

# HANDBOOK ON DETERMINING THE STATUS OF REFUGEE

This handbook is prepared in the framework of the project of UNHCR: “*Advocate, resolve civil registration of persons at risk of statelessness & naturalization of refugees*”.

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## Abbreviations

**EU:** European Union

**COI:** Country of Origin Information

**Responsible authority:** The Responsible authority for Asylum, Foreigners and Nationality

**ECHR:** European Court of Human Rights

**EUAA:** European Union Agency for Asylum (*former EASO: European Asylum Support Office*)

**National Commission:** National Commission for Asylum and Refugees

**LGBTI:** Lesbian Gay Bisexual Transgender Intersex

**BMP:** Border and Migration Police

**CPO:** Child Protection Officer

**DRS:** Determining Refugee Statute

**Reception Center:** National Asylum Reception Center

**UNHCR:** United Nations High Commissioner for Refugees

# CHAPTER I - ORGANIZATION AND MANAGEMENT OF THE PROCEDURE IN THE FRAMEWORK OF PROTECTIVE MEASURES PROVIDED BY LAW

## SECTION A - ENTITIES INVOLVED IN THE PROCEDURE

### 1 - Entities involved in the procedure

[Points 2 and 8 of Article 3, points 1, 2 and 3 of Article 4 of the Law 10/2021]

- “**Applicant**” means any foreign national or stateless person who filed an application for international protection in respect of which a final decision is pending;
- Relevant Authorities
- **National Commission for Asylum and Refugees** (*hereinafter the National Commission*) is the superior administrative body that shall review the administrative appeals filed against a decision of the authority responsible for asylum and refugees.
- **The responsible authority for asylum and refugees** (*hereinafter the Responsible Authority*) shall be responsible for dealing with, examining, and issuing the final decision on applications for international protection.
- **The structure responsible for borders and migration** (*Border and Migration Police – hereinafter BMP*) is the responsible authority for dealing with persons seeking international protection and provides them with a residence permit, at the border and inside the territory. Pursuant to the Law no. 79/2021 "On foreigners", the authority responsible for the treatment of foreigners in the Republic of Albania is the structure for border and migration, which under Instruction no. 293, dated 04.06.2015, “*On the Procedures for the Treatment of Foreign Citizens of irregular residence in the territory of the Republic of Albania*” conducts the preliminary screening process (*through the use of a special form, referred to as Annex 3*), which is used as basis for determining whether a person is an asylum-seeker<sup>1</sup>. Despite the fact that this Instruction was adopted before the date of adoption of the law "On Asylum", at the time of drafting of this Handbook, it is being implemented by the BMP.

*Below you will find some information for Applicants and Seekers that belong to the specific category.*

### 2 - The applicant. In particular, persons belonging to special categories and unaccompanied minors.

[Points 5, 6, 8 and 25 of Article 3, point 7 (d) of Article 30, point 5 of Article 45, point 6 of Article 47 of Law 10/2021]

According to the Law “On Asylum” the application for international protection means an application for protection submitted by a foreign national or stateless person who seeks or is understood to seek the refugee status or subsidiary protection and does not explicitly seek another kind of protection outside the scope of application of the law "On asylum", that can be applied for separately. An applicant who, unlawfully, enters the territory of the Republic of Albania, may not be prosecuted for illegal border crossing, if he/she appears before the responsible authorities within 10 days from the day of entry into the territory of the Republic of Albania. Applicants who present themselves within this time period may be detained only for the reasons specified in point 2 of Article 45. Within the group of Applicants for International Protection, there are several categories of vulnerable persons who enjoy special protection. According to the law "On asylum" persons belonging to special categories are (*non-exhaustive list*)

- minors
- unaccompanied minors
- persons with disabilities
- elderly persons

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<sup>1</sup> Instruction no. 293, dated 04.06.2015, 'On the Procedures for the Treatment of Foreign Citizens of irregular residence in the territory of the Republic of Albania' (I - Procedures for the selection of a foreign citizen who does not meet, or who no longer meets the conditions for entry and stay in the territory of the Republic of Albania (No. 2)).

- pregnant women
- single parents with minor children
- victims of trafficking of human beings
- victims of genital mutilation
- LGBTI persons
- persons with serious health conditions
- persons with mental health problems/disorders; or
- persons who have been subject to torture, rape or some other form of psychological, physical or sexual violence.

### 3 – Responsible authority: composition, functions and decision-making mechanisms [Point 2 of Article 4, point 3 of Article 33 and Article 94 of Law 10/2021]

**Composition:** The responsible authority is composed of the Director and the experts who conduct the interview of persons who applied for international protection.

**Functions:** The responsible authority is responsible for dealing with, examining and issuing a final decision on international protection applications. It collects and processes the personal data of Applicants for international protection, subsidiary protection and temporary protection, in accordance with the legislation in force on protection of personal data.

**Decision-making mechanisms:** The decision is taken in a special meeting by a majority of votes and the decision-making procedure is subject to the principles and legislation in force on decision-making by collegial bodies and the Code of Administrative Procedures.

### 4 – National Commission for Asylum and Refugees: composition, functions and decision-making mechanisms [Point 3 of Article 4, Articles 78 and 79 of Law 10/2021; Instruction no. 669, date 10.11.2021]

**Composition:** It is composed of the Chairperson and four members (*one from each of the following institutions: Ministry of Europe and Foreign Affairs, Ministry of Health and Social Protection, Ministry of Education and Sport and State Intelligence Service*) appointed for four-year terms, with the right of renewal.

**Functions:** The Commission is the superior administrative body that reviews administrative appeals filed against the decision of the responsible Authority. The National Commission is independent in the exercise of its duties and powers. The Commission is organized and functions according to the Internal Regulation of its organization and functioning.

**Decision-making mechanisms:** Decisions of the National Commission are taken on the basis of evidence collected in the course of the administrative procedure conducted by the responsible Authority, as well as based on other evidence presented by the Applicant.

## SECTION B - RIGHTS AND OBLIGATIONS OF THE APPLICANT IN THE CONTEXT OF THE PROCEDURE

### 1- Rights of the Applicant

Any Applicant must have effective access to the procedure and should be provided with free legal and procedural information, taking into account his/her specific circumstances. Providing such information, inter alia, should enable Applicants to better understand the procedure, assisting them to fulfill their respective obligations. The law "On asylum", in harmony with the international and European legal framework, provides the legal rights and guarantees aimed to protect persons seeking international protection:

- The right to be informed;
- The right to contact the UNHCR (*or other competent organization for international protection matters*);
- The right to stay in Albania during the procedure;
- The right to confidentiality;

- The right to obtain information related to the procedure in an understandable language and the right to the assistance of an interpreter;
- The right to legal aid;
- Protection of the principle of family unity

In addition to the above rights under the Law "On asylum" the applicant is entitled to:

- Stay in the Republic of Albania;
- Benefit minimum living conditions;
- Have health care;
- Benefit from social care services;
- Benefit from legal aid guaranteed by the state;
- Receive education, in the case of child applicants;
- Exercise the freedom of thought and religion;
- Employment and vocational training.

### **1.1. – The Right to be informed**

[Article 25, points 2 and 3 of Article 27, point 4 of Article 33, point 2 of Article 40, point 2 of Article 42 of Law 10/2021]

The “Law on Asylum”, in accordance with EU directives, guarantees the Applicant the right to be informed in the course of all the stages of the Refugee Status Determination procedure (*hereinafter RSD*), namely:

- From the moment of their entry into the territory of the Republic of Albania;
- When expressing his/her intention to apply for international protection;
- At the moment of completing the form for determining the status of international protection;
- Within 15 days from the filing of the application for international protection for the procedure of determining the protection status, for the rights and obligations during the procedure;
- The decision taken by the Responsible Authority regarding his/her application for international protection;
- Before the decision, to revoke the refugee status or subsidiary protection, is taken by the responsible authority.

### **1.2. - The right to contact the UNHCR (or other competent organization for international protection matters);**

[Point 2, of Article 27 of the Law 10/2021]

In accordance with international and EU legislation, the Law “On Asylum” guarantees the Applicant the right to contact, at any stage of the proceedings, a representative of UNHCR (*or any other organization providing legal or other advice*).

### **1.3. - The right to stay in Albania during the procedure**

[Point 3 of Article 26, Letter ‘a’ of Article 54, point 1 of Article 55, point 6 of Article 27, point 3 of Article 32 of Law 10/2021]

The applicant has the right to stay in the territory of Albania during the following stages of the procedure:

- From the moment of registration of his/her application for international protection;
- From the moment of filing of the application for international protection until the final determination and communication of his/her status;
- During the period of time until the completion of the procedures for determining the status of international protection;
- During an investigation, pending the issuing of a final decision or a final court decision;
- When he/she has submitted a request for reopening of the procedure for determining the status of international protection<sup>2</sup>.

### **1.4. - Right to confidentiality**

[Article 95 of the Law 10/2021]

In compliance with international law, EU legislation and the UNHCR Guidelines, refugees and asylum-seekers may be exposed to serious harm if their personal data or other related information is disclosed to the attention of

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<sup>2</sup> Exception may be granted only when a person files a later request (point 2 of Article 55 of Law no. 10/2021)

authorities or non-state actors in their country of origin. Guaranteeing confidentiality and any information regarding the Applicant's situation is therefore of paramount importance at all stages of the RSD procedure. Based on the Law on Asylum, the staff of the responsible Authority and the National Commission are required to respect the confidentiality. Confidentiality must also be respected by the interpreter, support staff and/or other physical or legal entities providing the Applicant with any support, including legal support, even free of charge. Obligations to respect confidentiality include:

- Prohibition of receiving, in the course of preliminary activities, information from potential actors of persecution;
- Protection of personal data (*physical and/or electronic*)
- Prohibition to contact the consular or diplomatic mission of the Applicant's country of origin and to provide information on his/her application for international protection or other information. The confidentiality of the asylum application must be respected at all times. In exceptional circumstances, contact with the country of origin may be justified on national security grounds, but even in this case the existence of an asylum application should not be disclosed. The responsible authority may communicate information to foreign authorities only for the purposes of enforcing the decision to return the Applicant to his country of origin.

#### **1.5. - The right to obtain information related to the procedure in an understandable language and the right to the assistance of an interpreter**

[Article 23 and point 1 of Article 27 of the Law 10/2021]

All communications between the Applicant and the Responsible Authority, which will examine his/her application for international protection, should be in a language that the Applicant understands and in which he/she is able to communicate clearly. Consequently Applicants must have access to the services and assistance of trained and qualified interpreters at all stages of the procedure, including registration, RSD, appeal, cancellation, termination, revocation or denial of refugee status or the subsidiary protection status, as well as the termination and reopening of RSD proceedings. The Law “On Asylum” provides the applicant with the assistance of an interpreter<sup>3</sup>, even of the same gender, in the course of all stages of the procedure.

#### **1.6. – Right to legal aid**

[Point 1 of Article 22, point 3 of Article 27, letter ‘d’ of Article 54 of Law 10/2021]

According to the Law “On Asylum”, the Applicant is guaranteed legal aid, provided by the state, until the procedures for determining the status of international protection are completed. The law, also, provides that Applicants have the opportunity to appoint a legal representative, at their own expense, to assist and represent them during the RSD proceedings.

#### **1.7. - Protection of the principle of family unity**

[Point 4 and 5 of Article 55 of the Law 10/2021]

Preserving family unity is important and guaranteed by law. For this reason, the family of the Applicant, who arrives with him/her in the Albanian territory, is guaranteed the right to stay in the territory, until a final determination on their status is made and communicated to the applicant

## **2- Specific procedural guarantees**

### **2.1 – Procedural guarantees for persons with special needs**

[Article 50 and 51 of the Law 10/2021]

Persons with special needs, due to their individual circumstances, have a limited opportunity to enjoy their rights and to fulfill the obligations provided in the procedure for recognition of international protection. Consequently, the Law “On Asylum”, in line with EU directives, provides them with specific procedural guarantees, such as: special attention, treatment and care, having a representative<sup>4</sup> as well as interviewing by qualified and trained staff. It is, also, important that to vulnerable people must be guaranteed:

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<sup>3</sup> Exception is that the interpreter must not be an applicant (point 4 of Article 23 of Law no. 10/2021)

<sup>4</sup> It is specifically about people with mental health problems, who express their intention to submit an application for international protection (point 4 of Article 51 of Law 10/2021).

- **Identification and timely reporting of special needs (or vulnerability situations):** it is important that all persons who come into contact with Applicants (*ie: staff registering the protection application, reception staff, etc.*) contribute, based on their role and capabilities, to report as soon as possible the indicators of each specific need;
- **priority consideration of their application for international protection;**
- **referral mechanisms:** refers to the activation of specialized services (*of medical and forensic diagnostic type; counseling and psychological, psychiatric, psycho-social, anti-trafficking, anti-violence, to support persons who have been subjected to torture, etc.*), by the responsible Authority or by the National Reception Center for Asylum (*hereinafter the Reception Center*) or other reception centers for Applicants who may need intervention and/or treatment;

*Note: The transfer of data and sensitive information should, usually, be carried out upon the approval of the Applicant, in his absence (in the case of persons with mental disabilities), authorization from the relevant authorities is used only as a last resort<sup>5</sup>.*

## 2.2 - Procedural guarantees for unaccompanied minors [Article 52 and 53 of the Law 10/2021]

Unaccompanied minors, in addition to belonging to the category of persons with special needs, also enjoy any guarantee provided for them in the framework of international law, where the best interests of the child shall be the primary consideration in all actions, in relation to children, undertaken by social welfare institutions, whether public or private. Albanian legislation, in accordance with international law, provides procedural guarantees for minors, such as:

- **The minor is assigned a legal guardian** when he/she expresses the intention to seek international protection;
- Placing them in a **suitable accommodation**, in accordance with applicable law. Minor applicants are held at the National Asylum Reception Center only as a last resort and only after it has been established that other alternative measures to restrict his/her freedom of movement may not be implemented effectively. Restriction of freedom of movement can be imposed only for the shortest possible period of time and after ensuring that all efforts are made to keep and place the minor in adequate housing, as his/her highest interest is assessed;
- **A minor shall not be interviewed without the presence of a child protection officer** (*hereinafter CPO*), who is appointed as the minor's representative and shall carry out his/her duties by applying the principle of highest interest of the child;
- **The RSD interview of the minor will be conducted by an employee with the necessary knowledge of the special needs of the child;**
- **The minor is considered as such even in case of doubt about his/her minor age** by the responsible Authority (*even after a medical examination for age assessment has been carried out*).

In accordance with the norms of international law<sup>6</sup> on the rights of the child, the Unaccompanied Child Applicants, under the age of 18, may not be placed in institutions for the enforcement of penal judgments, except in extreme cases.

## 3- Applicant's Obligation [Point 7 of Article 26, point 3 of Article 31 and Article 62 of the Law 10/2021]

In addition to rights and guarantees, the law defines and specifies obligations for Applicants, which are:

- a) complete the form for submitting his/her application for international protection, as well as to cooperate in obtaining dactyloscopic prints and photographs, for physical control and luggage;
- b) submit all travel documents, identity documents and/or other evidence available to him/her that may contribute to the decision on his/her application for international protection;
- c) respond to invitations from the responsible Authority and/or other responsible state bodies, as well as cooperate with them at any stage of the procedure;
- d) act in accordance with the legislation in force in the Republic of Albania, as well as with the instructions

<sup>5</sup> Involuntary placement and involuntary treatment of persons with mental health problems, available at: [https://fra.europa.eu/sites/default/files/involuntary-placement-and-involuntary-treatment-of-persons-with-mental-health-problems\\_en.pdf](https://fra.europa.eu/sites/default/files/involuntary-placement-and-involuntary-treatment-of-persons-with-mental-health-problems_en.pdf)

<sup>6</sup> For more information, please refer to 'Guidelines to Detention', available at: <http://www.refworld.org/docid/503489533b8.html>, as well as to 'UNHCR's position regarding the detention of refugee and asylum-seekers children in the migration context', January 2017, available at: <https://www.refworld.org/docid/5885c2434.html>



- given or the measures taken by the responsible Authority;
- e) act in accordance with the orders of the Responsible Authority, as well as all orders of other responsible state authorities regarding movement restrictions;
- f) not to leave the Reception Center or the place designated by the ministry, without the permission of the responsible Authority until the procedure of examination of the application for international protection is completed;
- g) undergo medical examination or treatment, upon the request of the responsible Authority, in the field of health care, in case of danger to public health;
- h) communicate to the Responsible Authority any change of residential address.

## SECTION C - MANAGEMENT OF APPLICATIONS AND CONDUCTING OF INTERVIEWS IN THE RESPONSIBLE AUTHORITY OF ASYLUM, FOREIGNERS AND NATIONALITY

### 1- Case processing modalities in the responsible Authority of Asylum, Foreigners and Citizenship

According to the legislation in force, the Responsible Authority, as a rule, completes the procedure for determining international protection within 6 (six) months from the date of filing of the request. In some cases, this term may be extended by an additional period. The interview of the Applicant is conducted in the premises of the responsible Authority and is conducted by an expert, who carries out the activities before the interview (*file study; first research of information from the country of origin - hereinafter COI; preparation of the interview*) and after the interview (*completion of preliminary interview and obtaining documents; case study, including COI research related to the specific case, etc.*)

**A best course of action may be represented by regular meetings between the experts and the Director to discuss the internal organization of the work, as well as the areas of interest or expertise of the experts.**

#### 1.1 - Cases of application of the accelerated procedure [Points 1, 2 and 5 of Article 34 of the Law 10/2021]

According to Law “On Asylum”, the responsible authority may decide to apply the accelerated procedure<sup>7</sup>: a positive decision in cases where it is based on available evidence or a negative decision in cases where an application is considered inadmissible or manifestly ill-founded.

**Law “On Asylum” provides in point 3 of Article 51 that the accelerated procedure shall NOT apply to Applicants in need of special procedural guarantees.**

#### 1.2 - Cases of inadmissible or manifestly ill-founded applications [Articles 35 and 36 of the Law 10/2021]

Based on the applicable Law "On asylum", an application is considered inadmissible when:

- i. a Member State of EU has provided international protection to the Applicant;
- ii. a non-EU country is considered to be the applicant’s first country of asylum, pursuant to this Law;
- iii. a country which is not a Member State of the EU is considered to be a safe third country of asylum for the applicant, pursuant to this Law;
- iv. the application is an application de novo presenting no new elements or findings regarding the applicant’s eligibility for international protection, pursuant to this Law.

An application is considered **manifestly ill-founded** when the Applicant

- i. has raised, solely, issues that are not relevant to the examination of whether he or she is eligible for international protection;
- ii. comes from a safe country of origin;
- iii. has submitted false information or documentation, or by withholding information or documents establishing his or her identity or nationality, or deliberately destroyed such documents;
- iv. has made inconsistent and contradictory statements that are clearly false that contradict established information about the country of origin;

<sup>7</sup>For more information on the accelerated procedure, refer to: *Fair and Fast: UNHCR Discussion Paper on Accelerated and Simplified Procedures in the European Union*, available at: <https://www.refworld.org/pdfid/5b589eef4.pdf>

- v. has submitted another application for international protection that is not admissible
- vi. has submitted an application solely for the purpose of delaying or preventing the enforcement of an earlier decision which would result in his or her removal;
- vii. has entered the territory of the Republic of Albania illegally and failed to present himself or herself to the relevant authorities within the deadline provided by law, or has unlawfully and without good reason overstayed in the Republic of Albania, or did not submit an application for international protection at the earliest opportunity;
- viii. refuses to have his or her fingerprints taken;
- ix. can be considered, for serious reasons, a danger to the national security or public order of the Republic of Albania.

## 2- Cases of termination/suspension of the procedure

[Points 1, 4 and 6 of Article 32 of the Law 10/2021; Instruction No. 246, dated 03.06.2021]

The responsible authority may decide to terminate the procedure for determining the international protection status when the Applicant:

- withdraws the application for international protection
- leaves the last place of residence for more than 3 (three) days without notifying the responsible authority;
- fails to attend the interview at the assigned date;
- leaves the territory of the Republic of Albania during the RSD procedure.

According to Instruction 246, dated 03.06.2021 "*On the procedure and deadline for taking the decision to terminate the examination of the application for international protection in the Republic of Albania*", the responsible authority decides, in a special meeting by majority vote, to terminate the examination of the application within 10 (ten) days from the suspension of the procedure. The decision is issued in writing, is reasoned, and a copy shall be submitted to the Protocol Office of the Ministry of Interior. The decision is communicated to the applicant or his legal representative, as well as to the BMP, within 5 (five) days from the date of the decision by the responsible authority.

## 3- File protection and security (paper or electronic format)

Every single RSD file should be logged in the file log as soon as possible. Access to the personal file (*electronic and physical*) is tracked and monitored, and only relevant staff may access it. The responsible authority must establish clear procedures to regulate and handle the RSD files within the office. Problems with file management may affect the impartiality or efficiency of RSD procedures, so any irregularities must be reported to the Director in charge for monitoring and the effectiveness of measures to address the problem.

# CHAPTER II – PERSONAL INTERVIEW

## SECTION D – PREPARATORY PHASE

### 1 - Study of the file by the expert and preparation of the interview

The expert, before starting the interview, studies the Applicant's case<sup>8</sup>, he/she will interview, taking into account all the documentation in the file (*e.g. Annex 3; any written statement of the Applicant; identification/travel documents; documents proving the applicant's vulnerability or health problems; any photo-signaling and or criminal records, etc.*) This preliminary work is important and useful for the expert as:

- based on the available information in the file can identify the substantial facts of the application (*i.e. those related to the definition of refugee or subsidiary protection*)
- conducts research on the case, in order to have an up-to-date knowledge of the situation of the Applicant's country of origin;
- identifies possible areas/topics to be discussed during the interview;
- there will be enough time during the interview to focus on the most important application issues;

<sup>8</sup> For more information, please refer to: *EASO Practical Guide: Personal Interview*, available at: <https://euaa.europa.eu/sites/default/files/public/EASO-Practical-Guide-Personal-Interview-EN.pdf>

*Note: Preliminary study of the case can be conducted in more detail when the information in the file is complete. In any case, the expert should be prepared for the possible emergence of new elements during the interview, which were not present or foreseen at the time of studying the file.*

## SECTION E – INTERVIEW

### 1 - Personal interview functions

Due to its dual function, personal interviewing has a key role in the procedure:

- for the Applicant is an opportunity to fully express the reasons for applying for international protection and his/her well-founded fears in case of return to the country of origin;
- for the expert presents the opportunity to acquire all the necessary elements for making a right decision;

### 2 Principles and rights inherent in personal interview

#### 2.1 The essential role of the interview in the procedure

[Point 2 of Article of the Law 10/2021]

The essential role of the interview is to enable the Applicant to present, explain and substantiate all the facts and circumstances relating to his/her application and the expert to assess whether the Applicant meets the criteria for refugee status or subsidiary protection.

#### 2.2 - Confidentiality of the interview

[Points 2 and 3 of Article 30 of Law 10/2021]

The Law “On Asylum”, in accordance with the EU Directive, guarantees the Applicant confidentiality at all stages of the RSD. The law specifies that, for reasons of confidentiality, the interview should not be public and the Applicant shall, normally, be interviewed alone or in the company of persons the law allows to participate.

#### 2.3 - Interview documentation

[Points 4 and 5 of Article 30 of Law 10/2021]

The legislation provides for the audio or audiovisual recording of the personal interview, when it deems it reasonable, provided that the Applicant is informed in advance, thereof. The applicant is also guaranteed, after the interview, the right to be fully informed about the content of the transcript, with the help of an interpreter, as well as to make comments or provide clarifications in case of any misunderstanding. The transcript report will be signed by the Applicant to confirm the authenticity of its content.

#### 2.4 - Right to legal aid

[Point 4 of Article 27 of Law 10/2021]

Applicants are given the opportunity to appoint a representative, at their own costs, to assist and represent them during the international protection status determination procedure.

#### 2.5 - Gender of interviewer and interpreter

[Point 3 of Article 23, point 7 (b) of Article 30 of Law 10/2021]

The opportunity of the Applicant to search for interpreters of the same gender is guaranteed by law and allows him/her to feel comfortable, creating a favorable setting that facilitates the applicant's free narrative. The law, also, provides the Applicant the opportunity to be interviewed by a person of the same gender, when deemed reasonable, and upon approval of the Responsible Authority

#### 2.6 - The minor's right to the assistance of a parent or guardian

[Point 1 of Article 52 of the Law 10/2021]

The Law “On Asylum” specifies that the minor is assigned a legal guardian at the time he or she expresses the intent for international protection in Albania. The legal guardian or the representative of the minor<sup>9</sup> shall assist the minor during the procedure and will enable him/her to benefit from the rights as well as to fulfill the obligations provided by law.

## **2.7 - The right to the attendance of supporting staff for Applicants with special needs** [Point 4 of Article 51, point 2 of Article 29 of Law 10/2021]

The legislation provides that Applicants with mental health issues, who express the intention to file an application for international protection, be assigned a representative prior to the commencement of the review procedure. Also, the Responsible Authority, when it deems it reasonable, allows the presence of a psychologist during the interview of an Applicant belonging to specific categories.

## **3 - Natural or legal entities that may participate during the personal interview** [Point 1 of Article 29 of Law 10/2021]

The legislation in force provides for the Applicant to be interviewed individually, although it gives the Applicant, in some cases, the opportunity to be assisted and supported by certain persons, who are: the interpreter, the authorized legal representative; the legal guardian of the unaccompanied minor, the representative of an adult with a disability, a UNHCR representative and a psychologist, when the responsible Authority deems it reasonable.

## **4 - Interview of the Applicant with special needs**

When interviewing an Applicant with special needs, it is essential that the Responsible Authority carefully consider the specific procedures for conducting the interview, based on the available information and documentation. The specific situation of each Applicant with special needs should be taken into account to adapt the time, space, methods and content of the interview to each specific individual situation. The interview of persons of special needs requires adequate preparation by the person conducting the interview, who should:

- take the necessary measures to avoid causing (*further*) harm to the interviewee (*e.g. avoiding the risk of recalling or resuscitating traumatic events - especially for victims of torture, violence, victims of trafficking, etc.*);
- try to establish an effective communication, limiting as much as possible the impact of the special needs of the Applicant on communication.

### **4.1 - Interviews with Child Applicants/Unaccompanied Children** [Point 7 (d) of Article 30 of Law 10/2021]

The interview with the minor must be conducted by properly trained personnel and in presence of the legal guardian or representative. Interviews with children should be conducted in a child-appropriate manner and always respecting the principle of *"the best interests of the child"*. Unaccompanied minors, if possible, should be interviewed by trained personnel in child protection and rights. The interviewer should adjust his/her language or voice tone depending on the minor's age and level of understanding<sup>10</sup>.

## **5 - The role of the interpreter** [Point 2 of Article 23 of Law 10/2021]

The interpreter plays an essential role during the interview, as it enables communication between the expert and the Applicant. Good cooperation between the Applicant, the interpreter and the interviewer allow the fluency of communication and an atmosphere of trust as well as prevents linguistic misunderstandings that can compromise the interview.

**A good practice that is advised to follow during the various stages of the interview to ensure correct interaction and cooperation between the expert - interpreter – Applicant, is described below:**

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<sup>9</sup> That is the child protection officer of the municipality or administrative unit, in the case when a legal guardian has not yet been appointed for the unaccompanied minor (point 1 (ç) of Article 29 of Law no. 10/2021)

<sup>10</sup> For more information, please refer to: *EASO Practical Guide: Personal Interview*, available at: <https://euaa.europa.eu/sites/default/files/public/EASO-Practical-Guide-Personal-Interview-EN.pdf>

Expert	Interpreter	Applicant
<b>Identification of special needs</b>		
<ul style="list-style-type: none"> <li>- informs the interpreter, before the interview, about the presence of an Applicant with special needs;</li> <li>- exchanges the necessary information with the interpreter, in a short initial briefing;</li> </ul>	<ul style="list-style-type: none"> <li>- receives from the expert, during the preparation phase of the interview, information on the presence of Applicants with special needs;</li> </ul>	<ul style="list-style-type: none"> <li>- indicate his/her special needs;</li> </ul>
<b>Introduction of roles</b>		
<ul style="list-style-type: none"> <li>- introduces his and interpreter's role, explaining the responsibilities of each one as well as the obligations of respecting confidentiality;</li> <li>- explains to the Applicant the function of the interview, which aims to establish the presence of conditions for a form of protection and that the interview is not equivalent to a questionnaire;</li> </ul>		
<b>Understanding language</b>		
<ul style="list-style-type: none"> <li>- ensures that the Applicant and the interpreter understand each other, both before the start of the interview and throughout the duration of the interview;</li> <li>- verifies that the interpreter is able to provide an accurate translation;</li> <li>- speaks slowly, pausing, to allow the interpreter to faithfully translate his questions;</li> </ul>	<ul style="list-style-type: none"> <li>- informs the expert if there are comprehension problems related to dialects or other problems;</li> <li>- literally translates everything that is said by the Applicant accurately and impartially;</li> <li>- does not summarize or complement the Applicant's sentences or improve his/her statements so that they are more coherent, credible or adequate, but is limited to literal translation;</li> <li>- performs a faithful translation of the words of the Applicant in a complete and timely manner;</li> </ul>	<ul style="list-style-type: none"> <li>- chooses the language in which the interview will be conducted, in order to be able to express themselves freely and effectively;</li> <li>- indicates any difficulties in comprehension with the interpreter;</li> <li>- cooperates with the interpreter, formulating phrases that are not too long, to allow the latter to report word-perfect everything stated to the expert;</li> </ul>
<b>Gender related issues</b>		
<ul style="list-style-type: none"> <li>- checks that his/her gender and that of the interpreter do not cause concern to the Applicant;</li> </ul>		<ul style="list-style-type: none"> <li>- indicates his/her preference regarding the gender of the expert and of the interpreter;</li> </ul>

**Please note:** Any critical issue regarding the work or behavior of interpreters should be communicated immediately to the Director, to take the necessary action.

## 6 - Building an atmosphere of trust

[Point 7 of Article 30 of Law 10/2021]

### 6.1 - Providing a comfortable environment

The responsible authority must provide appropriate facilities for the reception of Applicants, including persons with disabilities and other special needs, in order to carry out the RSD procedures. **The conditions of the reception facilities must ensure the health and well-being of the individuals using them.** Especially for minors it is recommended to provide dedicated interview rooms with decorations and other child-friendly materials. The right to confidentiality for Applicants must be respected and, a good practice for respecting this right is to use identification methods that guarantee the anonymity when calling Applicants to the waiting room. It is also considered good practice for the expert to provide (*or have available*) water and tissues for the Applicant during the interview, if needed by the latter.

## 6.2 - Building a trusting relationship, based on empathy

To achieve a trustworthy level of empathy, it is necessary for the expert to be aware of the power inequality that exists between him/her and the Applicant and the fact that this inequality, which cannot be eliminated, may produce a series of distorting consequences, in communication. Putting into practice basic communication styles such as being flexible, patient, calm and an active listener helps to create a good communication atmosphere.

In order to create a positive interaction with the Applicant, the expert is advised to take the following measures: **maintain a professional attitude** (which means to show a non-judgmental attitude and to remain impartial in his/her approach and reaction toward applicant's statements), **to show empathy** (using an appropriate voice tone and language, including body language), as well as to **avoid wearing clothes that do not respect the Applicants' sense of modesty or religion**. A context of trust, in which the Applicant can feel listened to with professionalism and respect, has a positive impact on the quality and quantity of information that will be collected during the interview.

## 7 - Conducting the personal interview

[Points 4 and 7 of Article 30 of Law 10/2021]

The expert conducting the interview pays attention of the different stages into which the interview is divided: the introductory part, in which he calms the Applicant and gives him the main information, the development stage, which is the stage of deepening the Applicant 's personal history, and the closing part.

### 7.1 – Introductory phase

#### THREE IMPORTANT STEPS OF THE INTRODUCTORY PHASE

1- **Professionally greets the Applicant** (to create, since the start, an atmosphere of trust and calms the Applicant); **explains the roles of the attending persons (e.g. interpreter, legal representative or guardian, support staff, etc.)**

2- **Provides the Applicant with information regarding the interview:**

- aim of the interview;
- structure and framework of the interview;
- audio or video recording of the interview;
- confidentiality of information;
- option to breaks;
- obligation to cooperate and provide true information;
- decisions subject to approval by the Responsible Authority;
- the possibility of appeal, in case the Applicant does not agree with the decision.

3- **Verifies that the translator and the Applicant understand each other** (allowing a brief conversation between them on neutral topics)

### 7.2 - Development phase

During this stage of the procedure, necessary to collect all the relevant elements for the examination of the application for international protection, is advisable for the expert to apply the following recommendations<sup>11</sup>:

#### 1- Correct application of interview techniques

- centres the interview on free narrative, introducing every single topic and encourages the Applicant to be an active listener;
- following the free narrative, asks questions for analysis, clarification and in-depth verification, avoiding suggestive or judgemental questions;
- asks short and simple questions according to the capabilities and educational level of the Applicant;
- in the research of each individual topic, uses the "**funnel**"<sup>12</sup> approach (starting with the reconstruction of an event/fact/situation and then progressively deepening the relevant individual aspects);
- in case one or more inconsistencies have arisen, reports them to the Applicant and offer him/her the opportunity to provide further explanations/clarifications
- maintains an aware, open-minded attitude to existing cultural differences and the impact they may have on communication;

<sup>11</sup> For more information, please refer to: *EASO Practical Guide: Personal Interview*, available at: <https://euaa.europa.eu/sites/default/files/public/EASO-Practical-Guide-Personal-Interview-EN.pdf>

<sup>12</sup> This approach allows the interviewer to identify key issues during the free narrative along with the information provided spontaneously in direct relation to the purpose of the interview. The information provided in this way is usually more detailed and qualitative than the information provided with closed-ended questions.

<b>2- Gathering the information needed to assess credibility</b>
The expert must gather all the material facts, directly related to the definition of a refugee ( <i>Article 1 (A) (2) of the Geneva Convention of 1951 and the EU directives (Article 2 (d)) for the person eligible for refugee status and Article 2 (f) and Article 15 of Directive 2011/95 / EU on the person eligible for subsidiary protection</i> ) and directly related to the substance of the application. This relates to all statements (documents or evidence) of the Applicant that may be considered credible and, consequently, taken into account in the analysis of the fear based on persecution or the real risk of serious harm.
<b>3- Gathering important information for essential application evaluation</b>
<ul style="list-style-type: none"> <li>• receives all documentation submitted by the Applicant providing the opportunity to clarify where the submitted documents consist of and any reason for non-submission of other potentially relevant documents;</li> <li>• cooperates to highlight all the essential facts, especially <b>what happened</b> (<i>acts of serious persecution/harm</i>); <b>who is the victim</b> of persecution/serious harm; <b>who is the author</b> of the persecution/serious harm; <b>when and where it occurred</b> (<i>chronological and spatial reference points</i>); why it happened, i.e the applicant's personal point of view<sup>13</sup>, as well as why he/she or others were - or are likely to be - victims of persecution/serious harm;</li> <li>• asks what the Applicant fears in the event of return to his/her country of origin or to his/her previous habitual residence</li> <li>• clarifies what are the actual or imputed personal characteristics of the Applicant, which may be grounds for persecution/serious harm; where appropriate (<i>especially in the event of persecution by non-state actors</i>) the expert asks whether the Applicant has sought protection from his/her country and whether such protection is actually available;</li> <li>• collects any other useful elements for assessing the recognition of subsidiary protection, based on the criteria provided by law (Article 14);</li> <li>• explores the possible existence of serious humanitarian reasons;</li> </ul>
<b>4- Mbledhja e informacionit për të vlerësuar ndonjë bazë eventuale për përjashtim nga mbrojtja ndërkombëtare Gathering information to assess any eventual grounds for exclusion from international protection</b>
<ul style="list-style-type: none"> <li>• identifies which actions and/or behaviors are relevant to the exclusion and proceeds with a separate enquiry for each of them using the "funnel" method'</li> <li>• examines each individual action/behavior, according to the pattern of the question <u>who-what-how-when-where</u>: <b>Who</b> (<i>who are the subjects involved and what was the individual contribution of the Applicant</i>)? <b>What</b> (<i>what happened and what was the result</i>)? <b>How</b> (<i>how did the Applicant act or how did he/she contribute to the other's action</i>)? <b>When</b> (<i>at what time; how old was the Applicant; did the event occur during an armed conflict</i>)? <b>Where</b> (<i>where did the events occur</i>)?</li> <li>• in the event that the Applicant belongs to an organization or group involved in acts that may lead to exclusion, enquire his personal position and his current involvement, through the following elements: <ul style="list-style-type: none"> <li>- recruitment methods;</li> <li>- any training received with detailed descriptions;</li> <li>- the chronology of his/her effective participation;</li> <li>- the role of the Applicant in the organization;</li> <li>- level of awareness of the nature of the acts committed by the group;</li> <li>- the existence of concrete opportunities to leave the organization or group;</li> <li>- carefully assesses the moment<sup>14</sup> to ask questions about the Applicant's intentions and his/her level of awareness of the actions taken;</li> </ul> </li> </ul> <p><b>It is important to inform the Applicant of the possibility that the Responsible Authority will assess the application of the exclusion clause after gathering all the documentary elements and information regarding the identified acts/conduct;</b></p>

### 7.3 – Closing phase

In the closing phase of the interview, the expert:

- ensures that all relevant aspects of the application are covered during the interview;
- summarizes the reasons provided by the Applicant for the application for international protection and asks if the summary is correct;
- asks the Applicant if there is any additional information, he/she would like to add;
- informs the applicant about the time and manner of notification of the decision of the responsible Authority;
- agrees with the Applicant on a appropriate time to obtain further documentation that is not available at the time of the interview.

<sup>13</sup> This is important to verify whether there is a nexus to one of the five reasons for persecution (race, religion, nationality, social group, political opinion) defined as the basis for recognition of refugee status by the 1951 Geneva Convention.

<sup>14</sup> It is important to consider that anticipating too early the moment at which this type of question is asked, as well as interfering with the applicant's free narrative, can be counterproductive.

**8 – Interview report**  
 [Points 4, 5 and 6 of Article 30 of Law 10/2021]

The law provides that personal interviews may be conducted by audio or audiovisual recording, when deemed reasonable, but in any case, the Responsible Authority shall keep minutes during the personal interview of the Applicant. The transcribed report must be written completely and faithfully, without summarizing, modifying, correcting, moving or integrating any of the questions, answers or statements. At the end of the interview, the Applicant signs the report to confirm the truth of its content, having previously been communicated its contents in a language he/she understands. The refusal to sign the contents of the report and the reasons for such refusal are recorded and shall not impede the Responsible Authority from making the decision.

**CHAPTER III – DECISION MAKING PROCESS**

**SECTION F – DECISION MAKING PROCESS**

**1 - Case analysis by the expert**

The expert conducts his/her analysis of the case, based on the material/relevant facts of the application. Material facts are the facts directly related to the refugee definition under the Geneva Convention of 1951 (*Article 1 (A) (2) of the EU directives (Article 2 (d) for a person who qualifies for refugee status and Article 2 (f) and Article 15 of Directive 2011/95 / EU on the person qualifying for subsidiary protection*) as well as by the Albanian law “On Asylum” (Articles 13 and 14) and lead to the core of the application. In order to ensure the completeness and fairness of the assessment of the case, for the purpose of the decision, it is important that the expert analysis be carried out according to a correct logical-legal way, based on fact and law, in order to reach a decision, adequately reasoned. Below are the steps that are advised to be followed by the expert in analyzing a case.

**PHASE 1 – IDENTIFICATION OF MATERIAL/RELEVANT FACTS**

<p>After the interview, the expert, makes a careful collection of the available facts, which are necessary to identify the material facts, or the circumstances and/or events related to the application for recognition of one of the types of international protection. Proper identification of material facts is crucial for both credibility and risk assessment. When the expert admits a material fact, he/she can assess the need for international protection based on that fact.</p>	<ul style="list-style-type: none"> <li>- Applicant’s Profile</li> <li>- Statements of the Applicant</li> <li>- Fear expressed in case of return to his/her country of origin or previous habitual residence</li> <li>- Documentation/evidence submitted by the Applicant</li> </ul>
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**STAGE 2: CREDIBILITY AND RISK ASSESSMENT**

<p>The credibility assessment consists of an examination of the material facts based on the analysis of the <b>internal credibility</b> of these facts (<i>at the level of details of the narrated facts; in the presence of "sensory" elements in personal history and/or experiences</i>) and <b>external credibility</b>. (e.g the compliance with information available in the country of origin - COI - and/or compliance with third party statements)</p> <p>Risk assessment is when the expert carries out a risk analysis based on substantiated material facts in relation to the standard of proof<sup>15</sup> related to the verification of the fear based on persecution or the real risk of serious harm. The most common standard of proof applied in assessing fear based on persecution or the real risk of serious harm is the ‘<i>reasonable degree of likelihood</i>’. <u>The applicable standard of proof in each case must be lower than ‘<i>beyond reasonable doubt</i>’.</u></p>	<p><b><u>Internal credibility:</u></b></p> <ul style="list-style-type: none"> <li>- Sufficiency and specificity of details</li> <li>- Consistency</li> </ul> <p><b><u>External credibility:</u></b></p> <ul style="list-style-type: none"> <li>- consistency with the information of the country of origin;</li> <li>- compliance with generally known information</li> <li>- consistency with other evidence</li> </ul> <p><b><u>Documents:</u></b></p> <ul style="list-style-type: none"> <li>- relevance</li> <li>- existence</li> <li>- content</li> <li>- form</li> <li>- type</li> </ul>
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**STAGE 3: LEGAL ANALYSIS OF INCLUSION (IN ONE OF THE TYPES OF INTERNATIONAL PROTECTION)**

<sup>15</sup> EASO Practical Guide: Evidence Assessment, available at: <https://euaa.europa.eu/sites/default/files/public/EASO-Practical-Guide - Evidence-Assessment.pdf>



<p>The <b>analysis of the fear</b> based on persecution or the <b>real risk of serious harm</b> that the Applicant may be exposed to if returned to the country of origin is the final stage of assessment of the application for international protection. The future risk is assessed based on the facts that the expert has at hand at the time of decision making.</p> <p>The fact that an Applicant has been subject to persecution or a real risk of serious harm is a serious indication of the Applicant's well-founded fear of persecution or a real risk of serious harm. It is also important to keep in mind that the lack of previous persecution does not mean that there is no danger in the future, as may be the case for a refugee in the country.</p> <p>In assessing inclusion in refugee status, it must be verified whether the elements provided for in the Geneva Convention of 1951 exist. <b>Inclusion in refugee status requires the existence of a causal link (nexus), a link between the act<sup>16</sup> of persecution and the reasons for such persecution, as defined in point 3 of Article 12 of the Albanian law “On Asylum”.</b></p> <p><b>Subsidiary protection is an additional form of international protection</b>, complementary to refugee status. This means that a person should be granted additional protection only if the criteria for refugee status are not met. Regarding subsidiary protection, two elements must be carefully clarified and analyzed: ‘<b>real risk</b>’ and ‘<b>serious harm</b>’.</p> <p><b>The causal link requirement ('because of') for subsidiary protection refers to the causal link between indiscriminate violence and harm (serious threat to a person's life<sup>17</sup>).</b></p>	<p><b>PLEASE NOTE:</b></p> <p>Inclusion in one of the types of international protection should be assessed even in cases when a single material fact is substantiated, which is important for the purposes of international protection (<i>e.g. simply having a certain citizenship, geographical origin, ethnicity, religion or gender may determine the need for legal analysis of inclusion</i>).</p> <p>If during the interview are identified profiles that substantiate any element of exclusion, it must be continued with the legal analysis of these elements, taking into account the criteria set out in Articles 19 and 21 of the Law 10/2021 "On Asylum".</p>
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## 2 – General principles to be followed in the decision-making process

[Point 4 of Article 31 and point 3 of Article 33 of Law 10/2021]

In examining the application, the Responsible Authority will take into account all the facts and individual and contextual circumstances (*including the Applicant's genuine effort to support the application*) that contribute to a decision. The decision is taken at a special meeting, by a majority of votes, and is reasoned and issued in writing. Employees of the responsible Authority (experts) who are in the minority, may state their dissenting opinion in writing, which is attached to the final decision. Applications for international protection must be considered and decisions must always be taken individually, objectively and impartially. The general principles that must be respected in decision-making are:

- each case must be considered exclusively on an individual basis;
- each case must be assessed objectively and impartially: through an objective assessment and not influenced by personal opinions or social, political, ethnic, religious prejudices or any other factor.
- any decision must be made on basis of a proper review of the application and on basis of accurate and up-to-date information of the country of origin and, where necessary, of the transit countries<sup>18</sup>.

## 3 - Possible outcomes of the procedure: types of decisions that can be taken by the responsible Authority

[Articles 17, 18 and 20, point 1 of Article 33 and Articles 81 and 82 of Law 10/2021]

At the conclusion of the application’s examination procedure, the responsible authority shall make one of the following decisions:

- a. grants refugee status; (including *in place/sur place*);

<sup>16</sup> The act of persecution is committed for one (or more) of the five reasons (nationality, race, religion, political opinion and certain social group) of the Geneva Convention of 1951.

<sup>17</sup> *Safe at last? Law and practice in selected EU member states with respect to asylum-seekers fleeing indiscriminate violence. 5.4.3. “By reason of”*: The nexus between the harm and the indiscriminate violence in a situation of armed conflict (p. 60), available at: <https://www.unhcr.org/4e2d7f029.pdf>

<sup>18</sup> The responsible authority uses information from various sources, such as EASO and UNHCR and respective international human rights organizations.

- b. refuses to grant refugee status and recognizes subsidiary protection status;
- c. rejects the application for international protection (*when the claims raised by the Applicant do not meet the requirements set out in the Convention of 1951 or are manifestly ill-founded*);
- d. discontinues the international protection status determination procedure.
- e. dismisses the examination of the application for international protection.

#### 4 - Particular decisions

[Articles 9 and 35 of Law 10/2021]

The responsible authority, in certain cases, after the individual examination of the application, may issue one of the following decisions:

- a. grants temporary protection<sup>19</sup> to foreign nationals or stateless persons coming from countries where fundamental human rights have been violated due to war or similar situation, general violence or internal conflict, and their country of origin cannot guarantee their protection.
- b. shall not examine the application or shall consider it inadmissible, based on the criteria set out in Article 35 of the Law "On Asylum".

#### 5 - Content of the decision

[Point 2 of Article 33 of Law 10/2021]

The decision shall be given in writing and shall contain:

- **the preamble** (containing: *the name of the public body issuing the decision; the parties to which the decision is addressed; the date of approval; and the legal basis*);
- **the reasoning part**;
- **the disposition part** (containing: *the ruling, showing what has been decided; time of entry into force of the decision; the right to appeal, including the public body or the court of law where the appeal can be filed, the means and deadline for submitting the appeal.*).

#### 6 - Time limits to issue the decision by the responsible Authority

[Article 28, Points 3 and 4 of Article 79 of Law 10/2021]

According to the existing legislation, the Responsible Authority, as a rule, completes the procedure for determining the status of international protection within 6 (six) months from the date of submission of the application. This deadline can be extended for another 3 (three) months, in case of complex issues, a considerable number of applications, or for other reasons, but in any case, the responsible authority completes the examination procedure, within 21 months from filing of the application.

### SECTION G - THE MAIN STANDARDS OF THE PROCEDURE FOR EXAMINATION OF APPLICATIONS FOR INTERNATIONAL PROTECTION

#### 1 - Identification of material (or relevant) facts

The identification of material (or relevant) facts, or facts directly related to the definition of a refugee, as provided for in Article 1 A (2) of the Geneva Convention of 1951 and the provisions of Albanian law, is the first step in examining an application for international protection. In identifying material (or relevant) facts, the Responsible Authority takes into account:

- **statements and documents relating to the Applicant's personal profile** (*i.e. age, family and social status (if relevant), ethnic affiliation, religion, gender, nationality, places and areas of residence, identity documents, travel documents, etc.*);
- **narrated personal story** (*who, what, where, how, when and why*), paying attention to any persecution or suffered serious harm, periods of eventual detention, arrests or threats suffered by the applicant or family members, ill-treatment, torture and other human rights violations (*including acts of discrimination*) as well as perpetrators and grounds for persecution or serious harm;
- **fear of persecution or serious harm** in the event of return to his/her country of origin or former habitual

<sup>19</sup> Temporary protection is granted by a decision of the Council of Ministers for a period of one year.

residence;

- **documentation** (e.g. court documents, photos, party membership cards, certificates, etc.) submitted by the Applicant in support of the stated facts/circumstances;
- **all relevant facts concerning the Applicant's country of origin** (including legislation and regulations and their application) when a decision is made on the application.

## 2 Procedural standards for credibility assessment

[Points 2, 4 (b, c & ç), 5 and 6 of Article 31 of Law 10/2021]

### 2.1 –Content and aim of the assessment

The aim of the assessment is to determine whether the elements provided by the Applicant during his/her interview are credible in light of the information available to the Responsible Authority as well as the Applicant's individual profile, including aspects of vulnerability that may affect his/her credibility. More specifically, the credibility assessment aims to determine whether and which of the Applicant's statements can be considered credible and, consequently, to be taken into account in the analysis of the well-founded fear of persecution and serious harm.

### 2.2 - Principles to be applied during the assessment

The following principles should be considered in assessing credibility:

- ✓ the credibility assessment will be conducted **individually, impartially and objectively**;
- ✓ **burden of proof** from the Applicant and then **burden of cooperation** from the interviewer: The applicant has the obligation of making every effort to substantiate his/her asylum application, in cooperation with the Authority. While the Authority has an obligation of cooperation, established by law, which takes the form of identification of material/relevant facts, search for elements that can prove these facts (*requesting further information/evidence from the Applicant and research from outside sources, through COI*), as well as the burden of seeking clarification from the Applicant in relation to any circumstances that appear to be contradictory or inconsistent in relation to others.
- ✓ **assessment based on the individual profile** and context to which the Applicant belongs (*age, education level, social and cultural background, psychophysical conditions at the time of the interview, etc.*)
- ✓ **assessment based on objective evidence** (i.e., *Applicant's statements and documents, COI, spoken language and territory knowledge, etc.*) and not based on the interviewer's assumptions, stereotypes, perceptions or personal beliefs;
- ✓ **assessment of all available evidence**, which should be **considered in its entirety**, without omitting any salient aspects;
- ✓ **accuracy**: the examination is performed carefully and rigorously;
- ✓ **benefit of the doubt**: it may happen that, after gathering all the facts and elements necessary for the decision, doubts remain concerning the credibility of an element. In such case, the benefit of the doubt can be applied, taking into account the criteria set out in the law, including the true effort made by the Applicant to substantiate the application (point 5 of Article 31)

### 2.3 –Indicators

Credibility assessment may be carried out through the practical reference of credibility indicators<sup>20</sup>, which are:

- **sufficient and specifics details of the narrative**
- **Inherent consistency**: non-contradiction between the factual elements of the narrative and the documentation presented is considered an effective credibility indicator, thereof. However, inconsistencies should be considered important only if they challenge the credibility of the salient passages of the narrative and not its marginal aspects.
- **external consistency**: the absence of inconsistencies between the material facts submitted by the Applicant and the information available on the context of origin (COI);
- **probability/likelihood**: this is a very controversial indicator, which should be considered with special attention, as, no matter how extraordinary or unusual or even impossible an event may seem to the interviewer or decision maker, it can be credible in the context of the Applicant's origin, due to the socio-cultural, political, anthropological variables of the Applicant's country of origin. Unreliability in itself

<sup>20</sup> For more information, please refer to UNHCR, *Beyond Proof: Credibility assessment in EU Asylum Systems*, May 2013, available at: <https://www.unhcr.org/51a8a08a9.pdf>

cannot be considered a hint of incredibility, especially when what the Applicant has said is not contradicted by the information available.

### 3 - Procedural standards for searching and using information on the Country of Origin (COI) [Point 4 (a) of Article 31 of Law 10/2021]

The application must be assessed in the light of the relevant facts concerning the country of origin at the time of the adoption of the decision, including the legislation in force and its implementation. For the purpose of credibility analysis and subsequent legal analysis of the case, the Responsible Authority is required to find reliable and up-to-date information regarding the Applicant's country of origin (*the internal stability of the country, respect for human rights, socio-political situation*), as well as with regard to the Applicant's individual situation.

Research<sup>21</sup> on information on the country of origin (COI) is essential for a credible and well-reasoned decision and plays an important role in the various stages of the international protection procedure (*when formulating case-based research questions; COI research; when selecting, evaluating and validating various sources of information; when evaluating COI and when referring to COI in decisions*). To be used in international protection proceedings, the COI must meet all the necessary procedural and qualitative requirements, listed below<sup>22</sup>

<b>Neutrality</b>	<ul style="list-style-type: none"> <li>COI research should be conducted in a neutral manner without seeking to favour a particular outcome or conclusion.</li> </ul>
<b>Reliability</b>	<ul style="list-style-type: none"> <li>Decisions on international protection needs should be based on COI from reliable sources, taking into account the source's credibility, political and ideological context as well as its mandate, reporting methodology, its funding, background and motivation</li> </ul>
<b>Balance</b>	<ul style="list-style-type: none"> <li>As each source has its own perspective and focus, different sources and different types of sources should be consulted to achieve the most comprehensive and balanced picture possible.</li> </ul>
<b>Currency</b>	<ul style="list-style-type: none"> <li>Up-to-date or the most recent, and time-relevant, COI should be used. Where relevant, sometimes may be used not current COI (<i>reference to past events which need to be verified, or to give an historical conceptual background on the subject</i>).</li> </ul>
<b>Objectivity</b>	<ul style="list-style-type: none"> <li>COI should be fact-based and not influenced by emotions, speculation, personal or group-based prejudices, interests or biases.</li> </ul>
<b>Accuracy</b>	<ul style="list-style-type: none"> <li>There should be conformity between the statement or opinion, or information with the factual reality or truth. Accuracy can be achieved by cross-checking and corroborating information.</li> </ul>
<b>Transparency</b>	<ul style="list-style-type: none"> <li>COI should be clearly presented and its meaning must not be distorted. It should be clear COI research methods, intelligible, how information was obtained, assessed, and presented.</li> </ul>
<b>Traceability</b>	<ul style="list-style-type: none"> <li>The extent to which the primary and/or original source of a piece of information can be identified. COI should be fully referenced and clearly cited to enable readers to independently verify and assess the information. Every piece of information should be traceable to its source, preferably the original source.</li> </ul>
<b>Relevance</b>	<ul style="list-style-type: none"> <li>COI is relevant when it is based on questions rooted in legal concepts of refugee and human rights law or on questions derived from an Applicant's statements and is closely connected to the fact, event, or matter in question.</li> </ul>

<sup>21</sup> For more information on COI, please refer to: ECOI, *Common EU Guidelines for processing Country of Origin Information (COI)*, April 2008; EASO, *Country of Origin Information (COI) Report Methodology*, June 2019

<sup>22</sup> The reference is to the *EASO Practical Guide on the use of country of origin information by asylum case review officers*, December 2020, available at [https://euaa.europa.eu/sites/default/files/publications/EASO\\_Practical\\_guide\\_COI\\_EN.pdf](https://euaa.europa.eu/sites/default/files/publications/EASO_Practical_guide_COI_EN.pdf)

**Keep in mind:** Although the COI is important for assessing an application for international protection, it does not dictate decisions, it supports the evidence assessment.

As specified by law, the Responsible Authority will be able to obtain information from various sources, such as the UNHCR, the European Union Asylum Agency - EUAA (formerly EASO) and relevant human rights organizations. Please find below some sources that may be helpful in examining international protection applications:

- Refworld, UNHCR database: <https://www.refworld.org/>
- EUAA COI publications: <https://euaa.europa.eu/coi-publications>
- ACCORD's (the COI department of the Austrian Red Cross) COI database: <https://www.ecoi.net/>
- UK Home Office – Country Policy and Information Notes: <https://www.gov.uk/government/collections/country-policy-and-information-notes>
- Publications of Ofpra - Office français de protection des réfugiés et apatrides: <https://ofpra.gouv.fr/fr/l-ofpra/nos-publications/les-publications-de-l-ofpra>
- ReliefWeb: Database operated by the UN Office for the Coordination of Humanitarian Affairs: <https://reliefweb.int>

#### 4 - Sources for resolving interpretative COI issues related to assessing inclusion to refugee status

##### **Sources for resolving interpretative issues related to implementation of the Geneva Convention of 1951 for recognition of refugee status**

For any general questions regarding the implementation and interpretation of the Convention of 1951, please refer to the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (*last edition of 2019*<sup>23</sup>). In addition, to facilitate a consistent application in accordance with the specific principles of the refugee definition in Article 1 A (2) of the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, UNHCR publishes Public Guidelines to address specific issues.

##### **Sources for resolving issues related to the application of subsidiary protection status**

Reference should be made to the case-law of the Court of Justice of the European Union and the European Court of Human Rights. The jurisprudence of the EU Court of Justice (CJEU) can be consulted, with a keyword search, at: <https://curia.europa.eu/juris/recherche.jsf?language=en>. The case law of the European Court of Human Rights (CorteEDU) can be consulted, also with a keyword search, at: <https://hudoc.echr.coe.int/eng#>

#### 5 - Procedural standards for assessing the existence of elements of exclusion from international protection law

[Points D), E), and F) of Article 1 of the 1951 Convention; Articles 19 and 21 of Law 10/2021]

Following a positive assessment of inclusion in the refugee status, it may be necessary to conduct an additional analysis to verify the existence of any reason for exclusion, or of those circumstances, for which a person - *even he/she is in conditions in which he/she would be entitled to recognition of refugee status - should be excluded*. However, this assessment will not be necessary if the inclusion review is concluded negatively and the Applicant does not fall within the definition of a refugee; therefore, **the assessment of exclusion, as a rule, should be done after the assessment of inclusion**

##### **For issues relating to the application of the exclusion clauses from the refugee status and, in particular, for interpretative issues relating to each individual case of exclusion, please consult:**

- UNHCR - *Guidelines On International Protection no.5: Application of the Exclusion Clauses*: Article 1F of the 1951 Convention relating to the Status of Refugees, 4 September 2003, HCR/GIP/03/05, available at: <https://www.unhcr.org/publications/legal/3f7d48514/guidelines-international-protection-5-application-exclusion-clauses-article.html>;
- UNHCR - *Background Note on the Application of the Exclusion Clauses*: Article 1F of the 1951 Convention relating to the Status of Refugees, 4 September 2003, available at: <https://www.refworld.org/docid/3f5857d24.html>;
- *Addressing Security Concerns Without Undermining Refugee Protection - UNHCR's Perspective*, available at: <https://www.refworld.org/docid/5672aed34.html>

<sup>23</sup> UN High Commissioner for Refugees (UNHCR), *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, April 2019, HCR/1P/4/ENG/REV. 4, available at: <https://www.refworld.org/docid/5cb474b27.html>

- *EASO Practical Guide: Exclusion*, January 2017, available at: [https://euaa.europa.eu/sites/default/files/EASO%20Practical%20Guide%20-%20Exclusion%20\(final%20for%20web\).pdf](https://euaa.europa.eu/sites/default/files/EASO%20Practical%20Guide%20-%20Exclusion%20(final%20for%20web).pdf).

**In assessing the implementation of the exclusion clauses, it is important to follow some procedural rules:**

- application of the reasons for exclusion mentioned in Art. 1 F **should be particularly careful**, as its effect consists in excluding from international protection a person who is already considered at risk of prosecution in case of repatriation;
- **principle of proportionality**: the seriousness of the crime in question is weighed in relation to the consequences of exclusion;
- **the State bears the burden of proof**. In ascertaining the facts and circumstances from which the application of the exclusion clauses may arise, it will be possible to give the benefit of the doubt;
- **the standard of proof** must exceed the threshold of ‘*serious reasons to believe*’, and therefore strong, credible and reliable evidence is required.

## SECTION H - LEGAL INSTRUMENTS AND OTHER PROVISIONS UNDER THE COMPETENCE OF THE RESPONSIBLE AUTHORITY FOR ASYLUM, FOREIGNERS AND NATIONALITY

### 1 –Termination, revocation or cessation of international protection

[Articles 39, 40, 41 and 42 of Law 10/2021]

The refugee status and subsidiary protection status represent stable conditions, but not necessarily permanent and irrevocable. Each of these statuses, in fact, may end up in some specific and extraordinary situations, regulated by international, European and national standards. In general terms, the status of refugee or subsidiary protection ceases when international protection is no longer required as the protection needs that led to recognition have ceased. Jurisdiction in the examination procedure remains to the responsible Authority.

#### 1.1 –Cessation or revocation of refugee status

As provided in the Albanian Law “On asylum”, the assessment of the cessation of refugee status must, always, be made on an individual basis. **A foreign national who has previously been granted refugee status shall lose this status if:**

- he/she has voluntarily returned to the country of his nationality;
- he/she acquired the nationality and enjoys the protection of the country of the acquired nationality;
- he/she has acquired a new nationality, and enjoys the protection of the country of his new nationality;
- he/she has left the territory of the Republic of Albania without notifying the responsible Authority;
- the circumstances in connexion with which he/she was granted the refugee status have ceased to exist and he/she may no longer continue to refuse to benefit from the protection of his/her country of nationality or, in the case of stateless persons, the former habitual residence;

In the latter case, mentioned above, the change of circumstances should be of a significant rather than temporary nature and present such characteristics as to eliminate the fear based on persecution. In addition, the cessation of the status shall not apply to a refugee who may invoke compelling reasons arising out of previous persecution on the basis of which he/she refuses to benefit from the protection of his/her country of nationality, or being a stateless person, of the previous residence.

**Refugee status may be revoked when it is determined that the person:**

- lost refugee status, according to Article 39 (*cessation of refugee status*);
- has been excluded from the refugee status in accordance with Article 19 (*Exclusion from refugee status*);
- distorted or omitted facts (*including the use of false documents*) and such was decisive for the recognition of the refugee status;
- there are reasonable doubts that he/she poses a risk to national security;
- has been convicted by a final court decision of committing a serious crime,

#### 1.2 – Cancellation and revocation of subsidiary protection status

Cancellation of subsidiary protection status is made on individual basis when the circumstances that led to the recognition have ceased or changed in such a manner that this protection is no longer necessary. The change of circumstances must be of a non-temporary nature and the person enjoying the status of subsidiary protection no longer faces the real risk of serious harm. Even in this case, the Law "On Asylum" provides some guarantees, specifying that point 1 of Article 41 does not apply to a person with the status of subsidiary protection, who is

able to invoke compelling reasons (arising out of previous persecution) that they are not able to avail themselves of the protection of their own country.

**The responsible authority revokes the subsidiary protection when it is determined that the person:**

- is no longer a beneficiary of subsidiary protection;
- has been excluded from the granting of subsidiary protection, pursuant to Article 21 of the Law (*Exclusion from the status of subsidiary protection*).
- distorted or omitted facts, (*including the use of false documents*), and such was decisive for granting the subsidiary protection status;
- there are reasonable doubts that he/she poses a danger to the national security.

Even in this case, the law "On asylum" provides certain guarantees for the person in question, specifying that the responsible Authority before taking the decision to revoke the status of subsidiary protection must inform in writing the interested subject about the reasons for reconsidering his/her status and provide the opportunity to present their case in relation to the revocation of the status, orally<sup>24</sup> or in writing.

## **2 –Exclusion and termination of temporary protection**

[Articles 83 and 84 of Law 10/2021]

The Law "On Asylum" provides for another possibility of protection of foreigners who meet the conditions set out in Article 81, the temporary protection. This type of protection is granted by a decision of the Council of Ministers (Article 82) for a period of one year. The Law "On Asylum", in addition to the conditions set to benefit from this typology of protection, also sets out the conditions for its exclusion and termination.

**According to the Law on Asylum, temporary protection will NOT be granted to person who:**

- has committed a crime against peace, a war crime, or a crime against humanity;
- has committed a serious non-political crime (*both as participant and/or instigator*) outside the territory of the Republic of Albania prior to his or her admission as a person enjoying temporary protection;
- has been found guilty of acts contrary to the purposes and principles of the United Nations;
- poses a danger to the national security and public order of the Republic of Albania.

**Temporary protection shall terminate:**

- at the expiration of time period granted by the Council of Ministers;
- when the reasons that led to temporary protection cease to exist;
- when the foreign national leaves the Republic of Albania;
- when the foreign national has been granted another type of protection, pursuant to a particular law or an international agreement;
- when the foreign national is subject to an expulsion measure

## **CHAPTER IV – APPEAL**

### **SECTION I - APPEAL**

#### **1 –Cases when the Applicant may appeal against the decision of the Responsible Authority**

[Point 3 of article 34, article 58, points 1 and 2 of article 76, articles 77 and 80 of Law 10/2021]

##### **1.1 Time limits within which the appeal can be filed**

The law guarantees the Applicant (*as well as the person enjoying the refugee status, subsidiary protection or temporary protection*) the right to appeal to the National Commission against the decisions of the responsible Authority, within 15 (fifteen) days from the notification of the decision. If the Applicant, for justified reasons, is unable to file the appeal within the legal deadline, he/she may request reinstatement within the appeal deadline. The law requires that the provisions of the Code of Administrative Procedures apply. The law also recognizes the possibility for the Applicant to appeal against the decision of the responsible Authority for the application of the expedited procedure within 15 (fifteen) days from the notification of the decision.

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<sup>24</sup> In case of verbal statements, the responsible Authority keeps a record.

The Law on Asylum also specifies that a foreign national, whose application has been rejected by the Responsible Authority for Asylum and Refugees, is not expelled from the territory of the Republic of Albania before exercising or providing legal opportunities to exercise procedural rights and guarantees provided by law.

## **1.2 Possibility for legal protection of the Applicant**

[Article 58 of the Law 10/2021]

The applicable Law "On Asylum" provides the Applicants with the opportunity for state-guaranteed legal aid, in relation to assistance in preparing documents, representation in the procedure before the responsible Authority, in preparing appeals against decisions taken during the application examination procedure, as well as before a court for the purpose of appealing the decisions taken during the examination of their application. However, the law specifies that state-guaranteed legal aid<sup>25</sup> will be provided to Applicants who do not have sufficient financial means to cover the respective costs.

## **2 - Appeal to the administrative court**

[Point 4 of Article 34, point 3 of Article 76 and point 4 of Article 47 of Law 10/2021]

The National Commission, in the capacity of the superior administrative body that reviews the appeals filed against the decisions of the responsible Authority, as a rule, it decides on the appeal within 30 days from the date of filing, with the exception of appeals filed against decisions under Articles 35 (*inadmissible application*) and 36 (*manifestly ill-founded application*) of the Law "On Asylum", where the deadline for the appeal's decision is 15 days from the date of filing of the appeal.

The Law on Asylum enables the Applicants to appeal against decisions of the responsible Authority and/or decisions of the National Commission to the competent administrative court. The appeal to the court suspends the execution of the decision.

# **CHAPTER V - OTHER COMPETENCES OF THE RESPONSIBLE AUTHORITY FOR ASYLUM, FOREIGNERS AND NATIONALITY**

## **SECTION L - RELATIONS OF THE RESPONSIBLE AUTHORITY FOR ASYLUM, FOREIGNERS AND NATIONALITY WITH OTHER INSTITUTIONS**

### **1 - Communication of the Responsible Authority for Asylum, Foreigners and Nationality with Applicants and their legal representatives**

#### **1.1 - Relationship Management with Applicants and Legal Representatives**

[Points 5 and 5/1 of Article 27 of Law 10/2021]

The applicable Law on Asylum guarantees the Applicant's legal representative access to information (*present in his/her file*), which is relevant for the examination of an application for international protection. The law also provides that such access may be denied to legal representatives when the disclosure of information or sources would endanger the national security, international relations of the Republic of Albania or when the interests of the investigation in relation to the examination of the request are adversely affected. Exceptionally, however, access to information may be granted to a legal representative who is provided with a security clearance for access to classified information.

### **2 - Relationship of the Responsible Authority for Asylum, Foreigners and Nationality with the National Asylum Reception Center (NACC): referrals and transmission of reports;**

[Point 8 of Article 30, point 1 of Article 43, point 3 of Article 44, point 1 of Article 46, points 2 (b) and 3 of Article 47, points 1 and 2 of Article 48 of Law 10/2021]

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<sup>25</sup> Legal aid can be provided by legal aid service providers, according to the provisions of the law on state-guaranteed legal aid (Point 3 of Article 58 of Law 10/2021)



As provided by applicable Law "On Asylum", the Applicant, who states the intention to file an application for international protection, is transferred to the Reception Center where he/she has the right to stay until the moment of a final decision. The Reception Center has the obligation to inform the responsible Authority for the procedures regarding the reception, accommodation or leaving of the premises by the Applicants for international protection.

In the case of an Applicant, the Responsible Authority suspects that he/she may be inappropriate or may not be interviewed (*due to unstable circumstances beyond his/her control*), it consults with the Reception Center staff and asks for a specialized and certified opinion by the competent medical institutions on the Applicant's condition. Also, the responsible Authority, if it deems it important, in the process of examination of the application for international protection, may request that the Applicant (*upon his/her approval*<sup>26</sup>) undergo a medical examination for signs that may prove persecution or suffered serious harm. The medical examination is coordinated and monitored by the staff of the Reception Center and the results of the examination, certified by a qualified medic, are submitted to the responsible Authority.

In certain cases (point 1 of Article 46) the responsible Authority, if it deems it necessary, and individually-based assessment of each case, may decide to hold the Applicant in the Reception Center, when the aim of restricting freedom of movement cannot be achieved by other less restrictive or alternative measures. The responsible Authority may, also, decide to hold the Applicants in the Reception Center for up to 8 (eight) days and notify the Applicant of this decision. Applicants can be held in the Reception Center for more than 8 (eight) days only by decision of the competent administrative court, based on the request filed by the Ministry. Furthermore, the applicant's freedom of movement, as defined in Article 46, may be restricted by the measures described in point 1 of Article 47.

### **3 - Communication of the Authority Responsible for Asylum, Foreigners and Nationality with Law Enforcement Agencies (State Police, BMP)**

[Point 1 of article 4, points 1, 2, 7 and 8) of article 26, articles 49, 94 and 96 of Law 10/2021; Instruction no. 247, dated 03.06.2021; Instruction no. 245, dated 03.06.2021]

According to the Law "On Asylum", foreign nationals, or stateless persons, can state their intention to ask international protection at the moment of entering the territory of the Republic of Albania at a border crossing point, at a state police station or to the authority responsible for border and migration matters - the Border and Migration Police (BMP). In the Instruction no. 293, dated 4.6.2015 '*On the procedures for the treatment of foreign nationals with irregular residence in the territory of the Republic of Albania*', it is specified that BMP officials carry out the pre-screening process, through the use of a form, referred to as Annex 3, which is the basis for determining whether a person is an asylum-seeker. The BMP, if it faces difficulties in the preliminary screening of the foreign national or stateless person asking for international protection, seeks the presence and assistance of the authority responsible for asylum and refugees.

The Applicant must complete the form, cooperate to have his/her fingerprints<sup>27</sup> taken, provide photographs, and provide other evidence related to the application for international protection. The BMP ensures that this data<sup>28</sup> is entered in the electronic register and afterwards refers<sup>29</sup> the case to the responsible Authority, which collects and processes the personal data<sup>30</sup> of the Applicants for International Protection and uses them to facilitate cooperation with the State Police and relevant<sup>31</sup> enforcement bodies operating in the field. The Responsible Authority, also, in case an Applicant is subject to an order of removal from the territory, shall notify the BMP to enforce the decision to remove the applicant from the Republic of Albania, in accordance with the Law on Foreigners.

In case the State Police notices that the new dactyloscopic traces registered in the National Register of Foreigners are the same as a group of previously registered dactyloscopic traces, it notifies the Responsible Authority and records the persons' individual data.

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<sup>26</sup> Medical examinations carried out for this purpose shall be paid with public funds and the applicant's refusal to undergo such a medical examination does not prevent the Responsible Authority from making a decision on his/her application for international protection.

<sup>27</sup> Exceptions to this rule are children under 12 years of age.

<sup>28</sup> The authority responsible for asylum and refugees cooperates with the responsible authorities of the State Police and the intelligence services for the collection and verification of data (point 2 of article 94 of Law 10/2021)

<sup>29</sup> The procedure and rules for forwarding applications from the BMP to the Responsible Authority are provided in Order no. 247 dated 03.06.2021 - *On Determining the procedures and rules for sending the application for international protection from the authority responsible for border and migration to the authority responsible for asylum and refugees'*

<sup>30</sup> The transfer of the applicant's personal data abroad without the written approval of the authority responsible for asylum and refugees is prohibited. Also, the personal data collected will be deleted or destroyed after the purpose for which they were collected is achieved, in accordance with the principles set out in the legislation on personal data protection.

<sup>31</sup> As provided in *Instruction no. 245 of 03.06.2021 - On the rules and procedures for obtaining information and verifying data and statements from the country of origin for asylum-seeker and the refugee.*

#### **4 - Communication of the Responsible Authority for Asylum, Foreigners and Nationality with the UNHCR (or its local partners)**

[Article 6, point 3 of Article 10, point 2 of Article 22, point 2 of Article 27, point 1 (d) of Article 29, point 4 (a) of Article 31, point 4 of Article 33 and point 3 of Article 82 of Law 10/2021]

In order to ensure cooperation between the national authorities and the UNHCR, in accordance with Article 35 of the 1951 Geneva Convention, the Albanian authorities shall cooperate<sup>32</sup> with the UNHCR throughout the procedure of examination of application for international protection, until a final decision is issued by the authority responsible for asylum and refugees. This cooperation consists of:

- send to UNHCR the list of international protection applications examined by the Responsible Authority and any filed appeals, as well as any other required information;
- ask the UNHCR for opinions or recommendations of a general nature, as well as recommendations for specific cases;
- allow the UNHCR to have contacts with the Applicant (*upon his/her request*), including those in detention;
- ensure UNHCR's access (*upon prior approval of the Applicant*) to information on individual applications, on the progress of the procedure and decisions taken upon their conclusion;
- allow the UNHCR to present its views to authorities responsible for dealing with and examination of applications for international protection, at any stage of the procedure, as provided for in this Law;
- allow a UNHCR representative to participate in an Applicant's personal interview (*upon the Applicant's prior approval*);
- communicate to UNHCR a copy of the decision within five days from the date of the decision;
- use accurate and up-to-date information processed by the UNHCR, to examine international applications (*including those of temporary protection*) and to assess whether a country is a safe third country.

#### **REFERENCES:**

##### **ALBANIAN LEGISLATION**

Law 10/2021 'On Asylum in the Republic of Albania';

- Order no. 244, dated 03.06.2021 '*On the approval of the certification format of non-examination of the application for international protection in the Republic of Albania*';

- Instruction no. 245, dated 03.06.2021 '*On the rules and procedures for obtaining information and verifying data and statement from the country of origin for asylum seekers and refugees*';

- Instruction no. 246, dated 03.06.2021 '*On the procedure and deadline for taking the decision to terminate the examination of the application for international protection in the Republic of Albania*';

- Order no. 247, dated 03.06.2021 '*On Determining the procedures and rules for sending the application for international protection from the authority responsible for border and migration to the authority responsible for asylum and refugees*';

- Decision no. 669, dated 10.11.2021 '*On the criteria for appointment, release or dismissal, as well as the remuneration of the members of the National Commission for Asylum and Refugees*';

##### **Law no. 79/2021 "On Foreigners"**

- Instruction no. 293, dated 04.06.2015, '*On the Procedures for the treatment of Foreign Citizens with Irregular Residence in the Territory of the Republic of Albania*';

##### **INTERNATIONAL LEGISLATION**

- 1951 Geneva Convention and the 1967 Protocol Relating to the Status of Refugees;

- Universal Declaration of Human Rights;

- International Covenant on Civil and Political Rights;

- European Convention on Human Rights;

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<sup>32</sup> The exchange of information and modalities of cooperation between the authority responsible for asylum and refugees and UNHCR will be defined in an agreement between the ministry responsible for asylum and refugees and the UNHCR.

- Convention on the Rights of the Child, New York, 20 November 1989;
- General Commentary no. 14 (2013) on the right of the child to have his/her highest interest as a primary consideration (Article 3, par. 1), 29 May 2013.

### ***EU DIRECTIVES***

- Directive 2011/95/EU
- Directive 2013/32/EU
- Directive 2013/33/EU.

### ***UNHCR DOCUMENTS AND GUIDELINES***

- UNHCR, *Manual on Procedures and Criteria for Determining Refugee Status and Guidelines for International Protection under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, April 2019;
- UNHCR, *Procedural Standards for Determining Refugee Status under the UNHCR Mandate*, 26 August 2020;
  - Fair and fast: UNHCR Discussion Paper on Accelerated and Simplified Procedures in the European Union;
  - Finally safe? Law and practice in EU member states regarding asylum seekers fleeing violence without distinction;

### ***EUAA DOCUMENTS AND GUIDELINES (formerly EASO)***

- EASO Practical Guide: *Personal interview*
- EASO Practical Guide: *Evidence Assessment*
- EASO Practical Guide: *Qualification for international protection*;
- EASO Practical Guide: *Exclusion*
- Country of Origin Information (COI) *Report Methodology*;
- EASO Practical Guide: *On the Use of Country of Origin Information by Case Officers for the examination of asylum applications.*