immigration and asylum as part of the European Community’s responsibilities. As van Selm (2002)
observes, this step effectively moved these matters from the third to the first pillar (although, as we have seen, they had already been moved to the second pillar). In effect, immigration and asylum legislation are treated as binding instruments of policy to be implemented by member states after passage through the Council of Ministers. Sovereignty on these matters has effectively shifted from member states to the Commission. Meanwhile, Justice and Home Affairs (JHA) became Justice-Freedom-Security or Justice-Liberté-Sécurité (JLS), the change in name indicating a change in focus from an internal, legal set of interests to a broad external and political one.

In November 2004, the Hague Programme pledged an area of freedom, security and justice for EU citizens. Recognizing an explicit link between security and migration, the Programme foresaw JLS’s external role. Ambivalent to ceding too much control, member states required that Parliament be consulted on any proposals and that decisions formally remained under the competence of the Court of Justice. The programme, which developed earlier concerns arising from the 2002 Green Paper on returns, called for people to be “returned in a humane manner with respect for human rights and dignity.” According to the Hague Programme, this required rules for return, removal, use of coercive measures, and temporary custody and re-entry orders, and a need for “common standards”. The Hague Programme invited the EC to present a policy plan on legal (but not illegal) migration before 2005. The common standards did not address the question of which migrants were to be returned, as this remained the prerogative of member states.

I.2.6. Economic migrants

Progress on defining legal economic migration is motivated by an increasing recognition of Europe’s aging population structure. Declining ratios of productive age to total population provide a demographic imperative for encouraging unskilled, as well as skilled, migrants. From 2002 to the present, a series of directives define who is a legal migrant. Defining who is not a legal migrant, and therefore should be deported, however, is determined by each state, primarily on a case-by-case basis. In effect, the EC’s consensus on immigration issues is at the lowest common denominator, primarily limited to those definitions and practices upon which the States already essentially agree.

“Legal” migrants are employed, contribute to the pension system, pay their own health care coverage, are law abiding, and ideally speak the language and know the traditions of the host country. Those reuniting with their family members, trafficked victims willing to cooperate with the authorities and testify, students, trainees not receiving remuneration, and those willing to volunteer services, are also considered legal migrants (EC, 2003d; 2003e; 2004f; 2004g). Legislation on unaccompanied minors, however, only commits member states to admit children of legal migrants up to the age of 15. Children whose sponsors lack sufficient resources may be rejected. People who constitute threats to “public order” (criminals) and/or to “public security” (terrorists) and those with infectious diseases are also subject to “removals” or expulsion. Such cases are handled on an individual case-by-case basis by most states. States, such as the UK, also reserve the right not to return terrorists and criminals, but to prosecute them. In recent communications, the EC specifies the common rights that long-term, legal migrants (those staying longer than five years) have with citizens (COM (2004) 127).

These directives do not address seasonal and temporary migrants, who constitute a large and important part of member states’ migrant labour force. The five-year residence rule implicitly suggests that migrants have citizenship rights, which they acquire, over time and length of residence. Germany has instituted a green card scheme to recruit computer engineers in short supply (IOM, 2003: 248). Several states also organize cooperative bilateral, short-term exchanges or expedited
work permits to recruit for specific job categories (e.g., the UK or France). Most schemes, however, are designed to recruit high skilled workers.

Recognizing a need to address short-term and seasonal labour demands, the Green Paper on Economic Migration (COM (2004) 811) promotes joint management of economic migration flows through bilateral agreements between origin and destination countries. It argues that circular migration will maximize the developmental impact of seasonal and temporary migration. The Green Paper, which promotes “aide à la reinsertion” schemes, also cites lessons learned about reintegration requirements from the Afghan assisted voluntary return programme. Although it recommends that bilateral RAs address these more variable and temporal migration flows, the Afghanistan Programme cited is in fact an EC-wide programme.

As EurActiv (2005) notes, three issues remain unresolved in this new approach:

- minimum or accelerated admission standards;
- entry only for specific needs versus a more flexible approach;
- need for synchronization between immigration procedures and integration into society.

Simply put, the Green Paper addresses the need for temporary and seasonal migrants, but focuses on arrangements for their departure while leaving regularization of their stay up to each member state.

I.2.7. Continuing tensions on migration matters

Even while the EC continues to expand its mandate over migration matters, member state politicians are well aware that migration is a useful banner under which to cloak other underlying concerns. Nationalist parties consistently use anti-immigrant rhetoric to garner voter support, but do not obtain majorities on that issue alone. Although a large element of the No vote in France’s Constitutional referendum was publicized as anti-immigrant, the principal reasons identified for the rejection were threats to social entitlements and competition for jobs (nevertheless blamed by some job seekers on competition from the recent accession countries). In the Netherlands, the negative vote reflected the timing – immediately following the French vote – and a lack of understanding about the contents of the Constitution. Nevertheless, the lack of integration, unemployment, and alienation of large numbers of youth in second-generation immigrant communities is a growing concern throughout Western Europe.20

Even though the need for migrant labour is recognized, migration connotes threatening “others” which national politicians either use to their advantage or, at the very least (as Blair and the Labour Party have shown), must be seen to address through restrictive controls. For the media, it is easy to “spin” migration and accordingly CNN World (2005) wrote “The negative votes in the Netherlands and France were largely the result of poor economies, and concerns about immigration, EU expansion, and the loss of national identity”.

What is at stake in these debates is retaining a unique national identity (the positive), rather than outing migrants (the negative).21 The UK and Ireland are not signatories to the Schengen acquis, which established common borders and visa regimes. In terms of border control, these states assert their own regimes, yet they also expect to take advantage of EC-wide RAs. The UK was a major force behind the signing of agreements with Hong Kong, Sri Lanka, and Macao, while Greece and Italy pushed for the agreement on Albania. Nevertheless, these states also want to continue to determine domestic policy and legislation on immigration. Greece, for example, argues that its
labour agreement with Albania takes precedence in defining return policies and practices (Chetlos, communication, 2005).

The negative votes in the French and Dutch referenda did not affect EC’s mandate to safeguard external security with regard to irregular migration. The Luxembourg Presidency (January-June 2005) proposed minimum standards for return procedures and effective removal (EurActiv, 2005). The most recent communications address:

- Regional Protection Programmes (determining asylum decisions in neighbouring countries) (COM_2005_0388);
- A Common Agenda on Integration through education, social inclusion, and citizenship requirements (COM_2005_0389);
- Migration and development schemes with regard to remittances, engaging diaspora migrant communities, addressing the brain drain, and promoting virtual returns (COM_2005_0390);
- Common standards and procedures for returning illegal migrants defined as: those whose visas have expired, been revoked or withdrawn; those who have received a negative asylum decision; and those who have entered illegally (COM_2005_0391).

The common standards and procedures for return again recommend a two-step process, which gives the migrant up to four weeks to return voluntarily (unless there is reason to believe the person may abscond). These procedures also allow for courts or tribunals to place migrants in temporary custody facilities or ordinary prison, subject to review once a month for up to six months, on condition that they are separated from other prisoners. To implement the return procedures, the Parliament and Council established a European Return Fund (for the period 2008-2013) to manage migration flows. In developing the fund, the Parliament and Council (EC, 2005e:152) noted, “An effective Community return policy is a necessary complement to a credible legal immigration and asylum policy as well as an important component in the fight against illegal migration.”

Although some member states have legislated standards of treatment for forced returns and safeguards against unlawful detention, there are still no EU-wide standards. Such standards would help to ensure that forced return practices (including detention) do not violate human rights law and to safeguard due process on return decisions. The current system also encourages migrants to claim asylum and refugee status in order that their claims are heard and protected under international law.

If a migrant is considered a threat to national and public security, there are no limits on the detention period in many member states. The state is not required to return the “irregular migrant” or to consider the person’s asylum claim. The decision to shift asylum claims to third countries and their borders is also resulting in acts of unlawful violence and impunity (Oosting, 2005).

In fact, EC legislation on migrants, which focuses on returns and detention, lacks the safeguards and international protections afforded to refugees and citizens of EU member states. To avoid the lowest common denominator of protection, the UK Parliament’s Select Committee on European Scrutiny (16 September 2005) advised, “While recognizing the benefits of common standards and procedures, the law and practice on the return and removal of illegal residents affects national sovereignty and is best decided for itself by each Member State”.

By pushing responsibility for adjudicating asylum claims to its outermost borders, the EC is making it difficult for legitimate asylum seekers to have their claims heard. The EC is also shifting “burden sharing” for subsequent waves of refugees to its newest neighbours. Through its RAs, and particularly TCN clauses, the EC is also expecting its “neighbours” to return or provide residence to migrants that EU member states no longer want. Internally, rising tensions with immigrant communities, rather
than any “no” vote, provoke isolationist and increasingly individualistic state responses to controlling migration flows. While the EC extends its authority over its external borders, actual implementation of specific procedures and standards for migration management reflect the particular concerns and interests of its members.

I.3. Why Albania? A Special Case

Given the expansion of EC borders and of sovereignty over migration matters, Albania represents an interesting case of how readmission negotiations work in practice. The EC’s interests in Albania focus on three migration streams:

- migration of Albanian citizens;
- transit of Kosovo refugees and asylum seekers through Albania;
- transit of other TCNs through Albania.

Italy, in particular, regards Albania as a “critical actor in the chain”, a transit route for migration flows from third countries into the EU, and a source and transit country for trafficking and smuggling. For neighbouring Greece and Italy, Albania is also the major source of economic migrant flows. Albanians represent more than half the economic migrants in each country. Because of its proximity to other Western Balkans states, its economic problems and issues of corruption, the EC views Albania as a particularly volatile and unstable state in the heart of Europe. The Albanian business mafia is also reportedly well financed, international in scope and organized (communication with UK immigration official, Tirana, October 2005). Finally, the EC views Albania as an outer frontier or buffer state through which to return unwanted TCNs and to address its own asylum issues at the gates (a variant of its neighbourhood policy in Ukraine).

Justifying its decision to include Albania in its action plans, HLWG reported “taking into account the special situation of the Western Balkans and the EU in the Stability Pact [and] considered it appropriate to do an Action Plan for Albania and the region” (Finnish Presidency, 18.10.1999). Individual member states and the EC were paired with each country undertaking an action plan. The construction of such action plans was expected to take a coherent approach involving dialogue, cooperation, and co-development. For this purpose, Albania was paired with Italy. Albania, in contrast to other countries in South Eastern Europe, was singled out not only because of its proximity and relevance to Kosovo, but also because of the transit flows through its territory.

According to several NGOs, the ensuing action plan did not engage the Albanian Government or civil society. Between the HLWG Interim Report (1999) and the Action Plan (issued 17 April 2000), the overall analysis did not change, suggesting that HLWG made little further attempt to look into the actual situation, events and people in Albania. The only major difference between these two documents can be found in the interweaving of the Kosovo and Albanian sections (as opposed to being treated separately) in the latter.

HLWG’s Interim Report and the Action Plan provide insights into EC concerns about Albania. First, the EC views Albania in relation to Kosovo. Even though both reports commend Albania’s response to the Kosovo crisis, they also cite “issues of corruption, public order, and the attitude towards the Kosovo crisis, which have introduced elements of vulnerability in the political, social, economic, and institutional areas” (HLWG, 1999:6). Albania is further cited as the poorest country in Europe in a “position of technological backwardness unparalleled in Europe” (ibid.:3). This level of poverty in turn has provoked the “exodus of thousands of Albanians to Italy and Greece” with Albanians representing the highest share of TCNs in both countries (70,000 residence permits in Greece and
75,000 in Italy in 1998) (ibid.:10). A reason cited for this economic migration is that there are “large numbers of young people out of work and constituting a large, frustrated, and volatile migration potential” (ibid.:8). Albania is also considered a country of origin (with 15% of the population or one person for each Albanian family having emigrated) and a country of transit for Kurds, Indians, Pakistani, Filipino, and Chinese (who have all reached Italy through Albania) (ibid.:12).

The first mention of the “Western Balkans” as a specific geographic region was made at the Council meeting in Zagreb in 2000. Presumably, the Eastern Balkan countries are Romania and Bulgaria, while the appellation of the “West” provided a rationale for incorporating five South Eastern Europe countries (Albania, Bosnia-Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, and Serbia-Montenegro with Kosovo) into a “selective and gradual” accession process (EC, 2004c:27). The Zagreb meeting addressed issues of stability and democracy in the region. There, the EC also established the stabilization and association process (SAP) to bring the Western Balkans’ states closer to accession. The objectives of the SAP were to establish regional co-operation, adherence to the International Criminal Tribunal of Yugoslavia (ICTY), reintegration of refugees and displaced persons, and respect for human and minority rights (EC, 2004c). Albania was linked to the former Yugoslav countries through Kosovo. As Prodi (2003) later told the Albanian Parliament, one of the primary political objectives of maintaining a regional reference framework was “to prevent the new borders … from becoming new walls or fomenting new tensions”.

On a parallel track, the EC established a new budget line (B7-667) to fund the HLWG action plans (EC, 2001e). In 2001, with the HLWG Troika Mission, there was an explicit shift in the EC’s view of Albania as a country of origin to a country of transit, although individual countries in the EU, primarily Italy and Greece, are still concerned about large numbers of illegal Albanian labour migrants. The Troika Mission (11-13 March 2001) noted, “a shift in the situation in Albania, which has now become mainly a transit country rather than a country of origin” (EC, 2001e). The Swedish Presidency was also instrumental in raising migration and asylum issues within the enlargement agenda of the Western Balkans. In March 2001, the Presidency organized a meeting in Sarajevo, which adopted a declaration stating the need to focus on asylum capacity building in the region (UNHCR, 2002).

Following the events of 11 September 2001, the EC’s focus shifted to the fight against terrorism. However, the subsequent Belgian Presidency warned that too many repressive measures would lead the EC to neglect addressing the main roots of migration and refugee flows (UNHCR, 2002).

In the EC Staff Working Paper, “Albania: Stabilization and Association Report of 2002, the reviewers credit the Albanian Government for its handling of the Kosovo conflict and its aftermath:

Albania has been constructive in response to the recent political crisis in the former Yugoslav Republic of Macedonia and Kosovo. All this relative progress has brought Albania to the threshold of negotiating a Stabilization and Association Agreement (SAA) with the EU (EC, 2002a:1).

At the same time, the SAP requires a “sustained reform effort by Albania” and a “strengthening of its administrative capacity”. It also requires that the Government deal with one of the key areas cited for reform, identified as “widespread corruption and organized crime, particularly illegal trafficking of all types”.

In the wake of 11 September 2001 and other terrorist threats, the EC was increasingly concerned about Albania’s capacity for border management. JHA identified control and cooperation as one of five priority areas in the review. Over the next 12 months, the SAP required Albania to enhance efforts to combat trafficking, strengthen border management (including both green and blue borders) and control migratory flows from and through Albania. As one European Parliament official recently commented (Boges, interview 2005), the EC has made the signing of an SAA and continuing
development assistance conditional on evidence of Albania’s willingness to stem migration into the EC (whether of Albanians or of TCNs). The official suggested that the EC would be willing to provide additional support to Albania if there was visible progress in this regard.

Notably, the SAP report (EC, 2002a) called on Albania to conclude and implement RAs covering TCNs and stateless persons. The report acknowledged concerns about Albania’s capacity to implement existing agreements (e.g., with Belgium, Italy, Switzerland, etc.). It further bemoaned inadequate media coverage and a politicization of EU events and issues. One of its recommendations was to provide journalists and opinion makers with information on the EU’s values, principles, objectives, activities, and functions (ibid.:33). Unfortunately, this recommendation was not followed in the subsequent negotiations on the EC Albania Readmission Agreement, which received very little coverage or attention in the popular press.25

In May 2003, the Commission opened formal negotiations on readmission with Albania (and transmitted draft texts to both the Albanian and Turkish authorities). At Thessaloniki in June 2003, the Council discussed control of irregular migration and trafficking throughout the region (particularly Bosnia and Kosovo) as pre-requisites for visa and trade liberalization. The Thessaloniki Council meeting, following the earlier conclusions of the Copenhagen Council in December 2002, confirmed its “European perspective” for the region (EC, 2005a). The Thessaloniki meeting held out the prospect of joining the EU to the Western Balkan countries through the approximation process. This promise was a significant incentive for Albania in the readmission negotiations.

As the negotiators later observed, Turkey and Albania had an incentive to negotiate RAs, as EC candidate countries (particularly Turkey with the possibility of accession). With both countries, the EC negotiating team expected to demonstrate results (Paalman, interview, 2005). The Turkish negotiating team, however, argued that the RA would come into force automatically on Turkey’s entry into the EU and was therefore unnecessary. It tied its signature of the RA to completion of the accession process: as the EC chief negotiator later observed, the Turkish delegation were difficult negotiators. The EC then focused on obtaining an agreement with Albania (Paalman, interview, 2005).

The RA negotiations with Albania did not explicitly address how people would be returned and how their returns would be sustained over time. Rather they focused on definitions of who should be returned, on methods of verifications, on provision of documents for persons to be returned, and the time required for the return process. There is little evidence that the negotiations took into account Albania’s or previous EC countries’ experiences in implementing existing RAs. Implementation issues were left for later discussion on the implementation protocols.26

The key negotiating points were the time period for entry into force of the clause on TCNs and stateless persons, visa facilitation, and re-admission of persons returned in error. The EC refused to accept the Albanian proposal for a two-year or longer delay in implementing the clause relating to TCNs and stateless persons and also rejected the Albanian proposal for a 21-day, rather than a 14-day, period for verifying the person’s qualification for readmission (i.e., nationality or evidence of passage through Albania before entering the EC). The EC further denied the Government’s request that the RA take effect at the same time as the SAA. The EC team pointed out that, while they had the power to conclude the RA in consultation with the European Parliament, the SAA would have to be ratified by all member state parliaments.

The EC negotiating team rejected all the Albanian delegation’s requests except for the provision to take back those sent in error, which was in fact legally required under the treaty. The delegation made no promises regarding visa facilitation.27 In contrast to RAs negotiated with other countries by the EC, visa facilitation was not tied directly into the RA negotiations with Albania.28 Explaining why
these discussions were later undertaken during the RA negotiations with Russia, Turkey, Morocco and Pakistan, the EC’s Chief Negotiator observed that these countries were “tough negotiators” who are very comfortable negotiating in English and know all the legal intricacies (Paalman, interview, 2005). All four countries explicitly linked visa facilitation and economic support to signing a RA. The EC has recently concluded negotiations, but not yet signed a RA, with Russia, during which Russia agreed to readmit only TCNs and stateless persons from countries with which they will negotiate, or have already negotiated, a forward readmission agreement.

According to several EC staff, the Commission’s objective in setting a two-year time limit for the TCN clause was intended to pressure Albania to control its own borders (Boges, Paalman and Rubmold, interviews, 2005). The RA negotiations paralleled the SAA negotiations and involved many of the same negotiators. Thus, the EC saw Albania’s signing of a RA as evidence of the government’s good faith for implementing the reform programme spelled out in the SAP (Boges, Lefevre, Paalman, interviews, 2005).

After three rounds of technical negotiations during 2002-2003, the European Council and the Albanian Government initialled the RA in Brussels in December 2003. The EC signed it in April 2004. According to Article 300 of the Amsterdam Treaty, the Council was only required to consult with Parliament and did not have to obtain a co-decision from the European Parliament in order to sign the agreement. In any case, consultation with the European Parliament did not generate any controversy. There was almost no discussion of the matter as EP members voted 47 to 0 in favour of the agreement.

The readmission clauses and practices require full application of EC rules without providing Albania with membership or de facto reciprocity. In July 2005, Albania elected a new government, who inherited the RA signed by the previous administration. The Albanian Parliament expects to ratify the Agreement in 2006. Meanwhile, the EC negotiating team on RAs has also changed. The new EC team is now focusing on obtaining agreements with Russia, Turkey, China, and Morocco. In the future, they expect to open negotiations with Bosnia-Herzegovina, Moldova, Former Yugoslav Republic of Macedonia (FYROM), Serbia and Croatia (Paalman, interview, 2005).

I.4. EC Assistance for Readmission and Reform

Development and economic assistance flows reflect changing EC priorities with regard to Albania since the transition to the present time. From 1991-1998, the EC provided €733 million primarily for economic and social support for the transition. The Joint Recovery Scheme with the World Bank, IMF, and EBRD focused on public administrative reform, infrastructure, agriculture and local community development. From 1997-1998, the PHARE programme (B7-500) provided €113 million for economic development related to the transition and in 1999, another €56.5 million (including €42.5 million in national funding and €14 million for cross-border operations with Greece and Turkey). The PHARE programme, while focusing on transitional priorities, increasingly included JHA priorities and support for elements of the HLWG Action Plan. This support included border strengthening and management. Humanitarian assistance, provided through ECHO funding beginning in 1997, reached over than €100 million in 1999. During this period, food aid, critical in a post-crisis situation, was also provided under B7-700.

Since the end of 2000, Albania has received EU funding under budget line B7-667 and under its successor, the AENEAS Programme (HLWG, 2003). To implement the Action Plan, the B7-667 budget line provided €10 million in 2001, €12.5 million in 2002, and €20 million in 2003, specifically for migration management and to combat “illegal migration and trafficking in human beings”. Of the €13 million allocated in 2003, some €7 million was allocated to Afghanistan.
In terms of specific funding for Albania, HLWG provided funding to implement return and reintegration programmes in 2001, and the following year, further funding for the NGO sector for counselling on reintegration and legal matters, and for the creation of a liaison network in Albania and the region. In 2002, HLWG identified four priorities:

- implementing action plans;
- funding for the Afghanistan programme;
- addressing the structural features of development;
- testing pilot projects.

In its call for Proposals in 2003, HLWG prioritized cooperation with third countries in the area of migration, including migration management, international protection in third countries, and combat of illegal migration.

In Albania, HLWG funding has been allocated to creating a RA structure including:

- organization of detention facilities for TCNs;
- capacity building for the Ministry of Interior (formerly Public Order) on understanding and implementing the agreement;
- research on readmission and best practices’ lessons on the agreement (the current study);
- equipment and training for managing irregular migration flows and permitting asylum decisions at Albania’s border.

For the period 2004-2008, some €250 million has been earmarked under the AENEAS programme (due to be implemented in 2006) for financial and technical assistance to third countries in migration and asylum. The Guidelines for grant applications in the 2004 Call for Proposals under this budget line prioritize:

- legal migration;
- legislation and national strategies;
- the fight against illegal migration and smuggling;
- readmission.

In 2004, as one of four countries that signed a RA with the EC, Albania was allocated €2 million for readmission programmes. The new AENEAS guidelines also call for targeted reintegration assistance, including training and capacity building, and for encouraging diaspora links and investments (EC, 2004b).

The Community Assistance for Reconstruction, Development and Stabilization (CARDS) Programme was developed to implement the SAP and to provide both country-specific and regional assistance. For the period 2001-2003, the CARDS programme for Albania totalled €129 million and concentrated on JHA and administrative reforms. An evaluation of the CARDS programme in May 2004 noted that, from 2001 to 2003, only 27.4 per cent of the funds had been contracted, although by January 2005 some €72 million (60%) had been tendered for 35 major projects. The evaluation, noting the government’s limited capacity to absorb funding, urged the Ministry of Integration and other relevant ministries to hasten project development. CARDS allocated €44.2 million in 2005 and €45.5 million in 2006 to Albania. From 2005, CARDS’ new priorities, however, represent a significant shift in focus towards political and economic stabilization, including:

- democratic stabilization;
- good governance and institution building;
economic and social development; and
opening of community programmes (€0.5m.).

These new priorities focus less on migration control and more on strengthening Albania’s institutions and economy. When recommending CARDS’ new funding levels for Albania, the EC advised:

Whilst Albania can be credited with its general constructive role in the region, the reduction of trafficking over the Adriatic and the initialing of a Community Readmission Agreement, results in key areas, such as the fight against corruption and organized crime, and the reform of the judicial system and public administration, have fallen short of expectations. (EC, 2005b)

Regional CARDS priorities primarily address border control issues. For the period 2000-2006, CARDS has provided some €5 billion in assistance to the region. Since 1992 (see Table I.3), CARDS has provided €1 billion in macro-financial assistance, of which Albania received €25 million.33 Of this latter sum, €9 million was allocated in loans and the remaining €16 million in grant funding. The 2005 Annual Action Plan for regional CARDS funding of €40.4 million prioritizes:

- institution building;
- JHA, given the transnational nature of organized crime (e.g., funding for the SECI centre);
- cross-border cooperation;
- private sector development;
- infrastructure development.

Again, the regional evaluation notes delays in contracting and argues for greater stakeholder participation in the proposal process.

### Table I.3: Regional CARDS Funding (in €m)

<table>
<thead>
<tr>
<th>Year</th>
<th>Allocated</th>
<th>Contracted</th>
<th>Expended</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>43.5</td>
<td>40.9</td>
<td>19.3</td>
</tr>
<tr>
<td>2003</td>
<td>31.5</td>
<td>20.95</td>
<td>8.13</td>
</tr>
<tr>
<td>2004</td>
<td>15</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Data obtained from europa_Regional_AP_2005_en.pdf

For the period 2008-2013, the European Parliament and Council have established the European Return Fund as part of the Solidarity and Management of Migration Flows Programme (EC, 2005e). Another €1,200 million will be available from the Fund, to help member states implement asylum procedures and voluntary returns (including reintegration assistance). This funding is primarily intended to facilitate burden-sharing between member states and to help Lithuania and other new Baltic members secure their borders.

The latest country funding provided by CARDS is intended to strengthen Albania’s economic and political stability and to support the reform process. Such an approach is potentially more prevention- than deterrent-focused. Provisions of the new AENEAS funding that concentrate on reintegration assistance could help to lessen migration flows. While the EC sees the accession process as a “catalyst for change”, many EC staff members privately admit that Albania is far from being considered for accession. Thus, migration management support still largely focuses on deterring migrants from entering the EU and on supporting forced return modalities.
I.5. Reflections on Implementation: Findings and Recommendations

I.5.1. Findings

Increasingly, the EC seeks to address asylum and migration claims at the border and to prevent further large inflows of irregular migrants (even though individual countries continue to attract irregular temporary and seasonal labour). The EC’s efforts to manage irregular migration have led to treating Albania as a critical actor-in-the chain and to developing friendly neighbour relationships.

The EC’s assistance strategy has likewise evolved from providing economic support for Albania’s transition to a regional Western Balkans’ approach that regards Albania as a key migration-sending and transit country. Economic assistance is therefore increasingly made conditional on Albania’s efforts to manage emigration and to control its own borders as part of a larger regional reform and stabilization programme. At the same time, the EC increasingly recognizes that helping Albania to institute economic and political reforms is also critical to controlling migration flows. The EC uses approximation as an incentive to encourage a reform programme in line with its own policies and legislation. For the EC’s constituencies, linking migration and development concerns has become increasingly important for further involvement in the Western Balkans generally. Symbolically and practically, the EC sees the RA as a critical first step in initiating a SAP with Albania.

The SAP itself requires a very ambitious political, administrative and economic reform process leading to approximate EU accession. Albania, in effect, is being asked to:

- reach EU standards of governance, judicial procedure and law;
- develop an open, competitive market economy;
- address problems of corruption, smuggling, and trafficking by protecting its own borders.

By asking Albania to sign a RA to readmit and detain TCNs, the EC placed new demands on Albania and its migration system. To demonstrate its commitment to the EU approximation process, Albania signed the agreement without much discussion or delay.

By signing the current RA, the EC expects that the new government in Albania will honour the agreement and understandings of its predecessor. Further progress on the SAP requires that Albania implements the RA and agrees to:

- ratify and implement all aspects of the RA;
- take back its citizens, and TCNs and stateless persons who transited through Albania;
- negotiate RAs with neighbouring states and third countries;
- tighten visa restrictions, strengthen border management, and address asylum claims at the gate;
- institute anti-corruption measures and prosecutions against traffickers and smugglers;
- provide secure detention facilities for TCNs;
- encourage assisted voluntary returns (AVRs) and reintegration of returnees;
- develop greater financial transparency and encourage public investments of remittance flows;
- sign and implement the SAA in early 2006.

Some of the problems that the RA is intended to solve are precisely what make its implementation so problematic. “Compulsory readmission”, in particular, is intended to counter trafficking and smuggling into the European Community (EC, 2004b). The assumption is that, if persons smuggled or trafficked are returned quickly, clients of traffickers and smugglers will be less likely to use their
services. Evidence from the Italian programme suggests that such enforcement may at least initially depress demand. Recent border controls and enforcement have shut down a popular trafficking and smuggling route across the Adriatic Sea between Albania and Italy. However, traffickers and smugglers subsequently found other routes through Macedonia, Montenegro, and overland north through Croatia.

Forced returns may also enhance these businesses in destination countries. Albanians may increasingly turn to traffickers and smugglers to obtain false documents and move to avoid being returned out of the Community (observation of SECI official, May 2005). To date, there has been no evaluation of the impact of either bilateral or EC-wide RAs on smuggling and trafficking operations. The assumption that “compulsory readmission” will diminish these operations therefore remains to be proven.

Externally, the RA is intended to assist, or pressure, Albania to control its own borders. If Turks, Iranians, Kurds or Chinese, for example, pass through Albania into Western Europe, then they will be returned to Albania. It will then become Albania’s responsibility to send them home. Albania therefore has some incentive to align its visa requirements with those of the EU. Without a series of its own RAs with third countries, however, Albania will eventually have to detain TCNs or risk becoming a re-transit point for TCN returnees seeking to re-enter the EC. Of most concern is that the EC countries will use Albania as a place to off-load TCNs that they themselves cannot easily or do not want to return to countries of origin. Although EC officials emphatically state that they will continue to prioritize returning TCNs to their countries of origin, the EC’s own difficulties in obtaining RAs, with Turkey and Pakistan for example, may lead to Albania becoming an alternative destination. The EC is currently funding detention facilities for that purpose. Migration officials themselves warn that, with increasing pressure to expel irregular migrants from the Community, that there is a real risk of a “readmission trap” developing in Albania.

As part of the economic benefits, the RA is expected to reverse the so-called “brain drain” (loss of skilled labour) which is affecting the country’s human capital and long-term development. However, one of the incentives accompanying the RA is the liberalization of visas for skilled labour migration. Such a move will mean that Albania may continue to lose the skilled labour it most needs. Another immediate concern is the effect that this agreement could have on remittances, which provide an important social safety net for Albanian families. Strict enforcement of migration controls could also reverse efforts to redirect remittances through official channels and investments for the public good.

Finally, if the RA is not well implemented and/or enforced, its failures could adversely affect the integrity of state institutions and systems. The concessions already made by Albania’s negotiating team on the admission of TCNs may reflect one local official’s concern that “There is a serious lack of leaders with long-term thinking.” Coordinating the different institutions to implement this agreement will require extensive inter-ministerial and local co-operation. Rama, the current mayor of Tirana, observes that: “Unfortunately, getting institutions to work with one another is the hardest work you can imagine”.

If the EC is committed to the SAP as a mechanism to bring about stability in the region, related agreements need to be evaluated according to whether they strengthen Albania politically and economically. In development terms, issues of institutional capacity, cost, feasibility and sustainability are critical in the timing and application of a RA. All of these considerations suggest that this RA has potential consequences that neither the EC nor Albania could foresee or address during the negotiations. It would be ironic if implementation of the RA weakens Albania’s candidacy for eventual EU membership by threatening the country’s already tenuous economic and political progress.
I.5.2. Recommendations

Given the EC’s difficulties in controlling its own borders and obtaining further RAs, the EC/Albania agreement requires a long-term commitment, cooperation, and willingness on both sides for its implementation. For the EC, this requires a fairly substantial commitment of technical, personnel and financial assistance to Albania. Within the EC, this will require improving data and information collection and sharing on irregular migration flows and cases in EU member states. The EC will also need to build relationships with Albanian consular offices to develop data and information systems and return procedures.

In order to maintain its own standards of asylum and in light of its regional asylum strategy, the EC will need to help Albania build the institutional, legal and administrative capacity to address asylum claims, according to international human rights’ standards. EC member states should respect the principle and continue their practice of sending TCNs back to their countries of origin. To do otherwise risks creating a “readmission trap” resulting, over the long term, in potentially unlawful and inhumane detentions in a transit country and violations of migrants’ human rights. Further, RAs need to be generalized internationally instead of focusing on only those countries willing to sign an agreement. In the immediate future, the EC should conclude RAs with key origin states and consider representing Albania’s interests in these negotiations.

The EC’s Hague Programme for Justice and Home Affairs linked RAs to visa facilitation for countries signing such agreements. Although no such conditionality was established during the signing of this agreement, Albanian negotiators hoped that the EC would positively consider its request to open negotiations on facilitation before the end of 2005. If visa facilitation is offered to other states signing EC agreements, Albania should be afforded the same respect and treatment.

The EC should also consider providing information about RAs and its own migration requirements to its constituencies to inform the current debates in its member states. In addition, there needs to be greater media awareness in both EC member states and Albania on technical migration matters, including RA negotiations and their potential consequences. It is not sufficient to inform a few government officials; civil society and the public also need to know what this agreement means for them. Generating public discussion and debate about the RA is important for ensuring that people understand and are willing to implement what governments negotiate on their behalf.

Readmission agreements are not meant to function solely as instruments for forcible returns and deportations. Forced returns with proper legal and administrative safeguards are required when people who do not have a lawful right to remain are unwilling to leave. However, both voluntary and spontaneous returns should be prioritized as the most cost effective readmission mechanisms. A migrant who decides to return voluntarily is likely to be willing to accept the consequences of the decision and to make the effort to sustain the return. Spontaneous returns do not involve any cost to governments or to the EU and most reflect individual volition and responsibility. For reasons of cost and sustainability, the EC should prioritize policies and programmes that encourage spontaneous and assisted voluntary returns over forced returns in implementing readmission agreements.

In implementing the RA, both the EC and Albania need to sustain returns through reintegration assistance and by encouraging viable social networks for returnees (Coslovi and Piperno 2005). The initial implementation of HLWG’s “root causes approach” focused on restricting migration at any cost, rather than addressing the underlying conditions, which propel people to leave or to stay (Gent, 2005). Providing different legal migration streams, economic/diaspora investments, and reintegration support is likely in the long run to create a positive image and culture of return. In contrast, returns, which are currently treated as shameful failures, come at high personal and
social cost. Targeted support for livelihood strategies (particularly in rural areas) is necessary to sustain returns and also to offset potential losses from remittances, which are so critical for Albania families (Carletto et al, 2004; World Bank, 2004). Encouraging public investments through long-term diaspora communities may also help to offset private losses in household income. Over time, remittances are likely to decline as the second and third generations become better established in the destination countries. Encouraging diaspora support for Albania may help to dispel negative images in the press of both countries about migrants and benefit both the home and diaspora communities.

Legal, temporary seasonal and circular migration and guest worker schemes benefit both countries needing labour (e.g. Greece and Italy) and Albania. Legal labour migration schemes have at best a limited effect on reducing illegal migration (Ministry of Foreign Affairs (The Netherlands), 2004). However, Government labour offices and employment agencies in both Albania and its key sending countries could develop common educational and work exchanges to benefit both countries. By using such exchanges to address the human resource requirements of both countries, these programmes may have a positive impact on both migration and development (ibid.). Visa regimes should not just benefit small businesses, government or sports stars, but should facilitate movements of all Albanians who have valid and legal reasons for short-term stays.

Negotiating, signing and ratifying the RA is only a beginning. Implementing and making the agreement work requires sustained effort and cooperation. In negotiating the RA concurrently with the SAA, the EC in effect recognizes the need for a broader reform agenda requiring both continued EC financial and Albanian Government commitment to sustain. Current EC funding, which focuses on sustaining returns, promoting livelihood strategies in rural areas, and strengthening Albania’s economy and political institutions, may ultimately be more sustainable and cost effective. By investing in a comprehensive ‘migration for development’ strategy, the EC will help to prevent new migrations and remigration. For both the EC and Albania, economic and security considerations go hand and hand and their interests are served by implementing the SAP and achieving the objectives required for approximation. In the area of readmission agreements, migration management is not just about controlling Albania’s borders but also about creating the conditions that attract human capital and resources to Albania and sustain returns.
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ENDNOTES

1 The negotiation for a readmission agreement is an obligation under Article 80 of the SAA even though the RA is treated as a separate agreement (Kuko, n.d.: 10). The EU first set out the SAP in its Conclusion of the General Affairs Council in April 1997, which was then established in a Commission Communication of May 1999. The SAA negotiations opened in 2003 (www.delalb.cec.eu.int) and by 2004, nine rounds of negotiations had been concluded covering all substantive areas (EC, 2004c). The SAA with Albania was signed on 12 June 2006.
2 The rationale given was to allow the new Albanian Government (elected in July 2005) time to determine its position on the SAP and the EC time to assess the political stability and position of the new Government. The Commission signed on behalf of the European Union.
3 Since 1996, a readmission clause was inserted into an agreement with Croatia and is part of the SAP with Croatia and Macedonia (Inter-institutional File: 2001/0049 (ACV), pp. 70-71), although the third country national provisions are still to be determined.
4 The SAA negotiations began on 5 February, 2003. With other countries in the Western Balkans, readmission provisions have been included in the SAA discussions directly but have not been treated as a condition per se.
5 Since 1996, a readmission clause was inserted into an agreement with Croatia and is part of the SAP with Croatia and Macedonia (Inter-institutional File: 2001/0049 (ACV), pp. 70-71), although the third country national provisions are still to be determined.
6 For example, RAs could expedite the obtaining of valid travel documents which, as Arn and Laubacher-Kubat (2004:33) observe, is one of the “biggest obstacles” in preparing a smooth assisted voluntary return.
7 Normally, the Benelux countries negotiate these agreements as a group and each of the three countries has a group of states with whom they negotiate. Belgium had Albania but the Netherlands and Luxembourg elected not to sign this agreement since it did not contain a third country national clause.
8 Title IV of the TEC is not applicable to the UK or Ireland unless they decide otherwise, which has been the case for the RAs. It is also not applicable to Denmark, which prefers to determine its own migration policies (EC, 2001c:4).
9 In September 2000, the EC was given the mandate to negotiate RAs with Morocco, Sri Lanka, Russia and Pakistan; in 2001, with Hong Kong and Macao; 2002, with Ukraine, and in 2002, with Albania, Algeria, Turkey and China. Albania’s distinction of being included in the first set of negotiations may have been largely due to its flows of “migrants” rather than of “refugees”.
10 This shift in focus to migration control is surprising in that the original action plans were conceived as development tools primarily for countries in conflict.
11 Denmark, which has opted out from all JHA/JLS issues, is not a signatory to the Albania or any other RA.
This common migration policy provided €25m in ARGO funding for 2002-2006 to facilitate member state cooperation with regard to external borders, visas, and asylum and migration procedures (EC, 2006), replacing the earlier Odysseus Programme, which had financed training exchanges and cooperation from 1998-2002 (EC, 2001c).

Irena Omenialuk, an IOM official who testified at a subsequent hearing on the Green Paper, suggested that its scope was too narrow in focusing only on illegal residents.

For a substantive analysis of the economic benefits, see Glover et al. (2001).

This observation is based on informal communications with immigration officials in France, UK, the Netherlands, and Belgium and on my own observations as IOM Chief of Mission in Bosnia-Herzegovina (2000-2002) for one of the largest return programmes in Europe at the time.

Eurostat assumptions of moderate immigration indicate that the EU-25 working age population will fall from 303 million at present to 280 million by 2030; the population aged 80 years and over are projected to increase from 16 million in 2000 to 30 million in 2030 (EC, 2003b).

Such careful and individual considerations could change rapidly with a major epidemic, such as avian flu.

In principle, the UN Convention on the Protection of All Migrant Workers protects the fundamental human rights of migrant workers and their families, whether in a regular or irregular situation (IOM Tirana, 2004:78).

As the rioting in France and terrorist acts in London in 2005 have shown, the lack of integration has been expressed most concretely.

A Taylor Nelson Sofres opinion poll finds that support for the EU across all states has plunged from 52% to 46%. The poll was taken in November 2005 but the article does not specify the time period during which this fall occurred (i.e., how frequently such polls are conducted). The reasons cited by respondents included few benefits from the euro and concerns about unemployment (Nelson, 2005).

For 2007-2013, the Commission has proposed a new “European Fund for the Integration of Third County Nationals” based on “common basic principles” of social inclusion. The programme recognizes the amount of resources, types of long-term interventions, and funding that it will take, on a domestic level, to integrate outsiders. It is likely that reintegration programmes for returnees to third countries will have equal, if not greater, resource requirements (particularly in states with weak infrastructure).

Following the publicized death of the Nigerian Semira Adamu (22 September 1998), the Belgian Government commissioned an investigation to provide recommendations on forced return practices (République de Belge, 2005). The UK also commissioned an evaluation of its forced return program but the scope of the audit was limited to an analysis of time and cost effectiveness rather than a review of return practices in terms of human rights (UK, 2005).

Warn (personal communication, 2005) argues, however, that Italy did not want to be the lead partner with Albania, which led to a significant delay in starting a National Action Plan.

As observed by a researcher in Tirana, May 2005.

See Proposal for a Council Decision (EC, 2004a), which provides an explanatory memorandum for the political and legal framework and outcome of the negotiations.

These priorities initially identified by the Troika Mission were spelled out in HWLG’s 2002 report and maintained in its 2003 and subsequent reports.

De Bruycker (2005) argues that negotiation of the RA was a missed opportunity for visa facilitation and that, if Albania were to implement its commitments seriously, the EU should show “real’ partnership” by offering some kind of visa facilitation. Our interviews with the current negotiating team, however, suggest that this concession is not likely to be offered after the fact, even though it may arise in negotiations with other states.

This reading of the outcome comes from discussions in Brussels but since these meetings...
were held in 2005, interpretations of the outcome by either side are obviously rooted in differing “ethnographic presents”.

30 For AENEAS data, see EC (2004e).
31 CARDS was established under Council Regulation in 2000 (EC, 2000a).
32 These data come from reports found on europa.eu.in/comm./enlargement/cards/pdf/publications.
33 Data obtained from EC (2005b).
34 SECI officer, personal communication (2005); MILS (2005).
35 The EC in effect is asking Albania to take on the burden of addressing asylum claims at Albania’s rather than the EC’s border (even though TCNs are trying to enter the EC, not Albania) and to enforce the EC’s black list of countries by detaining rather than honouring earlier visas granted to third country nationals.
36 This was very much the same strategy used by the Australian Government in Nauru in the detention of Afghan and Iraqi asylum seekers, which has resulted in serious abuses of human rights and erosion of asylum rights (Gordon, 2005).
37 As quoted by Woodard (2005:3).
38 In October 2003, the Italian Government urged the EU to follow the Italian practice of offering legal migration slots in exchange for cooperation from emigration countries to reduce irregular migration. They cited their success in this strategy with Albania in particular, offering temporary work visas in exchange for clamping down on irregular movements. Several EU commissioners endorsed this approach (University of California, 2003).
39 According to the World Bank (2004:63), “Remittances from Albanians living abroad have supported macroeconomic stability and stimulated economic growth.” The report argues that remittances have offset the lack of lending from the banking section and sustained the standard of living. Remittances currently constitute more than 60% on average of the trade balance.
II.1. Research Purpose, Methodology and Implementation

Belgium is an important transit country for Albanian immigration into England, and one of the countries with the largest Assisted Voluntary Return (AVR) programme to Albania. This chapter will reveal the current state of readmission policy and return practices between Belgium and Albania, monitor and track the current number of readmitted Albanian nationals, and develop an analysis on which to make recommendations for future implementation of the EC Readmission Agreement.

The research was conducted mainly through desktop work in Belgium, facilitated by communication with IOM’s mission in Belgium, Belgian/EU institutions, and other bodies involved in the migration process, and through interviews with persons selected for the relevance of their role within the parameters of the research (see Appendix 2).

The report begins with a survey of the historical background to Albanian immigration in Belgium and its main patterns and the readmission agreement between Belgium and Albania, together with the legal framework (both European and Belgian) on readmission. It then profiles Albanian immigration in Belgium and its distribution (Section 2), outlines the relevant institutions involved in the Belgian repatriation process, and describes the practices of return, its operational steps, costs, and effectiveness (Section 3). A last section summarizes the findings of the research, and the following recommendations (Section 4).

II.2. Historical and Legal Basis

II.2.1. Patterns of Albanian immigration in Belgium

Albanian immigration in Belgium has followed the same pattern for Albanian immigration in Europe, and can be traced back, in its recent forms, to the years following the end of WWII. Until the 1990s, the various phases of Albanian immigration to Belgium were characterized by the small numbers involved, their political character (principally flight from Hoxha’s regime), and the quest for refugee status.

Following the fall of the Berlin Wall, the opening of Albania’s borders, and the Yugoslavian wars in the early 1990s, a sharp increase in volume transformed Albanian emigration into a mass phenomenon. After 1990, Albanian immigration to Belgium comprises four distinct waves (see Table II.1):

- 1991-1992: a first immigration wave triggered by the situation of extreme political volatility, social strife, and economic hardship;
- 1992-1996: a tendency to apply for short stay permits, aimed at a quick return, leading to constant growth in the number of immigrants and of asylum applications;
• 1996–1997: asylum applications by Albanians more than doubled;
• 1998-2002: following the collapse of the pyramid scheme in 1997, Albanian asylum applications and of returns peaked.

### Table II.1: New Asylum Applications by Albanians

<table>
<thead>
<tr>
<th>Year</th>
<th>Applications</th>
<th>% of total applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>93</td>
<td>n.a.</td>
</tr>
<tr>
<td>1993</td>
<td>210</td>
<td>n.a.</td>
</tr>
<tr>
<td>1994</td>
<td>177</td>
<td>n.a.</td>
</tr>
<tr>
<td>1995</td>
<td>228</td>
<td>n.a.</td>
</tr>
<tr>
<td>1996</td>
<td>402</td>
<td>n.a.</td>
</tr>
<tr>
<td>1997</td>
<td>1,007</td>
<td>n.a.</td>
</tr>
<tr>
<td>1998</td>
<td>1,147</td>
<td>n.a.</td>
</tr>
<tr>
<td>1999</td>
<td>1,010</td>
<td>2.8</td>
</tr>
<tr>
<td>2000</td>
<td>2,674</td>
<td>6.4</td>
</tr>
<tr>
<td>2001</td>
<td>763</td>
<td>3.2</td>
</tr>
<tr>
<td>2002</td>
<td>539</td>
<td>2.9</td>
</tr>
<tr>
<td>2003</td>
<td>340</td>
<td>2.1</td>
</tr>
<tr>
<td>2004</td>
<td>255</td>
<td>1.7</td>
</tr>
<tr>
<td>End of May 2005</td>
<td>69</td>
<td></td>
</tr>
</tbody>
</table>

*Source: IO; Vatz Laroussi and Manço (2002); CGRA (2004).*

### II.2.2. The Bilateral Readmission Agreement between Belgium and Albania (BRABA)

The Belgian authorities apply their readmission policy in three different ways: under the Dublin Convention, under bilateral agreements between countries sharing common borders and under readmission agreements signed with third parties.2

Since the 1960s, Belgium has developed a legal framework on readmission. The Benelux Convention of 11 April 1960 requires that any agreement on people’s movement is negotiated on behalf of Benelux by one of the three state-members, provided that there is a mutual interest amongst the three states (Benelux, 1960). Each Benelux country is in charge of specific negotiations: Belgium is responsible for negotiating with Moldavia, the Netherlands with Albania, and Luxembourg with Hungary. The Benelux Readmission Agreements (BRAs) are based on a standard model, and apply only to forcefully repatriated immigrants (including third country nationals (TCNs)).3 Readmission agreements are purely technical agreements and are, until the present time, “not automatically linked to other economic or financial agreements, which should be negotiated separately” (interview with Conard, 2005). It is likely that such agreements could only be used to provide incentives for states to readmit their own citizens, but not to sanction those unwilling to do so (Arn, personal communication, 2005).

The Bilateral Readmission Agreement between Belgium and Albania (BRABA), as promulgated in the Act of 14 July 2004, applies to the nationals of both states and, as such, is an exception to the Benelux rule. Immigrants from Eastern Europe generally transit through the Benelux countries
in order to enter other Member States. Since the Benelux countries regard Albania as one of the important transit countries for TCNs, the Netherlands and Luxembourg argued that any readmission agreement with Albania needed to include readmission of TCNs and saw no point in signing an agreement that did not include this provision. However, the Belgian government, as part of its overall strategy to reduce illegal immigration in 2000-2003, was willing to negotiate a readmission agreement with Albania, even without this provision.

In general, readmission depends on the goodwill and positive diplomatic relations between the governments involved in the process (as, for example, between Italy and Albania). Even though Belgium and Albania enjoy very good diplomatic relations and have established good collaboration at an informal level, Belgium insisted on negotiating BRABA since the agreement clarifies and sets out each party’s responsibilities with regard to forced returns. The Belgian Government believed that, even without a clause on readmission of TCNs, the agreement provides a guarantee for enforcement of the removal of illegal Albanian immigrants.

Other reasons for negotiating this agreement were smuggling and trafficking of human beings by Albanians and their criminal networks affecting Belgium, as well as the high number of asylum requests in 2000-2003 (see Table II.1 above). In 2000-2001, the Belgian Government, in response to the growth in these activities, sent one of its immigration liaison officers to Albania to collaborate with local authorities and establish future cooperation in fighting Albanian illegal migration and implementing measures against the influx of illegal migrants into Belgium. Concrete measures proposed included the mobilization of Albanian authorities, such as the Ministry of the Interior and the police (anti-trafficking unit), investigations of cases involving asylum seekers and minors, and prevention campaigns (Verstraete, interview, 2005).

Today, the removal of illegal immigrants in a “humane, dignified manner” has become a Belgian political priority (Arn and Vandercam, personal communications, 2005). Forced repatriation and removal is used for returning rejected asylum seekers, illegal workers, public order cases (i.e., criminals), and those marrying for migration purposes (mariage blanc). Depending on the priorities of the Ministries of Foreign Affairs and the Interior and of the Immigration Office (IO), targets for return (based on different national groups engaged in different activities, such as prostitution or smuggling) may change from month to month. Belgian government currently aims to increase the number of removals in 2006, both as proof of the effectiveness of its strategy for combating irregular migration, and as a signal to dissuade future migrants. Decisions to remove are expected to be based on sound evidence and executed effectively. Accordingly, the government has authorized resources to meet these new objectives and increased the budget for these activities from approximately €10 million in 2005 to a projected €13 million in 2006 (for an expected increase in the number of removals and in fuel costs).

II.2.3. Legal Framework

The EC-Albania Readmission Agreement (ECRA) entered into force on 1 May 2006. The implementation protocol for the Benelux countries was negotiated by the Netherlands and signed by the Benelux countries in La Haye on 9 June 2005. According to Article 20 of the ECRA, the provisions of this agreement take precedence over the provisions of BRABA.

At a national level, forced return is regulated under Belgian law by the Law of 15 December 1980 and the Royal Decree of 8 October 1981. The Law defines illegal entry, visa regimes, residence permits and detention in closed centres and specifies reasons for removal and the appeals process, while the Royal Decree relates to modalities of access to Belgian territory, defines a set of rules for certain categories of aliens, and specifies procedures for appeal.
The national legislation governing readmission between Belgium and Albania is established in the Law of 14 July 2004 and incorporates the Readmission Agreement and Implementing Protocol signed in Tirana on 17 April 2004.

Both ECRA and BRABA set out reciprocal obligations and rapid and effective procedures for the identification and repatriation of persons who do not, or no longer, fulfil the conditions for entry, residence or presence (though the term ‘presence’ is not included in BRABA) on the territories of contracting parties. In order to insure implementation of both readmission agreements, the contracting parties concluded implementing protocols dealing with practical details, such as competent authorities and return modalities.8

Table II.2: Comparison of BRABA and ECRA

<table>
<thead>
<tr>
<th>ECRA</th>
<th>BRABA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reciprocal readmission obligations</strong></td>
<td><strong>(ECRA Articles 2 to 5, article 22.3, and BRABA Article 2)</strong></td>
</tr>
<tr>
<td>ECRA covers own nationals, third-country nationals, and stateless persons. However, ECRA states that readmission of third-country nationals and stateless persons shall enter into force two years after the date of this ECRA enters into force (EC, 2005).9 Readmission of third country nationals and stateless persons concerns: 1. any person who holds, or at the time of entry held, a valid visa or residence authorization of the requested state, or 2. any person who has entered the territory of the requesting state unlawfully, directly from the territory of the requested state. Readmission does not concern: 1. third-country nationals and stateless persons in airport transit, or 2. all third-country nationals and stateless persons to whom the requesting state has issued a visa or residence authorization with a longer period of validity. In case two or more member states issued a visa or residence authorization, ECRA specifies criteria for determining the member state responsible for readmission.</td>
<td>BRABA covers own nationals only.</td>
</tr>
</tbody>
</table>
### Travel documents

(ECRA Articles 2.2, 3.3, 4.2 and 5.4, article 4 of the Protocol and its annex 3 and 4, BRABA Article 2.2 and article 3.2 of the Protocol)

<table>
<thead>
<tr>
<th>The travel document will be issued, without delay, by respectively Albania or the concerned member state for the return of the person whose readmission has been accepted. Its period of validity is at least 6 months.</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the travel document has not been issued by Albania within 14 calendar days, Albania is deemed to accept the use of the EU standard travel document for expulsion purposes. If the travel document has not been issued by the requested Member State within 14 calendar days, it is deemed to accept the use of the Albanian certificate for expulsion purposes</td>
</tr>
<tr>
<td>No reference is made to the failure to deliver a travel document.</td>
</tr>
</tbody>
</table>

### Readmission procedures

(ECRA Articles 6 to 11, and the Protocol Articles 2 to 5 and annexes 1 to 5, BRABA Articles 2 to 5 and articles 1, 2, 4, 5 of the Protocol)

<table>
<thead>
<tr>
<th>Application for readmission must be submitted within a maximum of one year. The reply must be made “without undue delay, and in any event within a maximum of 14 calendar days” and “if there was no reply within this time limit, the transfer shall be deemed to have been agreed to” (EU, 2005). Concerning readmission: “After agreement has been given or, […], after expiry of the 14 calendar day time limit, the person concerned shall be transferred without undue delay and, at the most, within 3 months.”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application for readmission is made when identity and nationality of the person to be readmitted are proved or validly presumed. The time limit for replying to the readmission application is a maximum of five days. However, Article2.2 of the Protocol refers only to a positive or negative answer; and does not consider the possibility of the lack of reply. Concerning readmission, this must be performed without delay, with a maximum of 1 month.</td>
</tr>
<tr>
<td>In both agreements, this time limit may be extended to deal with legal or practical obstacles.</td>
</tr>
</tbody>
</table>

### Transit

(ECRA Article 13 and BRABA Article 7)

<table>
<thead>
<tr>
<th>These articles lay down 1. prerequisites for the transit of TCNs and stateless persons (although stateless persons are not mentioned in BRABA) who cannot be returned directly to the state of final destination; and 2. circumstances in which a transit can be refused or revoked.</th>
</tr>
</thead>
<tbody>
<tr>
<td>No transit procedure is detailed, except, as in ECRA, exempting the person to be readmitted from having to obtain airport transit visa.</td>
</tr>
</tbody>
</table>

### Costs, Data protection, Non-affection clause

(ECRA Articles 15 to 17 and BRABA Articles 8, 9, and 11)

| These articles contain almost identical provisions concerning costs (to be borne by the requesting party), data protection and non-affection of other international rights and obligations applicable to the parties. |
II.3. Profile of Albanian Immigration in Belgium

The main difficulty in profiling Albanian immigration in Belgium is the lack of any systematic and reliable research, mostly due to problems of communication and bureaucratic complexity within the relevant Belgian institutions. During an interview at the Belgian IO, it was explained that it was extremely difficult to obtain even estimates of approximate figures based on police reports on illegal immigrants, due to the low level of communication between the police and IO and to the lack of systematic and objective procedures for collecting, processing, and transmitting data in police offices (Conard, interview, 2005).

Because of the multiple and diverse origins of migratory streams, and their irregular nature, it is difficult to obtain a complete picture of Albanian immigration and almost impossible to provide reliable statistics (IOM, 2004a; IOM, 2004b). The only existing publication on the sociological and demographic structure of the Albanian community in Belgium confirms the impossibility of identifying specific national groups and prefers to analyze the “albanophone” group (Vatz Laaroussi and Manço, 2002). The use of “albanophone”, instead of the more precise (and much less inclusive) “Albanian”, to categorize these migrants is preferred by both Belgian researchers and the media as it better describes a complex community sharing the same ethnic sentiment, but with diverse cultural, historical, and economic backgrounds and geographic areas of origin.

The strong Albanian ethnic identity in large areas of Kosovo, FYROM, and Montenegro further complicates the collection of illegal immigration data, because immigrants from these regions often state their nationality as Albanian. In addition, as noted in various anecdotal reports, Albanians pretended to be ethnic Albanian Kosovars during the Kosovo (Serbia and Montenegro) conflict, in order to increase their chances of obtaining asylum. The exact scale of this aspect of the migration in Belgium is unknown (IOM, 2004a).

II.3.1. Profile of Immigration from Albania to Belgium

A first estimation for the 1960s approximated the number of Albanians living in Belgium to 1,000, concentrated mainly in Brussels, in Schaerbeek, and Anderlecht. According to the Belgian National Institute of Statistics (INS), there were 59 Albanians in Belgium in 1991, and 430 in 2000. In 2002, Albanians living in Belgium are estimated around 630 (Vatz Laaroussi and Manço, 2002).13

In 2000, Albanophones in Belgium were estimated at around 35,000-36,000. Among those, there are 610 Albanians who entered Belgium from the 1950s and 1970s (or their descendants), and 7,218 refugees from Albania who entered Belgium after 1987 (Table II.3) (Vatz Laaroussi, and Manço 2002).

<table>
<thead>
<tr>
<th>Table II.3: Albanians in Belgium</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Persons of Albanian nationality listed on a municipality register</td>
</tr>
<tr>
<td>Persons of Albanian origin, with refugee status, listed on a municipality register</td>
</tr>
<tr>
<td>Asylum seekers of Albanian nationality, residing in a Belgian municipality, listed on the temporary register (Régistre d’attente)</td>
</tr>
<tr>
<td>TOTAL</td>
</tr>
</tbody>
</table>

Source: De Wever (interview)
The number of Albanian asylum requests constantly augmented until year 2000, when it started a
dramatic decrease (see Table II.1 above). According to the IO, this fall in asylum applications is due
to the following factors (Conard, interview 2005):

- with the entry into force in 2001 of new asylum regulations, asylum seekers in the admissibility
  stage of the procedure receive, in principle, material assistance but no financial support.
- the introduction of the LIFO process (last in-first out), which concerns the order in which
  asylum requests are reviewed, has led to a more efficient and rapid procedure (approximately
  2 months).
- when an asylum request is introduced, finger prints are taken and listed in a European file
called Eurodac. Thus, asylum seekers can be identified throughout Europe, making their
return more difficult. This has in some cases led to migrants preferring to remain illegal and
and to request asylum only once intercepted or when placed in a closed centre.
- the Commissariat Général aux Réfugiés et Apatrides (CGRA)'s improved knowledge of the
  political and human rights situation in Albania, due, amongst other reasons, to the presence
  of a Belgian liaison officer in Albania.
- the improved economic situation in Albania.

Until the 1990s, Albanian immigration in Belgium was highly politicized. Belgium hosted the main
political organizations of the Albanian Diaspora and was considered, by both Yugoslavia and
Albania, one of the countries where the Albanian Diaspora was the most politically aggressive
against the regimes at home (Gjeloshaj, 2004).

As Albanian identity is cultural, linguistic, and historical rather than political, the albanophone
community in Belgium, in order to maintain its identity as Albanian, tends to be endogamous,
and to recreate Albanian traditional social patterns and structures (such as the division in clans),
thus generating a strong community-based solidarity (Gjeloshaj, 2004). Religious identity also
has an important role in fostering community cohesion. Muslims represent 4 per cent of the
population, and the Albanian community is the third largest Islamic community in Belgium, after
North Africans and Turks. An Albanian mosque was opened in the central Rue Rogier in Brussels
(Sula, 2004).

Albanian irregular immigration appears to be mainly young and male, and more often resident for
a medium-length period of time (35.4% from 1 to 5 years, 47.76% for 5 to 10 years, IOM, 2004a).
Roughly two-thirds of the Albanian population in Belgium is equally divided between the 19-29
and 30-39 age groups (Vatz Laaroussi and Manço, 2002; IOM, 2004a). In 2001, the average
age for male Albanians migrants was 30.6 years (Belgian Immigration Liaison Officer, 2001).
However, with the exception of refugees (again, mainly young and male) and irregular migrants
(77.9% of whom are male, IOM, 2004a), regular albanophone immigration in Belgium presents a
balanced gender ratio: 50 per cent are men and 50 per cent women (Vatz Laaroussi and Manço,
2002).

According to the results of the last available survey (INS, 2001), 50 per cent of male immigrants
and the majority of women (86.2%) are married and 38.3 per cent of Albanian immigrants to
Belgium have children, 61.8 per cent have secondary education; 4.4 per cent primary; 17.6 per
cent vocational training; 14.7 per cent a university level background. 33.8 per cent worked less
than 1 year; 29.4 per cent one to 5 years; 7.4 per cent for 5 to 10 years. Furthermore, 17.6 per
cent do not speak any of the host country’s language (French, Flemish or German); 55.9 per
cent have a basic level of knowledge; 20.66 per cent speak well; 5.9 per cent speak fluently
(IOM, 2004a). It is estimated that Albanophone children attend school at the same proportions in
Wallonie-Brussels as Francophone children (Vatz Laaroussi and Manço, 2002).
II.3.2. Distribution in Belgium

The majority of Albanians live in large cities such as Brussels, Antwerpen and Liège where jobs on the black market and diaspora connections can easily be found (see Table II.4 and Chart II.1).

Although no institution collects data on the ethnic distribution of professional activity in Belgium, the Association of the Diaspora, and other Albanian associations have indicated that Albanian immigrants find an occupation mainly in the construction and catering sectors.

Table II.4: Distribution of Albanians in Belgium (as at 20 June 2005)

<table>
<thead>
<tr>
<th>City of Residence in Belgium</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antwerpen</td>
<td>592</td>
</tr>
<tr>
<td>Brabant Wallon</td>
<td>60</td>
</tr>
<tr>
<td>Bruxelles</td>
<td>1,806</td>
</tr>
<tr>
<td>Hainaut</td>
<td>182</td>
</tr>
<tr>
<td>Liège</td>
<td>490</td>
</tr>
<tr>
<td>Limburg</td>
<td>148</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>82</td>
</tr>
<tr>
<td>Namur</td>
<td>133</td>
</tr>
<tr>
<td>Oost-Vlaanderen</td>
<td>467</td>
</tr>
<tr>
<td>Vlaams-Brabant</td>
<td>340</td>
</tr>
<tr>
<td>West-Vlaanderen</td>
<td>296</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4,596</strong></td>
</tr>
</tbody>
</table>

Source: IO

Chart II.1: Distribution map of Albanians in Belgium
II.4. Practices of Return

II.4.1. Refoulement

The border control authorities may refuse an alien entry into Belgian territory at the border (refouler), but such refusal comes under the provisions listed in Article 3 of the Immigration Act (IA). If the alien does not hold the required documents, it is the federal police at the border\textsuperscript{16} that decides whether the person has the right to be admitted and subsequent informs IO of its decision. For all other cases specified in IA Article 3, it is IO that determines the person’s right to enter the country. According to the Chicago Convention, the flight carrier transporting people who are not admitted is responsible for their return. While awaiting their return, these persons are held temporarily in the airport police office, or in the INAD Centre, a closed centre created in 1995 specifically for this purpose.

II.4.2. Removal

Once illegal immigrants are on Belgian territory, they can be removed if they meet the conditions listed in IA Articles 7 and 27. The Minister of Interior (or IO, as the Minister’s delegate) may issue an order to leave the territory through a Removal/Return Decision (RRD). Article 7 specifies that the alien must leave within a set period of time or be immediately returned to the border, while Article 27 indicates that a person having disobeyed a RRD (either within or outside the time limit) should be removed. Article 7 lists the following reasons for giving aliens an RRD:

- lack of a valid passport with, where appropriate, a valid visa or a valid resident permit from another Schengen State;
- presence in Belgium beyond the limit fixed by IA Article 6, or lack of proof that this deadline has not expired;\textsuperscript{17}
- behaviour considered a threat to public order or national security;
- presence considered as a threat to Belgium’s international relations or to another state participating in an international agreement that commits Belgium to protect the crossing of its external borders (e.g., Schengen states);\textsuperscript{18}
- existing file on the SIS system created by Belgium or another Schengen Partner State;
- no legal source of income and insufficient living resources (calculated at €50 per day, guaranteed in cash, by credit cards, with a bank deposit or by a Belgian citizen and/or a foreigner with an unlimited residence permit);
- risk to public health (disease or disability);\textsuperscript{19}
- illegal employment;
- a ban on entry issued by Ministerial or Royal Decree in the past ten years, not subject to suspension or cancellation (such decrees can be issued for reasons of public order or national security).\textsuperscript{20}

In addition, this Article specifies that, where either Belgium or another state is responsible for removal under international treaty or agreement, then that state must carry out the removal. This requirement is in line with the Dublin Agreement which assigns responsibility for asylum and failed asylum claims.

II.4.3. Return modalities

All services in charge of controlling people (federal and local police, social and labour inspection authorities, customs, municipalities and cities, and IO’s judicial section) may proceed, at any time,
with an interception. Whenever the interception is performed by services other than the police, the police must be notified immediately by fax. If the intercepted person appears to be an illegal immigrant, the police will contact IO and the Prosecutor. IO’s Direction des Eloignements is charged, on behalf of the Minister of the Interior, with the task of implementing forced returns in cooperation, while the police carry out the removals.

First, however, the Prosecutor must decide whether the person should be prosecuted. In the event of prosecution and detention, IO’s decision to return is suspended until the immigrant has completed his/her period of detention. Thus, a person may be prosecuted and detained for a crime committed in Belgium, before any decision about his/her immigration status is made. If the person is not prosecuted, or prosecuted but not detained, IO checks whether the person has a record. At this stage, together with the Minister of the Interior, the IO has the authority to issue an order to leave the territory (RRD) immediately or within a set time period (normally five days, but this may vary on a case-by-case basis). Such decisions are treated as purely administrative and are based on one of the removal reasons cited above.

After receiving the RRD from IO, the immigrant may opt for a safe and dignified voluntary return to his/her country with or without IOM assistance. If the illegal immigrant does not comply with the RRD, s/he is liable to be (re)apprehended and forcibly returned. IO may also impose an immediate forced return in order to ensure the departure of illegal immigrants. As outlined below, there are separate procedures for forced and voluntary returns, since the latter are not covered by readmission agreements.

II.4.4. Forced Returns

Operational procedures of forced returns (see Appendix 1)

In cases of forced return, IO should submit a readmission request to the Albanian diplomatic representative in Brussels, in accordance with BRABA (Art. 4). According to the BRABA protocol (Art.1), “a readmission request must be made when identity and nationality of the person to be readmitted are proved or validly presumed”, but Belgium does not always apply this provision in cases involving Albanians. Usually, IO will contact the Albanian diplomatic representative in Brussels to verify or confirm the Albanian origin of the immigrant to be repatriated, process the readmission request, and deliver the “laissez-passer” (Arn, interview, 2005). The Albanian diplomatic representative in Brussels has a maximum of five days to reply to such requests. However, if IO is convinced of the immigrant’s Albanian nationality, it will not wait for an answer and will merely inform the Albanian diplomatic representative in Brussels about the readmission decision. IO will then automatically issue an EU travel document (Arn and Conard, interviews, 2005). In BRABA Article 2.2 and Article 3.2 of the BRABA protocol, there is no reference to the EU travel document, but this type of travel document is commonly used for citizens of countries, such as Albania, which accept its use. As IO stressed, this proceeding reflects a gentleman’s agreement between IO and the Albanian diplomatic representative in Brussels.

Forced returns to Albania are mainly performed by plane using commercial flights, and the returnee is either escorted by police officers, or unaccompanied. On the first removal attempt, IO always prefers not to provide an escort, unless the returnee is considered to be a threat to public order, national security, or safety of the flight. If the person is recalcitrant (20% of all forced returns), s/he will be escorted, in principle still on a commercial flight. If commercial flights are not possible for whatever reason (fully booked, flight unavailable, unwilling crew…), removal by special flight (vols sécurisés) may be organized (Table II.5). These flights are leased from the National Defence and require escort police officers and medical assistance. IO will also organize any other assistance (psychological, interpreter, etc.).
Table II.5: Forced Returns using Special Flights

<table>
<thead>
<tr>
<th>Date</th>
<th>Persons repatriated (carrier)</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 August 2001</td>
<td>26 (Airbus)</td>
</tr>
<tr>
<td>4 December 2003</td>
<td>7 (Embraer)</td>
</tr>
<tr>
<td>9 March 2004</td>
<td>23 (Airbus)</td>
</tr>
<tr>
<td>4 June 2004</td>
<td>12 (Boeing)</td>
</tr>
<tr>
<td>25 October 2004</td>
<td>5 (3 from Belgium, 2 from Luxembourg)</td>
</tr>
<tr>
<td>30 November 2004</td>
<td>4</td>
</tr>
</tbody>
</table>

After ascertaining the immigrant’s nationality or origin, IO, in cooperation with the federal airport police, proceeds to make a flight reservation for the returnee and then issues an indictment, together with the instructions and modalities of return, to the police and to the illegal immigrant. The police then transfer the returnee to a closed area within the airport, where s/he is taken in charge by the federal police (Section des Éloignements). Where the immigrant is returning unescorted on a commercial flight, identification and travel documents are given to the Pilot in Command, who transfer them to the Albanian authorities upon arrival. This ensures that the returnee does not destroy the records.

IO may, at any stage of the return procedure, order the placement of an illegal immigrant in a closed centre, without any previous judicial procedure, in the following situations:

- risk of absconding, danger to public order, or national security;
- lack of valid documentation during the identification phase;
- unavailability of flights;
- violent behaviour.

The immigrant can be kept in detention in a closed centre for an initial period of up to two months, but this can be extended by the Minister of the Interior or IO for another two months and by the Minister of the Interior for another month. The maximum detention period amounts to five months, after which the detainee must be released. However, the period of five months may be further extended, month-by-month, for up to eight months if the detainee represents a danger to public order or national security. After expiration of the maximum eight-month detention period, detainees who cannot be removed must be released with an order to leave Belgian territory.

The legality of detention may be subject to review by the Council Chamber of the Correctional Court, which must hand down its decision within five working days from the date of appeal, after hearing the submissions of the immigrant or his counsel and the opinion of the King’s Prosecutor. Should the Council Chamber fail to deliver a decision within this period, the detainee will be released. If it decides that detention of the illegal migrant should not continue, s/he will be released once the decision is made final. To prevent risk of absconding, the Minister of the Interior may assign foreign nationals to a compulsory residence until they can be returned or until a decision has been taken regarding the review request (IA Arts.71, 72, and 73).

Costs and effectiveness of forced returns

According to IO, it is impossible to determine the exact cost of forced returns, which include several factors: detention of the returnee, period of detention in a closed centre, and elements specific to each return. Using commercial flights is cheaper than arranging special flights, but prices vary according to the season and the need to include an escort or medical assistance. Special flights are estimated at about €2,000 per flight hour (Conard, interview, 2005).
After receiving a RRD, the illegal immigrant may abscond if not placed in a closed centre. The police and IO do not always have the means to ensure implementation of the return process. Nevertheless, forced return procedures to Albania appear to be effective, even though the RA is not applied literally. The mutual cooperation and willingness to resolve documentation problems through a gentleman’s agreement, established between the two countries, has contributed to the RA’s effectiveness, thanks to the good diplomatic relations between the two countries. Although such return procedures may appear improvised, they are apparently highly efficient in facilitating forced returns, which is one of Belgian Government’s political priorities. Nevertheless, any change in consular staff in Brussels could jeopardize such an agreement, in which case BRABA, and later ECRA, will probably be applied to the letter (Arn, personal communication, 2005).

According to IO officers, the return process will not be unduly affected by the entry into force of ECRA, or Albania’s application of the readmission clause relating to TCNs. However, Belgian observers agree that there is a danger of a “readmission trap” (i.e., that TCNs will find themselves stranded in the region, due to Albania’s lack of RAs with third countries and insufficient resources for implementation). They fear that this will inevitably encourage irregular migrants to make their way back to the EU.

Belgium’s approach to repatriations is to return illegal immigrants to their country of origin, in line with the EU Directive. Whenever Belgium lacks a readmission agreement with the country of a TCN, it can make use of ECRA provisions to return them to Albania. However, Belgium will have to prove, or at least assume, that such persons hold or at the time of entry held a valid visa or resident authorization issued by Albania or that the TCN entered Belgian territory after having stayed in, or transited through, Albanian territory (ECRA, Art.3.1). Since it is difficult to obtain such proof, Belgian officials prefer to operate on a case-by-case basis. Belgium has signed a readmission agreement that contains a third country clause with Poland. At the time of writing, IO officials report that this clause has never been used by Belgium to force Poland to readmit TCNs. They state that returns of TCNs to Albania will also be analyzed on a case-by-case basis.

Table II.6 Interceptions of Albanians

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of interceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>494</td>
</tr>
<tr>
<td>2004</td>
<td>488</td>
</tr>
<tr>
<td>End of April 2005</td>
<td>39</td>
</tr>
</tbody>
</table>

Source: IO

In recent years, the number of forced returns of Albanians has decreased (see Table II.7 and Chart II.2). This may be explained by the drop in asylum requests mentioned earlier, by the increase of voluntary returns (see Table II.10), or by an increase in regularizations through obtaining Belgian nationality or residence permits, which allows travel without restrictions between Albania and Belgium.

Table II.7: Forced returns of illegal Albanians from Belgium

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of forced returns</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>729</td>
</tr>
<tr>
<td>2003</td>
<td>480</td>
</tr>
<tr>
<td></td>
<td>337 immediate returns</td>
</tr>
<tr>
<td></td>
<td>143 after detention (including 68 asylum seekers)</td>
</tr>
</tbody>
</table>
Vulnerable groups

This category mainly includes unaccompanied minors and victims of trafficking. In principle, these persons will not be removed nor placed in closed centres: unaccompanied minors will be taken in charge by a tutor from the Ministry of Justice’s Service de Tutelle. Victims of trafficking, once identified as such by the police, are given protection and may be regularized.

II.4.5. Voluntary returns

In addition to voluntary returns organized and managed by returning migrants themselves, the Return and Emigration of Asylum-Seekers from Belgium (REAB) programme has been “assisting stranded migrants to return voluntarily to their home countries,” since 1984 (IOM, 2005:7). This programme is organized by IOM in co-operation with a network of over 50 operational partners, including NGOs, governmental and public institutions, and local authorities (see Table II.8). Thanks to the size of the network, migrants can easily access the programme, at any stage during their stay in Belgium, through a partner located near their place of residence and according to the component most appropriate to their situation.

The REAB programme is “based on an agreement with the Federal Public Service for Social Integration and in cooperation with the Federal Public Service for Interior as well as the Federal Public Service for Foreign Affairs, including the Ministry for Development and Cooperation” (IOM, 2005:21). The programme is supervised by the Federal Public Service for Social Integration and funded on a yearly basis by the Ministry of Social Integration. For 2005, the budget was set at €3.8 million.)
Table II.8: Partner Institutions Responsible for Voluntary Return

<table>
<thead>
<tr>
<th>NETWORK OF PARTNERS - INFORMATION</th>
<th>NETWORK OF PARTNERS – REGISTRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>NGOs</td>
<td>NGOs</td>
</tr>
<tr>
<td>Fedasil and Federal Centres for Asylum Seekers in the Procedure</td>
<td>IOM Office</td>
</tr>
<tr>
<td>Federal Centres for Illegals</td>
<td>Federal Centres for Asylum Seekers in the Procedure</td>
</tr>
<tr>
<td>Red Cross Centres for Asylum Seekers in the Procedure</td>
<td>Federal Centres for Illegals</td>
</tr>
<tr>
<td>Municipalities and Cities</td>
<td>Red Cross Centres for Asylum Seekers in the Procedure</td>
</tr>
<tr>
<td>Social Services in each Municipality</td>
<td>Regional Coordinator for the Asylum Seekers in the Flemish area</td>
</tr>
<tr>
<td>Police</td>
<td>Regional Coordinator for the Asylum Seekers in the French area</td>
</tr>
<tr>
<td>Embassies</td>
<td>Fedasil</td>
</tr>
<tr>
<td>Lawyers</td>
<td>Social Services in each Municipality</td>
</tr>
<tr>
<td>Hospitals</td>
<td></td>
</tr>
<tr>
<td>Diaspora (clubs, associations, etc.)</td>
<td></td>
</tr>
<tr>
<td>Immigration Office</td>
<td></td>
</tr>
<tr>
<td>Commissariat General—CGRA—(deciding on asylum requests)</td>
<td></td>
</tr>
<tr>
<td>Ministry of Foreign Affairs</td>
<td></td>
</tr>
<tr>
<td>Ministry for Social Integration</td>
<td></td>
</tr>
<tr>
<td>Ministry for Interior</td>
<td></td>
</tr>
<tr>
<td>Regional Coordinator for the Asylum Seekers in the Flemish area</td>
<td></td>
</tr>
<tr>
<td>Regional Coordinator for the Asylum Seekers in the French area</td>
<td></td>
</tr>
<tr>
<td>State Secretariat for Development and Cooperation</td>
<td></td>
</tr>
</tbody>
</table>

Source: REAB General Overview

Operational procedures

Persons who are eligible for the REAB programme are:

- asylum seekers who have withdrawn their application or whose application has been rejected;
- stranded migrants (excluding refugees and EU or Schengen area citizens) who are destitute or depend on assistance from the Belgian public authorities.
At any stage of their stay, on delivery of an RRD, or even while detained in a closed centre, immigrants can contact IOM or one of its partners and make a request to join the REAB programme. At the same time, returnees or IOM must inform IO which will check that there is no fundamental reason (danger to public order or national security, risk to public health…) which could prevent a voluntary return. Applications for voluntary returns under the REAB programme are managed by IOM, even where the actual return and direct contact are handled by another partner.\textsuperscript{34} In 2004, IOM’s Brussels Office calculated that, on average, it took 20 days, from completion of the file to departure. Under the REAB programme, returnees must sign a declaration that they will not return to Belgium for a period of 5 years.

Table II.9: Returns per Type of Partner, 2004

<table>
<thead>
<tr>
<th>Type of Partner</th>
<th>Returnees</th>
<th>Returns %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Centres</td>
<td>409</td>
<td>12.0</td>
</tr>
<tr>
<td>NGO’s + Cities</td>
<td>2,598</td>
<td>79.0</td>
</tr>
<tr>
<td>Red Cross</td>
<td>232</td>
<td>7.0</td>
</tr>
<tr>
<td>IOM</td>
<td>36</td>
<td>1.0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>3,275</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: IOM (2005:49)

The following services offered under the REAB programme:

- pre-departure assistance: information and counselling;
- transport assistance: transport, documents, formalities, luggage and airport assistance, onward transportation in the countries of origin;
- financial assistance: basic lump sum allowance of €250 per adult/between €25 and €125 per child depending on age;
- medical and/or non-medical assistance;
- post-return assistance.

Costs and effectiveness of voluntary returns

According to estimates by IOM’s Brussels office, returns under the REAB programme in 2005 cost approximately to €1,200 per person (including all administrative and organizational expenses), approximately one-tenth the expenses for a forced return.

Belgium and other states increasingly see voluntary returns and assisted voluntary returns as the preferred option, as they have proved to make more effective use of financial and human resources and to improve the relationships between all parties involved.

Although voluntary returns appear to be more effective and the numbers have increased steadily (see Table II.10), a comparison of voluntary and forced returns’ ratio (Chart II.3) indicates that forced returns still constitute the vast majority of returns (85-90%). According to officials in IOM’s Brussels office, this can be explained by the inclusion of a number of cases of several re-entries by the same person in a single year. Also, it must be noted that few immigrants in closed centres apply to AVR programmes, despite IOM’s information campaigns within the closed centres. More regular efforts should perhaps be made on promoting the AVR programme in closed centres.
Table II.10: Total voluntary returns (Balkan region)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>28</td>
<td>20</td>
<td>57</td>
<td>61</td>
<td>51</td>
<td>34</td>
<td>80</td>
<td>153</td>
<td>107</td>
<td>83</td>
<td>36</td>
<td>30</td>
</tr>
<tr>
<td>Bosnia-Herzegovina</td>
<td>0</td>
<td>3</td>
<td>60</td>
<td>67</td>
<td>32</td>
<td>10</td>
<td>7</td>
<td>79</td>
<td>63</td>
<td>64</td>
<td>54</td>
<td>25</td>
</tr>
<tr>
<td>Croatia</td>
<td>4</td>
<td>11</td>
<td>8</td>
<td>9</td>
<td>2</td>
<td>1</td>
<td>4</td>
<td>6</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>FYROM</td>
<td>123</td>
<td>438</td>
<td>386</td>
<td>107</td>
<td>16</td>
<td>15</td>
<td>15</td>
<td>14</td>
<td>37</td>
<td>35</td>
<td>72</td>
<td>25</td>
</tr>
<tr>
<td>Kosovo</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>557</td>
<td>711</td>
<td>134</td>
<td>193</td>
<td>129</td>
<td>136</td>
</tr>
<tr>
<td>Serbia-Montenegro</td>
<td>6</td>
<td>9</td>
<td>30</td>
<td>51</td>
<td>7</td>
<td>0</td>
<td>8</td>
<td>9</td>
<td>20</td>
<td>49</td>
<td>34</td>
<td>11</td>
</tr>
<tr>
<td>Slovenia</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>2155</td>
<td>2477</td>
<td>2537</td>
<td>2293</td>
<td>2106</td>
<td>2616</td>
<td>3182</td>
<td>3545</td>
<td>3221</td>
<td>2814</td>
<td>3275</td>
<td></td>
</tr>
</tbody>
</table>

Source: IOM (2005: interpolation of Annex 8, 74-78)

Chart II.3: Voluntary vs. Forced Returns Ratio

<table>
<thead>
<tr>
<th>Year</th>
<th>Forced returns %</th>
<th>Voluntary returns %</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>87.2</td>
<td>12.8</td>
</tr>
<tr>
<td>2003</td>
<td>85.2</td>
<td>14.8</td>
</tr>
<tr>
<td>2004</td>
<td>90.2</td>
<td>9.8</td>
</tr>
<tr>
<td>2005</td>
<td>78.7</td>
<td>21.3</td>
</tr>
</tbody>
</table>


II.4.6. Impact on Belgian public opinion

In Belgium, immigration issues, especially as they relate to economic and public order policy, rank high in the political debate. But as in other countries, Belgian media tend to focus on crimes committed by illegal immigrants and their illicit activities.37

Although Belgian public opinion seems to be attentive and concerned about the immigration phenomenon as a whole, Belgians seem to have limited knowledge of national legislation or of details of governmental policy on immigration (such as negotiation of readmission agreements). The press does not discuss the RAs or specific problems relating to Albanian immigration and removal (though it must be noted that, to date, the level of Albanian immigration in Belgium is very small compared to Greece and, more recently, Italy). Whenever Albanian immigration is specifically addressed, the focus is on countries with high immigration rates and experiencing spectacular events relating to immigration.
The powerful extreme Flemish right party, Vlaams Belang (formerly Vlaams Blok), provides a significant exception to this pattern. While the other political parties see immigration regulation and integration as the only viable solution, Vlaams Belang take a position of radical refusal and uses anti-immigration rhetoric as an instrument of political conflict.

II.5. Gaps and Recommendations

II.5.1. Organizational

Need for a centralized database
Since every authority connected with migration seems to keep its own statistics (sometimes, presenting important discrepancies), a centralized and regularly updated database on migration will greatly contribute to improving, simplifying, and providing real time information on the migration phenomenon. This is essential for a successful migration management.

Communication and coordination
Communication and coordination between the various entities involved in returns seems insufficient, at certain levels, and therefore creates an obstacle to humane, smooth-running and effective work:

- Whenever IO or IOM refuse a return on a voluntary basis, the illegal immigrant is not always informed about the reason of the refusal. Where the immigrant is held in a closed detention centre, reasons for refusal should always be communicated to the social assistant and subsequently to the immigrant.
- Local Belgian authorities (i.e. police, CPAS) must ensure that steps are taken by an illegal immigrant deciding to return on a voluntary basis. Otherwise, IO should be informed in order to proceed with removal.
- Asylum applicants should receive better information on procedures and on the risks they could face, if their application is rejected.
- In order to facilitate integrated returns, it is recommended that the exchange of information, between relevant institutions and bodies be improved, both in Belgium and Albania (through greater involvement of the Albanian Diplomatic Representative in Brussels, NGOs, Diaspora, etc…).

Disaggregate statistical analysis
Among the impediments to this research was the lack of homogeneous and disaggregate statistical analysis, with specific data on nationality, age and status, type of return etc. Although general data on immigration is available, there are too few detailed figures for analyzing the situation in Belgium.

II.5.2. Human aspects

1. Instead of fixing a standard allowance, IOM should establish allowances which take into account the cost of transportation, for example from the airport to the residence of the returnee.

2. Closed centres
   • Since illegal immigrants may stay in closed centres for periods longer that those specified in the IA (in some cases, exceeding two years), the law should therefore be amended to fill this gap.
• Before releasing a non-removable illegal immigrant from a closed centre because expiration of time limits, it is necessary to strengthen the contacts between the immigrant and social assistants whether working in closed centres or with IOM or its partners). This would prevent the immigrant being left in a desperate situation.
• Although in theory closed centres are not prisons, illegal immigrants are being placed in conditions similar to those of inmates (e.g. two hours per day for walking outdoors).
• To minimize violent behaviour, better information on the process of return and improved social and psychological preparation of the returnee are essential. Regular training of employees in closed centres should also be considered (communication, familiarization with different ethnical cultures and religions).
• It is essential to improve closed centres’ infrastructures, especially for reception of families with children, including dignified spaces, new material, etc.
• Given that few immigrants in closed centres apply to participate in AVR programmes, despite efforts by IOM, additional information on these programmes must be provided in the closed centres on a regular basis.

3. Strengthening the team of female personal will ensure better respect of personal and family needs.

4. As asylum procedures can take some time, it may be difficult, especially for families with children, to leave the Belgian territory after a long stay and a long integration. This is another reason for shortening the length of asylum procedure.

II.5.3. Prevention

• There is currently no informational and educational work with the Albanian community in Belgium to reinforce the campaign held in Albania against illegal immigration.
• Many illegal Albanians work in the construction and catering sectors, where improvements can be made in the number and the effectiveness of inspections by Social Service and Labour authorities.
• Better reintegration in Albania of legal temporary migrants requires the development of training programmes in Belgium.
• As the Belgian school system is an important pull factor, it would be of interest to develop joint activities by the Ministries of Education of both countries: training of teachers, or visiting programmes for students.
• It is necessary to broaden reintegration services to guarantee permanent returns. Where illegal migrants are forced to return, reintegration may fail and they may seek to come back if there is no investment in reintegration in Albania.

II.6. Conclusions

Due to Belgium’s and Albania’s willingness to cooperate on migration issues, the effectiveness of return and readmission is well established. Thanks to the current good diplomatic relations, a gentleman’s agreement between the two countries allows them to go beyond arrangements established in the readmission agreement and facilitates the implementation of return procedures. Although these procedures may appear improvised, they work efficiently in facilitating specific cases of forced returns, which are one of Belgian Government’s political priorities.

Entry into force of ECRA and application by Albania of the readmission clause relating to TCNs will probably not affect the return process, since Belgian officers working in the field have indicated their
intention to maintain current procedures of return. Negotiation of the RA therefore appears to have more important implications at the political level than on administrative or operational matters.

Nonetheless, Belgian observers agree on the danger of a “readmission trap”, where TCNs find themselves stranded due to Albania’s lack of RAs with third countries, and of insufficient resources for implementation. They fear that this will inevitably create pressure on irregular migrants to make their way back to the EU.

In line with the EU directive, Belgium’s policy focuses on the return of illegal immigrants to their country of origin. However, if there is no RA with the country of a third national coming from Albania, Belgium could use the ECRA to return illegal immigrants to Albania. At the time of writing, IO officials report that Belgium has never used the TCN clause to force a third country to readmit its nationals and that returns of TCNs to Albania will be analyzed on a case-to-case basis.
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Van der Pol

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Fernand Arn, Attaché at IO Brussels, Expert national.
C. Conard, Conseiller at IO Brussels, Direction des Eloiements.
Carla Debecker, Director of Closed Centre 127/bis.
Paula De Groot, Benelux Secretariat.
Louisa De Wever, National Register, Belgium.
Anne Dussart, Head of Social Services, Caritas International, Belgium.
Kolë Gjeloshaj, Scientific Collaborator, CRITEME/GASSPECO, Sociology Institute, Free University of Brussels.
Julian Ismaili, Board of Directors, Albanian Muslim Association.
Isabelle Lamin, Social Assistant at Closed Centre 127/bis.
Pascal Reyntjens, Regional Liaison & Coordination Office, European Union.
Martin Schieffer, Asile and Immigration Unit, General Directorate, Justice & Home Affairs, European Commission.
Sula Selvi, Student.
Sakip Skepi, Journalist, Balkan Radio in Brussels.
Tony Vandeneste, Federal Police.
Paul Emmanuel Vandercam, CPRR Permanent Commission on the Return of Refugees.
Bart Verstraete, Attaché at IO Brussels.
Appendix II.1: Operational Procedures for Forced Returns

Refoulement

Social and Labor Authorities
Costums
Municipalities and Cities
Judicial Section of the Immigration Office
[...]

POLICE

Judicial route

Administrative route

Prosecution

Minister of Interior

IO

RRD

Forced Return

Albania Diplomatic
Representation
Embassy/Consulate

Airport Federal Police

Closed Zone

Voluntary

Spontaneous

IOM + PARTNERS

Closed Center

Albania Diplomatic
Representation
Embassy/Consulate

Open Zone

Commercial Flight

Secured Flight

Commercial Flight
Appendix II.2: List of Institutions and Private Organizations Contacted for this Research

- **Belgian Government**
  - General Directorate of the Office for Foreigners
  - Ministry of Foreign Affairs
  - General Commissariat for Refugees and Stateless People
  - Permanent Commission for Return of Refugees (CPPR)
  - Police and Detention Centres

- **International Organizations**
  - International Organization for Migration (IOM), Belgium,
  - Centre for European Policy Studies (CEPS)
  - Embassy of the Republic of Albania,

- **Civil Society**
  - Amnesty International
  - Caritas
  - Association Culturelle Euro-Belge-Albanaise “Mère Tereza”
  - Centre Bruxellois d’Action Interculturelle
  - Centre d’Egalité des chances, Pagasa
  - Fondation Roi Baudouin
ENDNOTES

1 The first group of Albanian immigrants (a convoy of 150-200 refugees from Gerovo’s military camp in Croatia) arrived in Andenne in 1956.

2 The Dublin Convention addresses the responsibility of the relevant EU member state for processing an asylum request. For example, if Belgium can prove, through the Eurodac system, that an asylum request has already been made in France, Belgium can ask France to handle readmission of this person.

3 Voluntary returns are not taken into consideration.

4 In the opinion of Belgian officers working in the readmission process, Albania was, and still is, “a country which agrees to readmit its citizens without complicating the procedures” (Conard, Debecker, Lamin, and Verstraete, interviews, 2005).

5 During 2000-2003, the average rate of submission of asylum requests reached 80 per month.

6 Total removals amount to 6,616 in 2004 and to 5,364 from January to September 2005.


8 The Protocol, like the Agreement, was based on a standard model and was negotiated by the Netherlands (which acts on behalf of the Benelux countries for any agreement with Albania). In order to maintain good diplomatic relations with Albania, the Benelux countries did not want to act differently from other EU countries and used the standard model.

9 The high level of TCNs transiting Albania because of smuggling or trafficking of foreigners or women has induced Albania to negotiate this gap period. In fact, it cannot handle this situation alone and technical and financial measures must be taken in order for ECRA to be implemented satisfactorily (i.e. through creation of closed centres, reinforcement of borders’ controls, etc…). Furthermore, in future, Albania will have to negotiate readmission agreements with the main countries of origin of illegal migrants.

10 As Martin Schieffer (interview April 2005) noted, evidence of the migrant’s origin and deadlines were subjects of discussion between Albania and the EU member states. Concerning time limits, the EC’s objective was to obtain concrete deadlines so as to avoid further discussion.

11 Presumption of Albanian nationality is evidenced, for example, by an Albanian telephone directory, Albanian driving license, a signed Albanian job contract, or fluency in Albanian (Arn, interview, 2005).

12 Knowing that compliance with the time limit specified in BRABA is not always possible due to the several difficulties for Albania, Belgium has already accepted delayed answers from its diplomatic representative in Belgium, (Arn interview, 2005).

13 This figure does not include asylum applications, and illegal immigrants.

14 Most of these rules apply to illegal immigrants, in general, and not just to Albanians.

15 The Islamic Albanian community numbers approximately 50,000 persons.

16 In general, this is Brussels international airport.

17 According to Article 6, an alien can stay in the country for up to maximum of three months, unless otherwise stated on his or her visa (or equivalent).

18 This clause has never been enforced, because of the delicate political decision it implies (Arn, personal communication, 2005).

19 This clause has never been enforced (Arn, personal communication, 2005).

20 Such people are listed in the Schengen Information System (SIS).

21 IO’s decision of return may prevail over that of the Prosecutor.

22 If the immigrant fails to comply with the RRD, s/he will fall under the application of IA Article 27 and may be detained and subsequently removed.

23 This time limit is considered to be too short.

24 If, after returning the illegal migrant, further checks prove that the IO had misidentified the immigrant, Belgium must readmit the returnee.

25 Such an eventuality has occurred a few times (Conard, interview, 2005).

26 There are 6 closed centres in Belgium: an “Inadmissibles” centre at Brussels National Aairport (Centre INAD), Transit Centre 127 at Brussels National Airport, Centre 127bis in Steenokkerzeel, and three centres for illegal immigrants in Merksplas, Brugge and Vottem.

27 To avoid any risk of the illegal immigrant absconding. In any case, the identification procedure will continue after absconding.

28 If, notwithstanding the RRD, and the placement in a closed centre, the illegal immigrant refuses to leave Belgian territory, IA Article 27 applies and the illegal immigrant may be returned to the closed centre, which is considered as a new decision towards calculating the detention period.
29 Detention costs approximately €250/ €300 per day.
30 The RA with Poland, however, is not a bilateral agreement but a Schengen agreement, signed on 29 March 1999. Other agreements with third country clauses exist (e.g., with Estonia, Lithuania), but they have never been used to return TCNs.
31 This table includes all interceptions and, therefore, legal migrants. IO has, however, expressed its doubts about the precision and thoroughness of police reports (Conard, interview, 2005). According to the police (SPF Intérieur, 2003), and in obvious disagreement with IO figures, illegal Albanians intercepted in Belgium numbered 852 in 2003 (2.5% of the total interceptions of foreign nationals).
32 The table includes illegal immigrants, rejected asylum seekers, former inmates, and immigrants rejected at the border.
33 There are no disaggregate data for 2002. For that year the graph reports, therefore, only the total number of forced returns.
34 Caritas International, for example, managed 3 voluntary returns of Albanians immigrants between 1 January 2005 and 31 May 2005 and 8 in 2004, of which 6 were rejected asylum seekers.
35 Data for 2005 are updated to April for forced return, and to August for REAB. The percentage has been calculated assuming the data as uniform.
36 Data for 2005 are updated to April for forced return, and to August for REAB. The percentage has been calculated assuming the data as uniform.
37 There is a slight imbalance between the French and Dutch speaking media: the Dutch-speaking media give more attention to immigration-related problems (integration problems) while the French media refer more to the human rights aspects of immigration (regularizations).
38 See supra, n. 35.
III.1. Introduction

Since the 1990s, Greece has been transformed from a major migrant-sending to a major receiving country. As a result, the Greek government and administration had initially little experience in the management of immigration flows and limited understanding of the mechanisms of immigration. Initial efforts to manage immigration included the implementation of a new immigration law in 1991, which aimed to establish a policy concerning the admission of economic immigrants into Greece.

In 2001 the proportion of immigrant workers in the labour force was estimated at about 10 per cent, of whom more than 50 per cent were of Albanian nationality. In addition, many immigrants were living in an irregular situation, despite the implementation of two regularization programs in 1998 and in 2001.

Currently, the Greek government has placed its priorities on management of legal migration and the fight against illegal immigration. To this end, Greece has signed a number of bilateral agreements with third countries (including Albania) regarding seasonal employment, social security issues, readmission of illegal immigrants, etc.

The readmission agreement between the European Community and the Republic of Albania was signed in 2005. Therefore, readmission policy has become a key issue of immigration policy in EU Member States, and also in Greece.

This research will reveal the current state of the readmission policy between Greece and Albania in the light of the signing of the agreement between the EC and Albania and of the massive presence of Albanian nationals in Greece. The purposes of this research were:

- analyzing the current state of readmission policy and return practices between Greece and third countries;
- identifying problems arising from the application of this policy;
- fixing the necessary environment for the successful implementation of the readmission agreement between EU Member States (in particular, Greece) and Albania;
- formulating recommendations for the successful implementation of the agreement.

The methodology used in this study was to analyze Greek experiences on returns and readmissions. Our purpose was not only to collect information from other studies and from a review of existing laws, but also to analyze information provided by competent Greek authorities in response to a short questionnaire. In our analysis, we present the current situation of immigrants in the Greek economy and society, Greek laws governing immigrants, the results of regularization programmes; and return and readmission practices of return. A principal limitation of this study is that the competent Greek authorities could not provide information on the returns of Albanians. The information collected on return practices and readmission agreements thus comes primarily from the intent of the legislation and from the answers provided by relevant institutions to our questionnaire.
This research was divided in four parts. The first section presents a brief historical note on Greek-Albanian relations. The second section analyzes the immigration phenomenon in Greece and consists of an overview of immigration trends and law. The third section focuses on experience in, and perspectives for, implementing readmission. The last section summarizes and presents some recommendations for the successful implementation of the EC-Albanian readmission agreement.

III.2. Brief History of Relations between Greece and Albania

In broad terms, the history of Greek-Albanian bilateral relations can be divided into three major periods:

- relations during the Cold War period;
- relations during the early post-Cold War period;
- relations in the late '90s and beyond.

In this section, we will focus our analysis on the last period, during which Albanian immigration to Greece began.

The fall of the communist regime left Albania in a political vacuum and in a state of total economic collapse and massive unemployment, with a concomitant impact on household incomes and living standards. In that period, thousands of Albanians and Albanians of Greek origin moved to Greece in order to improve their economic situation. Greece was unprepared for this uncontrolled exodus of Albanian nationals, many of whom entered in Greece irregularly, and occasionally reacted with mass arrests and deportations, which led to accusations for maltreatment by the police and security forces (Baldwin-Edwards, 2004a: 52). The lack, on both sides, of a coherent and well-structured immigration policy to control and manage the flow, and the xenophobic reaction by parts of Greek society, related to increased crime rates (Baldwin-Edwards, 2004b: 3), did not contribute to alleviating the tension that built up during this period.

Gradually however, the two countries have managed to improve and strengthen their cooperation on migration issues, as well as on other issues, and have in recent years, progressed in building cordial relations. In 1992, an Agreement concerning Police Cooperation was signed between Greece and Albania, which entered in force in 1995. The signing of the Treaty on Friendship, Cooperation, Good Neighbourliness and Security in 1996 and of subsequent agreements in 2003 demonstrate the progress achieved and the current state of bilateral issues:

- establishment of a Joint Greek-Albanian Committee for trans-boundary fresh water issues;
- Memorandum of Cooperation on Environmental Protection; and
- Executive Protocol for a Cultural Agreement between Greece and Albania.

Indeed, all the above agreements signed by the two countries focus on improving their bilateral relations.

III.3. Immigration Phenomenon in Greece

III.3.1. Profile of immigration from Albania to Greece

At the end of the 19th century, Greece was a major migrant-sending country and throughout the first part of the 20th century, migrants continued to flow out of Greece to other countries, USA, Australia,
Germany and Belgium being the principal destinations for thousands of Greek emigrants.

In the mid-1970s, these migration trends were reversed and the return of Greeks from Germany and other European countries became a reality. At the same time, inflows of migrants from Asia and Africa, in particular from Pakistan, Philippines and Egypt, were observed (Fakiolas and King, 1996). In the mid-1980s, migrants from Poland, Bulgaria and Romania entered Greece, followed by a new wave of immigrants at the end of the decade with the collapse of the former Soviet Union and other ex-socialist countries and, in particular, the collapse of the Albanian regime at the beginning of the 1990s (Cavounidis, 2004).

According to the 2001 population census, the number of foreigners present in Greece was estimated about 762,191 people (7% of the total population). This number refers to all foreigners, including third country nationals and EU nationals, although the latter represent a small proportion in the total number. Most were employed (51.4%) and were found in urban areas, mainly in the regions of Attica (47.5%), which includes Athens, and Central Macedonia (12%). According to OECD (2002), most immigrants in Greece perform manual jobs and only 10 per cent work in non-manual occupations.

With regard to nationality, more than 50 per cent (58.2%) of foreigners are Albanian nationals. Men represent 58.7 per cent and women 41.3 per cent. Albanian immigrants in Greece are also young: data on age distribution (see Appendix III.1, Table III.6) show that 57.8 per cent are less than 30 years old. The modal age group is 30-44 years, while the second highest populated group is the “under 14 years” category. With regard to occupation and gender, we notice that 81.9 per cent of men and 70.8 per cent of women are employed in the category of “skilled trades, machine operatives, and elementary occupations”. Men are concentrated more in construction (44.3%), while women are found mainly in the “remaining services” group (55.3%). Another 24 per cent of men work in agriculture and 19.7 per cent in commerce, hotels and restaurants (Cavounidis, 2004: 42 and 47).

According to data from Greece's first regularization programme in 1998, 49.1 per cent of Albanian male applicants were single, compared to only 15.3 per cent of Albanian female applicants (Cavounidis 2002; 2004: 43).

A sample survey of the 1998 regularization population (Cavounidis 2003), found that:

- the majority of Albanians came to Greece between 1991 and 1993;
- the majority of Albanians live in Greece with their spouse and children;
- more than 50 per cent of immigrants have a relative in Greece, the role of social networks being important in their search of work and integration into the labour market;
- 44 per cent of men are employed in construction and 80 per cent of women are employed in remaining services, thus the majority of immigrants, regardless of their educational background, were manual workers;
- 29.8 per cent of Albanian immigrants intend to stay in Greece permanently;
- the reasons given by Albanians for working in Greece include support of family back home (37.1%), home purchase or construction (29.5%), and other investments (33.3%);
- the propensity to remit is relatively low among Albanians (Baldwin-Edwards, 2004a). Similar conclusions are observed by Lambrianidis and Lyberaki (2001). In their study of Albanians living in Thessaloniki (the major city in Northern Greece), they found that more than 50 per cent of Albanians did not send remittances back to Albania (Lambrianidis and Lyberaki, 2001:224).
III.3.2. Immigrants and Albanians in Greek society

It is estimated that foreign immigrants in Greece correspond to about 10 per cent of domestic labour force. It is obvious that the high ratio of immigrants in the Greek labour market has important consequences on the Greek economy. Empirical studies\(^\text{10}\) indicate that the effect of immigrants on the national economy is, in general, positive.

Concerning the role of Albanians in the Greek economy, Labrianidis and Lyberaki, in their study on Thessaloniki (2001), found that most Albanians work in construction and in manufacture. They are paid less than Greeks, tend to work for small enterprises, and the rate of substitution between Albanians and Greeks is quite low.

In general, we can agree that employing immigrants has had a positive impact on the Greek economy during the last years for the following reasons:

- immigrants filled vacancies in certain economic sectors (agriculture, housing services);
- they contribute to growth in GDP through their employment in construction and other economic activities;
- their employment in domestic services permitted and facilitated the entry of Greek women into the workforce and increased the welfare of the Greek family;
- their lower wage costs permitted their employment by Greeks in domestic services and in small firms, and thus contributed to controlling inflation and increasing the competitiveness of small firms.

Nevertheless, the Greek media have often portrayed Albanians as “dangerous” and “criminals” (Karydis 1992 and Siadima 2001: 17), based on arguments that linked the high rate of criminality observed in the beginning of the 1990s to the massive inflow of immigrants into the country (Karydis, 1996). The mass media has shown more responsibility in recent years, and particularly since 2000, by no longer stereotyping immigrants as criminals. However, it seems that the damage, in terms of public perception, has already been done (Baldwin-Edwards 2004a). According to 1997 Eurobarometer data, 17 per cent of Greeks “tended to agree” with the statement that “all illegal immigrants should be sent back to their country of origin without exception” (Linos 2001:17). In 2000, Eurobarometer data claimed that “38 per cent of Greeks – as opposed to 15 per cent of Europeans on average – are bothered by the presence of people of a different ethnicity in their country” (Linos, 2001:18). Although progress has been made in the relations between Greeks and Albanians living in Greece in recent years, certain issues relating to discrimination and social exclusion remain (Baldwin-Edwards 2004a).

III.4. Greek Immigration Policy, Return Practices and the Readmission Agreement

III.4.1. Migration legislation in Greece

Immigration policy in Greece has changed over the last 15 years. Before the 1990s, an Alien Law dating from 1929 determined the conditions for admission and presence of foreigners in Greece. The rapid and substantial increase of immigrant flows in the 1990s forced the Greek government to review this law and introduce a new Alien Law in 1991. The new law (No.1975 of 1991) had two main objectives: a) to control illegal immigration and b) to adopt an immigration policy common to the policy implemented to other Western European countries (Lazaridis 1996; Amitsis and Lazaridis, 2001).

The 1991 Law (1975/1991) regulated the entry and exit, presence, work, and the procedure of expulsion of third country nationals (Linos 2001). According to this law, the police are responsible for
patrolling the borders and checking travel documents of all foreigners entering Greece. In specific cases, illegal immigrants could be expelled without a trial or a waiting period (Siadima, 2001). The law also established severe penalties for illegal immigrants, denying them access to education and health care (Linos, 2001), though they would have access to State hospital care in emergencies (Baldwin-Edwards, 2001).

As mentioned, the Law of 1991 also regulated residence permits and work permits. Residence permits need pre-entry authorization and are granted for a specific reason, such as employment, studies, etc. (Baldwin-Edwards and Fakiolas, 1999). A residence permit is valid for one year and can be renewed. After five years of legal stay in Greece, the immigrant may apply for a two-year extension. After a legal stay of 15 years in Greece, immigrants may apply for a permit of unlimited duration (Baldwin-Edwards, 2001). The Law also facilitates family reunification for holders of two-year residence permits (Siadima, 2001). Work permits are linked to the employer. According to the law, the employer must obtain permission from the local manpower office before the arrival of the foreigner in Greece (Baldwin-Edwards and Fakiolas, 1999). Work permits are valid for one year with the possibility of renewal. Finally, the law further regulates the legal status of refugees.

In 1997, the Greek government decided to implement its first regularization programme (Presidential Decrees 358/1997 and 359/1997). This programme established a two-stage process:

a) application for a “white card”, which is a temporary residence permit; and

b) application for a “green card”, which gives the right to a work permit and a residence permit.

There were 373,000 applications for the White Card (in June 1998) and only 100,000 for the Green Card (November 1998) (Baldwin-Edwards and Fakiolas, 1999:192) By December 1998, there were 38,000 more applications for the White Card and 2,700 applications for Green Card (idem.). An analysis of data collected from White Card applications showed that the majority of applicants were Albanians (Baldwin-Edwards and Fakiolas, 1999).

In 2001, the Government passed a new Immigration Law (2910/2001: Entry and Stay of Aliens in Greek Territory. Acquisition of Greek Citizenship by Naturalization and Other Provisions) and launched a second regularization procedure that gave immigrants another opportunity to regularize their status. Under the provisions of this law, the Ministry of the Interior, Public Administration and Decentralization assumes governmental responsibility for immigration and regional immigration offices were established. It also gave more power to regional and local authorities for controlling immigrants’ residence and work (Baldwin-Edwards, 2004b) and proposed procedures which would permit employers to hire third country nationals on the basis of the needs of the Greek economy (Linos, 2001). It should also be noted that the law also gave minors living in Greece access to minimum compulsory education, on the same basis as Greek nationals, even when their parents were in an irregular situation.

Recently a new law on immigration was adopted by the Parliament, coming into force in January 2006 (3386/2005: Entry, Residence and Social Integration of Third Country Nationals into the Hellenic Territory). The main purpose of this legislation is the establishment of a policy which regulates the entry, residence and integration of third country nationals according to both national interests and immigrant’s interests, and with respect to relevant EU policy. More specifically, the new legislation aims to:

- improve coordination and monitoring of immigration policy by establishing an inter-ministerial committee, consisting of the Ministers for the Interior, Public Administration and Decentralization, Economy and Finance, Foreign Affairs, National Defence, Labour and Social Protection, Justice, Public Order, and Mercantile Marine, which will meet at least twice a year;
• simplify procedures, mainly by unifying the residence permit and the work permit in one single permit, to be issued by regional authorities;
• rationalize the procedures which allow third country nationals to enter Greece as employees, by activating and reinforcing regional migration committees which will be responsible for determining labour force needs at regional and prefectural level, in conjunction with job offers and demand by occupational category on the one hand and the available national labour force on the other;
• make administrative procedures more transparent and close loopholes in the present system.

The new law also takes into account the following rights established by EC Directives regarding legal migration:

• the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States;
• the right to family reunification;
• the status of third-country nationals who are long-term residents;
• the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training, or voluntary service;
• a specific procedure for admitting third-country nationals for the purposes of scientific research;
• residence permits to be issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities.

These EC Directives will be fully incorporated into Greek national legislation by specific Presidential Decrees.

It is also worth mentioning that, for the first time, the new law introduces basic principles for encouraging immigrants’ social integration in Greek society on the basis of specific criteria. To promote integration of third country nationals who reside legally in Greece, the Ministry of the Interior, Public Administration and Decentralization, in cooperation with other competent ministries, services and organizations, will implement an Integrated Action Plan, based on the respect of cultural diversity. According to the new law, actions of social integration will be developed and applied to all third country nationals who legally reside in the country and in particular to those whose employment is not of a temporary nature, as well as for family members accepted within the framework of regulations on family reunification. Actions of social integration can also benefit third country nationals of second or third generations, who were born in Greece, as well as refugees and persons who are under international protection.

Law 3386/2005 also gave immigrants a third opportunity to regularize their status in Greece. More specifically, irregular immigrants could apply for a special residence permit of transitory character, until 28 February 2006, provided that they prove, upon presentation of specific documentary evidence, that they had resided in Greece until 31 December 2004 and that they were not considered to be dangerous for public order and security. According to the law, the residence permit is issued upon decision by Secretaries-General of the Regions. The duration of the initial residence permit is one year and each renewal is for two years, until the fulfilment of the conditions that are required for either the granting of a “residence permit of indefinite duration” or the acquisition of the “status of long-term resident” (as defined by the relevant EC Directive).

The purpose of immigration policy, as established by the laws on immigration, is on the one hand to manage the flows and the presence of legal immigrants and, on the other, to limit illegal
immigration, while promoting readmission of illegal immigrants to their countries of origin. Until the new law entered in force (on 1 January 2006), the conditions and procedures for readmission and administrative deportation of a third country national were determined by the provisions of Law 2910/2001 (Arts.42-50). Monitoring of the process for removal of illegal foreigners comes within the competence of the Ministry of Public Order.

III.4.2. Institutions responsible for immigration management

In Greece, the Ministry of the Interior, Public Administration and Decentralization is charged with the general coordination of immigration policy and is the main State Authority in Greece with the competence on issues relating to legal immigration (legal entry and residence of third country nationals in Greece and their social integration). Other Ministries are responsible for specific aspects of migration policy:

- Ministry of Public Order: issues related to irregular immigrants (illegal entry and presence of third country nationals, removals and readmission), refugees, and asylum seekers;
- Ministry of Employment and Social Protection: issues relating to employment, social security rights, and obligations of third country nationals;
- Ministry of Foreign Affairs: issues related to granting of entry visas and all initiatives involving translational cooperation.

Obviously, other Ministries, such as the Ministries of Justice, Education, and Health and Social Solidarity, are also involved in migration issues, in their own fields of competence.

Regional authorities are also actively involved in the implementation of immigration policy. In each Regional Immigration Directorate, a Regional Immigration Committee issues opinions on whether or not a residence permit should be granted or renewed for a third country national foreigner. Most other types of residence permits are granted, renewed or revoked by resolution of the Secretary-General of the Region.

III.4.3. Procedures for returns

With regard to asylum seekers, applications are examined within three months of the date of submission according to Presidential Decree 61/1999 (Article 2). If asylum is denied, the asylum seekers have 30 days, from notification of the rejection decision, to make an appeal to the Minister of Public Order. The application must be re-examined by the Ministry, within 90 days, by a six-member committee, which then recommends the final decision. When this decision is negative, the asylum seeker should leave the country as soon as possible after notification of the decision. In exceptional cases (for example, for humanitarian reasons), the Minister for Public Order, may approve a temporary stay for rejected asylum seekers, until their departure becomes possible. These asylum seekers are granted medical, pharmaceutical and hospital care, together with social and economic assistance to cover their immediate living needs.

A third country national may have his or her residence permit revoked, thus be liable to expulsion, for reasons relating to national security and public order, protection of public health, violations of obligations under the Immigration Act, presentation of forged documents to the authorities, and revocation of work permit.

Deportation orders may be administrative or judicial, depending on the body making the order and issuing the relevant decision.
Administrative deportation is authorized where a person:

- has been condemned finally and irrevocably to a prison term of at least one year for crimes or illegal activities;
- has violated the provisions of the Immigration Law;
- represents a threat, by their continued presence on Greek territory, to public health, or to the security or public order of the country (Karageorgos, 2005).

Administrative deportation is ordered by the police authorities but may be temporarily suspended on humanitarian or health grounds by the Secretary-General of the Region. The reasons for the alien’s detention must be communicated in a language he or she understands. A decision drafted by the Ministers for the Interior, Public Administration and Decentralization, Foreign Affairs, Justice and Public Order specifies the procedures for enforcement of deportation decisions issued in accordance with the provisions of the Immigration Law.

Judicial deportation is ordered by the competent legal authorities. Third country nationals whose residence permit has expired or who seek to benefit from the regularization programme can not be expelled for not holding a residence permit until a final decision on the granting of such permit has been reached. The following categories of aliens are protected from deportation:

- minors whose parents reside legally in Greece;
- parents having custody of, or obliged to provide support for, a Greek minor, so long as they respect this responsibility;
- persons aged 80 or older.

Deportation and support expenses are paid by the alien. In cases where the alien is unable to pay these expenses, they will be paid by the State. Until the time of deportation, an alien is kept in special facilities, established by the decisions of the Secretary-General of the Region and operating under the care of the regional authority. The Hellenic police is responsible for these special facilities.

The Ministry of Public Order maintains a list of undesirable aliens. These persons must leave the country without delay or be returned to their country of origin or a third country where they may be allowed entry under their own responsibility and at their expense.

Aliens or other persons entering or exiting Greek territory without complying with the legal formalities can be returned to their countries of provenance or origin by decision of the public prosecutor of the Misdemeanours Court, with the approval of the public prosecutor of the court of appeal.

III.4.4. Bilateral agreements between Greece and third countries

To facilitate the admission of migrant workers and management of economic migration, Greece cooperates with third countries on streamlining procedures. Bilateral cooperation on economic migration with third countries covers such aspects as transferability of social security rights, seasonal employment, readmission of irregular migrants, and preventing and combating irregular migration.

More specifically, Greece has signed bilateral agreements on seasonal employment with Bulgaria (signed in Athens on 15 December 1995, ratified by Law 2407/1996) and Albania (signed in Athens 17 May 1996, ratified by Law 2482/1997). The purpose of these agreements is, on the one hand, to satisfy demand in the domestic labour market and, on the other, to facilitate access to legal employment in Greece by nationals from these countries for a specified period of time. A bilateral agreement on employment issues has also been signed with Egypt, including arrangements for

Greece has signed some 40 agreements with European and Balkan states and with countries in other regions (see Appendix II.2). These agreements cover anti-crime issues, police collaboration, friendship collaboration, and readmission procedures. It seems that this corpus of agreements will facilitate return and readmission practices.

We should note the difference between returns and readmissions: returns can be forced or voluntary, whereas readmission is forced and requires greater involvement by the two states involved. Similarly we can assume that procedures for return and for readmission are different and may be more difficult in cases that there are no signed agreements, as is the case with many Asian and African countries.

In recent years, relations between Greece and Albania have been satisfactory, friendly and cooperative and the two countries have signed three separate bilateral agreements and a protocol:

- an agreement on seasonal employment, signed in Athens on 17 May 1996, ratified by Law No 2482/1997;
- an agreement on policy collaboration, signed in Athens on 17 July 1992, ratified by Law 2147/16-06-93;
- agreement of friendship, collaboration, security, signed in Tirana on 21 March 1996, ratified by Law 2568/13-01-1998;
- a protocol between the Ministry of the Interior of the Republic of Albania and the Ministry of Mercantile Marine of the Hellenic Republic, on the Cooperation between the Albanian Border Police and the Hellenic Coast Guard for the effective supervision of the sea areas between the two countries.

The main purpose of the agreement on seasonal employment was to meet increased demand for a seasonal labour force for the benefit of the Greek economy in specific sectors and specializations (e.g., low skilled workers in agriculture). This agreement also facilitates Albanians’ access to legal employment in Greece for a specific period of time. Through this type of agreement, return is easier and mostly voluntary.

The bilateral agreements on seasonal employment signed between Greece and third countries (in our cases the third country is Albania) include a clause, obliging each Contracting Party to facilitate and undertake the cost of the return of their own nationals in case the latter are considered a threat to national security and public order of the country of destination or have stayed illegally in the territory of the country of destination after the expiration of the work contract and the subsequent residence permit and work permit.13

On the basis of this agreement, Greek Diplomatic Delegations in third countries notify seasonal needs to be covered, including information on the number and type of vacancies to be filled and on requirements that candidates must meet. Under the agreement with Albania, applications from candidates are transmitted through the Hellenic Embassy in Tirana to the Greek services responsible for the selection of candidates.

The basic aim of the agreement on policy collaboration is reciprocal help in the fight against international terrorism, illegal production and consumption of narcotics and similar substances, organized crime, counterfeiting of documents and counterfeiting of money and other substances, illegal economic activities, illegal passage of borders. It also seeks to improve organizational
and technical methods for a more rapid and smoother legal passage through borders, methods and means of observation and re-establishment of public order, and measures for prevention and handling of fires in highly dangerous installations. For the successful implementation of this agreement, the contracting parties must collaborate in combating illegal immigration and accept all illegal residents and persons from the other country traversing the common borders illegally.

According to Law 2568/1998, the two contracting parties aim to develop their relations in the basis of confidence, collaboration, and reciprocal respect. They are required to deepen their collaboration on economic issues, industry, banking, tourism, the technological, scientific and ecological sectors, energy, and transport and communications, as well as strengthening cultural exchanges.

The protocol for cooperation and effective supervision of maritime areas covers the prevention of threats and detection of criminal offences on the sea between the two countries, through the exchange of experience on organized crime prevention and identification of persons and bodies of unknown identity. The contracting parties exchange information on methods and routes of organized illegal immigration and on passport and visa controls, including an exchange of specimen passports and visas.

III.5. Assessment of the Current Situation

Faced with a significant increase of immigrant flows in the 1990s, the Greek State was unprepared to manage immigration. Until that time, Greece did not see itself as a country of immigration and therefore was reluctant to understand this new reality and the importance of modifying the Alien Law passed in 1929. As a result, in the late 1980s, foreigners were accepted in Greece under the conditions determined by this law. However, massive immigration flows from Albania in the 1990s forced the Greek government to take measures in order to adjust to the new situation.

The 1991 law was a significant step in the history of immigration policy in Greece, because this law was primarily a policy of exclusion and expulsion (Baldwin-Edwards, 2004a and b). This law established quite restrictive regulations on the status of residence permits, but also showed, for the first time, that the Greek government saw the possible positive effects of employing immigrants in the Greek economy. In particular, the 1991 Law introduced the requirement that immigrants be recruited by an employer prior to entry into Greece. This arrangement proved to be a failure for the category of unskilled immigrants (Baldwin-Edwards, 2001). However, despite the restrictions imposed by this law, the number of immigrants increased significantly during the decade.

The 2001 Law on immigration replaced the 1929 Law but made few innovations (Baldwin-Edwards, 2004a) beyond transferring responsibility from the Ministry of Public Order to the Ministry of the Interior and giving power to local and regional authorities over the issuance of work and residence permits, marking a shift in its objectives from excluding immigrants to managing immigration.

The problems relating to the effectiveness of the 2001 Law are described by the competent service of the Ministry of Employment and Social Protection as follows:

The current legislative framework for immigration (Law 2910/2001) constituted the first organized effort to record the “invisible” population of illegal immigrants and integrate them in our country, with the positive contribution to national economy, and more specifically, to the labour market. However, based on the experience gained, up to now, from the implementation of the legislative framework or immigration policy in our country, we consider that the results were not the expected ones compared to the objectives that were set. The main problems that were observed during the
implementation of the abovementioned framework were related to the complicated and bureaucratic structure of the law and the inefficiencies in the staffing of the services that were responsible for its implementation (Prefectures-Regional Authorities). As a consequence, there were problems in the process of issuance and renewal of residence and work permits, such as delays in the process or difficulties in the communication of foreigners with the staff of the competent services.\textsuperscript{14}

The two regularization programmes adopted by the Greek government and the difficulties observed during their implementation indicate that immigration policy was still not sufficiently clear. The main problems arose from the number of documents to be presented to the authorities by irregular immigrants. Indeed, many immigrants were not convinced by the opportunities offered by these two programmes and therefore did not participate. Another disadvantage lay in the obligation to prove that illegal immigrants already had a job.

The degree of regularization of illegal immigrants influences, to a certain extent, the policy on deportations and readmission. Currently, the aim of Greek immigration policy is to manage immigration flows in the best possible way, for the benefit of Greece and third countries nationals, while contributing, in collaboration with third countries, to the fight against illegal immigration.

More specifically, regarding the difficulties that arise from the implementation of readmission agreements and other agreements on police cooperation with third countries, the information provided by the Ministry of Public Order,\textsuperscript{15} the competent authority, suggests that, with most countries with which Greece has signed readmission agreements, cooperation has in general proved satisfactory. However, some problems arise from the implementation of these agreements on readmission of third country nationals. For example, a request for readmission issued by Greek authorities on behalf of a third country national usually receives a negative response from the country concerned. Further, there have been difficulties in the issuance of travel documents for returnees by third countries’ authorities established in Greece, especially for the readmission of citizens from Asian and African countries and where there are no formal bilateral cooperation and travel documents are missing.\textsuperscript{16}

Other difficulties encountered in the readmission of illegal immigrants include:

- limited capacity in existing temporary stay centres, given the large number of immigrants entering the country illegally: continuous efforts are being made to improve the infrastructures in question and to establish new centres in various regions;
- the heavy cost for handling and removing illegal immigrants for the government budget.

Indeed, according to the Ministry of the Interior,\textsuperscript{17} the problems relating to the management of illegal immigrants in Greece are mainly linked to existing infrastructures and obstacles that delay the processes of readmission and political asylum. More specifically, detention in Centres of Temporary Stay for third country nationals is limited to no more than 30 days, but can be extended in many cases because of delays in processing decisions on the future of the third country national, who, on leaving the centre, must:

- be readmitted in their country of origin;
- be placed under arrangements of provisional protection;
- be placed in the centre for asylum seekers.

Delays in this process create problems of over-crowding and this problem intensifies during the second half of the year when the influx of illegal immigrants increases. Moreover, the cost of hospitality has increased considerably, in particular when illegal immigrants are placed in hotels.
There is no bilateral agreement on readmission between Greece and Albania. The agreement mentioned above refers to police collaboration in the fight against illegal immigration and on prevention of criminal and illegal activities. Today (by the time of writing this article), since the readmission agreement between EU and Albania has not yet come in force, the policy applied by the Greek government is covered by the existing Greek law, as described above. In conclusion, we can say that Greece is collaborating with Albania in combating illegal employment and deportation, whether administrative or judicial, is ordered for immigrants entering Greek territory illegally.

Implementation of the readmission agreement between EU and Albania does not appear to have changed current procedures, perhaps because it is expected to increase the level of bureaucratic processes. The key question relates to the treatment and readmission of third country nationals by Albania. In general, it is thought that implementation of this readmission agreement will help the Greek state since it will provide a useful and effective tool in the fight against illegal immigration. Successful implementation of the agreement requires a spirit of collaboration and the will to confront the question of immigration. The difficulties observed in Albania in terms of lack of infrastructure will be an important obstacle in the successful application of the agreement.

**III.6. Findings and Recommendations**

The arrival of mass immigration flows was a new experience to Greece and a challenge for the government and public administration in the provision of systems of control and management. The information on return and readmission practices presented in this paper shows that it is quite difficult for Greece, as for other countries, to manage large flows of immigrants. Collaboration between sending and receiving countries is necessary for successful management of immigration flows. Among the main findings of this research are:

- the role of immigrants in the Greek economy should be considered as positive, since immigrants fill vacancies in specific economic activities.
- the Greek government has signed bilateral agreements on seasonal employment in order to satisfy demand for seasonal labour in specific economic activities. There is now a bilateral agreement on seasonal employment between Greece and Albania, under which the competent Greek authorities notify Albania of its needs for seasonal labourers.
- the Greek government was obliged to revise the 1929 Alien Law because of the rapid and large increase of immigrant flows in 1990s. Since then, the Greek government has tried to control and manage immigration flows and adopted an immigration policy in line with similar moves in other Western European countries. At the same time, the Greek government has introduced two regularization programmes.
- implementation of these regularization programmes was not as successful as expected, due to complicated and bureaucratic procedures and inefficiency in staffing the services responsible for their implementation.
- the law 2910/2001 constituted the first organized effort to register illegal immigrants and to integrate them in the national economy.
- the main purpose of the new law 3386/2005 is the establishment of a policy regulating the entry, residence and integration of third country nationals in accordance with the interests of Greece and of immigrants, while respecting relevant EU policy. The law takes into account the new EC Directives relating to legal migration.
- forced returns are carried out by administrative or judicial deportation, in accordance with Greek law. Assisted voluntary return programmes do not currently exist in Greece.
- readmission processes for illegal immigrants to their countries of origin are, in general, successful. Certain problems arise with the readmission of citizens from African and Asian countries.
- Greece has signed a large number of bilateral agreements on issues directly or indirectly
related to migration.
• Greece has signed a police collaboration agreement with Albania, but no readmission agreement has been negotiated.
• The main problems relating to the management of irregular immigrants arise from the limited capacity of existing temporary stay centres.

Given the above findings, the following recommendations for the successful management of immigration in Greece, including implementation of readmission agreements, can be put forward:

• Given the large number of illegal immigrants as a proportion of the Greek population, control of illegal immigration should be linked to the regularization programme. The government must simplify application procedures for immigrants seeking legal status in Greece.

• Demand for immigrants should take into consideration the specific needs of the Greek economy. The agreements on seasonal employment signed between Greece and third countries are a positive step and cover all sectors of the economy with a need for seasonal labourers. Public information campaigns on migrants’ positive contribution to the Greek economy should be developed further.

• Over-concentration of immigrants in centres of temporary stay is a problem: the Greek authorities (and particularly the Ministries of the Interior and of Health and Social Solidarity, together with the regional authorities) must continue to build new centres and reduce delays in the readmission process.

• Collaboration between Greece and concerned third countries, and more specifically between the Ministries of Public Order and of Foreign Affairs, is essential for the successful implementation of readmission procedures. Collaboration between Greece and Asian and African countries should be developed further in order to facilitate the readmission of nationals from these countries.

• Although collaboration between Greek and Albanian authorities is going in the right direction, they must continue to develop and exchange information on several issues of common concern. Greek authorities should also provide advice for a successful integration of readmitted Albanians into the Albanian labour market through employment offices.

• The Greek government, in collaboration with IOM and other international organizations, should develop an assisted voluntary return programme which should take into account such issues as payment of travel costs, financial aid, provision of training, and advice to immigrants in order to facilitate their integration into their national economy.

The large number of immigrants, and more specifically of Albanians, in the Greek society contributes to the Greek economy. Albanians have provided valuable services during periods of labour shortages. At the same time, Albanians live in the Greek society and have a positive influence on aggregate demand since they spend a large part of their salaries in the domestic market. They have also benefited from their stay in Greece by improving their standard of living and by placing their children in Greek schools. Their children and parents have learned the Greek language and the Greek civilization and culture. Since relations between Greek and Albanian nationals are continuously developing and the spirit of cooperation between the authorities of the two countries is positive, it is suggested that the Greek and Albanian authorities, and more specifically the Ministries of the Interior, Public Order, Foreign Affairs, Justice, Employment and Social Protection, should continue to develop this cooperation in various fields, such as labour migration agreements, the combat against irregular migration, and assisted voluntary returns.
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Siadima, M.  

Simon, J.L.  

**INTERVIEWS**

Immigration Policy Institute, Ministry of Interior, Public Administration and Decentralization.  
Directorate of Immigration, Ministry of Interior, Public Administration and Decentralization.  
Department of Immigration, Ministry of Public Order.  
Directorate of Employment, Ministry of Employment and Social Protection.  
Politician from PASOK (Socialist party).  
Politician from Nea Dimokratia.  
Member of European Parliament, PASOK Party.  
Committee of Emigrant Hellenism.  
Centre of Re-establishment of Victims of Tortures and Wars.
Centre of Immigrants of Municipality Athenians.
Lamprakis Institute of Studies.
Médecins sans Frontières.
Economic and Social Council of Greece.
Economic and Social Committee Movement of Citizens against Racism.
Hellenic Foundation for European and Foreign Policy.
General Confederation of Greek Workers / Department of Social Policy.

The Labour Centre of Athens did not answer the questionnaire on the grounds that they consider the implementation of this agreement to be against the interests of immigrants and that they are opposed to any form of expulsions of immigrants.

*The views expressed in interviews are personal and are not those of their institutions.*
Appendix III.1: Data on Immigration based on 2001 Population Census

Table III.1: Immigrants by Employment Status

<table>
<thead>
<tr>
<th>Employment Status</th>
<th>Number of Immigrants</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employed</td>
<td>391,674</td>
<td>51.4</td>
</tr>
<tr>
<td>Job-seeker</td>
<td>21,593</td>
<td>2.8</td>
</tr>
<tr>
<td>First time job-seeker</td>
<td>18,885</td>
<td>2.5</td>
</tr>
<tr>
<td>Student</td>
<td>85,031</td>
<td>11.2</td>
</tr>
<tr>
<td>Pensioner</td>
<td>30,148</td>
<td>4.0</td>
</tr>
<tr>
<td>Tenant</td>
<td>1,476</td>
<td>0.2</td>
</tr>
<tr>
<td>Housewives</td>
<td>106,236</td>
<td>14.2</td>
</tr>
<tr>
<td>Other</td>
<td>23,900</td>
<td>3.1</td>
</tr>
<tr>
<td>Under 10 years old</td>
<td>81,248</td>
<td>10.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>762,191</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Source: NSSG, 2001 Population Census

Table III.2: Immigrants in Greece by Region

<table>
<thead>
<tr>
<th>Region</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Macedonia and Thrace</td>
<td>1.7</td>
</tr>
<tr>
<td>Central Macedonia</td>
<td>12.0</td>
</tr>
<tr>
<td>Western Macedonia</td>
<td>1.0</td>
</tr>
<tr>
<td>Thessaly</td>
<td>4.4</td>
</tr>
<tr>
<td>Epirus</td>
<td>1.9</td>
</tr>
<tr>
<td>Ionian Islands</td>
<td>2.3</td>
</tr>
<tr>
<td>Western Greece</td>
<td>5.1</td>
</tr>
<tr>
<td>Central Greece</td>
<td>6.3</td>
</tr>
<tr>
<td>Peloponnesus</td>
<td>7.0</td>
</tr>
<tr>
<td>Attica</td>
<td>47.5</td>
</tr>
<tr>
<td>North Aegean</td>
<td>1.2</td>
</tr>
<tr>
<td>South Aegean</td>
<td>3.1</td>
</tr>
<tr>
<td>Crete</td>
<td>6.1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Source: NSSG, 2001 Population Census
Table III.3: Employed Immigrants by Occupational Group

<table>
<thead>
<tr>
<th>Occupational Group</th>
<th>Employed</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislators, senior officials and managers</td>
<td>9,212</td>
<td>2.4</td>
</tr>
<tr>
<td>Professionals</td>
<td>12,681</td>
<td>3.2</td>
</tr>
<tr>
<td>Technicians and associate professionals</td>
<td>7,281</td>
<td>1.9</td>
</tr>
<tr>
<td>Clerks</td>
<td>8,525</td>
<td>2.2</td>
</tr>
<tr>
<td>Service workers and shop sales workers</td>
<td>40,902</td>
<td>10.4</td>
</tr>
<tr>
<td>Skilled agricultural and fishery workers</td>
<td>26,974</td>
<td>6.9</td>
</tr>
<tr>
<td>Craft and relative workers, plant and machine operators and assemblers, elementary occupations</td>
<td>267,521</td>
<td>68.3</td>
</tr>
<tr>
<td>Others – not declared</td>
<td>18,578</td>
<td>4.7</td>
</tr>
<tr>
<td>Total</td>
<td>391,674</td>
<td>100.0</td>
</tr>
</tbody>
</table>

*Source: NSSG, 2001 Population Census*

Table III.4: Employed Immigrants by Economic Activity

<table>
<thead>
<tr>
<th>Economic Activity</th>
<th>Employees</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, hunting and forestry, Fishing</td>
<td>68,682</td>
<td>17.5</td>
</tr>
<tr>
<td>Mining and quarrying</td>
<td>648</td>
<td>0.2</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>46,553</td>
<td>11.9</td>
</tr>
<tr>
<td>Electricity, gas and water supply</td>
<td>569</td>
<td>0.1</td>
</tr>
<tr>
<td>Construction</td>
<td>96,003</td>
<td>24.5</td>
</tr>
<tr>
<td>Commerce, hotels and restaurants</td>
<td>61,497</td>
<td>15.7</td>
</tr>
<tr>
<td>Transport, storage, communications</td>
<td>10,721</td>
<td>2.7</td>
</tr>
<tr>
<td>Banking, insurance and financial intermediation</td>
<td>1,506</td>
<td>0.4</td>
</tr>
<tr>
<td>Remaining services</td>
<td>80,488</td>
<td>20.5</td>
</tr>
<tr>
<td>Other – not declared</td>
<td>22,724</td>
<td>5.8</td>
</tr>
<tr>
<td>Total</td>
<td>391,674</td>
<td>100.0</td>
</tr>
</tbody>
</table>

*Source: NSSG, 2001 Population Census*

Table III.5: Albanian Immigrants by Gender

<table>
<thead>
<tr>
<th>Gender</th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>257,149</td>
<td>58.7</td>
</tr>
<tr>
<td>Women</td>
<td>180,887</td>
<td>41.3</td>
</tr>
<tr>
<td>Total</td>
<td>428,036</td>
<td>100.0</td>
</tr>
</tbody>
</table>

*Source: Cavounidis (2004:41)*
Table III.6: Albanian Immigrants by Age Group

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-14 years old</td>
<td>93,510</td>
<td>21.3</td>
</tr>
<tr>
<td>15-19</td>
<td>40,616</td>
<td>9.3</td>
</tr>
<tr>
<td>20-24</td>
<td>57,275</td>
<td>13.1</td>
</tr>
<tr>
<td>25-29</td>
<td>61,847</td>
<td>14.1</td>
</tr>
<tr>
<td>30-44</td>
<td>126,325</td>
<td>28.8</td>
</tr>
<tr>
<td>45-64</td>
<td>47,954</td>
<td>10.9</td>
</tr>
<tr>
<td>65+</td>
<td>10,509</td>
<td>2.4</td>
</tr>
<tr>
<td>Total</td>
<td>438,036</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: Cavounidis, (2004:42)

Table III.7: Albanian Immigrants by Occupational Group and Gender

<table>
<thead>
<tr>
<th>Occupational Group</th>
<th>Men</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td>Managers and senior officials</td>
<td>1,437</td>
<td>0.8</td>
</tr>
<tr>
<td>Professional occupations and artists</td>
<td>1,219</td>
<td>0.7</td>
</tr>
<tr>
<td>Associate professional + technical</td>
<td>1,031</td>
<td>0.6</td>
</tr>
<tr>
<td>Office workers</td>
<td>1,661</td>
<td>1.0</td>
</tr>
<tr>
<td>Service workers and sales workers</td>
<td>10,696</td>
<td>6.5</td>
</tr>
<tr>
<td>Skilled agric. and related occupations</td>
<td>13,690</td>
<td>8.3</td>
</tr>
<tr>
<td>Skilled trades occupations, machine operatives, elementary occupations</td>
<td>134,906</td>
<td>81.9</td>
</tr>
<tr>
<td>Total</td>
<td>164,640</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: Cavounidis (2004:47)

Table III.8: Albanian Immigrants by Branch of Economic Activity

<table>
<thead>
<tr>
<th>Economic Activity</th>
<th>Men</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td>Agriculture</td>
<td>162,655</td>
<td>24.0</td>
</tr>
<tr>
<td>Mining</td>
<td>429</td>
<td>0.2</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>18,962</td>
<td>11.0</td>
</tr>
<tr>
<td>Utilities</td>
<td>361</td>
<td>0.1</td>
</tr>
<tr>
<td>Construction</td>
<td>72,098</td>
<td>44.3</td>
</tr>
<tr>
<td>Industry</td>
<td>Employed</td>
<td>Unemployed</td>
</tr>
<tr>
<td>------------------------------</td>
<td>----------</td>
<td>------------</td>
</tr>
<tr>
<td>Commerce, hotels, restaurants</td>
<td>20,339</td>
<td>12.5</td>
</tr>
<tr>
<td>Transport, storage, communications</td>
<td>4,029</td>
<td>2.3</td>
</tr>
<tr>
<td>Banking, insurance, finance</td>
<td>127</td>
<td>0.1</td>
</tr>
<tr>
<td>Remaining services</td>
<td>6,050</td>
<td>3.5</td>
</tr>
<tr>
<td>Total</td>
<td>285,050</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: Cavounidis (2004:49)

Table III.9: Population by Nationality and Employment Status in 2004

<table>
<thead>
<tr>
<th></th>
<th>Employed</th>
<th>Unemployed</th>
<th>Labour Force</th>
<th>Not active</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greek</td>
<td>4,054,212</td>
<td>464,540</td>
<td>4,518,751</td>
<td>4,105,218</td>
<td>8,623,970</td>
</tr>
<tr>
<td>Foreigner</td>
<td>276,285</td>
<td>28,137</td>
<td>304,423</td>
<td>128,483</td>
<td>432,905</td>
</tr>
<tr>
<td>Albanian</td>
<td>162,337</td>
<td>16,710</td>
<td>179,046</td>
<td>71,553</td>
<td>250,600</td>
</tr>
<tr>
<td>Total</td>
<td>4,330,497</td>
<td>492,677</td>
<td>4,823,174</td>
<td>4,233,701</td>
<td>9,056,875</td>
</tr>
</tbody>
</table>

Source: NSSG, LFS 2004

Table III.10: Albanian population in Greece, 1998 – 2004

<table>
<thead>
<tr>
<th>Year</th>
<th>Employed</th>
<th>Unemployed</th>
<th>Labour Force</th>
<th>Not active</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>85,800</td>
<td>9,948</td>
<td>95,748</td>
<td>25,826</td>
<td>121,574</td>
</tr>
<tr>
<td>2004</td>
<td>162,337</td>
<td>16,710</td>
<td>179,046</td>
<td>71,553</td>
<td>250,600</td>
</tr>
<tr>
<td>1998-2004</td>
<td>+76,537</td>
<td>+6,762</td>
<td>+83,299</td>
<td>+45,727</td>
<td>+129,026</td>
</tr>
<tr>
<td>1998-2004 (%)</td>
<td>+89.2%</td>
<td>+68.0%</td>
<td>+87.0%</td>
<td>+177.1%</td>
<td>+106.1%</td>
</tr>
</tbody>
</table>


Table III.11: Albanian Immigrants by Economic Activity, 1998 and 2004

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
</tr>
<tr>
<td>Agriculture</td>
<td>2,493</td>
<td>2.9</td>
<td>14,414</td>
</tr>
<tr>
<td>Fishing</td>
<td>401</td>
<td>0.5</td>
<td>61</td>
</tr>
<tr>
<td>Mining</td>
<td>76</td>
<td>0.1</td>
<td>783</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-------</td>
<td>-----------</td>
<td>-------</td>
</tr>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
</tr>
<tr>
<td>Legislators, senior</td>
<td>825</td>
<td>1.0</td>
<td>1,297</td>
</tr>
<tr>
<td>officials and managers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professionals</td>
<td>1,659</td>
<td>1.9</td>
<td>779</td>
</tr>
<tr>
<td>Technicians and associate</td>
<td>428</td>
<td>0.5</td>
<td>1,055</td>
</tr>
<tr>
<td>professionals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clerks</td>
<td>276</td>
<td>0.3</td>
<td>1,402</td>
</tr>
<tr>
<td>Service workers and shop and</td>
<td>8,663</td>
<td>10.1</td>
<td>16,403</td>
</tr>
<tr>
<td>market sales workers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Skilled agricultural and</td>
<td>1,390</td>
<td>1.6</td>
<td>6,276</td>
</tr>
<tr>
<td>fishery workers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Craft and related workers,</td>
<td>36,161</td>
<td>42.1</td>
<td>70,576</td>
</tr>
<tr>
<td>plant and machine operators</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and assemblers</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table III.13: Third Country Nationals holding a Residence Permit in 2005, by Sex and Nationality

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Both sexes</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td>All Nationalities</td>
<td>423,967</td>
<td>100.0</td>
<td>265,612</td>
<td>63.0</td>
<td>158,351</td>
<td>37.0</td>
</tr>
<tr>
<td>Albanians</td>
<td>244,321</td>
<td>57.64</td>
<td>176,165</td>
<td>72.0</td>
<td>68,156</td>
<td>28.0</td>
</tr>
</tbody>
</table>

Source: Ministry of Interior, Public Administration and Decentralization

Table III.14: Type of Residence Permit of Albanian Nationals in 2005, by Sex

<table>
<thead>
<tr>
<th>Type of Residence Permit</th>
<th>Both sexes</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
<td>Number</td>
<td>%</td>
</tr>
<tr>
<td>All types</td>
<td>244321</td>
<td>100.0</td>
<td>176,165</td>
<td>72.0</td>
<td>68,156</td>
<td>28.0</td>
</tr>
<tr>
<td>Residence permit for dependent work</td>
<td>142,739</td>
<td>58.42</td>
<td>120,460</td>
<td>84.0</td>
<td>22,279</td>
<td>16.0</td>
</tr>
</tbody>
</table>

Source: Ministry of Interior, Public Administration and Decentralization

Appendix III.2: Agreements between Greece and Other Countries

<table>
<thead>
<tr>
<th>Country agreement</th>
<th>Type and object of agreement</th>
<th>Date of Signature</th>
<th>Ratification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Egypt</td>
<td>Agreement on police collaboration</td>
<td>Cairo 21/02/1998</td>
<td>Law 2754 19.11.1999</td>
</tr>
<tr>
<td>Albania</td>
<td>Agreement on police collaboration</td>
<td>Athens 17/07/1992</td>
<td>Law 2147 16.6.1993</td>
</tr>
<tr>
<td></td>
<td>Protocol for cooperation for effective supervision of sea areas between Albania and Greece</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Country</td>
<td>Agreement/Protocol Details</td>
<td>Date/Reference</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------</td>
<td>----------------</td>
<td></td>
</tr>
<tr>
<td>Bulgaria</td>
<td>Agreement on drugs traffic</td>
<td>Athens 25.2.1987, Law 2917 11.06.2001</td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>Agreement on police collaboration</td>
<td>Athens 23.11.1998, Law 2756 19.11.1999</td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>Readmission agreement</td>
<td>Athens 10.3.1995, Law 2350 1.11.1995</td>
<td></td>
</tr>
<tr>
<td>Cyprus</td>
<td>Agreement on police collaboration</td>
<td>Athens 23.11.1998, Law 2756 19.11.1999</td>
<td></td>
</tr>
<tr>
<td>Lithuania</td>
<td>Agreement on police collaboration</td>
<td>Athens 23.11.1998, Law 2756 19.11.1999</td>
<td></td>
</tr>
<tr>
<td>Lithuania</td>
<td>Readmission agreement</td>
<td>Bilnoys 1.7.1999, Law 2911 9.5.2001</td>
<td></td>
</tr>
<tr>
<td>Country</td>
<td>Agreement Type</td>
<td>Agreement Date</td>
<td>Law Code</td>
</tr>
<tr>
<td>----------</td>
<td>----------------------------------------------------</td>
<td>----------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Latvia</td>
<td>Readmission Agreement</td>
<td>17.3.1999</td>
<td></td>
</tr>
<tr>
<td>Malta</td>
<td>Agreement of police collaboration</td>
<td>24.5.2001</td>
<td></td>
</tr>
<tr>
<td>Ukraine</td>
<td>Agreement of police collaboration</td>
<td>24.4.2001</td>
<td></td>
</tr>
<tr>
<td>Hungary</td>
<td>Agreement of police collaboration</td>
<td>Budapest 17.2.1993</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Readmission Agreement and protocol of application</td>
<td>Athens 29.1.2003</td>
<td></td>
</tr>
<tr>
<td>FYROM</td>
<td>Agreement of police collaboration</td>
<td>Achrida 8.7.1998</td>
<td></td>
</tr>
<tr>
<td>Poland</td>
<td>Agreement of police collaboration</td>
<td>Warsaw 18.6.1993</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Readmission Agreement</td>
<td>Warsaw 21.11.1994</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Protocol of Application of readmission agreement</td>
<td>Athens 25.1.1995</td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td>Agreement of police collaboration</td>
<td>Athens 6.6.1992</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Readmission agreement</td>
<td>Athens 6.6.1994</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Protocol of Application of readmission agreement</td>
<td>Bucharest 6.10.1994</td>
<td></td>
</tr>
<tr>
<td>Russia</td>
<td>Agreement concerning the fighting of crime</td>
<td>Athens 6.12.2001</td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td>Readmission Agreement</td>
<td>Athens 6.4.1994</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Agreement of police collaboration</td>
<td>Ljubljana</td>
<td></td>
</tr>
<tr>
<td>Tunisia</td>
<td>Protocol of Agreement of police collaboration</td>
<td>Tynida</td>
<td></td>
</tr>
<tr>
<td>Turkey</td>
<td>Agreement of police collaboration</td>
<td>Anchor 21.1.2000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Protocol on the application of clause of readmission agreement</td>
<td>Athens 8.11.2001</td>
<td></td>
</tr>
</tbody>
</table>
Appendix III.3: Questionnaire sent to the Government and Public Administration (July-August 2005)

1. Which is the role of your department in the implementation of immigration policy in Greece?
2. How can you evaluate / assessment immigration policy in Greece?
3. Which are the procedures in order to readmit illegal immigrants to their countries?
4. How much successful do you consider these procedures?
5. Do you believe that the administration in Greece can successfully manage the number of illegal immigrants in this country?
6. Which are the main problems raised from the management of immigration in Greece?
7. Which are the impacts / consequences of the use of immigrants on the Greek economy? Do you consider that the impacts / consequences differ if the immigrants are illegal or legal?
8. Which measures have been taken in the case of control and regulation of the number of illegal immigrants?
9. Do you know if there are other bilateral agreements on the readmission of illegal immigrants? (p.s. between Greece and Turkey)
10. How do you evaluate / assessment these agreements?
11. Do you believe that these agreements contributed successfully to the regulation of illegal immigrants?
12. Do you know exactly the agreement between EC and the Republic of Albania on the readmission of persons residing without authorization?
13. Which is the role of your institution in the implementation of this agreement in Greece?
14. Which are the differences between this agreement and the immigration policy applied until now?
15. Which are the possible problems raised from the implementation of this agreement?
16. Which are the necessary requirements in order to implement successfully this agreement?
17. Do you believe that the needs of the Greek economy / labour market in this type of labour force will influence the implementation of this agreement?
18. Do you believe that the government of Albania can respond positively to the implementation of this agreement?
19. Do you believe that the implementation of this agreement can influence the economy of Greece and Albania?
20. Which are the profits and losses for Greece and Albania from the implementation of this agreement?
21. Which must be the procedures that you will apply for the successful implementation of this agreement?

Appendix III.4: Questionnaire sent to Private Institutions and NGOs (July-August 2005)

1. Which are the characteristics of the immigration policy in Greece?
2. Which are the usual procedures of integration of immigrants into the Greek society?
3. Which are the impacts / consequences of the use of immigrants on the Greek economy? Do you consider that the impacts / consequences differ if the immigrants are illegal or legal?
4. Which is government policy towards the regulation of illegal immigration?
5. Do you know exactly the agreement between EC and the Republic of Albania on the readmission of persons residing without authorization?
6. Which are the necessary requirements in order to implement successfully this agreement?
7. Which must be the structure of administration in Greece and Albania and what else do these societies need in order to implement successfully the pre-mentioned agreement?
8. Do you believe that the contemporary immigration policy in Greece will contribute successfully to the implementation of this agreement?
9. Which are the possible problems raised from the implementation of this agreement?
10. How can the implementation of this agreement influence immigration flows in the next years?
11. Do you believe that the needs of the Greek economy / labour market in this type of labour force will influence the implementation of this agreement?
12. How can the implementation of this agreement influence the economy of Greece and Albania?
13. Do you believe that Albania can respond positively to the implementation of this agreement?
14. Which are the necessary requirements for the successful readmission of immigrants to their countries? Do you believe that the readmitted persons will try to return back to Greece?

ENDNOTES

1 Michael Chletsos (Economist, University of Ioannina), Christos Kollias (Economist and Specialist on International Relations, University of Thessaly), Petros Tsantilas (Lawyer specialising in immigration matters), Christodouli Thalassochori (Psychologist). All members of the team contributed to this research and the writing of the paper. The views expressed in this paper are those of Chletsos and not necessarily of the other authors. I would like to thank Elizabeth Warn for her helpful comments on the first draft of this paper and Lynel Long for her constructive comments on this paper and her support during the writing of this paper. Particularly, I would like to thank Aggeliki Grammatikopoulou, who, although she was not a member of the research team, worked with the team and contributed decisively in the final writing of this paper by offering her knowledge on this subject.
2 This questionnaire was sent out by email during July 2005 and 17 responses were received during August and September 2005.
3 This agreement was ratified by Law 2568/13-01-1998 and entered in force in 1999.
4 See Appendix III.1, tables III.1-III.13 for statistics on the presence of immigrants and of Albanian immigrants in Greece.
5 According to 2001 population census, there were 48,560 European citizens and 14,426 Cypriot citizens living in Greece.
7 This sample survey was carried out by Cavounidis (2003). The absolute majority of the migrants surveyed were from Albania.
8 The category “Remaining services” covers community, social, and personal activities.
9 This shows that the “transit” character of migration is less relevant, in the sense that there is a decrease in circular immigration. Immigrants intending to live in Greece permanently tend to become part of the Greek population and the competent authorities have made an effort to promote their integration into the Greek society.
11 This section is based on IOM (2004) and the paper presented by Andreas Karageorgos (2005) in Tirana.
12 Information in this section was provided through streamlined procedures, the Ministry of Interior in response to the IOM questionnaire on “Bilateral approaches for facilitating and managing temporary economic migration”, 12 September 2005.
13 Quoted from answer from the Ministry of the Interior to IOM’s Questionnaire on bilateral approaches for facilitating and managing temporary economic migration, p.16.
14 Paper given by the competent service of the Ministry of Employment and Social Protection to the questionnaire on readmission agreement 1.07.2005.
15 See the paper provided by the Ministry of Interior on IOM’s Questionnaire on bilateral approaches for facilitating and managing temporary economic migration submitted on 12 September 2005 and the paper given by the Ministry of Public Order (11/07/2005) to the questionnaire on readmission agreement (July 2005).
16 See response from the Ministry of Public Order to questionnaire on readmission agreement (July 2005).
17 There is no official information about the number of illegal immigrants in Greece. According to 2001 population census, the number of foreigners is estimated about 7% of the total population in Greece. Many of them are illegal immigrants, but we do not know how many they are. Probably there are also other illegal immigrants not registered by 2001 population census.
18 Data presented by Tables III.5, III.6, III.7 and III.8 refer to the 2001 Population Census.
LESSONS FROM THE ITALY-ALBANIA READMISSION AGREEMENT

Jonathan Chaloff

IV.1. Introduction

Italy signed a Readmission Agreement (RA) with Albania in 1997. The agreement has now been in effect for seven years, and thus provides an accumulation of experience in the application of the RA and in the bilateral relationship. It is considered in Italy to have been generally successful, with the exception of difficulties relating to readmission of third country nationals. This success is attributed to good cooperation between Italy and Albania, especially with regard to law enforcement, and is widely considered to be the result of Albania’s massive investment in resources and material, concession of legal migration opportunities, and capacity building. “Everything you see in Albania has been paid for with Italian funds” is a common explanation of the agreement’s success. The same cooperation also led to fundamental changes in trafficking routes which, eventually, rendered the RA less important, since fewer candidates for readmission have found their way from Albania to Italy.

The Italian experience can be very useful in understanding the framework for application of the Readmission Agreement between the European Community and Albania. Structural factors in the Italian system of management of migration illustrate the importance of RAs: planned labour migration; widespread presence of undocumented foreigners; and priority assigned to the fight against unregulated immigration. They are linked to international development and migration policy and have been used to improve cooperation in contrasting undocumented flows. The largely successful application of the 1997 Italy-Albania RA is attributed to labour migration initiatives and development aid which accompanied and followed its application. These aspects in the Italian system may be relevant in planning supplementary measures to ensure the success of other RAs with Albania and indeed with any other country.

IV.2. Migration in Italy

Readmission policy in Italy is part of an overall migration policy for regulated labour migration which links the presence of foreigners to employment.

Modern immigration legislation was first introduced in Italy in 1986 (Law 943/1986) in order to regulate the entry of immigrants seeking employment. This legislation also led to the first of what has become a periodic regularization of undocumented foreigners claiming employment. The sharp rise in migration in the late 1980s and the fall of the Iron Curtain prompted hasty passage of a broader law in 1990 (Law 39/1990, known as the Martelli Law), which provided for annual planning of migratory flows, norms regarding the rights and obligations of foreigners in Italy, their stay and work conditions, and other matters regarding family reunion and social integration. Asylum – which was not yet a serious matter in Italy – was also addressed. At this time, Albanian migration was not a relevant phenomenon.

Immigration became a significant issue in the 1990s, leading to Law 40/1998 (the Turco-Napolitano or Testo Unico Law), introduced by the centre-left government. This legislation, passed during a
period of important migration from Albania, created a three-pillar immigration policy, subsequently upheld by the centre-right coalition, based on:

- fighting illegal migration;
- regulating legal migration;
- integrating resident foreigners.

The first pillar concentrated on bilateral agreements and criminal penalties; the second on a quota system (an annual ceiling); and the third on a national immigration fund distributed to regions. The government was required to publish three-year planning documents for immigration. Entry to Italy was allowed within the national quotas and with either a job offer (invitation from an employer) or ‘sponsorship’ (guaranteed by a legal Italian resident).

In 2002, the 1998 immigration law was revised. Law 189/2002 (the Bossi-Fini Law) imposed further restrictions on entry and tightened the conditions for stay, though integration measures were left intact. The main elements of the current immigration law are shown in Table IV.1.

Table IV.1: Italian Migration Law 40/1988 as modified by Law 189/2002

<table>
<thead>
<tr>
<th>The Quota system</th>
<th>The number of authorizations for entry for work purposes is established annually after hearing an Interministerial Committee for Coordination and Monitoring and the relevant Parliamentary Commissions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entry conditions</td>
<td>Non-EU immigrants can enter Italy only with a ‘residence contract’ (contratto di soggiorno) – i.e. a contract of dependent employment with an employer (a firm or a family), according to availability within the quota system. A needs test for foreign workers was added in 2002, requiring the employment office to publish the job vacancy; if there is no answer after 20 days, the prefecture authorizes the entry of a new non-EU worker. The employer must guarantee (1) the availability of housing for the worker, which meets the minimum standards laid down by the law for public housing, and (2) cost of repatriation for workers returning home if they remain unemployed at the end of their permit. A “sponsor” system created by the 1998 law was eliminated by the 2002 Law. Entry for self-employment is subject to self-employment quotas.</td>
</tr>
</tbody>
</table>
| Residence permit limits | The residence permit varies depending on the type of work:  
- a total of nine months for seasonal work. Starting in 2002, foreigners coming to Italy for at least two consecutive years may be granted a multi-annual permit for up to three years for seasonal work, or a normal work permit within the quota.  
- no more than one year for dependent temporary workers and no more than two years for non-temporary workers, self-employed workers, or family reunification.  
- renewals are subject to the same time limits (the 1998 Law allowed for renewals of twice the length)  
Non-EU workers who lose their job have a maximum of six months to find a new job, after which they face expulsion. The 1998 time limit was for the duration of the permit and not less than 12 months. Applicants for a first residence permit or a renewal must be fingerprinted (introduced in 2002). Anyone with a residence permit that allows indefinite renewal (i.e., work or family), and who earns enough to provide for himself/herself (and family) can request a 10-year automatically renewable residence card after six years in Italy (compared to five years under the 1998 Law). |

Management of foreign labour flows in Italy centres on the quota system, and this has been particularly relevant in the case of Albanian immigration. A three-year programme provides guidelines
for quotas, but the decree authorizing the following year’s entry quotas (*flussi di ingresso*) must be passed by 30 November every year. If not, the previous year’s quota is reapplied.

The quota system has been plagued by delays. Annual decrees are frequently issued past the deadline, causing postponements in the submission of applications and in the admission process. Law 189/2002 specifies that, if appropriate, further decrees may be issued during the year. Delays create problems for seasonal workers in agriculture (including many Albanians), since all requests must be collected and permits issued before the beginning of the harvesting season. Authorizations have to be issued before July and then sent to Italian Embassies or Consulates, so that visas can be issued to workers before August.

During the period 2002-2004, the annual decree set quotas for the entry of 79,500 immigrant workers annually, of whom 50,000 were admitted for seasonal work only. Family reunification in Italy is exempt from the quotas. Immigrants with a family permit are allowed, but not required, to work.

The quotas always fall short of national estimates of demand for foreign labour (as estimated by the Excelsior system) and applications to provincial labour offices almost always far exceed the available quotas. Many workers, in fact, arrive without documents and work without being registered, hoping either to establish a relationship with an employer willing to undertake the complicated bureaucratic procedures necessary for legal entry, or to support their application during one of the periodic regularizations. The quotas have been accused of having failed to manage labour migration effectively (Lemaître, 2003). Many Albanians currently residing in Italy arrived without documents and were later regularized (Triandafyllidou and Kosic, 2003).

Italy’s position in the centre of the Mediterranean, its extensive coastline and important tourism and pilgrimage industry make it a relatively accessible country for Europe-bound immigrants. A substantial informal economy, rapid growth in the domestic and personal services sector, and the predominance of small businesses create work opportunities for undocumented migrants. Evidence of extensive irregular migration and employment can be found in the periodic regularizations (five times in 16 years: 1986, 1990, 1996, 1998 and 2002), allowing the cumulative regularization of about 1.5 million migrants, although many involve repeat regularizations of individuals who had fallen back into irregular status after failing to meet criteria for permit renewal.

The latest regularization in September 2002 covered two types of irregular immigrant workers: domestic workers and home-helpers; and workers involved in other kinds of contract employment. Previously documented foreigners, whose residence permits had expired, were also able to regularize their situation. Applicants were required to prove that they had been hired before 10 June 2002 and had never received a deportation order. By the end of 2003, 646,829 permits had been issued. The impact of this regularization was to increase the legally resident population of foreigners by about 50 per cent.

Labour migration is the main source of migrants, since asylum seekers account for only a small component of total migration flows in Italy (around 10,000 applications annually). Italy, alone in the EU, does not have a framework asylum law. Currently, political asylum is regulated by Article 1 of Law 39/1990 and by a few articles of the Immigration Law 189/2002. Law 39/1990 abrogated the Italian clause to the ratification of the Geneva Convention which limited refugee status exclusively to persons from authoritarian countries in Europe. The Dublin Convention of 1990 (ratified in 1992 and in effect since 1997) introduced a second norm by which asylum seekers can be sent back to the Dublin signatory country where a prior application had been made.

Asylum review procedures were reformed in 2005, in large part to reduce the wait for an asylum hearing, which at that time could last on average 12 to 15 months. During this period, applicants had no right to work and received government support for only the first 45 days, after which they
were dependent on charity and local authorities. Delays in the asylum procedures, coupled with a lack of housing and social support, meant that many asylum seekers failed to appear at their hearing, presumably having moved elsewhere. Under the Dublin Convention, hundreds are sent back annually to await a new hearing.

The new system creates a rapid review of asylum applications, and asylum seekers are now granted access to the labour market after six months. At the same time, reception has been improved by the funding of a national “System of Protection”, a national shelter and support network, co-financed by the Ministry of the Interior and participating municipalities. Reception in the system is voluntary and the system covers about two-thirds of demand.

Of those attending an asylum hearing, only one third receives refugee status or a recommendation of temporary stay for humanitarian reasons.4 While Albanians are the largest group of asylum seekers in the 1990s, there are increasing numbers of Turkish and Iraqi Kurds, people from countries such as Afghanistan and Iran and, more recently from sub-Saharan Africa. The small number of asylum cases in Italy indicates that readmission mostly involves other categories of foreigners.

**IV.2.1. Migration and Italian foreign policy**

Italy was long a sending country of immigrants, with more than 25 million Italians departing between 1876 and 1973. Towards the end of the 1980s, Italy began to receive foreign labour. This inflow increased over the 1990s. The balance of remittances became negative only in 1997 and the population of foreign workers and their families in Italy is now approaching three million, or about 5 per cent of the total population.

Italian foreign policy initially addressed only emigration issues, giving priority to maintenance of the outward flows and social security for expatriate workers. Since the mid-1990s, inward flows have become the only interest for Italian foreign policy, with most attention devoted to efforts to reduce undocumented migration into the country. Nonetheless, in addition to agreements on readmission and police cooperation, some bilateral agreements specifically dealing with labour have been signed. The first of these was signed with Albania, underlining its importance in this new policy direction.

Institutional interests within the Italian government influence policy in different areas: migration policy is determined by the Prime Minister’s office, and by the Ministries of Labour (Welfare), Foreign Affairs and the Interior. In some cases, these ministries are assigned to different political parties with varying opinions, and they must respond to demands from different constituencies (employers’ associations and federations, trade unions, and civil society). The ongoing decentralization of administrative functions towards local (regional, provincial and municipal) authorities adds a further level of complexity, as some initiatives are decided across various levels of government.

**IV.2.2. Bilateral agreements on readmission**

Before 1974, all agreements related to Italian emigrants; after 1995, these agreements dealt with foreign immigrants (see Table IV.2 below).

Italian foreign policy regarding migration has concentrated on signature of bilateral agreements on readmission, rather than on support for labour migration. This priority is not limited to the Ministry of Interior, but is shared with the Ministry of Labour.5

The 2002 law, Law 189/02, made major changes to the 1998 framework immigration law 286/98, strengthening an existing foreign policy priority rewarding countries which “actively collaborate in
the fight against undocumented migration” to Italy. This “reward” is generally made through the quota system. Under the present Framework Law, employers or their representatives apply for authorization for single foreign workers, either by name or through anonymous requests using registries kept at Italian consulates abroad. Authorization is given by the local office of the Ministry of Labour, within the limits of the available local quota and after the job offer has been listed for a 20-day period (needs test). The authorization allows the consulate to issue a national work visa for the duration of the contract, not exceeding two years. The employer must ensure housing and a guarantee to cover any repatriation costs in the event that the foreign worker loses the right to remain in Italy.

As a result of these procedures, management of foreign labour flows has become a discussion about the quota system. The 1998 law introduced a quota system for foreign labour, requiring the Prime Minister to publish an annual decree stating the maximum number of foreign workers authorized to enter the country. This national quota can be divided according to at least three parameters:

- type of labour, usually seasonal, contract (dependent), and independent work;
- job category, with occasional sub-quotas given to certain categories (nurses, technology workers);
- nationality, with certain sub-quotas reserved for citizens of specific nationalities.

This last parameter is most closely related to the bilateral agreements signed so far. In fact, “co-operation in the fight against illegal migration” is the stated precondition for assignment of preferential quotas to single countries. However, the Italian Foreign Ministry is careful not to make explicit reference to these quotas in the bilateral agreements on readmission. Sending countries generally attempt to negotiate a clear promise of preferential quotas but have not yet been successful. Albania is an exception to this rule, as the only country to sign both agreements together.

Table IV.2: Selected bilateral agreements and diplomatic exchanges between Italy and other countries on labour and migration, 1946-2001

<table>
<thead>
<tr>
<th>Date</th>
<th>Country</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>23/6/1946</td>
<td>Belgium</td>
<td>Agreement to send 2,000 workers weekly, in exchange for 200 kg of coal for each working day by an Italian in the mines.</td>
</tr>
<tr>
<td>14/01/47</td>
<td>UK</td>
<td>Agreement and exchange of notes for recruitment of Italian workers for UK steel mills</td>
</tr>
<tr>
<td>26/01/48</td>
<td>Argentina</td>
<td>Agreement on emigration</td>
</tr>
<tr>
<td>04/12/48</td>
<td>Netherlands</td>
<td>Agreement on enlistment of Italian labour for Dutch mines</td>
</tr>
<tr>
<td>08/10/49</td>
<td>Brazil</td>
<td>Agreement for increased collaboration, regulation of peace treaty questions and increase in immigration</td>
</tr>
<tr>
<td>01/12/49</td>
<td>Chile</td>
<td>Modus vivendi for emigration</td>
</tr>
<tr>
<td>21/03/51</td>
<td>France</td>
<td>Agreement on emigration; administrative agreement on emigration in France of Italian seasonal workers</td>
</tr>
<tr>
<td>15/06/51</td>
<td>France</td>
<td>Three emigration agreements. 1) medical selection of Italian candidates for emigration in France; 2) agreement on financial transfers by emigrants; 3) agreement on family benefit payments in Italy</td>
</tr>
<tr>
<td>25/06/52</td>
<td>Argentina</td>
<td>Protocol on emigration of Italian farmers in Argentina</td>
</tr>
<tr>
<td>05/03/54</td>
<td>Belgium</td>
<td>Protocol for recruitment of Italian workers for Belgian coal mines</td>
</tr>
</tbody>
</table>
04/06/54  Netherlands  Agreement for exchange of apprentices
16/01/57  Luxembourg  Agreement for emigration of Italian workers
25/11/57  Argentina  Commercial and financial agreement protocol on emigration and credit
11/12/57  Belgium  Protocol for regulation of working conditions of Italian miners in Belgium and for reactivation of emigration of Italian miners to Belgium
27/03/58  France  Agreement on frontier workers
06/08/60  Netherlands  Agreement on recruitment and employment of Italian workers
09/12/60  Brazil  Agreement on emigration
10/08/64  Switzerland  Agreement on emigration of Italian workers in Switzerland
26/09/67  Australia  Treaty on emigration and settlement; "Understanding on financially assisted emigration from Italy to Australia"
20/09/71  Canada  Exchange of notes on emigration
19/03/73  Brazil  Administration agreement for application of articles from the 1960 agreement
30/01/74  Brazil  Additional protocol for the 1960 agreement
03/03/95  Tunisia  Exchange of notes on conditions of stay and work for Tunisians in Italy and vice versa
18/11/97  Albania  Agreement between Italy and Albania on seasonal workers
15/05/2000  Tunisia  Agreement between Italy and Tunisia on seasonal workers
07/01/01  New Zealand  Agreement between Italy and New Zealand on work holidays
01/10/03  Australia  Agreement between Italy and Australia on work holidays

**Source:** Chaloff (2004)

The priority in foreign policy has been given to the signature of agreements on readmission, especially with countries along the transit routes between Italy and North Africa and the Balkan states. Bilateral agreements on readmission have been signed with most neighbouring and nearby countries and do not need to be approved by the Italian parliament. The 1998 law states that “the Ministry of Foreign Affairs and the Ministry of the Interior must promote the appropriate measures of agreement with relevant countries to accelerate identification and issuance of documents necessary to improve the effectiveness of the measures foreseen by this law” (Law 286/98, Art. 11(4)). The same law authorizes the Ministry of Interior to allot funding for cooperation, including the purchase or transfer of equipment to cooperating countries.

A total of 29 RAs were signed by 2005. Of these, 21 have been ratified and are now in force (Table IV.3). These RAs follow more or less the same format: the person to be expelled is anyone who “does not meet or who no longer meets the conditions for entry and for stay in the territory of the contracting party” (Art. 1(1) of the 1997 agreement). In most cases, Italy was able to sign agreements in which persons could be sent back – and admitted by – the countries of which they were “presumed” to be citizens. Presumption of citizenship is based on the presence of documents, including photocopies, self-declarations, and “reliable testimony”. In some cases this is qualified: in agreements with Morocco and Tunisia, readmission of “presumed” nationals requires Italy to conduct the identification procedure before these persons can be readmitted.
IV.3: Readmission agreements signed by Italy, 1991-2004

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>1991, 1994</td>
</tr>
<tr>
<td>Slovenia</td>
<td>1996</td>
</tr>
<tr>
<td>Albania, Austria, Croatia, Estonia, France, Georgia*, Hungary, Latvia, Lithuania, Macedonia, Romania, Yugoslavia*</td>
<td>1997</td>
</tr>
<tr>
<td>Morocco*, Tunisia, Bulgaria, Slovakia, Switzerland</td>
<td>1998</td>
</tr>
<tr>
<td>Spain, Greece</td>
<td>1999</td>
</tr>
<tr>
<td>Algeria*, Nigeria*</td>
<td>2000</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>2001</td>
</tr>
<tr>
<td>Cyprus, Malta, Moldova*</td>
<td>2002</td>
</tr>
<tr>
<td>Serbia &amp; Montenegro* (replaced 1997 Yugoslavia agreement)</td>
<td>2003</td>
</tr>
<tr>
<td>Bosnia Herzegovina, Philippines*, Russia, Tajikistan</td>
<td>2004</td>
</tr>
<tr>
<td>Bangladesh, China, Columbia, Egypt, Ecuador, Ghana, India, Iran, Lebanon, Pakistan, Peru, Senegal, Syria, Turkey, Ukraine</td>
<td>Under negotiation**</td>
</tr>
</tbody>
</table>

* not yet in force.

IV.2.3. Agreements signed after a readmission agreement

The Italian Foreign Ministry uses the term “second generation agreement” to refer to any agreement on migration signed after a readmission agreement. This means that the term covers a wide variety of agreements, although these fall under the heading of three main categories: seasonal labour migration, registries, and training and recruitment.

The first category of second-generation agreements is specifically related to labour migration. Until now, these agreements only covered seasonal work. The first country to sign such an agreement was Albania in 1997, at the same time as the RA. Italy has signed only one other agreement, with Tunisia on 15 May 2000. Tunisia had already addressed the question of readmission through an exchange of notes on 6 August 1998.

Another second-generation agreement covered the launch of the Digital Registry of Foreign Workers (AILE). This system, first tested with Albania in a pilot project between the Italian Ministry of Foreign Affairs and IOM, was intended to provide a list of foreign workers available for emigration to Italy. AILE contains basic information on training, skills and objectives of these foreign workers. Employers may consult AILE in order to find candidate foreign workers. The same principle underlies the registry of foreign workers open to Tunisians and Moroccans.

The Ministry of Labour has since launched a much more limited and much more effective database for seasonal workers (SILES). This system registers eligible seasonal workers, whether with past experience or coming from authorized countries, and allows employers to draw on this pool for rapid recruitment.
The third kind of second-generation agreement relates to training and recruitment of foreign labour. The Ministry of Labour has prioritized this kind of activity in its development policy. The idea behind this agreement is that programmes are agreed upon in a bilateral statement and funding is passed through Italian NGOs, training firms and employers’ associations. This kind of cooperation has had a slow start, though Italian regions have had more success in outlining their priorities and funding such projects. As stated above, countries actively involved in the fight against illegal migration to Italy may be rewarded with preferential quotas. This was an official policy position long before it was enshrined in the 2002 Immigration Law. In 1998, during the centre-left coalition government, the Minister for the Interior stated: “It is Italy’s intention to promote this sort of collaboration, by setting it as a prerequisite condition for the allocation of a preferential quota of legal entry work permits on a country basis”.

The preferential quotas for specific nationalities represent only a fraction of the overall quota and have never exceeded 22 per cent (see Table IV.4). The list of countries, receiving preferential quotas, has expanded over the past few years, and Albania has always been one of the major beneficiaries of the privileged quota system. Countries, such as Morocco, which fail to meet expectations in terms of cooperation in combating undocumented flows, have seen their quotas reduced. Others, such as Egypt in 2003, were rewarded not for a specific readmission agreement, but for active collaboration in reducing Italy-bound migration flows through the Suez Canal.

Another form of second-generation agreement, codified in the 2002 Law and of great interest to employers, is the possibility of supporting training programmes in the country of origin for workers who would then be given priority in applying for immigration to Italy. Such training courses have existed in the past, but on a small scale. Current courses are funded by the Ministry of Labour, Italian regions, or employers’ associations and run by NGOs at a local level. Courses involving Albania, for example, recruit workers for the construction sector.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>3,000</td>
<td>3,000</td>
<td>6,000</td>
<td>6,000</td>
<td>3,000</td>
<td>1,000</td>
<td>3,000</td>
<td>3,000</td>
<td>4,500</td>
</tr>
<tr>
<td>Morocco</td>
<td>1,500</td>
<td>1,500</td>
<td>3,000</td>
<td>1,500</td>
<td>2,000</td>
<td>500</td>
<td>2,500</td>
<td>2,500</td>
<td>4,000</td>
</tr>
<tr>
<td>Tunisia</td>
<td>1,500</td>
<td>1,500</td>
<td>3,000</td>
<td>3,000</td>
<td>2,000</td>
<td>600</td>
<td>3,000</td>
<td>3,000</td>
<td>3,500</td>
</tr>
<tr>
<td>Somalia</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>500</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,000</td>
<td>100</td>
</tr>
<tr>
<td>Egypt</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,000</td>
<td>300</td>
<td>1,500</td>
<td>2,000</td>
<td>7,000</td>
<td></td>
</tr>
<tr>
<td>Nigeria</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>500</td>
<td>200</td>
<td>2,000</td>
<td>2,000</td>
<td>5,000</td>
<td></td>
</tr>
<tr>
<td>Moldova</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>500</td>
<td>200</td>
<td>1,500</td>
<td>2,000</td>
<td>5,000</td>
<td></td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,000</td>
<td>500</td>
<td>1,500</td>
<td>1,500</td>
<td>3,000</td>
<td></td>
</tr>
<tr>
<td>Bangladesh</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>300</td>
<td>1,500</td>
<td>1,500</td>
<td>3,000</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>0</td>
<td>6,000</td>
<td>4,000</td>
<td>0</td>
<td>5,900</td>
<td>3,900</td>
<td>3,200</td>
<td>6,400</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>6,000</td>
<td>6,000</td>
<td>18,000</td>
<td>15,000</td>
<td>10,000</td>
<td>9,500</td>
<td>20,400</td>
<td>21,700</td>
<td>38,000</td>
</tr>
</tbody>
</table>

**Table IV.4: Preferential quotas for specific nationalities within the quota system, 1998-2006**

<table>
<thead>
<tr>
<th>Argentina*</th>
<th>na</th>
<th>na</th>
<th>na</th>
<th>na</th>
<th>4,000</th>
<th>200</th>
<th>400</th>
<th>200</th>
<th>500</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of total labour migration quotas</td>
<td>10.3%</td>
<td>10.3%</td>
<td>21.7%</td>
<td>16.8%</td>
<td>17.6%</td>
<td>12.2%</td>
<td>25.6%</td>
<td>13.2%</td>
<td>22.40%</td>
</tr>
</tbody>
</table>

IV.2.4. Italian return policies

There are many different forms of “expulsion” or deportation from Italy (see Table IV.5), and “repatriation” represents only a fraction of expulsions. Deportations are not subject to repatriation assistance. There has been some experience in Italy with assisted repatriation, generally within the framework of specific events, such as the repatriation of Bosnian refugees in the late 1990s and an ongoing programme for assisted repatriation of Kosovars run by the IOM and funded by the Italian Ministries of Interior and Foreign Affairs. IOM also handles assisted voluntary repatriation for asylum seekers who have withdrawn their asylum claims or have been rejected. There are also specific social intervention initiatives (i.e., projects for trafficked women). In addition, assisted repatriation is an option for unaccompanied minors, and is entrusted to International Social Service.

Expulsion and repatriation generally affect undocumented foreigners, rather than asylum seekers. Italy does not have a large pool of rejected asylum seekers, in comparison to the number of undocumented foreigners. In 2002, some 700,000 undocumented foreigners applied for regularization, compared with fewer than 10,000 applications for asylum. Thus, any repatriation assistance is more likely to involve other categories, such as trafficking victims or released prisoners, for whom there is still no Italian policy (Coslovi and Piperno, 2005).

IV.5: Expulsion of undocumented foreigners, 1998-2004

<table>
<thead>
<tr>
<th>Year</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turned back at the border</td>
<td>29,593</td>
<td>36,937</td>
<td>30,871</td>
<td>30,625</td>
<td>37,656</td>
<td>24,202</td>
<td>24,528</td>
</tr>
<tr>
<td>Rejected by Police Chief (Questore)</td>
<td>15,564</td>
<td>11,500</td>
<td>11,350</td>
<td>10,433</td>
<td>6,139</td>
<td>3,195</td>
<td>2,563</td>
</tr>
<tr>
<td>Expelled</td>
<td>1,567</td>
<td>0</td>
<td>3,206</td>
<td>2,251</td>
<td>2,461</td>
<td>8,126</td>
<td>0</td>
</tr>
<tr>
<td>Expelled and accompanied to the border</td>
<td>6,979</td>
<td>12,036</td>
<td>15,002</td>
<td>21,266</td>
<td>24,799</td>
<td>18,844</td>
<td>16,270</td>
</tr>
<tr>
<td>Expelled by judicial decree</td>
<td>432</td>
<td>520</td>
<td>396</td>
<td>373</td>
<td>427</td>
<td>885</td>
<td>930</td>
</tr>
<tr>
<td>Readmitted</td>
<td>8,621</td>
<td>11,399</td>
<td>8,438</td>
<td>12,751</td>
<td>17,019</td>
<td>9,901</td>
<td>7,996</td>
</tr>
<tr>
<td>All undocumented foreigners expelled from Italy</td>
<td>62,756</td>
<td>72,392</td>
<td>69,263</td>
<td>77,699</td>
<td>88,501</td>
<td>65,153</td>
<td>59,965</td>
</tr>
<tr>
<td>Foreigners ordered to leave the country (foglio di via)</td>
<td>44,121</td>
<td>40,489</td>
<td>62,217</td>
<td>56,333</td>
<td>62,245</td>
<td>40,804</td>
<td>45,697</td>
</tr>
<tr>
<td>Total</td>
<td>106,877</td>
<td>112,881</td>
<td>130,791</td>
<td>133,619</td>
<td>150,746</td>
<td>105,957</td>
<td>105,662</td>
</tr>
</tbody>
</table>

Source: Ministry of Interior (2004); Caritas (2005:125). Totals may not match column sums due to different reporting methods.
IV.3. Albanian Migration to Italy

Albanian migration began after the collapse of the Communist regime in Tirana in the early 1990s. The first boatloads of Albanians arrived on the south-east coast of Italy in 1991: 28,000 in March 1991 and 20,000 in August 1991. This profoundly affected Italian public opinion and the future perception of migration in general in Italy: even today, those rusty ships reappear in newspapers to symbolize migration.

Since 1991, there has been a steady flow of Albanians, and many have benefited from the regularizations conducted in 1995 (about 30,000), 1998 (about 39,000) and 2002 (47,763) (Carfagna, 2002:66-67; ISTAT, 2004). These regularizations helped to reduce the number of undocumented Albanians and therefore limited the pool of potential deportees.

Inflows of Albanians remain significant. The Italian consular services in Albania issued 35,889 visas in 2000, 45,470 in 2001 and 33,070 in 2002, 39,496 in 2003, and 38,785 in 2004. For 2004, about 5,500 were work visas and 13,250 were family reunification visas (Ministry of Foreign Affairs, 2004:143; Caritas, 2005:82-83).

Albanians represent 13.2 per cent of all foreigners listed with municipal registries in Italy (316,659 out of 2.4 million in 2004), making them the leading registered foreign population. Residence permit data for the past decade shows that Albanian population has grown rapidly, increasing 10-fold from 1992 to 2003 (Table IV.6). Albanians have settled in all parts of Italy (Table IV.7). In 2003, there were 50,000 Albanian school children in Italian public schools. Albanian adolescents also make up about a quarter of unaccompanied minors in Italy, who are subject to repatriation upon reaching 18 years of age, unless they receive judicial approval for their continued stay in Italy.12

Table IV.6: Albanians with residence permits, by gender, on 1 January 1992-2005

<table>
<thead>
<tr>
<th>Year</th>
<th>Men</th>
<th>Women</th>
<th>Total</th>
<th>% of all immigrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>21,382</td>
<td>3,504</td>
<td>24,886</td>
<td>3.8</td>
</tr>
<tr>
<td>1993</td>
<td>18,479</td>
<td>3,995</td>
<td>22,474</td>
<td>3.8</td>
</tr>
<tr>
<td>1994</td>
<td>18,347</td>
<td>5,385</td>
<td>23,732</td>
<td>3.7</td>
</tr>
<tr>
<td>1995</td>
<td>18,095</td>
<td>7,150</td>
<td>25,245</td>
<td>3.7</td>
</tr>
<tr>
<td>1996</td>
<td>20,301</td>
<td>9,882</td>
<td>30,183</td>
<td>4.1</td>
</tr>
<tr>
<td>1997</td>
<td>48,586</td>
<td>18,022</td>
<td>66,608</td>
<td>6.8</td>
</tr>
<tr>
<td>1998</td>
<td>50,287</td>
<td>22,264</td>
<td>72,551</td>
<td>7.1</td>
</tr>
<tr>
<td>1999</td>
<td>55,916</td>
<td>31,679</td>
<td>87,595</td>
<td>8.0</td>
</tr>
<tr>
<td>2000</td>
<td>87,748</td>
<td>45,270</td>
<td>133,018</td>
<td>9.9</td>
</tr>
<tr>
<td>2001</td>
<td>93,268</td>
<td>53,053</td>
<td>146,321</td>
<td>10.6</td>
</tr>
<tr>
<td>2002</td>
<td>97,570</td>
<td>61,747</td>
<td>159,317</td>
<td>11.0</td>
</tr>
<tr>
<td>2003</td>
<td>100,874</td>
<td>70,693</td>
<td>171,567</td>
<td>11.4</td>
</tr>
<tr>
<td>2004*</td>
<td>155,082</td>
<td>115,301</td>
<td>270,383</td>
<td>12.3</td>
</tr>
<tr>
<td>2005*</td>
<td>182,145</td>
<td>134,514</td>
<td>316,659</td>
<td>13.2</td>
</tr>
</tbody>
</table>

* 2004-2005: population registry data. Permits showed a total of 233,316 Albanians (10.3% of all foreigners) for 31 December 2003.
Table IV.7: Albanians in Italy, according to area of residence, 2003

<table>
<thead>
<tr>
<th>Area of Italy</th>
<th>Men</th>
<th>Women</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>North West</td>
<td>50,425</td>
<td>37,188</td>
<td>87,613</td>
</tr>
<tr>
<td>North East</td>
<td>40,109</td>
<td>30,021</td>
<td>70,130</td>
</tr>
<tr>
<td>Central Italy</td>
<td>41,352</td>
<td>30,899</td>
<td>72,251</td>
</tr>
<tr>
<td>South</td>
<td>19,952</td>
<td>15,114</td>
<td>35,066</td>
</tr>
<tr>
<td>Islands (Sicily and Sardegna)</td>
<td>3,244</td>
<td>2,079</td>
<td>5,323</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>155,082</td>
<td>115,301</td>
<td>270,383</td>
</tr>
</tbody>
</table>


Foreign inmates represent about a third of the Italian prison population, and Albanians make up a disproportionate number of prisoners compared to their presence in the general population (Table IV.8). This is particularly relevant for discussion of repatriation, since foreigners serving prison terms in Italy are subject to deportation upon completion of their prison sentence. They may also be deported in substitution of the final two years of their sentence, or of sentences of less then two years.

Table IV.8: Albanians in Italian prisons, 2000-2005

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Albanians</td>
<td>2,683</td>
<td>2,790</td>
<td>2,811</td>
<td>2,806</td>
<td>2,905</td>
</tr>
<tr>
<td>All foreign inmates</td>
<td>15,642</td>
<td>17,095</td>
<td>16,636</td>
<td>17,793</td>
<td>19,164</td>
</tr>
<tr>
<td>% of foreign inmates</td>
<td>17.2%</td>
<td>16.3%</td>
<td>16.9%</td>
<td>15.8%</td>
<td>15.2%</td>
</tr>
</tbody>
</table>

Source: Ministry of Justice (2005a).

IV.3.1. Context of the 1997 Italy-Albania agreement

By the mid-1990’s unregulated traffic across the Straits of Otranto had become a visible problem for police and public opinion. Law 563 of 1995, the so-called “Apulia Law”, created temporary reception centres to deal with the influx of undocumented people escaping from the Balkans. Because of the importance of the movement of undocumented migrants across the Straits of Otranto, a readmission agreement with Albania was a major priority for the Italian government. Trafficking in drugs and arms was also a major problem. At the same time, achieving political and social stability in Albania was perceived as a major objective in foreign aid, since it was expected to reduce criminal activity emerging from Albania. Albania therefore became a key recipient of Italian development aid (Table IV.9), both within the framework of traditional development aid programmes run by the Italian Ministry of Foreign Affairs and within military and police cooperation.
Table IV.9: Direct development aid to Albania, 2000-2003

<table>
<thead>
<tr>
<th></th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants and credits actually spent in Albania (€)</td>
<td>16,275,623</td>
<td>17,952,703</td>
<td>27,495,909</td>
<td>21,764,855</td>
<td>15,280,739</td>
</tr>
<tr>
<td>Grants and credits to Albania as a % of overall development aid</td>
<td>-</td>
<td>4.7%</td>
<td>6.5%</td>
<td>5.6%</td>
<td>3.8%</td>
</tr>
</tbody>
</table>


During this period, intense activity by Italian Coast Guard and border authorities led to numerous interceptions of boats. Thousands of Albanians were sent back without ever setting foot on dry land, or caught near the beach shortly after landing in Apulia. The intensification of Italian naval patrols also led to tragic accidents such as the sinking of the *Kater I Rades* in March 1997, in which at least 58 Albanians drowned after their boat was struck by an Italian cutter in international waters. Numerous other fatal incidents occurred right throughout 2002.

In 1997, the collapse of the pyramid schemes in Albania and ensuing public disorder led to an even greater outflow of Albanians (about 18,000 arrived by boat in Italy). This raised great concern in Italian public opinion and led to major investment in Albania in an attempt to restore order and limit the impact on Italy. An Italian paramilitary presence was established and cooperation launched, especially in the port of Vlore. Operation Alba was a multinational “stabilization” mission led by Italy, with France, Turkey, Greece, Spain, Romania, Austria and Denmark as partners. OSCE and the UN faced with the chaos in Albania, encouraged an Italian response and in April 1997 the Italian parliament approved the mission, which lasted four months and involved 3,000 Italian soldiers, almost half the “Alba” contingent, in Albania. Their main task was to protect OSCE observers during the June elections and to guarantee the safe arrival of humanitarian aid and supplies.

April 1997 also saw the arrival of the 27th Naval Group of the Italian Navy in Durres, with a mission to patrol Albanian coastal waters and collaborate with local authorities in fighting “emigration”.

In June of 1997, the Italian Interforce Police mission began providing assistance and advice to Albanian police. Headquartered in Tirana, the Interforce mission also has branches in Shkoder and Durres as well as at the marine border control points.

After Operation Alba, the Italian military presence in Albania remained in the form of the Delegation of Italian Experts (DEI), following a protocol signed between the Italian and Albanian Ministers of Defence in Rome on 28 August 1997, in order to provide assistance in reorganizing the Albanian Army, Navy, Air Force and Police. There are still 25 DEI members in Albania. Between 1997 and 2005 the DEI spent €8.7 million on training Albanian security personnel and granted €62 million in goods and services.

Even as these emergency police measures were being implemented, Italy was involved in negotiations with the Albanian government for a readmission agreement. As noted above, Italy is usually careful to negotiate labour agreements only once a readmission agreement is in place. Yet the need for an agreement with Albania was so great that the labour migration agreement was signed on the same day as the 1997 Readmission Agreement, 18 November 1997. As noted above,
the labour migration agreement is separate but provides an immediate justification for measures, which may be politically unpopular. For Italy, the two agreements expressed the hope that migration from Albania could be limited to the planned quotas and mechanisms noted in the labour agreement. The Readmission Agreement came into force on 1 August 1998.

IV.3.2. Migration to Italy from and through Albania

While Italy’s first reaction was to welcome Albanian refugees in 1991, public opinion rapidly shifted against reception and led to stricter enforcement of migration across the Straits of Otranto, which separate the two countries.

Table IV.10 shows the number of persons landing along the Italian coast from 1998 to late 2004. Close cooperation with Albanian authorities, and the Italian presence in the ports of departure in Albania, in the late 1990s led to a drop in the traffic along the Apulian coast after 2000. When traffic shifted to Calabria, the Italian authorities sought cooperation with Turkey and Egypt, where many of the ships passed before arriving in this region. This initiative led to a reduction in the number of arrivals in Calabria and also affected transit routes for Albanians coming into Italy. Currently, most traffic crosses the Mediterranean from North Africa towards Sicily. This route is very dangerous and tragic accidents are common. Most arrivals are not in Sicily itself but on the island of Lampedusa, halfway between Tunisia and Sicily.

Table IV.10: Undocumented migrants intercepted in Southern Italian coastal regions, 1998-2004

<table>
<thead>
<tr>
<th>Coastal Region</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apulia</td>
<td>28,458</td>
<td>46,481</td>
<td>18,990</td>
<td>8,546</td>
<td>3,372</td>
<td>137</td>
<td>18</td>
</tr>
<tr>
<td>Sicily</td>
<td>8,828</td>
<td>1,973</td>
<td>2,782</td>
<td>5,504</td>
<td>18,225</td>
<td>14,017</td>
<td>13,594</td>
</tr>
<tr>
<td>Lampedusa</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>9,669</td>
<td>8,819</td>
<td>0</td>
</tr>
<tr>
<td>Calabria</td>
<td>873</td>
<td>1,545</td>
<td>5,045</td>
<td>6,093</td>
<td>2,122</td>
<td>177</td>
<td>23</td>
</tr>
<tr>
<td>Total</td>
<td>38,159</td>
<td>49,999</td>
<td>26,817</td>
<td>20,143</td>
<td>23,719</td>
<td>14,331</td>
<td>13,635</td>
</tr>
</tbody>
</table>

Source: Ministry of the Interior (2005)

While most of those who arrive by ship do not apply for asylum, a majority of asylum seekers in Italy have arrived by sea in such conditions. In addition to arrivals shown in Table IV.10, in 2003, 4,737 undocumented foreigners were caught trying to enter Italy on ferries from Greece and were sent back to Greece.

In 2003, 13,460 applications were processed by the Central Commission for the Determination of Refugee Status, down from 17,162 in 2002, though slightly higher than in 2001 (13,219) (Caritas, 2005:490). The rejection rate remains very high (91.7%), but for many of those rejected, the Commission recommends a humanitarian permit (Caritas, 2005:491), which is issued at the discretion of local police foreigners’ offices. During the 1990s, most applicants for asylum in Italy were Albanians, although few received refugee status. Since 2000, applications for asylum from Albanians have dwindled to only a handful: 547 recognized Albanian refugees were living in Italy in 2003 (ISTAT, 2004).
IV.3.3. Migration and public opinion

Italian popular opinion and press reports rarely use the term “asylum seekers”, and this has at least meant that the term has not taken on the pejorative meanings it has acquired in the UK. The most common description of foreigners is *extracomunitari* (non-EU citizens), used for poor immigrants, and *clandestini*, or clandestine immigrants, used for anyone entering the country without documents. The boats that once crossed the Straits of Otranto and now arrive in Lampedusa are considered to be full of clandestines, presumably economic immigrants, although the word *profughi* (persons fleeing) rather than *rifugiati* (refugees) is also used. Most clandestines in Italy are visa overstayers who have entered the country using normal transportation: these persons account for 75 per cent of all irregular migrants, according to recent claims by the head of the Police Immigrant Service. Nonetheless, perceptions of undocumented migration are influenced by images of boats which have brought an estimated 10 per cent of unauthorized immigrants. Stock television images of boatloads of impoverished and hungry foreigners nourish the idea of an invasion (Censis, 2002).

Although these images can be seen as humanitarian, appealing to a Catholic tradition of charity and a supposed Mediterranean tradition of hospitality, viewers mostly retain an image of “invasion” that produces fear and concern. “Immigration” has ranked as one of the major concerns in public opinion surveys in Italy since the mid-1990s.

RAs have attracted little interest in the press and public opinion is not very well informed of their existence, even though the Ministry of Interior has promoted its activity in this sector through its press office and is careful to provide regular statistics on expulsions for the press. For example, while basic data on regular immigration is not released (for example, inflows and stock for 2004), the annual report of the Ministry of Interior provides full data on deportations, and the Minister provides complete figures to Caritas for its annual dossier.

Several distinct phases of popular opinion regarding Albanians may be identified (Triandafyllidou, 1999). The first arrivals, in 1991, were characterized by images of rusting boats full of impoverished Albanians arriving in south-eastern Italy. These images of desperation – in a period when Italian public opinion was still caught up in the enthusiasm over the collapse of the Berlin Wall – were met with solidarity, even within the economically troubled region where these Albanians arrived.

Shortly after the first arrivals, the media began to portray Albanians as a source of crime and to associate Albanian women with prostitution. Albania was also perceived as a corrupt country in chaos where the rule of law was impossible and trafficking was widespread, as portrayed in the 1995 Italian film “Lamerica”. Albanians were viewed as treating Italy as a promised land of easy riches. Police investigators used terms such as “merciless” to describe Albanian criminals and disregarded any possibility of police collaboration with Albanian law enforcement, since they considered Albanian police to be untrained and corrupt.

By the mid-1990s, newspapers began to use the term “Albanian” almost interchangeably with “prostitute” and “criminal”. During this period, trafficking from Albania also intensified with the rusty fishing boats giving way to high-speed rubber rafts. The general image of immigration in Italy was that of criminal elements (Censis, 2003), and Albanians were at the heart of this perception. The dominant imagery of immigration in that period concentrated on rubber rafts and derelict ships foundering in the rough waters of the Straits of Otranto. Television portrayed images of these ships lit by the spotlights of Italian Coast Guard ships and helicopters.

Changes in trafficking networks led to a decline in the presence of Albanian sex workers relative to other nationalities in Italy. In 1998, for example, half of the recipients of a social protection permit (granted essentially to trafficked prostitutes who escape from exploitation) were Albanians; this
declined to 7.5 per cent in 2004 (Table IV.11). This development gradually reduced the identification of Albanian women exclusively with prostitution.

Similarly, the widespread employment of Albanian men in the industrial and construction sectors broadened the perception of Albanians as workers. Nonetheless, employers tend to favour other nationalities over Albanians. One complaint regarding the privileged quotas for admission of Albanians is that it does not reflect the labour demand of employers, who have no special interest in Albanian workers.19 Albanian workers also report discrimination from employers, including the perception that they are “looked down on” and that their qualifications are disregarded (Triandafyllidou and Kosic, 2003: 1009-1010).


<table>
<thead>
<tr>
<th>Year</th>
<th>Albanians</th>
<th>Total</th>
<th>% of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>33</td>
<td>63</td>
<td>52.4</td>
</tr>
<tr>
<td>1999</td>
<td>54</td>
<td>244</td>
<td>22.1</td>
</tr>
<tr>
<td>2000</td>
<td>124</td>
<td>726</td>
<td>17.1</td>
</tr>
<tr>
<td>2001</td>
<td>95</td>
<td>744</td>
<td>12.8</td>
</tr>
<tr>
<td>2002</td>
<td>84</td>
<td>851</td>
<td>9.9</td>
</tr>
<tr>
<td>2003</td>
<td>70</td>
<td>848</td>
<td>8.3</td>
</tr>
<tr>
<td>31 August 2004</td>
<td>61</td>
<td>811</td>
<td>7.5</td>
</tr>
</tbody>
</table>


IV.4. Experience and Perspectives on Implementing Readmission

IV.4.1. Procedures for readmission

People without documents in Italy, regardless of their nationality, may be held until they are able to prove or can document their identity. In the case of foreigners suspected of being in the country without the appropriate documents, the procedure first requires establishing their identity and then proceeding to one of a variety of forms of expulsion. Table IV.12 shows the current categories of expulsion.

Foreigners may face expulsion for a variety of reasons. The main groups include people:

- living in Italy, but unable to prove their right to stay;
- visa overstayers (as mentioned above, this category accounts for about 75% of undocumented immigrants);
- applying for renewal of their residence permit but, due of a lack of requisite documents, are given an expulsion order instead of a permit renewal;
- convicted of crimes and receiving a prison sentence is under two years which has been converted into an expulsion order;
- expelled upon completing their prison sentence in Italy, as specified in the sentence;
- whose application for asylum has been rejected, or who have appealed and were permitted by the Prefect to stay in Italy until the end of the appeal process.
Italy and Albania also have an agreement, signed 15 May 2003, for the transfer of Albanian prisoners from Italian prisons to Albanian prisons, even against their will. These transfers are possible because of faith in the Albanian prison system. Italy, in fact, funded the construction of a prison in Albania in the late 1990s.

Table IV.12: Categories of expulsion, 2005

<table>
<thead>
<tr>
<th>Category (in Italian)</th>
<th>Translation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Respinti alle frontiere</td>
<td>Turned back at the border</td>
<td>Persons stopped by the border police or other authorities while trying to enter the country and denied entry into Italy are sent back (Law 286/98, Art. 10(1)). This category also includes those “evading border controls and apprehended at entry or immediately thereafter” (Law 286/98, Art. 10(2))</td>
</tr>
<tr>
<td>Respinti dai questori</td>
<td>Expelled by the Police Chief</td>
<td>Three separate categories for expulsion or deportation (Law 286/98, Art. 13(2)): • foreigners entering Italy by avoiding border controls and remaining in Italy without a temporary stay permit; • foreigners whose stay permit has been revoked or annulled; • foreigners whose stay permit has expired by at least 60 days and who have not applied for renewal.</td>
</tr>
<tr>
<td>Ottemperanti intimazione</td>
<td>Following order to leave the country</td>
<td>Persons who have received an expulsion order and who can be proven to have left the country on their own initiative. At the border, the foreigner should report to the border police to communicate his or her voluntary departure.</td>
</tr>
<tr>
<td>Espulsi con accompagnamento alle frontiere</td>
<td>Accompanied to the border</td>
<td>Persons who are escorted by the Police to the border.</td>
</tr>
<tr>
<td>Espulsi provvedimento Autorità Giudiziaria.</td>
<td>Judicial expulsion order</td>
<td>Persons who have been ordered by a Judge to leave the country (e.g., prisoners for whom expulsion is ordered in lieu of a prison term of up to 2 years – Law 189, Art 12b).</td>
</tr>
<tr>
<td>Riammessi</td>
<td>Readmissions</td>
<td>Persons sent back to their countries within the framework of a Readmission Agreement.</td>
</tr>
<tr>
<td>Non ottemperanti</td>
<td>Ignoring expulsion order</td>
<td>Persons remaining in Italy after expiry of the time limit to leave voluntarily. Under the 2002 Law, this is now a crime and punishable with imprisonment.</td>
</tr>
</tbody>
</table>

N.B. Categories are not mutually exclusive. Some expelled individuals may also be subject to readmission procedures. Persons who have been expelled are subject to a 10-year re-entry ban.
Table IV.13: Authorization of expulsion (Law 271/2004)

Anyone suspected of violating immigration law is subject to being stopped by the Police. If positively identified and meeting one of the expulsion categories, the procedure begins. Otherwise, the individual can be held in a CPT (Centro di permanenza temporanea e assistenza – detention centre) for up to 30 or 60 days with authorized extension.

↓

Once the individual is positively identified, the Prefect issues an expulsion order. This order must also be provided in translation to the deportee (in one of the major official translation languages). The Questore (Police Chief) has 48 hours to inform the local Justice of the Peace of the expulsion order. Meanwhile, the deportee may be held in a CPT.

↓

Within 48 hours of receiving the notification of the expulsion order (counted from the moment of registration by the court clerk), the Justice of the Peace must hear the case and decide whether to approve the expulsion order. The deportee and his/her defence lawyer must be notified of the hearing and are allowed to be present. The court may provide a publicly appointed defence lawyer, and the deportee may use an interpreter, if available. The hearing may be held in space provided by the Police. If the Justice of the Peace fails to hear the case within 48 hours, the expulsion order expires and the individual is released. Appeals are allowed, but do not suspend expulsion. Appeals are made to the same Justice and must be decided within 20 days.

↓

Upon approval of the expulsion order, together with a decree explaining the reasons for expulsion, the deportee begins the deportation procedure. The deportee may be held in a CPT while the logistics of expulsion are resolved (e.g., a sufficient number of passengers for a charter flight or escort).

IV.4.2. Readmission procedures under the 1997 Italy-Albania agreement

Table IV.14 shows the readmission procedures for sending Albanians and Third Country Nationals (TCNs) back to Albania. As the agreement is completely reciprocal, each country must admit its proven or presumed nationals who do not (or no longer) meet stay requirements in the other country. Nonetheless, the Italian authorities report no readmissions from Albania.

Citizenship is considered proven by the documents listed in Table IV.15, and readmission can take place immediately at the border. Only if the individual is found inside the other country is a request necessary. The readmitting country has 48 hours to deny readmission, after which readmission is presumed to be authorized. The sending countries notify the readmitting country of the names and time of arrival. If the individual is later proven not to be a citizen of the readmission country, the sending country must take the individual back at its own expense.
Table IV.14: Readmission procedures for sending Albanians and TCNs back to Albania

<table>
<thead>
<tr>
<th>Readmission of Albanian nationals</th>
<th>Readmission of Third Country Nationals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albanians trying to enter Italy without documents are sent back immediately. If intercepted in Italy, their identities are faxed to the Albanian police in a request for readmission.</td>
<td>TCNs intercepted attempting to enter Italy illegally, while in possession of a passport with a valid visa or a permit for Albania may be immediately readmitted. If found inside Italy, the visa or permit details, along with the address of residence of the individual in Albania, are sent to Albania. If the TCN had previously received a visa or stay permit in Italy, Italy cannot request readmission.</td>
</tr>
<tr>
<td>Albanian authorities have 48 hours (for proven Albanian citizenship) or seven (7) days (for presumed Albanian citizenship) to find evidence that the individual is not Albanian or is legally resident in Italy.</td>
<td>Albanian authorities have eight (8) days to demonstrate that the TCN is not a valid resident of Albania. If the TCN is later proven not to have departed directly from Albania, they may be sent back.</td>
</tr>
<tr>
<td>Italian authorities inform the Albanian authorities of the identity of the deportees and the place and time of arrival in Albania. Readmission can take place at the ports of Durres and Vlore and the Tirana airport.</td>
<td></td>
</tr>
</tbody>
</table>


Proof of citizenship can include: a written declaration; photos or photo IDs, expired or invalidated documents, any other official documents not cited below (Table IV.15), and other evidence. In this case, readmission takes place through direct contact between Border Police if the illegal migrant is intercepted when attempting entry. If the individual is found inside the country, the deadline for rejection of the readmission request is seven days. The readmitting country has 15 days to prove they are not citizens and to send them back.

Table IV.15: Documents proving citizenship

<table>
<thead>
<tr>
<th>Italian</th>
<th>Albanian</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Identity Card</td>
<td>• Identity Card</td>
</tr>
<tr>
<td>• Passports (diplomatic, service and normal)</td>
<td>• Passports (diplomatic, service and normal)</td>
</tr>
<tr>
<td>• Public Employee and family member ID cards AT and BT</td>
<td>• Birth certificate with photo</td>
</tr>
<tr>
<td>• Certificate for minors under 15, with photo, issued by police</td>
<td>• Military service papers</td>
</tr>
<tr>
<td>• Internationally recognized professional certification</td>
<td>• Internationally recognized professional certification</td>
</tr>
</tbody>
</table>

As far as TCNs are concerned, the RA specifies the mechanisms for readmission. While the Executive Protocol specifies these details, Italian authorities underline that TCNs have not been readmitted to Albania due to lack of cooperation from Albanian authorities.
IV.4.3. Temporary holding centres system (CPTs)

While awaiting identification or expulsion, foreigners are kept in Temporary Holding Centres (Centri di Permanenza Temporanea e Assistenza or CPTs). The 2002 law allows for them to be held up to 30 days, or 60 days by special authorization, in these centres. At the beginning of 2001, there were 15 CPTs in Italy with a total capacity of 1,822 persons. Additional centres for emergency holding can be found in Lampedusa, an island near Tunisia which is now the main arrival point for boat landings, and Otranto. During 2005, the Italian government added four new centres with space for 1,120 additional detainees.

Most centres are not run directly by the Police or by the Ministry of the Interior, but are tendered out to private sector organizations, such as the Italian Red Cross or local associations usually related to the Catholic Church. The Police provide security and oversight, but the organizations are responsible for all that happens within the Centres and for all services provided. Foreigners who are unidentified or whose right to stay in Italy is still unclear may be transferred among CPTs according to space availability.20

The cost for the CPTs is about €60 per day per detainee, excluding security costs (Ferraiolo, 2005:1). A stay for the maximum of 60 days therefore costs €3,600. In addition, CPTs tend to be damaged often and thus require frequent maintenance. There is pressure to reduce transit times in CPTs, especially since after the first week, the chance of expelling the detainee declines and about half of all people in these centres end up walking free (Einaudi, 2005:4).

The centres are used to rationalize expulsion, for example, by filling a charter flight with citizens of the same country. In 2001, for example, charter flights repatriated 466 Albanians. Some of the Albanians on these charter flights were readmissions, while others fell into different categories of deportation, since the readmission procedures are not applied to all Albanians deported. The total dropped to 393 in 2002 and zero in 2003. These flights were, in many cases, arranged with an Albanian charter airline. Sometimes, this airline provided its own security personnel or invited Albanian police to take charge of deportees, thus allowing the Italian authorities to avoid paying the additional cost of sending their own police officers, with the travel and hazard pay pursuant to such duties. In contrast, when there were many landings of Albanians along the Apulian coast, those caught were generally sent back by boat, without escort.

The cost of expulsion is difficult to estimate. The cost of a police escort and travel expenses to the destination country are estimated at about €1,500 (Coslovì and Piperno, 2005). The 2002 law included an appendix with official budget projections, which estimated travel costs at an average of €413 per deportee. Police escort costs for resistant deportees were estimated at €215 for escort within Italy (i.e., to the point of departure) and €1,188 euros when police officers have to accompany deportees aboard the aircraft to their final destination. In the case of Albania, readmission is cheaper because

- travel costs are lower;
- escorts are generally provided only within Italy (to the boat or charter flight);
- security is handled by either the ferries or charter airlines themselves.

Since most Albanians transit through CTPs quickly, we can estimate a total cost of readmission at less than €1,500 per head.
IV.4.4. Provisions for unaccompanied minors

Unaccompanied minors cannot be expelled and, as such, represent a category largely unaffected by the RA, even if many are Albanians. However, the number of unaccompanied Albanian minors has been decreasing. In December 2000, they represented 69.1 per cent of 8,307 minors in Italy (IPRS, 2002:22), but by April 2005, this figure had dropped to only 16.8 per cent of 5,573 minors registered with the National Committee for Foreign Minors (Caritas, 2005:163).

Unaccompanied minors are the responsibility of the municipality where they are first identified and they represent a major expense for these municipalities. While subject to expulsion upon turning 18 years old, they do not generally constitute a target group for expulsion. In fact, minors who have diligently complied with official procedures and have attended school or training courses will benefit from special authorization by a judge to remain in Italy with a work or study permit, while others who are less likely to receive such authorization will disappear from the reception centres before they turn 18. According to the Parliamentary Commission for Children (20 November 2005), 46,213 unaccompanied minors were registered between 1 January 2000 and 30 September 2005, of whom only 796 (1.7%) benefited from “repatriation assistance”.

IV.5. The 1997 Italy-Albania Readmission Agreement: Institutional Evaluation and Reflection

RAs are sought by individual countries because of pressing situations, usually in response to an urgent need to address large undocumented flows from a single country. The European Union, on the other hand, seeks RAs when there is a convergence of interest among different countries. The EU agreements with Macao, Hong Kong and Pakistan should be viewed in this light, and it is certainly from this perspective that we should review the 1997 agreement between Italy and Albania. Comments from institutional representatives emphasize that an EC-Albania RA is no longer of relevance to Italy; not because a bilateral agreement already exists, but because undocumented migration from Albania is no longer a major issue.

Italy was in fact very interested in the EC agreement, but the negotiation process took so long that the Italian authorities lost interest, especially once it realized that its own activities had largely overcome the problem.

The Head of the Italian Border and Migration service stated that the lengthy negotiation process for achieving an EC readmission agreement is one reason why Member States sought to set up their own bilateral agreements for urgent problems. In Italy today, an urgent situation exists with Libya, a major transit country towards Italy. As a result, Italy is now conducting negotiations with Libya, taking into account factors that facilitated the Albania agreement eight years ago.

Italy is not likely to draw heavily on the EC/Albania RA for inspiration in the future. Since the risk of mass entry to Italy from Albania lies in speedboat trafficking across the Adriatic, the return of mass undocumented immigration would be possible only if the Albanians ceased to cooperate with Italy and sent the liaison office and naval detachment home. That would open the seas for new departures and is therefore quite unlikely to happen. Further, as far as Albanian nationals are concerned, Italy has reached the point where there are so many legal residents that most Albanians who want to be in Italy may have arrived already or have connections which permit entry through the quotas or family reunification.21

The Italian Constitution allows the Government to sign international treaties in most cases without seeking the involvement or approval of Parliament. This freedom has been used to sign readmission
agreements (Pastore, 1998), and the 1997 Readmission Agreement was no exception. Under the provisions of the 1998 Immigration Law, negotiations of RAs with major source countries of unregulated immigration were given priority in Italian foreign policy. This can be taken as an implicit authorization for such agreements without prior submission to Parliament (Favilli, 2005).

The 1997 Readmission Agreement was relatively simple to achieve because, as noted above, it was a condition for the vast range of aid and support offered to Albania that year, including a labour migration agreement. The RA's objective was to reduce the arrival, and permanent stay, of undocumented persons from and through Albania, by:

- making it easier to turn people back at the border;
- facilitating and accelerating expulsion procedures for those found in Italy;
- discouraging aspirant undocumented migrants from setting out for Italy from Albania.

The Italian authorities are by and large satisfied with the application of the RA on all three counts. They attribute this success to the fact that the agreement was accompanied by other initiatives for police cooperation with Albania. Aid to Albania during the period of negotiation and application of the agreement included a number of elements aimed at capacity building: training, supply of equipment, cooperation, and the establishment of a coordination task force in Tirana. Such police assistance programmes were essential for creating the counterpart necessary for application of the agreement. In terms of discouraging irregular emigration from Albania, the RA was just one of a number of initiatives. Italian pressure led to the passage of an Albanian law which authorized confiscation of boats used in trafficking (in Italian, the Gommone or Rubber Raft Law) and introduced the crime of human trafficking and trafficking in children22.

The sum of these different measures led to the end of illegal flows. “The agreement worked when there were illegal flows”, according to the Ministry of the Interior police official responsible for expulsions under the agreement. Growth in Albania and the achievement of a degree of internal stability (the same official considered stability to be demonstrated by the “largely peaceful alternation of governing parties”), as well as cooperation in control and restriction, have largely obviated the agreement.

Proof that the RA has been obviated is found in the fact that illegal coastal landings have dropped off to zero and the number of deportations has declined sharply (see Tables IV.16 and IV.17). In the year the agreement was signed, some 33,000 Albanians were found without papers in Italy; that figure declined to about 3,800 in 2005. The agreement has lost much of its importance now that police cooperation has led to the end of undocumented movement. Table IV.18 shows the number of Albanians readmitted to Albania under the agreement. From 3,000-4,000 persons in the late 1990s, the numbers have declined, and have now stabilized at about 500-600 per year. This should be compared to the 316,659 Albanians resident in Italy and the 30,000-40,000 visas issued annually to Albanians.

Table IV.16: Albanians facing expulsion and expelled, 1992-1997

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Expulsion orders</td>
<td>1,021</td>
<td>4,576</td>
<td>9,013</td>
<td>11,444</td>
<td>9,415</td>
<td>9,518</td>
</tr>
<tr>
<td>Recommended for expulsion</td>
<td>530</td>
<td>1,436</td>
<td>2,621</td>
<td>3,301</td>
<td>2,322</td>
<td>5,278</td>
</tr>
<tr>
<td>Turned back at the border</td>
<td>0</td>
<td>0</td>
<td>3,179</td>
<td>5,693</td>
<td>3,443</td>
<td>3,922</td>
</tr>
</tbody>
</table>

Table IV.17: Albanians facing expulsion and expelled, 1998-2003

<table>
<thead>
<tr>
<th>Category of expulsion</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expulsion with escort to border</td>
<td>0</td>
<td>5,526</td>
<td>7,445</td>
<td>7,535</td>
<td>6,419</td>
<td>3,014</td>
</tr>
<tr>
<td>Ordered to leave by Police</td>
<td>9500</td>
<td>6,980</td>
<td>5,489</td>
<td>3,833</td>
<td>1,240</td>
<td>62</td>
</tr>
<tr>
<td>Turned back at the border</td>
<td>6013</td>
<td>11,677</td>
<td>10,913</td>
<td>7,860</td>
<td>5,956</td>
<td>1,853</td>
</tr>
<tr>
<td>Judicial Expulsion</td>
<td>92</td>
<td>124</td>
<td>97</td>
<td>76</td>
<td>96</td>
<td>172</td>
</tr>
<tr>
<td>Readmissions</td>
<td>0</td>
<td>4,374</td>
<td>529</td>
<td>434</td>
<td>667</td>
<td>644</td>
</tr>
<tr>
<td>Expulsion orders</td>
<td>0</td>
<td>4,959</td>
<td>6,228</td>
<td>5,386</td>
<td>0</td>
<td>4,562</td>
</tr>
<tr>
<td>-Obeying Police expulsion orders</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>66</td>
<td>126</td>
</tr>
<tr>
<td>-Obeying expulsion orders</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>314</td>
<td>820</td>
</tr>
<tr>
<td>Voluntary departures</td>
<td>0</td>
<td>798</td>
<td>1,284</td>
<td>292</td>
<td>380</td>
<td>946</td>
</tr>
</tbody>
</table>


Readmission “almost entirely involves young women involved in prostitution trafficking and 20-40 year old men found without papers and involved in illegal activity”23, suggesting that the police should focus their efforts for readmission on Albanians involved in criminal activity, not undocumented workers. In interviews with undocumented Albanians, “many mentioned that, even when arrested, they were eventually released and allowed to remain in Italy”, indicating tolerance of those not involved in criminal activities (Triandafyllidou & Kosic, 2003:1005).24 The fact that working Albanians have not been targeted for deportation underlines the coexistence of a policy of regularization for economically active Albanians and a policy of deportation for those in “marginal” activities.

Table IV.18: Albanians readmitted to Albania under the 1997 Readmission Agreement, by gender and age, 1998-2004

<table>
<thead>
<tr>
<th>Year</th>
<th>Men</th>
<th>Women</th>
<th>Minors</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>2,318</td>
<td>353</td>
<td>349</td>
<td>3,020</td>
</tr>
<tr>
<td>1999</td>
<td>3,678</td>
<td>451</td>
<td>264</td>
<td>4,393</td>
</tr>
<tr>
<td>2000</td>
<td>453</td>
<td>48</td>
<td>28</td>
<td>529</td>
</tr>
<tr>
<td>2001</td>
<td>358</td>
<td>42</td>
<td>34</td>
<td>434</td>
</tr>
<tr>
<td>2002</td>
<td>483</td>
<td>90</td>
<td>94</td>
<td>667</td>
</tr>
<tr>
<td>2003</td>
<td>564</td>
<td>80</td>
<td>28</td>
<td>672</td>
</tr>
<tr>
<td>2004</td>
<td>480</td>
<td>58</td>
<td>0</td>
<td>538</td>
</tr>
</tbody>
</table>

“Development and growth dry up the lake where the [illegal immigration] fish swim”, noted the police official.25 The year 1997 marked a watershed for Albania and for Italian involvement in the country: Italy decided to work actively to support Albania, which in turn sought to establish close cooperation with Italian authorities. Even today, Albania is the only foreign country where the Italian police are present. This continuous cooperation in the prevention of trafficking and irregular flows has helped create an institutional and social evolution that has rendered the RA less important.

The RA between Italy and Albania, however, continues to expedite readmission. In the case of Albanians, because of close cooperation, the presumption of nationality is sufficient for expulsion and the authorities proceed to readmission, even in the absence of documents. The CPT system is more efficient for handling Albanians than for other nationals. In 2002, 85.8 per cent of the 1,017 Albanians transiting through CPTs were successfully expelled to Albania; in 2003, the proportion was 78.7 per cent of 268 Albanians transiting. This rate of successful expulsion is much higher than for nationals of other countries (for whom the expulsion rate via CPTs is about 50%) and exemplifies the ability of Italian authorities to expel Albanians. Those who are not deported are issued expulsion papers and are supposed to leave the country by their own means within five days. Failure to comply can lead to criminal charges, as noted above.

The major weak point in the Readmission Agreement – the element that has proved most difficult, if not impossible, to implement – was the clause regarding third country nationals (TCNs). TCNs were included in the 1997 agreement, but Italian authorities have not been able to apply the relevant articles. The Italian police complain of lack of cooperation from Albania, pointing to a refusal to accept Italian claims that a TCN had in fact transited through Albania before arriving in Italy.

Italian authorities assert that there are few cases of readmission of non-Albanians under the guise of Albanians. “We know how to distinguish between Bulgarians, Romanians and Albanians … although some cases of faulty identification did occur during the Kosovo conflict.”26 In the event of mistaken identification, the TCN is sent back to Italy.27

The police official noted that that a RA may actually make expulsion and repatriation more difficult, since there are “facilitations” (no obligatory procedures and greater informality) in the expulsion procedure when there are no agreements in place.28 The police would therefore prefer to avoid formal agreements, in favour of greater investment in cooperation. Avoidance of formal readmission agreements is recognized as meeting a political need for the sending country, since such agreements are not popular with voters in sending countries, nor are poorer countries with excess labour force interested in preventing emigration of its unemployed workers. “Italy never signed a readmission agreement in the 1920s, since it was happy to get rid of workers it couldn’t employ” (ibid.). Other countries, such as China, are seen as relying on emigration, making it difficult to reach any agreement for readmission.

On the other hand, the police perceive even greater obstacles to negotiations for an agreement with a transit country, than with a sending country. In fact, according to the official, a sending country has an obligation to take back its own citizens, but need not take care of them, while a transit country must manage the reception and permanence of TCNs and handle their onward repatriation. “Demanding that poor countries take on this burden, especially when they have no readmission agreements of their own with the countries whose citizens are transiting through their territory,” is seen as unrealistic in the absence of support and burden sharing (ibid.).

In any case, the police underline that it is not the agreement itself that makes the readmission system work, but the willingness of the country of origin to collaborate. Without such collaboration, an
agreement “would just be scrap paper”. Expulsions can work without an agreement – “and may work better without an agreement” – but an agreement without collaboration is meaningless (ibid.).

The significant costs for patrolling its coastline have led Italy to promote burden-sharing among all EU countries, but Italy is not planning to reduce its presence and cooperation in Albania.

IV.5.1. The position of international organizations

While the RA does not directly affect international organizations, the context of cooperation between Albania and Italy has created an opportunity for some organizations, especially IOM’s Rome office, to become involved in the ancillary aspects of closer bilateral ties.

The managed migration system outlined in the 1998 immigration law (which established the system of preferential quotas for specific nationalities and ordered the creation of a Computerized Registry of Workers Abroad (AILE)) created an opportunity for IOM collaboration in labour migration management in Albania. This collaboration was formalized in an IOM project, “Orientation, vocational training and counselling for migrants and refugees from the Balkan Region”, funded by the European Social Fund and by the Italian Ministry of Labour. While much of the 2000-2001 project was devoted to vocational training for Albanians already living in Italy, it also collected details on 5,000 potential emigrants in Albania and published them in an on-line database targeting Italian employers in search of foreign workers. The project was made possible by the fact that Albania received a special quota within the overall immigration quotas (IOM, 2002).

IOM is also involved in voluntary return and anti-trafficking projects between Italy and Albania, all of which are conducted in the context of the general institutional cooperation in support of the RA. Since 1998, IOM has run a Voluntary Assisted Return and Reintegration Programme from Italy, handling about 80 cases of Albanian women trafficked for the sex trade per year. The intense cooperation and capacity building for Albania has allowed the services to benefit from increased local capacity. When the programmes started, for example, there were no Albanian policewomen; there are now five. There is good collaboration with Albanian consular authorities in Italy for issuing documents. However, these programmes do not present an option for all those facing expulsion.

Italian Law 84 (21 March 2001) allocated approximately funds amounting to €150 million for “stabilization of the Balkan area”. Part of these funds is devoted to cooperation, including initiatives such as training courses for Albanian personnel on issues related to trafficking. This training, which involved both IOM and OSCE, was offered to both police and staff from the Albanian Ministry of Labour and Social Affairs. Training for police involved courses on gender violence and investigation, assistance, and interrogation methods. Ministry of Labour staff was later posted to the National Reception Centre in Albania.

IV.5.2. The position of civil society

Although civil society organizations have not taken a position on the RA, some of the key features of the readmission system are of great interest. The principal issues for civil society are respect for human rights and due process in detention centres, both during expulsion procedures and upon arrival in the readmitting country.

Many Italian NGOs support the basic principles on expulsion formulated by an EU-wide network of NGOs. The main interest of civil society in the expulsion and readmission system has been the
operation of detention centres described above. In 2004, Medici Senza Frontiere (MSF, the Italian
associate of Médecins sans Frontières) attacked the Italian government over conditions in CPTs
and other holding centres (MSF, 2004). MSF found that, in CPTs, ex-prisoners were mixed with
non-criminals, including potential asylum seekers. Quite apart from the safety risks inherent in not
segregating these populations, the fact that ex-prisoners awaiting expulsion had to spend additional
time in detention is considered an illegal extension of their sentence. MSF also confirmed claims
by detainees that they had been administered tranquilizers. In addition, CPTs were overcrowded,
services were inadequate, and access to human rights organizations insufficient.

The MSF report took the Ministry of Interior by surprise, since it had allowed the organization
into the centres, only to be criticized. This led to further restrictions on access to CPTs. The
MSF report placed the CPTs at the centre of discussion of immigration policy in the campaign for
the 2006 national elections. Civil society organizations published a number of position papers,
seen as the start of a long campaign for the transformation of this aspect within the expulsion and
enforcement mechanism.

Debate over the form and nature of detention centres in general has entered the national political
arena, with a number of regions and local authorities in 2005 appealing for improvements in the
management of the detention system, while NGOs have, over the past year, raised an outcry over
conditions and demanded improvements (Democratici di Sinistra, 2005:79), such as dismantling
CPTs (a position put forward by representatives of ARCI) and limiting the duration of, and categories
subject to, detention (supported by government experts such as Luca Einaudi and Sergio Ferraiolo
and the sponsors of the 1998 Law, Livia Turco and Giorgio Napolitano).

Another issue relating to the readmission system is the right of appeal. This is a particularly sensitive
issue when dealing with asylum seekers, since, under the 2002 Immigration Law, an appeal does
not suspend expulsion, thus forcing them to continue their legal case from the country of origin. With
regard to CPTs, the decision to allow Justices of the Peace to approve expulsion orders has raised
concern among human rights NGOs. The Association of Lawyers for Immigrant Rights (ASGI) has
identified two areas of concern: the ability to approve an expulsion order in the absence of the
person to be expelled and the fact that the Justice of the Peace who approves detention in a CPT
is not necessarily consulted on the expulsion order.

The idea of shifting detention centres to third countries has been subject to heated debate in Europe
for several years and was proposed during the 2003 Italian EU Presidency. In 2004, Italy allocated
€13.8 million in two years to fund “structures meant to reduce undocumented migration towards
Italy in those countries affected by the phenomenon” (Law 241, 12 November 2004). This allocation
is clearly meant for Libya (Favilli, 2005), the country that currently most interests Italy and whose
treatment of TCNs in transit worries many NGOs.

Similar concerns relate to the closed facilities where TCNs readmitted to Albania will be held.
Albania does not have long-term detention facilities for irregular migrants awaiting expulsion,
although some irregular migrants have transited through the National Reception Centre for Victims
of Trafficking (VoTs). In Italy, some concerns are that irregular migrants may end up in the National
Reception Centre in Albania, or that facilities may mix detainees, traffickers, VoTs and potential
asylum seekers. Some representatives claim that Italian authorities knowingly - or carelessly -
include TCNs with repatriated Albanians, in the hopes that some will not be send back (ibid.),
ending up at the National Reception Centre where Albania may not be able to handle their next
transfer. The decline in immigration through Albania and the importance of the Libya-Lampedusa
route means that human rights NGOs now focus their efforts on Libya, where there is much greater
concern over conditions in transit camps.
Many Italian civil society organizations are active in Albania. Foreign development aid from Italy peaked in the 1980s (rising from 0.15% to 0.42% of GDP), though such aid was often misplaced or misused (Ginsborg, 2001:237). This abundance of resources, together with the evolution of the Italian third sector, led to a proliferation of NGOs taking on development work. Since the change in government in the early 1990s, there were less funds for these organizations, and it was only with the explosion of the Balkan conflicts and the shift of interest to Southeast Europe that many organizations became active again in cooperation activities.

Table IV.9 shows the importance of grants and credits to Albania within the context of development aid controlled by the Italian Ministry of Foreign Affairs. In 2002, 6.5 per cent of all development aid was sent to Albania. Some development aid to Albania, both through the Ministry of Foreign Affairs and through “decentralized cooperation” or funds from Regions, Provinces and Municipalities, is channelled through NGOs based in Italy. As a result, a number of Italian NGOs are now important stakeholders in Italian-Albanian cooperation and have a high degree of familiarity with the situation in Albania. NGOs therefore have a vested interest in the expansion of social integration programmes in Albania, since these programmes involve cooperation grants and projects. Some of the organizations that oppose accelerated expulsion procedures and the CPT system would be the first to apply to run Assisted Return projects for deportees.

IV.5.3. The position of the “readmitted”

As noted above, many prisoners are expelled upon completion of their sentence. In 2004, 881 prisoners were expelled from Italy, of whom 159 were Albanian, the largest national group (Ministry of Justice, 2005b). Information on the experience of Albanian returnees has been obtained from interviews with Albanians before and after expulsion and their family members, published in the final report of the ALNIMA project (Coslovi and Piperno, 2005). In this report, ALNIMA focused on men and women prisoners, as inmates in Italy and ex-prisoners in Albania. Its main findings with regard to the readmission agreement showed that interviewees generally benefited from some kind of reintegration project. The magnitude and complexity of Albanian migration, in fact, has led to “experiments with many assisted return programmes […] later widened to recently include any kind of irregular migrant” (ibid.: 23). Despite dissatisfaction over opportunities in Albania, the ALNIMA interviewees mostly planned on staying.

The ALNIMA report contains a series of recommendations for return, highlighting the importance of extending assisted voluntary return programmes to “include irregular and illegal migrants, even in cases where they have received an expulsion order”. (Coslovi and Piperno, 2005:51). It also stresses that, for Albania in particular, “training and skills acquired abroad can be important instruments for local development”.

The position of prisoners and trafficked women, who have not accumulated resources during their stay in Italy, is obviously different from those who decide to return to Albania to invest on their own. Return migration to Albania – rather than expulsion – has already strengthened the economic ties between the countries, as Albanians use their savings to start small businesses based on their experience working in Italy and their ties with Italian entrepreneurial networks (Cook, 2005).

IV.6. Findings and Recommendations

The 1997 Readmission Agreement between Italy and Albania marked the start of close cooperation between the two countries to reduce undocumented flows westwards across the Straits of Otranto.
These flows have essentially stopped, to the satisfaction of Italian authorities, who now play down the role played by the RA in reducing these flows, assigning greater weight to police cooperation. Nonetheless, the RA remains a key instrument in Italian foreign policy and a prerequisite for cooperation in labour migration. Italy is now seeking to negotiate a RA with Libya, thus underscoring the continuing importance of this kind of instrument.

The smooth functioning of the RA is attributed to collaboration between Italian and Albanian police. Italy maintains a police presence in Albania and has contributed to the training of most officers, while the fact that many Albanians speak Italian also facilitates the relationship. The conditions for application of the RA suggest caution in predicting similar success for other agreements, including the EU-Albania Readmission Agreement, since not all countries have such close ties with Albania.

The following sections summarize critical issues in readmission and offer recommendations emerging from experience in the application of the Italy-Albania RA.

### IV.6.1. Identification, Categories of Return, and Information Systems

Regarding identification, close cooperation between Albania and Italy has guaranteed that Italian authorities can use the presumption of nationality to send Albanians quickly back to Albania.

The readmission procedure is only one of various forms of expulsion and deportation, but its use in Italy is now largely restricted to certain target groups (Albanian criminals and people working in prostitution). Others are simply expelled without reference to the protocols, by being turned back at the border, or by use of expulsion orders or under escort to the border. The readmission protocol, although simple enough, is followed in only a fraction of cases.

The categories of expulsion determine the method (see Table IV.12 above). People turned away at the border are usually returned by boat or airplane. For those held in detention centres, on the other hand, the challenge for authorities is to provide proper assistance and services and ensure rapid processing of their cases. Most expulsions occur during the first week but, if identification is not completed within a week, it is increasingly unlikely that the detainee’s nationality will be determined and it is increasingly likely that the legal limit on detention will expire. This tends to support the time limits for accepting documentation of identity.

Communication between police in Italy and Albania is efficiently conducted via fax, rather than via more complicated systems.

Recommendations:
- close police cooperation (including the use of shared languages and basic technology) will facilitate acceptance of documentation of nationality;
- readmission protocols may be useful for target groups, though not necessarily for all categories of deportees.

### IV.6.2. Unaccompanied Minors

Unaccompanied minors deserve special attention. Under Italian law, they cannot be expelled and therefore are not covered by the RA. Some experimentation with assisted voluntary repatriation is now under way at the local level, with the cost borne by municipalities. Local governments are therefore most keen to explore alternatives to keeping minors in Italy. As noted above, however, this
has so far affected only a tiny fraction of the total number since, although minors can be deported upon turning 18, they generally benefit from a judicial exemption and receive a valid permit.

**IV.6.3. Labour migration and the Readmission Agreement**

RAs are in fact a necessary prerequisite for countries aspiring to sign a labour migration agreement with Italy, since Italian authorities make full use of their discretionary freedom in awarding privileged labour quotas to those countries which cooperate in managing migration.

The negotiation of a labour migration agreement shortly after the RA, the privileged quotas for Albania since 1998, and labour management schemes, such as the Registry of Albanian Workers, are all seen as a reward for successful collaboration. In the absence of such “carrots”, in fact, it is difficult to imagine a RA receiving political support or cooperation from authorities. The successful application of the RA is tied to the vast programme of assistance and cooperation between Italy and Albania. It is recommended that:

- in the absence of such rewards as privileged labour quotas, the EU should employ and publicize other mechanisms for rewarding Albanian cooperation and reinforcing the application of potentially unpopular measures.

**IV.6.4. Modalities of return**

Italy makes use of its detention facilities for those facing deportation. While some detention period before expulsion becomes inevitable and has not raised problems either with the Italian or international courts, detention practices have been widely criticised. Albanians subject to readmission are often kept in detention centres before deportation. With regard to conditions of pre-expulsion detention in the EU, the following recommendations are made:

- access to legal information and appeal should be available, thus ensuring that people apprehended on entry are guaranteed access to asylum procedures;
- assistance programmes for individuals deported from the EU should help reduce recidivism, even where deportees do not meet traditional definitions of development agents, since small investments can make a difference;
- detention centres should not mix ex-prisoners, trafficked women and other categories.

**IV.6.5. Return outcomes and possible consequences**

*Italian* legislation has tried to discourage recidivism by deportees through strict repressive measures, such as criminalization of undocumented migration and imposition of a prison sentence on previously deported migrants without documents, as well as a 10-year re-entry ban (Art.12 (g) of Law 189/02). Although this might suggest an interest in supporting their resettlement in their home countries, no such initiatives have been considered.

On the other hand, voluntary return programmes and assistance programmes for returnees have proven to be important in capacity building for people forced to return to Albania. The ALNIMA study suggests that assistance programmes (no matter how limited) do help discourage recidivism in Albania. The subsidies involved are often less than the full cost of deportation. Other experience with trafficked women shows the importance of guaranteeing a network of social protection upon return, in addition to economic incentives.
Return migration to Albania from Italy (as opposed to forced returns) has already strengthened economic ties between the countries, as some Albanians take their savings to start small businesses. It may be difficult to generalize about success stories compared to the number of people expelled under RAs, but it is considered that:

- assistance programmes for individuals deported from the EU should help reduce recidivism, even where deportees do not meet traditional definitions of development agents, since small investments can make a difference;
- grants and support should meet the needs of different categories of forced returnees, for example, by respecting the difficulties in resettlement for women VoTs.

IV.6.6. Preserving asylum and human rights considerations

Concern over human rights for deportees from Italy is not limited to conditions in the detention system. The right to appeal and the right of access to asylum are two key issues for organizations monitoring the deportation and readmission system.

In Italy, some of these concerns relate to difficulties in accessing the asylum procedure in the case of irregular migrants intercepted upon arrival or later. This has not been an issue for Albanians, who in general have not applied for asylum in significant numbers since the 1990s, but remains a constant concern for other potential applicants transiting through the island of Lampedusa and the CPT system.

There is concern about Albania’s capacity to take responsibility for managing the transit of TCNs readmitted under the RA. Italy has seen its requests for readmission of TCNs to Albania denied and Italian police express a conviction that Albania is not yet capable of handling their onward transit. This concern is confirmed by others working in repatriation assistance. It is recommended that:

- the capacity to respect the rights of readmitted TCNs must be guaranteed by Albania, even if this means that the cost of detention and onward repatriation must be borne by the richer country;
- some assistance should be provided to Albania in helping negotiate its own agreements for readmission.

IV.6.7. Burden–sharing and reciprocity

Italy is increasingly interested in finding burden-sharing schemes within the European Union and expects to benefit from any transfer of resources. Italy’s long coastline and exposure to channels for undocumented migration is in fact the Union’s external border along a lengthy and difficult maritime front. Italian migration policy has demonstrated the importance of patrolling this border, and Italy continues to invest in security measures. Close cooperation between Italy and Albania and Italy’s willingness to invest heavily in Albania is largely explained by this priority. More recently, during the Italian Presidency of the European Union in 2003, one of the key initiatives in the area of immigration was the discussion of proposals for burden sharing in the repatriation sector, such as recent moves towards joint charter flights for deportations, and participation in the cost of patrolling external borders.

The Italy-Albania agreement is reciprocal, a possibility which was not available to the EU. This reciprocity is largely symbolic, since the number of readmissions by Italy from Albania is negligible. Recommendations in this area include:
• the EC/Albania RA should facilitate joint repatriation initiatives;
• the EC/Albania RA should not prevent negotiation of future reciprocal bilateral agreements;
• economic assistance should be seen as essential in reducing migratory pressure and ensuring institutional cooperation.

IV.7. Conclusion

A readmission agreement alone would never have resolved the crisis of undocumented migration from Albania to Italy. Even today, when Italy deports few Albanians compared to the population of legally resident Albanians, Italian authorities need other tools in an overall range of measures for deportation since readmission only affects a minority of Albanians deported from Italy.

Similarly, the success of Italian-Albanian migration cooperation can be attributed not only to the RA, but also to a wide variety of assistance measures ranging from police cooperation and training to development aid. Many of those interviewed for this report spoke of the “hundreds of millions of euros” spent by Italy in Albania and, indeed, Italy’s commitment to stability in Albania and to police cooperation represents a major investment. Without sustained and substantial commitment, it would in fact be difficult to obtain the same results.

Experience in Italy suggests that application of the EC-Albania agreement will require similar supporting measures. Left in isolation, the RA is unlikely to solve problems for any Member State.

For the readmitting country, in this case Albania, an agreement without support for repatriation of nationals and transit of third country nationals appears less applicable than one which is accompanied by assistance in meeting the economic needs of returnees and standards in human rights for third country nationals. Here, too, a readmission agreement is not the end of the issue, but the beginning.
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ENDNOTES

1. Foreigners who have held a permit for dependent or self-employment work, study or religious reasons for at least one year, or a residence card (Art. 29) can apply for reunification with: a) spouse; b) dependent children; c) dependent parents. Parents over 65 are allowed to enter under family reunion on condition that they can prove that no other child can provide for them in their native country; siblings and other relatives are not entitled to legal entry.

2. Domestic work is considered to include cleaning and childcare; home-helpers (badanti) are caretakers for the elderly and disabled.

3. There is no Asylum Law; rather, asylum is governed by articles in a number of laws and by decrees transposing European directives.

4. The rejection rate remains very high (around 90%), but of those who appear for their hearing and are rejected, about a third receive a humanitarian permit issued at the discretion of the local police foreigner’s office.

5. Interview with Nico Longo, Ministry of Foreign Affairs, 17 July 2003 and Giuseppe Maurizio Silveri, Ministry of Labour and Social Affairs, 18 April 2003. For the Ministry of Interior, official documents make no reference to bilateral agreements, except with regard to readmission. For example, “The important political and diplomatic activity […] in this sector demonstrates the strategic importance given to [readmission] agreements. Regardless of their purely technical content, these agreements are part of a broader range of bilateral cooperation, which includes both socio-economic aspects and those related to fighting undocumented migration” (Ministry of the Interior, 2004:119).


7. Rather than a Schengen visa; Italy has been in the Schengen system since 27 October 1997.

8. An additional parameter is applied to the quota after it has been published: the overall quota is divided by the Ministry of Labour into sub-quotas for the 20 regions, which then allocate the quotas to 104 provinces.

9. IOM ran two projects for Bosnians: a programme offering jobs in the public and private sectors to 500 professionals from November 1996 and a resettlement programme with ICS, the Italian Prime Minister’s Office and Foreign Ministry, UNOPS and WHO, which repatriated 267 people between September 1997 and September 1998.

10. The System of Protection assigns responsibility for assisted voluntary repatriation of these asylum seekers to IOM. Sixty persons were repatriated between 1 January 2003 and 30 June 2005.

11. D.P.C.M. 535/99

12. Municipalities are responsible for unaccompanied minors. Most minors who do not abandon their municipally-funded group homes are granted a work permit upon turning 18. Others disappear from these open facilities.

13. In addition to the development aid listed in the table, Ministry of the Interior cooperation, equipment grants and regional development projects constitute an additional commitment. Many of those interviewed said that Italy had spent “hundreds of millions of euro” in Albania since 1997.


15. The protocol was approved by Italian parliament in Law 1/98, 13 January 1998, later law 42/98, 13 March 1998.

16. Prefect Alessandro Pansa, Head of Immigration and Border Police, in a Schengen Committee hearing on 11 November 2004, stated that, since 2000, fewer than 10 per cent of undocumented aliens arrive by sea, 75% are overstayers, and the remainder by land, generally hidden in trucks.

17. A number of surveys by the research institute Censis have asked Italians to rank their main concerns. Immigration was in 3rd place in 1997 and 5th place in 2000 (Le paure degli italiani, Censis, 2000). Other surveys show a strong perceived link between immigration and crime (Censis (2003); ISPO cited in CESTIM (1999:73); SWG cited in Caritas (2005:145).


20. If there is no space, they are issued an order to leave the country within five days. If they fail to leave on their own, they are liable to criminal charges and a prison term of 1-4 years.

21. The 2006 elections brought the centre-left to power, with expectations of broader Italian involvement in the Balkans. In fact, the centre-left is seen as likely to return to a programme of cooperation for stability in the region.

22. Passage of these laws in Albania has been attributed to “Italian pressure”: Vice-Minister of Interior Alfredo Mantovano, Hearing of the Parliamentary Commission on Children, 5 February 2003.


24. One Albanian woman says, “I came to Otranto, I stayed for four hours in Lecce […] when they discovered that my documents were false, a policewoman helped me and let me go” (Triandafylidou & Kosic, 2003:1005).

25. Interview with Giovanni Pinto, Head of Border Police, 6 September 2005.


27. A primary concern in repatriation is the cost. Italy spends 16 million euro on transport, excluding personnel costs, with “faraway locations at great expense”. (Alessandro Pansa, Deputy Police Chief for immigration, speaking to the Schengen Committee, 15 November 2005). Deportation of TCNs to a nearby country such as
Albania rather than more distant countries of origin would represent a significant savings.

28 Interview with Giovanni Pinto, Head of Border Police, 6 September 2005.


32 Appeal by Nichi Vendola, President of the Puglia Region, with 8 other Regional Presidents, 11 July 2005.


34 Interview with IOM staff member responsible for VARRP, 1 August 2005.

35 Interview with ICS spokesman, October 2005.

36 As noted above, the police describe the readmitted as young men in the underworld and women in prostitution. Police policy is that trafficked women are granted protection. Officially, none of these people are trafficked, and there is no discussion of men involved in prostitution. In fact, no Albanian men have benefited from Italy’s Article 18 for social protection of trafficked individuals. While Article 18 covers all forms of trafficking, it has been applied exclusively for victims of sexual trafficking.
RETURN AND READMISSION TO ALBANIA FROM THE UNITED KINGDOM

A. David Napier and Anna Cristina Pertierra

V.I. Introduction

This research examines the implementation of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Albania on the Readmission of Persons and of the Protocol for Implementation of the Agreement. It identifies the various actors, beneficiaries, and outcomes of the agreement and analyzes the implications of readmission agreements for Albania. The overall objective is to identify best practices in terms of readmissions policies and programmes to improve migration management and outcomes.

These objectives will be accomplished by an outline of the state of current UK policies concerning return migration, and return migration to Albania in particular. In addition, this research will offer some recommendations regarding the large numbers of third-country nationals who use Albania as a gateway for both legally and illegally entering the UK. According to the Home Office, the scale or nature of such migration has not, and by definition cannot, be measured.

A number of ministerial offices, organizations and groups were interviewed for this research. Each interviewee was presented in advance with seven to ten open-ended questions concerning their understanding of and views about both the EU Readmission Agreement with Albania and the UK-Albania Bilateral Agreement. Each interview also provided opportunities for a more general discussion of these organizations’ official position on various issues surrounding migration, interviewees’ personal view of those issues, and best practices which might be implemented to introduce areas identified for reform.

V.2. Albanian Immigration to the United Kingdom

The recent rejection of the EU Constitution by voters in France and The Netherlands highlights the importance of migration and remigration issues for the future of European unity, and the degree to which these particular issues will influence the EU’s future. Media investigations following the votes pointed clearly towards the fact that migration was the single largest factor influencing citizens in their decision to reject the EU’s proposed constitution. Indeed, many British nationals who have settled abroad cite concerns about the effects of uncontrolled migration to the UK as their main reason for resettling.1

The UK is perhaps positioned to become the most interesting ground yet for determining the future of European unity, not only because of its historic ambivalence towards cooperating with EU initiatives, but because it is so greatly affected by migration in general, and by Albanian migration in particular.

Between 2000 and 2002 alone, the UK had to deal with more than 300,000 applications for asylum (the highest numbers recorded anywhere in the industrialized world (indeed, some 47% of all asylum applications worldwide) (IOM, 2004a:381). However, over the last 15 years “the UK has
received fewer asylum applications per 1,000 population than many other industrialized countries, such as Switzerland, Sweden, Netherlands, or Germany” (CReAM, 2005). A review of print media indicates a growing public concern that unsuccessful applicants will remain in the UK illegally, while the hurdles to enforcing removal of immigration violators remain (even after the Asylum Act of 1999 and the Nationality, Immigration and Asylum Act of 2002). These phenomena fuel racial anxieties and the fear that both organized criminals and illegal workers will continue to deteriorate the fabric of UK society. As Cambridge economist, Robert Rowthorn, puts it,

Large-scale immigration of unskilled people may be beneficial for urban elites who enjoy the benefits of cheap servants, restaurants and the like, but it is not to the economic advantage of those who have to compete with these immigrants. Moreover, unskilled, unemployed or economically inactive immigrants may be a significant tax burden on the local population, especially if they settle permanently and require public support and care in old age (2004:3).

These perceptions are broadly reinforced by the National Audit Office (NAO) report, “Returning Failed Asylum Applicants”, released in July 2005. This report focuses particularly on expediting returns as a method for limiting the number of failed applicants still residing in the UK.

The Directorate has difficulty estimating the number of failed applicants to be removed. Between 1994 and May 2004, a maximum of 363,000 applications for asylum were unsuccessful. Over the same period the Directorate reported that it had removed 79,500 failed asylum applicants. This suggests that the maximum number of failed applicants due for removal is 283,500… (NAO, 2005:2).

Thus, large numbers of applicants still remain in the UK, despite being classified as “appeal rights exhausted”. The NAO report concludes that “quicker removal is needed to reinforce any deterrent effect that might arise from the faster processing of applications … The Directorate … needs to place much greater emphasis on removing a large proportion of new cases within a specified period of reaching the end of the appeal process)” (ibid:2).

The Directorate has been slow to remove newly failed applicants who remained in the community while their application for asylum was been considered. A sample of 800 non-detained applicants exhausting their appeal rights in February and March 2004 showed that only 3 per cent had been removed within three months. On average, departure of unsuccessful applicants, during the period June 2003 to May 2004, took place 403 days after completion of their appeals (ibid.:7).

The problem is exacerbated by two primary factors:

• applicants are frequently no longer at their registered address when the Directorate tries to enforce their removal;
• applicants fail to meet their obligation to appear regularly at a local police station or at one of the eleven centres across the country to which asylum applicants are required to report either on a weekly or monthly basis “depending on the circumstances of the person or the stage of their application” (ibid.:16).

In addition to these centres, there are 32 enforcement and removal offices throughout the country. These mechanisms clearly carry with them significant costs, both because they are inefficient and because of applicant delinquency related to failure to report. When coupled with an earlier policy of distributing applicants throughout the country, the result has been a broad gap between admittances and removals. “Dispersal under the 1999 Immigration and Asylum Act was designed to address the
issue of concentration of asylum seekers in the capital" (Home Office, 2005c:3), yet it has also had the effect of making the management of cases more complex.

To address this disparity between those admitted and those removed, the government instituted a system of detention centres and continues to advocate their use as a mechanism for keeping track of applicants and for removing them efficiently. As of 25 December 2004 (the first full year for which breakdowns by nationality are available), 20 Albanians, all asylum seekers, were recorded as being in detention under the Immigration Act. “Of the total number of principal asylum applicants removed or known to have departed voluntarily in 2004, 45 per cent were from Asia (excluding the Indian Sub-Continent) and 39 per cent were from Europe. The nationalities with the largest numbers were Serbia and Montenegro (1,990), Afghan (795), Iraqi (770), Albanian (690), and Romanian (515)” (Dudley et al., 2005:11). Compared to dispersal, detention has resulted in the rapid assessment of cases: overall “35 per cent of detainees had been in detention for two weeks or less, 22 per cent for between 15 and 29 days, 18 percent for between one and two months, and 14 per cent for more than two months” (ibid.:13).

In addition to detention, the Directorate has also entertained the idea of electronic tagging as a way of maintaining surveillance over applicants who, understandably, would prefer to reside with friends or extended families. However, it is also recognized that the longer applicants remain in country, the harder removal becomes. Once settled in jobs and residences, applicants are disinclined to comply with involuntary returns.

We will discuss the human rights issues in relation to swift removal later in this report. However, it is important to acknowledge the financial costs of both involuntary and voluntary procedures. In 2003-2004, the average cost per removal was £10,100, as compared to £1,100 per departure for assisted voluntary returns. In that time, the Directorate spent £1.89 billion on immigration and nationality operations, including £1.07 billion spent on the National Asylum Support Service, which provides accommodation and financial support to asylum applicants. In the same year, it spent £285 million (including overheads) on supporting voluntary returns, detaining immigration offenders, enforcing removal and other immigration enforcement work. The Directorate estimates that some £308 million of the money spent on supporting asylum applicants in 2003-2004 was attributable to failed asylum applicants awaiting removal from the United Kingdom (NAO, 2005:1).

There are significant financial benefits to both swift assessment and removal and to voluntary over involuntary removal. It is therefore of interest to examine the practices of Albanians, who make substantial use of voluntary services, even though the number of Albanian asylum seekers may in fact be very low. Between May 2003 and April 2004, Eastern European nationals made up five of the ten top nationalities of asylum applicant removed from the UK. Of these, Albania was third after Serbia and Montenegro and the Czech Republic.

Exact numbers cannot be determined by the Home Office or by IOM. People often claim what they perceive to be a more advantageous national identity: either of a new EU Member State, or of non-EEA nations, which are believed to ensure better treatment. Others, who are able to come and go as they please, will do so either legally or otherwise. Thus, it is very likely that the relative numbers of identifiable Albanian asylum seekers will remain very low.

It is probable that the vast majority of Albanians are entering the UK by other legal and illegal channels (e.g., as legitimate students or as trafficked “students”). One can therefore assume that the global flow of Albanians in and out of the UK is probably under-represented in the academic and policy literature and in the media, which tends to focus on disasters, the tragedies of asylum, and the moral callousness of human trafficking (Benthall, 1993). These apparently low numbers,
in other words, may hide the fact that Albanians applying for asylum in the UK have done so as “Kosovars” because of the advantages of doing so during the Kosovar crisis.

During the last decade, the UK parliament passed no fewer than four bills to address illegal immigration. The government is now finalizing its Readmission Agreement with Albania; and the Voluntary Assisted Return and Reintegration Programme (VARRP) is being implemented. Still, public concern has grown significantly, with many British nationals alarmed over immigration levels (despite, or perhaps because of, rising living costs) and by the idea that migrants just keep coming and are making excessive use of welfare services. Government legislation has not appeased this concern.

The UK government is therefore under pressure to find effective solutions that will address this public concern without infringing the rights of regular and irregular immigrants. Indeed, despite the Nationality, Asylum and Immigration Act (2002) and the White Paper, “Secure Borders, Safe Haven: Integration with Diversity” of the same year, public sentiment is becoming increasingly negative even though, in theory, policymakers have worked hard to speed up the process of application review and have made considerable progress in establishing centres for reception, accommodation, and deportation. The Home Office, in particular, feels that it has made great advances in expediting applications and in detaining and deporting irregular migrants. This opinion was reiterated in several interviews, despite the fact that human rights refugee activists are often uncomfortable with swift action in processing deportations, as asylum claims may not be given careful consideration.

Today, most deported Albanians are sent back on scheduled flights from the UK, though until the end of 2005, there were weekly chartered deportation flights to Kosovo. Albanians were then transported by bus from Pristina to the Albanian border, since the majority of Albanians claimed to be Kosovar, right up to the time of deportation. Flights have been resumed to Pristina and then onward to Tirana.

The government’s second largest operation involves bi-weekly flights to Romania. Scheduled carriers will take from two to twenty deportees, but the potential for difficulties with these passengers has led to the use of charters and the presence of up to two escorts and, if deportees are ill, a medical doctor. Chartered flights carry 40-50 passengers or more (depending on escorts), 90 per cent of whom are Albanian, though they may claim to be from Kosovo until the plane actually lands. According to one Home Office employee, officials today are under no illusions about the fate of deportees to countries where their safety is not threatened, fully expecting that “They’ll be back again”. The Home Office make sure, however, that deportees spend as little time as possible in transit lounges where they can approach an immigration officer or policeman and claim asylum in order to gain automatic protection and begin the asylum process.

A major challenge in understanding the nature of Albanian migration to the UK is that Home Office data are incomplete and inconsistent. Entrance categories (asylum seeker, worker, student, etc.) may be chosen as a matter of convenience, because of the availability of special assistance, or as a disguise for illegal activity. Following the arrest of a number of Turks operating an illegal network through Albania to Britain, it emerged that they had initially received political protection in the UK as asylum seekers (Bennetto, 2005). Statistics for all Albanians entering the UK for the period between July and December 2003, for instance, show that some 4,550 Albanians were given leave to enter, indicating that, in fact, the numbers are not insignificant. Better understanding as to how these categories are used in the various situations could have significant policy implications.

Although the total numbers of Albanians entering the UK as asylum seekers may be relatively low, they help explain the processes of migration, and especially voluntary return migration, because
of the high percentage of Albanians living abroad. “More than one in five of the current Albanian population now lives abroad, a stark contrast to the period before 1990, when emigration was fiercely proscribed” (King and Mai, 2002:162). In a country where one Albanian working abroad can send enough money to support five at home (Hall, 1996:186), remittances “represented the country’s major source of external income after aid, was equivalent to a third of GDP and was several times the value of Albania’s exports” (Mai and Schwandner-Sievers, 2003:941).

According to research, there are “diverging and conflicting trends (what Blumi calls the “apolitical community”) within an explicit commitment to the preservation of a common identity... inspired by new opportunities available in the host country” among the Kosovar Albanian diaspora in London (ibid.:946). Of the half million Albanians who have emigrated, a disproportionate number come from the educated sector of society: “Some estimates indicate that over 50 per cent of the university-educated population have left the country” (ICMC, n.d.:1). The rate at which Albanians choose to return voluntarily from a thriving UK economy to a fledgling Albanian economy will be an important test for return-migration policies and practices.

VARRP may now be the single most important mechanism for assessing the effectiveness of voluntary returns in the future. Administered by IOM London, VARRP has been specifically designed to assist asylum seekers wishing to return voluntarily to their native countries. Because some aliens entering Britain through Albania are third country nationals, it is important to distinguish between asylum seekers (who are ready candidates for VARRP) and other migrants (who will not qualify for, or not otherwise use, VARRP assistance). VARRP also offers advantages, not only because of the large numbers people entering the UK by various means, but also because it tries to return failed asylum seekers to their countries of origin. The UK-Albania bilateral agreement, on the other hand, only covers the return of those who passed through Albania en route to the UK back to Albania itself.

We should also mention the Assisted Voluntary Return of Irregular Migrants (AVRIM), a programme started in November 2004. AVRIM provides return assistance to people in an irregular situation in the UK (smuggled, trafficked, or otherwise not in contact with UK authorities). This programme does not involve reintegration, but gives assistance with obtaining a return ticket.

Relatively speaking, how many more Albanians take advantage of VARRP, compared to other nationalities? In 2000-2001, 50 per cent of persons returning through VARRP were Albanian. At that time, Albanians represented only 9 per cent of all asylum applicants. Of the 2,599 individuals returned by IOM London in 2004, Albanians led the list with 583 individuals, followed by Iraq (397), Sri Lanka (217), Afghanistan (207), Iran (172), and Kosovo (140). Albanians were in third place on the list of AVRIM returnees with 18 individuals assisted, after Brazil (21) and Jamaica (20). A substantial number of Albanians take advantage of IOM London’s Reintegration Fund, designed to assist individuals in setting up a business, going to school, learning a new vocation, or enrolling in an apprenticeship. Over 50 countries and 1,500 individuals have benefited from this programme. Leading the list is Sri Lanka (148), with Albania in fourth place (62), after Afghanistan (97) and Iran (95).

VARRP has proved to be significantly less expensive for the Immigration and Nationality Directorate (IND) than detention and deportation, particularly since the social and non-economic benefits of VARRP are clearly visible through their successes with this small cohort of Albanians. We should therefore ask what makes IOM a primary choice for returning Albanians. IOM distributes information via dissemination campaigns, cooperation with embassies, governmental, and non-governmental organizations, and a variety of other promotional activities, but it would appear that word of mouth is the primary means of VARRP referral among Albanians. Therefore, finding ways of disseminating
information about VARRP to communities (e.g., through on-the-ground anthropological research) should be a major priority not only for IOM, but also for the Home Office.

According to Home Office Asylum Statistics, nearly all claims for asylum by Albanians are rejected: between January and March 2005, 45 Albanians, out of a total of 55 claims, were denied asylum. Although Albania ranks in 27th place for asylum applications in the UK, it is in seventh place for removals during the same period. In 2004, 405 Albanians applied for asylum, of which 212 claims were refused (52%), ranking 22nd on the list of nationalities seeking asylum. In the same year, 775 Albanian asylum seekers were voluntarily returned or removed. By comparison, other countries also experienced high rates of refusal (e.g., Turkey (295 claimed, 260 refused (88%), Iran (975 claimed, 840 refused (86%), Serbia and Montenegro (80 claimed, 70 refused (88%).

As these groups constitute relatively small numbers within the overall context of UK immigration statistics, the large number of Albanians in the UK makes their pattern of behaviour worth following. The Albanian Embassy believes that there are some 50,000 Albanians currently living and working in the UK. Though illegal immigration figures are by definition impossible to determine, they are nonetheless quite high, and public anxieties remain fuelled by hugely inconsistent figures. The popular press is a good meter of public perception: The Guardian (2005b) set the numbers of illegal immigrants at 430,000, while the BBC (2005) suggested a figure of 570,000. In July 2005, the BBC reported some 280,000 failed asylum seekers still residing the UK, a figure derived from Home office estimates: in 2003, the UK admitted 319,000 students, granted 139,675 people settlement, and received 49,405 applications for asylum, according to the Home Office. For this same period, 64,390 people were deported or otherwise voluntarily removed (statistics for Albanians have not been published). In 2003, 15,300 individuals from non-EEA European countries were granted settlement. Albanians were 12th on the list of nationals detained under immigration laws in December 2003 and, of European countries, third after Serbia & Montenegro and Turkey. Perhaps more alarming still is the fact that, of these 280,000 still in country, only about 150,000 are identifiable to the Home Office, leaving as many as 130,000 now totally outside of the system.

The UK, in fact, is so concerned about the numbers of illegal migrants arriving and not leaving that there is talk of the end of anything distinctly “English”, while policy-makers are beginning to consider deporting alien minors, regardless of the psychological state of trafficked adolescents, some of whom engage in illegal sex work for underworld criminals, while others are trafficked from country to country. In several interviews with advocates for refugees and trafficked women, it emerged that immigration authorities often assume that trafficked women have freely chosen to become prostitutes.

V.3. Issues

V.3.1. Assisting returnees at risk

Representatives from the Poppy Project, the Refugee Council, and Save the Children were all, to varying degrees, critical of the Home Office claim that an adequate infrastructure exists to facilitate the responsible return of Albanian minors and other individuals at risk, including trafficked women. This is in stark contrast to the Home Office view that adequate reception structures are, or soon will be, in place to support both the forceful and voluntary return of irregular third country nationals (TCNs) to Albania.

It is, of course, difficult to predict future needs: after considering two options (one for 100-150 persons, and another for 150-200 persons), the Albanian working group decided on a centre able to hold between 100 and 150 irregular foreign migrants, which could, if necessary, be increased to 200. These numbers are predicated on the expectation that EU member states will most likely
return TCNs directly to their countries of origin, a hope that may not be fulfilled if such direct returns become too expensive. Thus, the Home Office, in the view of its critics, may be overly hopeful that structures exist to facilitate responsible reintegration. At the same time, the Home Office is clearly willing to make a significant investment (as in the case of involuntary return of minors) in supporting the development of better modes of reception.

In their defence, Home Office representatives indicated that:

• the UK was considering purchasing property in Albania to facilitate better care for returned Albanian minors;
• such facilities might be staffed by trained counsellors;
• youths would not be required to leave such facilities on turning eighteen.

They also indicated that almost all minors were over fifteen years of age, while most were aged between sixteen and eighteen, and were generally mature and streetwise. However, problems relating to minors are not merely the result of prejudice. In fact, there is no consensus under international laws on the definition of a minor, and even within any given country. While a person under the age of 18 sent from Britain to Albania will be considered a minor, his or her status will vary in Albania, depending on the context. The Albanian civil code sets the age for adulthood at 18, while the penal code fixes the age at 14, and for government administrative purposes, 16 year olds are no longer considered minors.

Several organizations interviewed expressed concern that, in the absence of support networks in Albania, forced removal of minors was, in the words of Albanian Youth Action, “premature”. Save the Children, for instance, was not able to substantiate whether minors were being tracked, let alone given appropriate care. The Poppy Project also pointed out that the lack of communication between groups meant that trafficked women, after giving detailed testimony about their traffickers in order to obtain asylum, were extremely vulnerable to agents who considered them their material property. Women reported threats of bodily harm to family members back home and in one sensational case a trafficker sent body parts by post.

The problem is made more complex by the well-known practice of blood feuds in Albania, and the idea of returning involuntarily trafficked individuals to their families may actually prove quite dangerous (cf. South East European Regional Initiative against Human Trafficking). Home Office representatives felt that returned minors would be best served by being reunited with their families, but later admitted that they had not been able to find families for any of the roughly 20 minors waiting to participate in their upcoming pilot project.

Part of the danger stems from local feuding and the underworld of illegal trafficking. At the same time, the process of applying for asylum itself makes the situation for returnees more difficult. According to representatives of the Home Office and the Poppy Project, women must be involved in prostitution to qualify for protection against traffickers and willing to cooperate with police in order to receive protection. To apply for asylum, their claim is only credible if they can provide specific evidence identifying abusers and specifying the circumstances surrounding such abuse. For women who have suffered from organized violence, it may prove safer not to seek asylum, since they risk retribution immediately after release, either in the United Kingdom, where trafficked women are often subjected to brutal beatings (Harrison, 2005), or on return to Albania, where protection is limited in some parts of the country.

These problems are not helped by what NAO calls “poor communication and co-ordination” between “the application, support, and enforcement processes” which “have operated as largely separate systems” (2005:2). During an interview with a representative of the Poppy Project, a trafficked
woman and her trafficker were sent out of the UK on the same plane because of a lack of coordination between separate organizations responsible for deporting traffickers and for protecting trafficked women. According to several informants, customs officials and border police still harbour stereotypes of prostitutes as less than moral people, despite the harrowing testimonies of trafficked women.

### V.3.2. Making decisions

A number of interviewees noted the absence of consultation and discussion across institutions prior to policy-making. More than once, we were told that the initiatives of the Home Office could be significantly enhanced by consulting with NGOs and other government-funded agencies prior to making decisions about readmission programmes to Albania. Several organizations felt that they could have played an important role in facilitating a more responsible UK-Albania bilateral agreement with respect both to voluntary and involuntary readmissions. Some NGOs felt that they had been left out of the process and that the Home Office had not allowed them to review the terms of the bilateral agreement with Albania.

Representatives from the Home Office responded by reminding critics that it would be improper of them to circulate terms of agreement when the Government of Albania had not replied to the conditions set out in the implementing protocol. In their defence, Home Office officials said that it is important to allow Albania to reply to its proposals before publicizing them, and referred to the publicly accessible 2003 Tirana document (presented to Parliament in July 2004), “Agreement between the Government of the United Kingdom and Northern Ireland and the Government of the Republic of Albania on the readmission of persons and protocol for the implementation of the Agreement”. They also pointed out that the agreement was in fact a means for formalizing practices already in place.

Despite the differences in interpreting the role that NGOs could play in governmental decision-making, there will continue to be misunderstanding and miscommunication as long as organizations fail to understand the importance of dialogue across institutional boundaries. More transparency would have a very positive effect on outcomes and dialogue could be facilitated without overriding the Albanian government’s need to formulate a response to a bilateral arrangement.

Another element crucial to dialogue across institutions and departments within large institutions is coordination. Sending a trafficker on the same flight home as his trafficked prostitute is perhaps an exceptional case, but it is indicative of the kind of problem that can arise when organizations and divisions within organizations act autonomously. Increasing dialogue can result in better information-gathering, and, in turn, to more effective use of limited resources, especially as it is not common practice for representatives of governmental and non-governmental organizations to meet on any regular basis. Part of the confusion could be alleviated by giving more thought to ensuring that practices foreseen in implementation protocols work in tandem with other governmental and non-governmental initiatives.

Concerns have been raised over the readiness of reception facilities in Albania for returned nationals under the imminent schedule intended by the Home Office. Albanian Youth Action for instance believes that the Home Office’s initiatives on readmissions, especially for minors, may be premature. They cite a case of a teenage boy apparently returned to Albania but was found in their facility. Asked why he was still there, the youth replied. ‘Oh, I’ve been there and come back!’ Albanian Youth Action thought that other options (such as amnesty for youths already in the UK) should be explored before spending a significant amount of government funds on programmes that the Albanian government may not yet be able to implement successfully. The timing of any initiative,
and the need for dialogue before policymaking, appeared to be crucial elements for almost every person interviewed. Though government is equally aware of the “revolving door” for illegal migrants, it must find a balance between return programmes that are sufficiently attractive to encourage returns, but not so attractive that they encourage returnees to come back for a second chance.

V.4. Beneficiaries and Best Practices

To improve implementation of the RA between Albania and the United Kingdom, it is necessary to examine what might constitute “best practices” from the standpoint of those involved in this RA and in the multilateral EC-Albania agreement. We can divide these recommendations into two groups: those for the United Kingdom, and those for Albania.

V.4.1. Best practice recommendations for the United Kingdom

Though one might think that controlling borders more effectively would be a good way of reducing numbers of immigrants entering the UK, the entire spirit of the EU rests upon the promotion of open borders and united states. Despite the separate queues at airports and borders for EU and non-EU residents, it is much harder to control immigration when false documents are so readily available and when opening borders for commerce by definition means that traffic moves smoothly and with a minimum of delay.

This is one reason why the best way of stabilizing the Albanian community in the UK is, according to Albanian Ambassador Robo, “to regularize visas and to accept terms of readmission that are generous to the EC as a way of moving towards EC membership”. Indeed, many interviewees agreed that visa regularization, combined with amnesty for long-term UK irregular residents, was also the best means of dealing with illegal workers and overstayers. Others, especially those whose job involves responding to public pressure, are wary of moves that they perceive as rewarding illegal migratory behaviour.

One must remember that traffickers exploit not only those who work in the underworld, but also upwardly mobile, hard-working Albanians in search of a better life and who, because they are not EC citizens, are subjected to increased scrutiny, hard-gotten visas, and expensive educational fees. One forgets that, as non-EC members, Albanian university students are currently subjected to university fees more than three times higher on average than those paid by home students. Second, how can we ever have secure borders in the absence of a regularized visa programme? Traffickers know this and are skilled at reshaping networks overnight. It is more important therefore to examine perceptions that foreigners have about the UK: why it is a preferred destination, what opportunities it offers, what guarantees it has in place so that people will be treated fairly.

In this regard, it is important to revisit the Home Office’s earlier policy of distributing asylum-seekers throughout the country and subjecting them to a cashless system of vouchers for basic necessities. Not only did the practice of distributing asylum seekers lead to tracking problems, but it also kept those in need of assistance from accessing resources (such as IOM) that are, for the most part, located in London. With some 47 per cent of asylum-seekers using London as a base, there was a natural tendency to gravitate to the greater London area. As the Home Office itself admits, “the real issue is how to run an asylum system which serves the British people’s wish to support genuine refugees whilst deterring abusive claimants” (Morris, 2002:417). As a Home Office official points out, “there was a perception that numbers were growing in an unreasonable way and we had to be made less attractive to economic migrants” (ibid.). Such practices, in other words, undermine the
ability of individuals to access community-based knowledge while, at the same time, it is recognized that IOM’s success is largely based on word of mouth.

Perceptions of Albanians and TCNs about the fairness of British institutions, and thus why they choose Britain (when they have a real choice), is no doubt the single most important factor in going to the UK rather than stay at home or seek a livelihood in another country (Home Office, 2002b). For individuals coming from nations where such freedoms are not guaranteed, perceptions of Britain’s equity and fairness are perhaps the most powerful motivator bringing immigrants to the UK. Such perceptions do not change easily, nor, in fact, would one want them, in a democratic society, to change. Perhaps the best use of funds for readmission to Albania would be to build attractive systems of support at home. In countries where suspicion of government means that people turn to their government as a last resort, investment in building trust may be the best use of readmission energies.

This view is corroborated by the fact that the Home Office is now looking to roll out similar plans for returnees in Vietnam and Bangladesh, not because of over-representation of nationals from those countries arriving in the UK, but because these governments seem amenable to such agreements. The positive view of this is that one needs an amenable government to guarantee effective readmission and reintegration. Where there are difficulties in establishing an agreement through open cooperation, there will also be difficulties with implementation of such agreements once signed.

Open dialogue, better timing, and more attention to human rights issues appear to be major focal points for advancing best practices in the United Kingdom. As the UK government’s own report acknowledges (NAO, 2005), there is a need for much better communication and integration of services, less competition among NGOs and government agencies for limited resources, and a better sense of how one organization’s initiatives can enhance or inhibit the good intentions of another’s activities.

V.4.2. Best practice recommendations for Albania

Local arrangements for minors

Despite the best efforts of the Home Office, facts suggest that arrangements in Albania remain an obstacle. Save the Children, for instance, claims that reception arrangements for Albanian nationals (and especially minors) are inadequate and, in their current form, are not sustainable. In 2004, they managed to contact only seven of over 30 Albanians who had been sent back upon turning 18. The others had disappeared or moved on, either to rural areas where there is little or no formal readmission infrastructure, back into the trafficking network, or into other forms of irregular migration. This alone demonstrates that state support for returnees is either very limited or entirely lacking.

All of those who disappear, moreover, do not do so to re-enter illegal networks: some minors were preparing for A levels when they left the UK, and were, due to their absence overseas, locked out of the Albanian educational system upon return. The Home Office, on the other hand, does not want the packages to seem too attractive or the UK might incur additional financial responsibility for a UK system of support that is already overburdened – especially as more and more youths attempt to take advantage of what may appear to be a legitimate opportunity for educational growth and personal advancement. The Home Office hopes that the speed of the returns process will act as a disincentive to Albanians thinking of applying for asylum, outweighing the possible benefits of support upon return. Best practices, therefore, must be thought out in relation to limited resources and a desire not to create a system of welfare that invites additional utilization and cost.

In that Albania lost as many as half of its university-educated citizens to migration, we recommend that the practice of ushering Albanian youths out of the UK be supplemented by new programmes that
assist educated and enterprising young adults in gaining useful employment. We also recommend that youths who will immediately attempt to make their way back to the UK be offered incentives to reinvest in Albania during its bid for admission into the EC.

**TCNs**

In 2004, UNHCR reported that it “remains concerned that much of the progress in the field of asylum has little meaning in practical terms and is therefore superficial…raising serious questions about the ability of all persons to seek international protection in Albania” (Chadbourne, 2004; 3). If this is the case, TCNs whose asylum claims may have been refused in the UK and are returned to Albania under the UK-Albania bilateral agreement will have no chance of gaining asylum in Albania once returned. While to date, UK policy has not focused on the return of TCNs to Albania, a change in political climate, similar to one that took place during the Thatcher era when foreign students were targeted, could transform the plight of TCNs overnight. The problem will, if anything, become acute in that Albania has been a transit country for TCNs working their way to the UK. It could become more problematic still when the UK shifts responsibility for TCNs onto Albania, although there are currently no specific provisions that would encourage this practice. It remains to be seen whether the UK will send them, as Albania hopes, back to their countries of origin, or whether they will use their new right to enforce the bilateral agreement and demand that Albania function as a depository for individuals whose presence in the UK is deemed undesirable.

We, therefore, recommend that formal provisions be instated to prohibit the return of TCNs to Albania unless onward passage to a safe country of origin can be established in advance. Where this is not possible, we recommend that the EC provide TCNs with humane accommodation in Albania until such a time as safe onward passage can be arranged to either their home country or to a safe and suitable host country.

**Proposals for minors**

In the case of both Albanian and third country minors, the situation may become yet more complex. Throughout Eastern Europe, minors have accustomed themselves to living on the streets and surviving through informal networks, and thus, in the absence of social welfare, most exist somewhere outside of the law. Like the homeless in the UK, their very existence indicates that systems of protection are not fully operational. But comparison with UK homeless may be instructive: since the UK government realized that its best use of funds involved investment in everyday human resources, life for people living on the streets has vastly improved (Napier, 2004). Putting social case-workers on the street has been clearly shown to be the most effective way of reintegrating those who live on society’s borders (Hardcastle et al., 2004). Similar practice in Albania would in all likelihood have a significant impact in reducing the flow of return migrants back out of the country.

When more than three-quarters (77%) of 18-year-olds returned to Albania cannot be located by Save the Children, notions such as “protection” and “proper support” must also be called into question. The International Catholic Migration Commission (ICMC), which arranges reception in Albania, appears to lack the resources necessary for thorough accountability. Save the Children has yet to receive details about accommodation and are concerned that children may be quickly fall into the hands of traffickers again. Both ICMC and IOM have submitted applications to the Home Office for structuring and facilitating readmission procedures through implementation contracts. Though neither organization directly supports readmission, they both intend to minimize the effects of policies that they are by and large unable to influence.

Unfortunately, the Home Office has sometimes responded to the increasingly high numbers of minors arriving in the UK from all destinations by disputing their age and classifying them as adults, which has the effect of placing higher numbers in adult detention centres. Save the Children discovered that when they enlisted social workers to evaluate the ages of detainees, over 50 per
cent of disputed cases were assessed to be children. Government seeks to improve its image by producing statistics suggesting that the flow of children has decreased. However, if age-disputed cases are included, Save the Children believes that the numbers of minors arriving in the UK from around the world would prove to be increasing. The problem of child welfare is further complicated by traffickers who tell their victims to say that they are older, and by the aforementioned difference in what constitutes a minor in the UK and in various Albanian legal contexts.

We recommend that authorities in both countries acknowledge these discrepancies, err on the side of adolescence, and provide for a uniform determination of age and of the rights to which minors have claim.

Return of minors is clearly a huge, and yet growing, issue for policymakers and asylum workers; when asylum numbers were low some years ago, minors were allowed to stay in the UK because they were perceived to be less taxing on resources. Many people we spoke with see children as scapegoats in government’s more hard-line approach.

Moreover, evaluation of readmission plans has itself been a contentious issue. Although the Home Office originally proposed that such evaluation be carried out by its own research and statistics experts, advocacy groups have pushed hard for an external assessment. Currently, UNICEF is finalizing plans to undertake the evaluations.

Clearly, people without social voice are most likely to suffer not only at the hands of traffickers, but also of policymakers. Though the Home Office encourages NGOs and charities to become more proactive, many non-governmental groups working with asylum cases fear that the return of minors is becoming increasingly likely. However, social workers and others supporting children have not focused on return as a likely possibility, concentrating their efforts more on protecting children already in the UK.

We recommend that teams of social workers be given full opportunity to understand the complexity of individual cases; that there be fewer transitions in the monitoring of individual cases; that social workers, advocacy groups, and relevant charities have more voice in decision-making regarding the development of new policies; that parties concerned be provided with some guarantee that returnees receive adequate levels of care once they leave the UK; and that serious consideration be given to establishing specific measures and financial support for preparing vulnerable children for their possible return and for preventing another frightening experience as VoTs.

Careers in government, police and social work

From our interviews amongst all sectors in the UK involved with return and remigration to Albania it became clear that there is a real need to reshape the public image of the Albania police and social services, and that this could and should be subsidized by the EC. Given the dire circumstances that led to massive emigration from Albania only a few years ago, there is obviously much work to be done to enhance public trust and to encourage Albanian youth to consider a career in government or police service. But investing in these training programmes could break the “revolving door” created by traffickers. Part of this problem may be addressed by enhanced immigration and detention procedures in the UK, but the efficiency of traffickers and the relative openness of UK borders suggest that the best answer to the problem is to develop networks and programmes that encourage people to migrate less. To achieve this goal, people must be allowed to envision realistic opportunities for their future.

Though the Home Office’s Children’s Sector has reviewed and rejected the idea of using orphanages as sites for returning and retraining minors in Albania, work by various charities in other Eastern
European countries (Romania, for example) suggests that restructuring or creating new facilities for orphans may prove to be a better practice than deciding not to use orphanages because they are currently inadequate. As discussed earlier, much of this issue hinges on how one defines a minor. However, providing strong models for youths who are young, yet independent and streetwise should be a priority and here, education and training programmes may prove to be the key in remedying the social dilemmas many minors face.

For young adults without a settled future, residential homes run by clerical or volunteer supervisors may prove effective. Projects in other countries (with the homeless in London, for instance, or with street youths in Romania) can provide useful models for Albania. Such programmes are, in our opinion, the best way of addressing the return and reintegration of Albanian young people and of identifying and attending to the psychological hardships that so many of those youths have experienced.

We recommend, then, that care facilities for young children include government-funded educational programmes that will not only encourage youths to develop an interest in the future of Albania, but also provide some direction so that careers in social and governmental services be viewed more favourably than is currently the case.

**Assisting returning sex workers**

It is estimated that some 30,000 Albanian women are now working abroad as prostitutes (ICMC, n.d.:2), and it is clear that new initiatives should be developed for their protection and for offering useful employment other than sex work. Where initiatives already exist for training sex workers in other forms of employment, what may be required is both better measures to advertise and implement such programmes, and some mechanism for reviewing whether autonomous programmes are working in tandem or at cross-purposes.

For example, in the United States, Job Corps, Peace Corps, and other apprenticeship initiatives provided useful work for unemployed and under-employed young people. Similar programmes which allow youths forced into the sex trade to find work in countries far from the territory of traffickers may prove a useful deterrent to re-trafficking. Criminal networks need to be broken by making their activities uneconomical.

We recommend that programmes already in place in other Eastern European countries for providing sex workers with new, legal forms of employment be reviewed with the goal of determining their suitability for Albania.

**Public perception of governmental and non-governmental organizations**

Finally, one needs to separate how governmental and non-governmental organizations represent their efforts from the realities of what children and new adults are facing. Some acknowledgment of organizational agendas would go a long way to ameliorating the reality that returnees actually face. The Home Office should assure citizens that it is making progress on real problems and critics, such as Save the Children, should show how children are victimized.

One way to deconstruct the different perspective while respecting their common ground is to focus on the day-to-day practices and bottom-up ethnographic evidence to formulate policy, versus prescribing abstract, top-down policy initiatives that reflect specific institutional interests and agendas. Indeed, whether the cup is half full or half empty is often more relevant to public perceptions of social welfare than we are sometimes willing to admit. One good way of lowering the hurdles to democratization in Albania as elsewhere is, then, to focus as much on “bottom up” ethnography-based practices as on “top-down” policy-based initiatives. Striking a balance between
these two positions may, in fact, provide the strongest weapon in combating institutional myopia.

We recommend that: measures of accountability be required of organizations working with asylum-seekers and returnees which assure a less-informed public that every effort is being made to work across domains of expertise, as well as across the many governmental and non-governmental institutions which often appear self-perpetuating.

V.4.3. Importance of UK Assisted Voluntary Return Programmes

Given that more than half of the individuals living illegally in the UK are failed asylum seekers and that Albanians are far and away the biggest users of voluntary assisted return programmes, it would be useful to examine use of these programmes much more closely. Using ethnographic methods, we could learn more about how they discover return programmes and how perceptions by members of their community of the programme’s success, or failure, influence their decision to enter such programmes.

It must be remembered that the plight of Albanians in the UK is not dependent only on the multicultural society that British citizens and their government wish to promote, but also on the way that other regions in Britain perceive themselves in comparison with London, probably the most multicultural city in the world. Why distribute refugees outside of London when IOM and Refugee Council services are largely London-based, unless what one has in mind is the engineering of areas outside of London to reflect the future of the nation? Though organizations do, in fact, network nationwide, the consensus of those interviewed for this study was that people come to London because they know that is where the services are.

A closer ethnographic examination of patterns of voluntary return by Albanians may provide the best case for determining how programmes of regularized return might function elsewhere and in general. Because statistics clearly indicate a trend towards increased stabilization of the Albanian economy, and because voluntary programmes are not only more humane but economically preferable, the need to regularize relations must be a highest priority. This can take the form of EC admission for Albania, of student and worker visas, or of amnesty programmes for Albanians already settled in the UK. The vast majority of Albanians lucky enough to enter the UK as regular migrants or to become resident after irregular entry have by all accounts done well in the United Kingdom. This alone shows that regularization is a key component to successful immigration, as well as to successful voluntary return migration; for stability is the key factor in the success of either strategy.

V.5. Conclusions

From our research, it became quite clear that policies must be accompanied by significant amounts of openness and goodwill for, in the future, the unforeseen may become commonplace and best practices today will require substantial rethinking. If traffickers take advantage of Albania’s obligation to accept irregular migrants turned away from the EC, Albania may find itself facing new problems unforeseen in the EC and UK agreements.

Nobody wants Albania to become a migration ‘holding tank’, yet this possibility is very real if EU Member States are unwilling to acknowledge Albania’s agreement to accept TCNs on their behalf. What is certain is that Albania has, by necessity or choice, made a significant gesture of goodwill. The European Union must accept its responsibility in seeing that Albania does not suffer as a result.
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The Home Office, Children’s Sector.
Foreign and Commonwealth Office, Albania Desk Officer.
Refugee Council, International Protection Manager.
Albania Youth Action, Director.
Poppy Project, Information Officer.
Save the Children, Policy Officer.
Embassy of Albania in the United Kingdom, Ambassador.
International Organization for Migration UK, Senior Policy/Project Development Assistant.

ENDNOTES

1 These sentiments were widely felt and reflected in several newspapers, televised news reports, and magazine articles (see Observer, 2005).
3 Voluntary assisted return programmes go by the acronym (VARP), while IOM now uses the acronym VARRP to reflect their mission of return and reintegration. To be eligible for VAARP, migrants must be asylum seekers or failed asylum seekers. VARP is used here to refer to generic programmes, while VARRP refers to IOM London.
4 It should be noted that IOM has opened offices in Liverpool and in Glasgow and is working through five NGOS across the country in an effort to achieve regional balance. These are: Safehaven (Yorkshire & Humberside), YMCA (Glasgow), Refugee Action (London, Leeds, Leicester & Manchester), WARS (Wolverhampton), and NERS (Newcastle & Sunderland).
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and she also has her masters in Political Economy from the University of Toronto. Her interest in this project is in helping governments to devise fair and transparent procedures for returns that also safeguard the rights of vulnerable groups, especially trafficked women, children, elderly, and ethnic minorities.

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