



Risks to the mental health and wellbeing of Albanian Asylum seekers:

following events at Brook House, on the Bibby Stockholm, and the wider hostile context in which their claims are being examined.

Breaking the Chains at the Migrant & Refugee Children's Legal Unit (MiCLU)

The Breaking the Chains project advises, educates, empowers and engages children and young people in the asylum process alongside professionals from both legal and non-legal sectors. It aims to improve the outcomes (both legally and socially) for asylum seeking children and young people, especially those who are most vulnerable or from marginalised communities and is based at the Migrant & Refugee Children's Legal Unit and Islington Law Centre.

The project is delivered in partnership with Shpresa, a community organisation and registered charity that promotes the participation and contribution of Albanian-speaking refugees and migrants in the UK. Through our services and projects, we encourage and support individuals and families to play a positive and active role in British society.

Albanian Suicide on the Bibby Stockholm

On Tuesday 12th December, a 27-year-old Albanian man completed suicide on the government's Bibby Stockholm non-detention accommodation barge in Portland. According to his family, the man had been distressed during the day and had been visited at 11pm to be "calmed down" by a security guard. By 3am he had died alone in his room.

Albanian Suicide Attempts at Brook House Immigration Removal Centre

On Friday 17th November a 37-year-old Albanian man died in an intensive care unit in hospital in Surrey following a suicide attempt over a week earlier at Brook House immigration removal centre, near Gatwick Airport. The man's attempt to kill himself was shortly followed by further suicide attempts from a second man. In response to both events, Albanian detainees protested in Brook House to draw attention to the conditions they are being held in and the threat of deportation to Albania. The Guardian newspaper covered these tragic incidents on 18th November.¹

Existing concerns about conditions at Brook House

The BBC Panorama Programme *Undercover: Britain's Immigration Secrets*, aired in September of 2017, drew attention to conditions which the Brook House Inquiry has subsequently described as:

*"violent, dysfunctional and unsafe. [The documentary] showed the use of abusive, racist and derogatory language by some staff towards those in their care, the effects of illicit drugs, and the use of force by staff on mentally and physically unwell detained people."*²

¹ <https://www.theguardian.com/politics/2023/nov/18/investigations-launched-after-death-of-albanian-man-detained-by-home-office>

² <https://brookhouseinquiry.org.uk/main-page/volume-1/executive-summary/background/>

The Brook House Inquiry was published in September 2023 alongside 33 separate recommendations to improve conditions in detention and ensure that the events of 2017 are not repeated. Since 2017, a further seven people have died in immigration detention in England and Wales³ and there continue to be significant concerns over conditions in immigration detention.

On the same day as the independent Brook House Inquiry published its findings, the charity Medical Justice published the findings of 66 medical assessments of individuals being held in Immigration Removal Centres between June 1st 2022 and 27 March 2023. The assessments found that of the 66 individuals:

- 52 had evidence of a history of torture
- 29 had evidence of a history of trafficking
- 25 had evidence of a history of both torture and trafficking
- Detention had caused the mental state of 64 clients to decline and had caused harm to all 66 clients
- 63 had a diagnosis of at least one mental health condition and 49 people were recorded as having self-harmed, suicidal thoughts and/or having attempted suicide

Provisions in the Illegal Migration Act 2023 (IMA), if brought into force, may significantly increase the numbers of individuals held in Immigration Detention. We have concerns about young people turning 18 and being immediately at risk of detention under the provisions of the IMA. The IMA also includes provision to expand detention for children if the Home Secretary wishes to do so. Events at Brook House suggest that, without reform, such an approach to immigration enforcement poses serious risks to the safety and health of those detained.

Albanians in Immigration Detention

Numbers of Albanians in immigration detention are especially high, with Albania being the most common nationality entering immigration detention in 2022 and 2023.⁴ This has significant impacts on the wider Albanian community, with many of the young people we support being afraid of being detained or knowing others who have been detained.

There is however important evidence to suggest that detention is being used inappropriately, with Albanians being over-represented in the proportion of individuals being granted bail by an immigration judge (IJ) compared with the proportion of all individuals leaving detention because of bail from an IJ.

Table 1: All nationalities leaving immigration detention year on year compared with Albanian nationals leaving immigration detention - by percentage of total leaving

Reason for leaving immigration detention	2021		2022		2023	
	All	Albanians	All	Albanians	All	Albanians
Bailed (IJ)	10%	22%	21%	27%	28%	37%
Bailed (SoS)	76%	58%	56%	61%	36%	30%
Granted LTE/LTR	0%	0%	0%	0%	1%	0%
Other	1%	2%	2%	1%	5%	3%
Returned	13%	18%	20%	11%	31%	30%

Source: Immigration System Statistics year ending September 2023: Immigration detention detailed datasets

³ <https://www.inquest.org.uk/deaths-of-immigration-detainees>

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Ensuring proper support for mental health

The tragic events on the Bibby Stockholm and at Brook House highlight the toll that the immigration system takes on the mental health of those seeking asylum in the UK. It is important to note the prevalence of poor mental health within asylum-seeking individuals likely arising from the circumstances that led to their need to flee their country of origin. In our own practice, every Albanian we are supporting has symptoms or a diagnosis of PTSD and many of the young people we support are anxious and depressed, regularly self-harming, and who are experiencing suicidal thoughts.

We have concerns about young people we support who are taking medication for their mental health but who are at risk of being detained as we have come across examples of young people in detention being unable to access mental health medication. Guidance from the Royal College of Paediatricians and Child Health states that health assessments must be completed before a child's first night following admission and within two hours of their arrival. These assessments must identify any prescribed medicine children are receiving and ensure this is addressed in their immediate health plan⁵. We would expect these same standards to be met in immigration detention for anyone, but our experiences suggest that they are routinely not met. We would also expect these standards to be met in non-detention accommodation like the Bibby Stockholm.

Within migrant communities, past suicides have demonstrated the ways in which fear and hopelessness can quickly spread. Whilst the facts around the suicides of four young Eritreans in 2017/18 are different,^{6,7} the fact that two further Albanian individuals within Brook House have attempted to take their own lives should set off alarm bells given the often close-knit nature of asylum-seeking communities in the UK and how poor mental health and experiences of trauma can be exacerbated by suicides. Urgent action is required to ensure that one tragic event does not become part of a wider trend.

The situation facing Albanians seeking asylum in the UK

The conditions in immigration detention, and in non-detention accommodation like the Bibby Stockholm, are particularly pressing for our Albanian clients who are at much greater risk of being ordered to live in these settings. Furthermore, the experience as an Albanian is different compared to other nationalities because of the hostile environment facing Albanians when making their claims – the chance of return, the culture of disbelief, and the threat of provisions like those contained in the Illegal Migration Act which will deem Albania a safe country and make claims inadmissible.

Here we provide a summary of recent developments relating to Albanian asylum claims all of which contribute to feelings of hopelessness among the Albanian community and increase the risk that further suicides and serious harm could occur.

UK-Albania Communique

In December 2022, the Government signed a communique with the Albanian Government⁸ to return Albanians arriving in the UK illegally if they were foreign national offenders or their asylum claims in the UK failed. The communique has driven an increased number of returns to Albania.

Updates to Albanian Country Policy and Information Notes

Country Policy and Information Notes (CPINs)⁹ provide evidence and guidance to asylum decision-makers about country conditions and the Home Office's position in relation specific elements of asylum claims.

⁵ https://www.rcpch.ac.uk/sites/default/files/2023-04/rcpch_healthcare_standards_for_children_and_young_people_in_secure_settings_2023.pdf

⁶ <https://www.theguardian.com/uk-news/2019/nov/08/eritrean-refugee-19-who-killed-himself-feared-he-would-be-sent-back>

⁷ <https://www.inquest.org.uk/alexander-tekle-inquest-closing>

⁸ <https://www.gov.uk/government/news/milestone-reached-in-uk-albania-agreement-on-illegal-migration>

Despite minimal changes ‘on the ground’ in Albania there have been seven updates to the Albania Country Policy and Information Notes since the Communique was signed in December of 2022. The changes increase the likelihood that decision-makers will refuse asylum claims by Albanians and that they will remove appeal rights, through certification of claims as ‘clearly unfounded,’ preventing applicants from challenging incorrect decisions from within the UK.

The guidance sections of the CPINs increasingly do not reflect the evidence cited in the main body of the reports on some key issues relating to risk on return¹⁰. Examples have included a section suggesting that male victims of trafficking are not at additional risk upon return unless there are additional vulnerabilities¹¹ and an assertion that it would be possible for claims involving blood feuds to be certified as ‘clearly unfounded’ which appears to ignore significant evidence referenced and gathered by the Home Office itself as well as more widely available, that blood feuds regularly go unreported to the authorities¹².

Albania as a safe country under the Illegal Immigration Act 2023

The passage of the Illegal Migration Act 2023, if fully brought into force and made operational would likely prevent all asylum applications by Albanians in the UK being made and considered on their individual merits.

The Act has already resulted in important changes. Albania has been added to the list of ‘safe countries’ outlined in Section 80AA of the Nationality, Immigration and Asylum Act 2002. This means that all asylum claims from Albanians will be inadmissible. Their asylum claims will not be heard and there is no right of appeal against that finding.

If the regulations required to implement the provisions in s.59 of the Illegal Migration are published, this will see Albanian adults and children face removal to Albania without any interim relief to prevent their removal, even if their arguments that they will face serious harm or death on removal have not been considered by any court.

This is particularly concerning because recent decision making within the UK’s asylum system clearly demonstrates that there are many Albanians who have genuine asylum claims and are in need of protection. During 2020-2022, 51% of initial asylum applications by Albanian asylum seekers were recognised - this proportion increased to 60% during 2022. Furthermore, during 2020-22 58% of appeals of initial decisions were successful, suggesting that decision-makers on initial applications have been regularly making poor decisions.¹³

The statistics for year ending Q3 2023 show a changing picture. In the year to end statistics on asylum decisions, just 21% (982) of all Albanians were granted asylum or leave. Meanwhile, during the same period, 9,558 decisions were “withdrawn”.¹⁴ The individuals making claims in the last 12 months are not significantly different from those who arrived in previous years. Changes to the CPINs, changes to guidance on trafficking and a greater focus on Albanian asylum applications leading up to and during the passage of the Illegal Migration Act all appear to have contributed to chilling effect on decisions about Albanian claims.

The withdrawals are particularly concerning as the Home Office does not give a breakdown of the circumstances around the withdrawal. Given the bias against Albanian claims that is increasingly apparent

⁹ MiCLU regularly publishes commentary on Albanian CPINs which can be found here: <https://miclu.org/resourcesandpublications/albanian-asylum-claims-toolkit>

¹⁰ See a critique of the trafficking and blood feud CPINs by David Neale at <https://miclu.org/assets/uploads/2023/02/Albania-blood-feud-CPIN-review-February-2023.pdf> and <https://miclu.org/assets/uploads/2023/02/Albania-trafficking-CPIN-addendum.pdf> respectively

¹¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1135644/ALB_CPIN_Human_trafficking.pdf and <https://miclu.org/assets/uploads/Albania-trafficking-December-2022-CPIN-response-September-2023-corrigendum.pdf>

¹² <https://miclu.org/assets/uploads/2023/02/Albania-trafficking-CPIN-addendum.pdf>

¹³ <https://miclu.org/asylum-statistics-albania-as-a-safe-country>

¹⁴ Immigration System Statistics year ending September 2023: Asylum and Resettlement - Applications, Initial decisions, and Resettlement.

within the system we are concerned that Albanians are giving up hope that their claims will be properly considered and going missing – leaving them at risk of exploitation and modern slavery.

Changes to legal provisions in relation to trafficking

In January 2023, the Modern Slavery Statutory Guidance¹⁵ was amended. One key change was to the threshold for a ‘Reasonable Grounds’ decision from ‘suspects but cannot prove’ to ‘based on objective factors but falling short of conclusive proof’. This had the effect of introducing a requirement for ‘objective proof’ that an individual had been trafficked, rather than relying on the information provided by the individual concerned. As a result, there has been an increased risk that individuals are not recognised as victims. this can have a substantive impact on their asylum claim, making it less likely to succeed.

Further, s.63 of the Nationality and Borders Act 2022, brought in a disqualification from protection for certain victims of trafficking notwithstanding their identification as victims. This means that individuals sentenced to custodial sentences of over a year are not able to get leave to remain as victims of trafficking and are not protected from removal or deportation. This prevents individuals who have served sentences arising from their experience of criminal exploitation from being able to have the question of whether they are victims of modern slavery even considered by the National Referral Mechanism. If enforced the Illegal Migration Act will raise the bar on these decisions higher still by making the disqualification duty a ‘must’ rather than a consideration that ‘may’ be made.

Albanians have for some time formed one of the largest groups trafficked into the UK. MiCLU’s own analysis of official statistics shows that historically there has been parity in terms of the numbers of Albanian nationals recognised as victims of modern slavery as compared with other nationalities.¹⁶

Whilst the recent changes to trafficking policy apply generally to all victims of modern slavery they further compound the challenges faced by Albanians who have been trafficked and are seeking asylum in the UK. The changes appear to be most adverse for Albanian children who are referred to the NRM as victims of trafficking, as reflected in the tables below:

Table 2: Changes in decision-making at National Referral Mechanism: Albanians compared to all decisions

	Positive RG decisions for Albanian children	Positive RG decisions for all children
Q1-Q3 2023	47%	74%
2019-2022	93%	92%
	Positive RG decisions for Albanian adults	Positive RG decisions for all adults
Q1-Q3 2023	28%	41%
2019-2022	93%	90%
	Positive CG decisions for Albanian children	Positive CG decisions for all children
Q1-Q3 2023	74%	83%
2019-2022	89%	93%
	Positive CG decisions for Albanian adults	Positive CG decisions for all adults
Q1-Q3 2023	62%	65%
2019-2022	85%	85%

Sources: Home Office, *Modern Slavery Research & Analysis*. (2022). *National Referral Mechanism and Duty to Notify Statistics, 2014-2022*. [data collection]. 5th Edition. UK Data Service. SN: 8910, DOI: 10.5255/UKDA-SN-8910-5; and

¹⁵ <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims/modern-slavery-statutory-guidance-for-england-and-wales-under-s49-of-the-modern-slavery-act-2015-and-non-statutory-guidance-for-scotland-and-northe#annexe>

¹⁶ https://miclu.org/analysis-of-home-office-statistics-on-the-national-referral-mechanism_updated-march-2023

Already we see these changes to the National Referral Mechanism and to the CPINs interacting with each other to create significant problems for Albanian clients to have their cases considered properly. With an increasing number of claims being certified, we see Albanians who have received a positive decision on the conclusive grounds stage of the national referral mechanisms being at risk of being returned to Albania even though a decision has been made that they have indeed been trafficked.

Availability of legal advice and its consequences for Albanians

In addition to the challenges arising from changes to immigration law and policy, Albanians are also affected by the widespread lack of legal aid immigration solicitors in the UK. Whilst it is increasingly difficult for anyone to secure legal representation in the UK¹⁷, Albanians face particular difficulties because of the nature of their cases.

Any asylum claim for an Albanian young person is unlikely to be successful without significant expert testimony to identify and explicate key risks and outline areas where the claimant's individual circumstances are at odds to the country guidance. The changes to decision making about trafficking mean that legal advice is also now often required to ensure that an NRM referral is successful. This places significant upfront costs on solicitors which result in the cases having negative impacts on the cashflow of advice providers.

For example, at MiCLU we regular support young Albanians to achieve successful outcomes in their claims by ensuring that we include expert testimony in their applications. It is not unusual for a successful case for have in the region of £5,000 worth of disbursements to secure expert testimony alongside our own costs in the region of £8-10,000. Holding this level of cost through the lifetime of a case is not possible for many firms and is only possible for us due to charitable funding.

The result of this for young people is that it is increasingly difficult for us to secure representation for them. Currently we have a large waiting list of young people in need of representation. Included in this list are eight highly vulnerable, mainly male, young Albanian asylum-seekers. One has been issued with a deportation order because of criminal activity he was implicated in during a period of criminal exploitation. We have been contacting a list of 59 legal representatives known to take on these cases since September and have only been able to place one (female) young person so far. The impact on young people's mental health whilst waiting to secure legal representation is significant. Especially given the uncertainty over the Illegal Immigration Act.

Rising levels of discrimination, stigma and racism

The policy changes made by the Government, but particularly the narratives used in announcements and on the news, are also having a direct effect on the young people we support. MPs in Parliament have suggested that Albania is a safe country and questioned why many asylum claims are accepted.¹⁸ Former Home Secretary Suella Braverman has also appeared to agree with language used by other MPs to suggest that Albanians coming to the UK are criminals.¹⁹

These attitudes have consequences and undermine the principle that every asylum claim should be judged on its own merits and not on the basis of broad generalisations about specific countries, populations or circumstances.

¹⁷ https://assets.website-files.com/5eb86d8dfb1f1e1609be988b/62a1e16cba8478993c7d512c_No%20access%20to%20justice-%20how%20legal%20advice%20deserts%20fail%20refugees%2C%20migrants%20and%20our%20communities.pdf

¹⁸ <https://committees.parliament.uk/committee/83/home-affairs-committee/news/195596/no-case-for-routinely-offering-asylum-to-claimants-from-safe-albania-home-affairs-committee/>

¹⁹ <https://www.independent.co.uk/news/uk/roger-gale-home-secretary-channel-brussels-mps-b2241258.html>

These narratives have real world consequences as members of the Albanian community in the UK experience racism and discrimination when the general public act on prejudices that are commonly repeated in politics and in the media. Young people we support have told us about instances where:

- They have been followed and searched by the police as they are suspected to have been involved in a crime even when the description of the perpetrators clearly does not match them
- Support staff in hostel accommodation suggesting to others living in the accommodation that Albanian young people are able to supply drugs
- Home Office staff suggesting that “all Albanians have the same [personal] history” when being interviewed about the circumstances of their arrival and their journey to the UK.
- Judges commenting in hearings that Albania is a lovely travel destination.
- Feeling unsafe around the police because of instances of having property seized, homes searched and being wrongfully arrested and held in custody.

The young people we support often tell us that they find the media and political narratives about them and their country harmful and that they “do not want to be treated like trash”. It has a powerful impact on their sense of belonging as they have had to flee Albania but do not feel welcome in the UK.

A dangerous situation

The young Albanians we support face an incredibly difficult situation. Inability to access legal advice, experiences of stigma and discrimination in everyday life, and high risks of their asylum claims being certified or referrals for trafficking being rejected.

The threat of detention exacerbates all these factors and makes detention extremely difficult to endure. It's clear that the consequences on the mental health of Albanians in detention can be severe. It is imperative that the detention system acknowledges these pressures and puts in place additional protections and safeguards to keep Albanians who are detained safe and well.

What must be done?

Independent Chief Inspector of Borders and Immigration

- The review of Albanian CPINs commissioned by the Inspectorate through the Independent Advisory Group on Country Information in 2023 should be published as soon as possible so that recent Home Office changes to CPINs can be independently scrutinised and evaluated.
- The Inspectorate must quickly bring forward its intention to complete an inspection of adults at risk in detention. The scope of the inspection should include access to mental health support, attitudes and behaviours of detention enforcement staff and it should consider if there is differing treatment of individuals in detention based on their nationality.

Independent prisons and probation ombudsman

- In the investigation into the death in Brook House the Ombudsman should consider the impact of the individual's nationality and asylum status on the events that occurred

Coroner

- In the inquest into the death in Brook House the Coroner should consider the impact of the individual's nationality and asylum status on the events that occurred

Home Office

- Implementation of all recommendations made by the Brook House Inquiry
- The Home Office should ensure there are clear routes for third parties to raise concerns about the mental health or suicidality of detained persons with medical staff
- The Home Office should set out clear criteria in its detention guidance to support decision making around the severity of an individual's mental health conditions and the likelihood that detention could result in harm.
- The Home Office should publish evidence to demonstrate that all individuals in detention are receiving timely health checks upon arrival and have access to existing prescription medication prescribed before they entered detention. We would expect the Home Office to meet the same standards, or higher, than those required when individuals enter the prison estate.
- Mental health support should be available in detention, in an individual's first language, so that they can properly disclose any difficulties they are having in confidence, and secure prompt support
- The Home Office should make provisions to ensure that Albanians cannot be removed to Albania without interim relief so that their circumstances can be properly examined
- The Home Office should revert to the pre-January 2023 evidential thresholds for reasonable and conclusive grounds decisions under the National Referral Mechanism and grant adequate leave to victims regardless of the circumstances of their exploitation.

Legal Aid Agency and the Ministry of Justice

- The LAA should review the way cases are funded to reduce cashflow challenges in cases where considerable upfront testimony and expertise is required
- The LAA should simplify the billing process to support providers to take on complex cases and reduce the administrative burden
- The LAA should ensure that solicitors included on the detention rota have adequate training to identify suicide risks and respond to them effectively.

For more information please contact MiCLU on miclu@islingtonlaw.org.uk