



**PILLAR III
HUMAN RIGHTS**

Refugees and asylum seekers rights in Albania: A comparison with European legislation

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I. ABSTRACT

This article deals with the phenomenon of irregular¹immigration in Albania most specifically regarding the rights of asylum seekers and refugees. This topic is directly linked with the subject of Human Rights, being a fundamental value and a goal to be accomplished regulated through international Conventions, international organizations such as Council of Europe and European Union itself. Being a candidate state waiting for the negotiation to be opened, it implies that Albania should align its legal and institutional framework to the EU requirements and criteria. This includes the legislation on migration, in all its aspects: emigration and immigration, regular and irregular, asylum procedures, reception conditions and integration process for foreigners. This article is divided in 3 paragraphs through which it is attempted to explore the subject matter. More specifically, Paragraph II provides an introduction of the international legal framework; third paragraph gives a broad picture of EU acquis on Asylum policy and main directives; and fourth paragraph tends to assess the Albanian legal framework and its compatibility with EU acquis and the ECHR.

ABBREVIATIONS:

1951 CONVENTION

Convention relating to Status of Refugee, UN, 1951

1967 PROTOCOL

Protocol relating to the Status of Refugees, UN, 1967

ARTICLE 3 OF ECHR

Prohibition of torture - *No one shall be subjected to torture or to inhuman or degrading treatment or punishment*

CEAS

Common European Asylum System

COUNCIL

Council of European Union

DCM

Decision of Council of Ministers of Albania

DUBLIN REGULATION

Regulation (EU) No 604/2013 – Dublin III Regulation

EC

European Commission

ECHR

European Convention on Human Rights

ECtHR

European Court on Human Rights

EU

European Union

ILO

International Labour Organization

Law 121/2014

Law on Asylum in Republic of Albania

MS

Member State(s) of European Union

¹ Between terms ‘Illegal’ and ‘Irregular’ migration I strongly believe that calling it just as irregular, is the best way to deal with this phenomenon considering first of all the best interest of such migrants and respecting their rights and fundamental freedoms. After all no one is illegal!



QUALIFICATION DIRECTIVE	DIRECTIVE 2011/95/EU “on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted”
RCD	Reception Conditions Directive - Directive 2013/33/EU “of laying down standards for the reception of applicants for international protection”
UN	United Nations Organization

II. INTERNATIONAL LEGISLATION REGARDING REFUGEES AND ASYLUM-SEEKERS

When it comes to migration, and asylum there are some terms that should be clarified. The word “migrant” describes a person who moves from one place, region, or a country to another. The term “asylum seeker” refers to a migrant who seeks international protection in another country. In Europe, international protection may take the form of refugee status or subsidiary protection. In this article we will be focused only on refugee status. This status is governed by the 1951 Geneva Convention relating to Refugee Status and it is granted by a foreign state.² **The definition of what ‘refugee’** means is set by Geneva Refugee Convention of UN on Article 1 (2) - a refugee is any person who: “(2) *As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*” The Protocol relating to the Status of Refugees, entered into force in 1967 just edits this definition given by the Convention omitting the date 1 January 1951. This was justified to make possible “*that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951*”³. Nowadays the 1951 Convention alongside with 1967 Protocol serves as a base for the legislation regarding refugee status, their rights and protection and legal obligations of the countries who have ratified it including EU countries and Albania as well, which has ratified this Convention and the Protocol on August 1992.

Another relevant and important instrument is European Convention on Human Rights (ECHR) which even though does not directly set up rules for refugees and asylum –seekers still it has a direct effect when it comes to their rights and freedoms. Saying that as a Convention protecting the Human Rights there are some Articles of this convention that are linked with the rights of

² CourTalks Discourse, Asylum, European Court of Human Rights, Council of Europe, 2016, pg. 1

³ United Nations, Protocol Relating to the Status of the Refugees, entered into force 4 October 1967, source: <http://www.ohchr.org/Documents/ProfessionalInterest/protocolrefugees.pdf>

refugees and/or asylum seekers such as: *Article 3*- Prohibition of Torture; *Article 5* – Right to liberty and security; *Article 8* - Right to respect for private and family life or/and *Article 13* - Right to an effective remedy. These articles can be used by refugees and asylum seekers who address the European Court of Human Rights (ECtHR), in cases when they feel that their rights are infringed or they are threatened by the risk of expulsion or maltreatment.

Other important Conventions that must be listed even though they are not further analysed in this article are:

- i. 1949 International Labour Organization (ILO) Convention concerning Migration for Employment (Revised 1949);
- ii. ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers;
- iii. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- iv. 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- v. 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air.⁴

These Conventions are mostly focused on specific dimensions of migration such as migration for employment and rights and protection for migrant workers and their families, whether they are regular or irregular migrants, as well as they deal with the phenomenon of smuggling and trafficking of persons.

One of the principles that the asylum procedure is based on is the *non-refoulement principle*. The 1951 Geneva Convention has provided the **Non Refoulement Principle** – which prohibits the expulsion or returning of refugees to a country or territory in which their life or freedom might be at risk. Article 33 says furthermore that: “*1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.*”

On the other hand the *Article 3* of ECHR prohibits torture, inhuman or degrading treatment or punishment, while foreseeing that no one can be returned to a place where he or she might be in a real risk of being subjected to treatment contrary to either of these provisions. **This is again the principle of non-refoulement.** Under the ECHR, the prohibition provided by Article 3 is absolute. This means that the responsibility of the Council of Europe’s Member States to safeguard a non-national against such treatment is always engaged in the event of expulsion. Articles 2 and 3 of the ECHR also prohibit “indirect refoulement” that means an expulsion to a State from where migrants may face farther deportation without a proper assessment of their situation. This also applies while has been several cases even in the context of the Dublin Regulation. For instance, in a case concerning expulsion from Belgium to Greece, the European

⁴ United Nations Department of Economic and Social Affairs/Population Division, International Migration Report 2013, <http://www.un.org/en/development/desa/population/publications/pdf/migration/migrationreport2013/Chapter3.pdf>



Court of Human Rights (ECtHR) has argued that where the asylum procedure of a particular EU member State is deficient and does not offer effective guarantees against arbitrary removal, other member states must refrain from returning asylum seekers to that country on the basis of the Dublin Regulation.⁵

In this article we will put our focus on an analysis of European Convention on Human Rights, EU legislation and main directives as well as a comparison with Albanian legislation and their alignment with ECHR and EU Acquis.

III. LEGISLATION OF EUROPEAN UNION ON MIGRATION: AN OVERVIEW

Recently European Union is addressing Asylum and Migration as one of 10 priorities of Juncker Commission. Thus after preparing a 10 point plan of immediate actions as a response to the crisis in the Mediterranean, on 13 May of 2015 the European Commission adopted the European Agenda on Migration. This Agenda came as a need to address migration more effectively and by all Member States together, thus using a European approach. The European Agenda includes all the actors concerned: EU institutions, Member States, other International Organisations, local actors and civil society for a common European migration policy.⁶

The management of the migration (regular or irregular) is synchronized by a various number of Directives and Regulations. The EU is respecting and acting in compliance with international legislation and Conventions. In the field of migration and asylum the EU has ratified some International Conventions⁷, in protecting and promoting international protection, human rights and security, some of them abovementioned in the first paragraph. The foremost goal of EU asylum policy is the harmonisation of asylum procedures between Member States by establishing common asylum arrangements, with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement.⁸

It is since 1999 that the European Union has been working to establish and improve the Common European Asylum System (CEAS) which sets out and strengthens common standards and measures to make sure that asylum seekers are treated equally and their fundamental rights are being fully respected within the EU area. The main Directives which are the EU legal framework with regards to asylum are listed as follow:

- i. the **Asylum Procedures Directive** harmonises asylum procedures and aims at fairer, quicker and better quality asylum decisions;
- ii. the **Reception Conditions Directive** ensures that there are humane material reception conditions for asylum seekers across the EU and that the fundamental rights of the persons concerned are fully respected;

⁵Council of Europe, Handbook on European law relating to asylum, borders and immigration, pg. 36

⁶Official Webpage of European Commission, European Agenda on Migration, 2017: <https://goo.gl/ByUy0C>

⁷You may find the full list of International Conventions ratified by EU in this link: <https://goo.gl/Me6YIU>

⁸European Parliament, The Common European Asylum System - third reform, 2017: <https://goo.gl/0QpUC9>

- iii. the **Qualification Directive** clarifies the grounds for granting international protection;
- iv. the **Dublin Regulation** contains the rules establishing the state responsible for examining asylum applications;
- v. the **Eurodac Regulation** establishes the Eurodac system in order to allow comparison of fingerprints with the aim of assisting the application of the Dublin Regulation.⁹

A. *Qualification Directive*

This Directive defines the criteria for applicants to qualify for refugee status or subsidiary protection and defines the rights afforded to beneficiaries of these statuses, such as: protection from refoulement, provision of needed documents (residence permits, travel documents) access to social services and labour market etc. This Directive is proposed to be replaced by a Regulation of the European Parliament and of the Council to establish a common procedure and uniform standards for international protection in the Union, for an integrated, sustainable and comprehensive EU migration policy. The European Commission has submitted in July 2016 a draft proposal for a new Qualification Regulation that aims to further harmonise common criteria for qualifying for international protection, while ensuring convergence of asylum decisions. The discussions in Parliament and Council about this proposal are still ongoing.¹⁰

B. *Reception Conditions Directive*

There are certain key provisions of the RCD which should be part of the national reception systems of any MS, for applicants of international protection: 1. Housing; 2. Food; 3. Clothing and other non-food items; 4. Daily expenses allowance; 5. Health care 6. Provision of information and counselling; 7. Identification, assessment and response to special needs; 8. Staff training. Each section includes specific common standards which are applicable to national reception systems across all EU Member States.¹¹ As the refugee crisis has shown, there are divergences in the level of reception conditions provided by the Member States. In some Member States, there have been persistent problems in ensuring adherence to the reception standards in which even the basic needs are not fulfilled completely, such as the case of Greece where a dignified treatment of asylum applicants or refugees is lacking, while in other Members States the standards provided are more generous. Given the refugee crisis and the huge number of refugees stuck in Greece, the ECtHR has received some complaints regarding the conditions persons staying in Greek camps are facing every day.

⁹ European Commission, Managing the refugees crisis: immediate operational, budgetary and legal measures under the European Agenda on Migration, 2015: <https://goo.gl/OAoDrT>

¹⁰ European Commission Official Webpage: https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/refugee-status_en

¹¹ European Asylum Support Office, EASO guidance on reception conditions: Operational standards and indicators, 2016: <https://goo.gl/c8xM9s>

Based on the Article 3 of ECHR that stipulates that the receiving state should provide accommodation and decent material conditions to these asylum-seekers who are impoverished and wholly dependent on State support.¹² the ECtHR has assessed that Greece did not meet such obligations. This is an infringement of both EU Acquis and RCD itself, and Article 3 of ECHR as well. The ECtHR analyzed that Greece did not secure to the applicant while waiting for his decision on asylum application, the adequate reception conditions – the centre was overcrowded, the sanitation conditions were lacking and the applicant used to feel all the time a sense of fear and insecurity¹³.

C. Dublin Regulation

The most debated and discussed regulation regarding migration in EU is the Dublin Regulation that has established the criteria and mechanisms to determine that Member States in which the asylum application is lodged by a third-country national is the state responsible to examine that application. This means that the country which has received the application should not transfer it to another Member State, because the asylum seekers have the right to remain in that country where they have requested asylum. The objective of the Dublin Regulation is to ensure quick access to asylum procedures and the examination of an application on the merits by a single, clearly **determined** Member State. Article 7 (2) of the Regulation provides that: “*The Member State responsible in accordance with the criteria set out in this Chapter shall be determined on the basis of the situation obtaining when the applicant first lodged his or her application for international protection with a Member State.*”¹⁴

There have been cases when a MS has sent back an asylum seeker in another MS of EU under the Dublin Regulation (e.g Belgium to Greece, the Netherland to Italy, Austria to Hungary etc.) and the asylum-seekers concerned has sent these cases to ECtHR. ECtHR under the Article 3 and 13 (for an effective remedy) has found guilty some of these countries for violation of Article 3. In the case of *M.S.S v. Belgium and Greece*¹⁵,

ECtHR has argued that: “*the Belgian authorities must have been aware of the deficiencies in the asylum procedure in Greece when the expulsion order against him had been issued. Belgium had initially ordered the expulsion and had proceeded to enforce the measure without the Greek authorities having given any individual guarantee. The Belgian authorities should not simply have assumed that the applicant would be treated in conformity with the ECHR standards; they should have verified how the Greek authorities applied their asylum legislation in practice.*”

¹² CourTalks Discourse - Asylum, European Court of Human Rights, Council of Europe, 2016, pg. 5

¹³ *M.S.S. v. Belgium and Greece* (no. 30696/09), <https://hudoc.echr.coe.int/eng-press#%7B%22itemid%22:%5B%22003-3407679-3824378%22%5D%7D>, ECHR 2011

¹⁴ Regulation (EU)No. 604/2013 of the European Parliament and of The Council “*on establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*”, Official Journal of the European Union, L. 180/31, 2016

¹⁵ *M.S.S. v. Belgium and Greece* (no. 30696/09), <https://hudoc.echr.coe.int/eng-press#%7B%22itemid%22:%5B%22003-3407679-3824378%22%5D%7D>, ECHR 2011

There had therefore been a violation by Belgium of Article 3 of the ECHR. In respect of Greece, the Court found a violation of Article 13 taken in conjunction with Article 3 of the Convention because of the deficiencies in the Greek authorities' examination of the applicant's asylum application and the risk he faced of being removed directly or indirectly back to his country of origin. As far as Greece is concerned, the Court further held that there had been a violation of Article 3 of the Convention both because of the applicant's detention conditions and because of his living conditions in Greece.

This means that based on Article 3 of ECHR, the remove of an asylum-seeker from one MS to another MS within the Dublin Regulation it is not allowed in cases when: a) the conditions of the country proposed for asylum-seeker to be removed are dire and do not provide a dignified treatment and a proper living; b) there is a real risk that the asylum-seeker might be expelled further to his/her country of origin.

IV. ALBANIA MAIN LEGISLATION AND ALIGNMENT WITH EU ACQUIS AND EUROPEAN CHARTER ON HUMAN RIGHTS

The legal framework of Albania regarding the rights of foreigners is firstly sanctioned by the Constitution of the Republic of Albania which provides in its Article 16 that: *"The fundamental rights and freedoms and the duties contemplated in this Constitution for Albanian citizens are also valid for foreigners and stateless persons in the territory of the Republic of Albania, except for cases when the Constitution specifically attaches the exercise of particular rights and freedoms with Albanian citizenship and prohibits collective expulsion of foreigners from Albanian territory"*.¹⁶

Furthermore, based on the Report of European Commission for year 2018, in the framework of Chapter 24: Justice, Freedom and Security it is stated that: *"Albania is party to the 1951 Geneva Convention and in 2014 adopted a new asylum law which brought its legal framework generally into line with the acquis. However, since several EU directives have been further updated, some issues still need to be addressed as regards procedural safeguards and guarantees. In particular, Albania needs to ensure that asylum seekers have the right to legal assistance and apprehended third country nationals have access to information about asylum rights and procedures."* and, *"The instruction regulating pre-screening, detention, return and readmission should be revised and aligned with international standards. The revised version should include procedural safeguards for all categories of vulnerable persons. It should align its content with the new Law on Child Protection and refer specifically to compliance with the non-refoulement principle and language rights."*¹⁷ *"The legal framework is broadly in line with the acquis."* and *"Albania has some level of preparation to implement the acquis and European standards in this area."* The report assesses as a positive development with some progress the improvement of *"institutional*

¹⁶Constitution of the Republic of Albania, approved by Referendum on 22 November 1998 and amended on 13 January 2007

¹⁷European Commission, Albania 2018 Report, pg. 38



ALBANIA

Law Journal

ISSN 2523-1766

LAWJOURNAL.AL

ISSUE 6

April 2018

capacity on border management, asylum and countering terrorism and violent extremism. Reception capacity to deal with mixed migration flows increased.”¹⁸

Albanian legislation on migration area is mostly adopted and updated in the recent years while two of the most important laws on such topic are: **Law No. 108 /2013 “On foreigners”** and **Law No. 121/ 2014 “On Asylum in Republic of Albania”**.

Law No. 108 /2013 “On foreigners”, is adopted in accordance with International Conventions such as: (i) the Universal Declaration of Human Rights, adopted by UN General Assembly 1948; (ii) the European Convention on Human Rights and Fundamental Freedoms, 3 September 1953; and (iii) the International Convention on Protection of Rights of all Migrant Workers and Members of their Family, approved on 18 December 1990. On 14 July 2016 it was adopted the **Law No. 74/2016 “On some amendments and additions to the Law no. 108/2013 “On Foreigners”**. This law amending the “Law on Foreigners” aims to improve certain aspects of the treatment regime of foreigners in Albania, including those with ethnic Albanian affiliation and the visa regime for foreigners, treatment of the category of foreigners employed or self-employed and also the measures on irregular immigration. This new law is partly approximated with the main EU Directives having in focus the Migration Policy: (i) **Directive 2014/66/EU** of the European Parliament and of the European Council of May 5, 2014 on the conditions of entry and residence of citizens of third countries in the framework of the transfer within the enterprise; (ii) **Directive 2014/36/EU** of the European Parliament and of the European Council of February 26, 2014 on the conditions of entry and residence of citizens of third countries for purposes of employment as seasonal employees; (iii) **Council Directive 2009/50/EC** of May 25, 2009 "On the conditions of entry and residence of citizens of third countries with the purpose of a highly qualified job"; (iv) **Directive 96/71/EC** of the European Parliament and of the Council of December 16, 1996 concerning the transfer of employees within provision of services

Another important law is **Law No. 121/2014 “On Asylum in Republic of Albania”**. This law has also followed the path of conforming to EU standards. In fact it is partially approximated with: (i) **Council Directive 2001/55/EC** of 20 July 2001 on minimal standards on providing temporary protection in cases of massive flows of displaced people and on measures that promote a balance of attempts among the member countries while receiving these people and coping with the consequence; (ii) **Council Directive 2003/9/EC** of 27 January 2003 on the setting of minimal standards for the asylum seekers` reception;(iii) **Council Directive 2003/86/EC** 22 of September 2003 on the right of family reunification; (iv) **Council Directive 2005/85/EC** of 1 December 2005 on determining the minimal standards of the procedures in member countries for the issuing and the removal of the refugee status; (v) **Directive 2011/95/EU** of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

¹⁸Ibid, pg. 31

The Albanian Law on Asylum, as stipulated in its Article 3 has the same definition for the refugee as 1951 Convention on Refugee Status. In Article 4 – this law grants the right for asylum to anyone that has the features of a refugee. On the other hand in the context of the EU, the refugee status is recognized only for a third-country national or a stateless person, excluding the citizens of EU member States. This is a major difference between the definition of the EU and that provided in Article 1 (2) of the 1951 Geneva Refugee Convention. There is a distinction between what refugee and asylum-seeker means. Albanian Law on Asylum defines as an asylum seeker: *“every foreigner or stateless person, who expresses in any form that he/she does not want to turn back in their home country, and every foreigner or stateless person who has applied for asylum in Republic of Albania and is waiting for the final decision.”*¹⁹

The principle of non-refoulement is stipulated in **Article 6** of the Asylum law in Albania and is aligned with the 1951 Convention of EU and EU Acquis as well. Saying that, even the Article 6 of the Asylum Law in Albania similar to Article 33 of the 1951 Convention or Article 17 and 21 of EU Qualification Directive do not absolutely prohibit such refoulement, yet they allow the removal of a refugee in exceptional circumstances, when the person is assessed as a serious threat and a danger to the host state and community. Article 3 of the Albanian Law foresees some cases when the principle of Non-Refoulement should be applied and others when it may not be applied. So article 6 point 3 mentions as exceptional circumstances of refoulement of the asylum seeker if: *there are justified reasons that he/she might be a threat for the national security of Republic of Albania or he/she is sentenced with more than 7 years for a crime and might be a real threat for the public order and security within territory of Republic of Albania.*

This is in contradict with the Article 2 (Right to Life) and 3 (prohibition of Torture) of ECHR which prohibits on absolute terms the refouler of a person, regardless his/her profile as dangerous, if there is a strong believe that he might be a victim of torture, inhuman or degrading treatment or punishment in the country of expulsion. This means that despite the profile of the asylum-seeker and what he might have done before and during the staying to the host country, the person cannot be removed or expelled from the host country to another one, in which is strongly believed that the asylum seeker might be in danger, his/her life might be threatened or he/she might be victim of inhumane treatment. Yet, it is relevant to enhance that the asylum-seeker would be protected by this article only when it comes to the right of non-refoulement, but no to gain a certain status or other benefits. Yet the Article 6 of Law on Asylum is aligned with the EU Qualification Directive and 1951 Convention on Refugees, whose do not absolutely prohibit the refoulement.

On 4 May 2016 was adopted the **DCM No. 332** *"On the organization and functioning of the national reception centre for asylum seekers"* in Albania. The law foresees that the centre should provide to asylum seekers minimal living conditions such as accommodation, food, health insurance, minimum hygienic conditions, interpreters, free legal and psychological counselling and the asylum seeker is allowed to stay in the territory of Republic of Albania until the issuance

¹⁹ Law on Asylum in Republic of Albania (Law 121/2014), Article 3, point ç

of a final decision. In the cases when the person whose asylum application has been rejected, the Centre is obliged to accommodate them until the end of the appeal procedures.²⁰ The centre has its obligations to provide educational programmes and free legal aid for all the categories of persons staying there.

As article 30 point 2(b) of Law 121/2014 states: *Asylum seeker is guaranteed with the right of shelter, food, health service and other services offered in the reception centre the asylum-seeker is staying.* These services are aligned with the ones listed in Reception Centre Directive of EU. Article 32, lists the minimal condition that the Reception Centre must have: a) accommodation b) food c) social service d) minimal sanitary condition. This article foresees that the centre with cooperation with other state institutions or organizations should provide educational services and free legal aid for all asylum-seekers.

There is only one Reception Centre for asylum seekers in Albania, located in Babrru. Based on the procedure applied by the Asylum Directorate foreseen and explained on the Order no. 611, *“On the procedure and rules for sending the case by the Responsible Authority for Border and Migration, to the Responsible Authority for Refugees and Asylum”*, if the foreigner is classified as an asylum-seeker, the Responsible Authority for Border and Migration at the end of the selection procedure sends the case to the National Reception Centre for the Asylum Seekers.²¹ National Reception Centre for asylum seekers has a reception capacity up to 170 persons. Report of EC for 2018 assesses: *“During the reporting period Albania strengthened its reception capacity to host asylum seekers, in the border areas as well as in Tirana. The national reception centre in Tirana (Babrru) was renovated. Albania has one reception centre for irregular migrants in Karrec with a total capacity of 150 beds. A number of improvements have been made to bring the facilities up to the required standards. However, there is no facility for unaccompanied minors. The centre’s security system and accommodation require renovation.”*²²

It is important to mention that Article 3 of ECHR is essential even for reception conditions an asylum seeker is facing. As explained above that there were cases against Greece regarding the reception conditions when the complainers have argued that their situation was dire and they did not have even the minimal conditions for a proper living. Article 3 of ECHR assesses as a maltreatment if the minimal conditions as foreseen and stipulated by the law are not provided by the named country.

In addition to the above-mentioned legal acts, during 2012-2014, the migration legislation includes as well a series of sub-legal acts necessary to effectively implement the legislative provisions. These are the Decisions of the Council of Ministries:

i. **DCM No. 513 dated 13.06.2013** “On definition of criteria of procedures and documentation for entry, stay and treatment of foreigners in the Republic of Albania”;

²⁰ DCM No. 332 "on the organization and functioning of the national reception centre for asylum seekers", Art. 2

²¹ Albanian Government, Albanian Contribution - to Annual Report of European Commission 2016 – Input I for the period: September 2015- May 2016

²² European Commission, Albania 2018 Report, pg. 38

- ii. DCM No. 265 dated 7.5.2014 “On exemption of citizens of the Republic of Kosovo and Republic of Serbia of Albanian ethnicity from obligation to be issued with work permit or registration certificate;
- iii. DCM No. 76, 77, 70, 69, 68, 67, 66, 85, 84, 83, 82, 81, 80, 79, 78, 74 and 75, dated 12.02.2014, “On definition of criteria, documentation and procedure of issue, refusal and cancellation of work permits...” including respectively all forms of employment of foreigners.

One of the relevant amendments regards the reduction of the deadline of the relevant authority to take a decision following the complaint submitted by a foreigner: from 60 days in just 30 days. In addition the appeal/complaint is submitted directly against the institutions that has published the decision. Another relevant development is the adoption of a new **Law for Free Legal Aid No. 111** adopted in 2017, which includes as beneficiary of legal aid the foreigners as well, a category that was not foreseen in the former Law on Free Legal Aid, No. 10 039/2008. Article 10 of Law 111/2017 stipulates that subjects that benefit from legal aid are as well: “*b) foreign citizens or stateless persons staying in Albanian territory and have a permit of stay; ç) asylum seekers, persons granted the refugee status and asylum seekers that are in the process of appeal.*” This law differently from the Law No. 77/2014 that amends the former Law No.10 039 / 2008, mentions in an explicit manner the category of refugees.²³

V. CONCLUSIONS AND RECOMMENDATIONS

It is relevant to say that laws on Migration in Albania are improved and updated with the aim to respect migrants’ freedoms and their rights, but there is a deficiency in implementation and a gap when it comes to institutions and mechanisms that should be established for implementing these laws. The Albanian government has set as a future priority the drafting of a **National Strategy for Migration**. This Strategy is recommended as necessary and substantial from the Ombudsman and from European Commission in all three latest reports on Albania. In the Report of 2015 for Albania, EC has stressed that the “*Absence of a national cross-cutting strategy for migration remains a matter of concern.*” The same concern is restated in the EC Report of 2016: “*The absence since 2010 of a cross-sector national strategy on migration remains an issue of concern*”. The last 2018 EC Report on the other hand sets a deadline for this strategy to be published, while enhancing the need and relevance for a cross-cutting strategy on Migration: “*the legal framework is broadly in line with the acquis. However, the government lacks a comprehensive cross-sector national migration strategy. The national strategies on migration and on the reintegration of returned Albanian citizens ended in 2010 and 2015 respectively. The Ministry of Interior has started working on a new cross-sector strategy which should be adopted in the fourth quarter of 2018.*”²⁴

²³ Law No. 111/2017, “*On Free Legal Aid guaranteed by the state*”: <https://www.parlament.al/wp-content/uploads/2017/12/ligj-nr.-111-dt.-14.12.2017.pdf>

²⁴ European Commission, Albania 2018 Report, pg. 37