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Punishing the victim: How the UK's broken asylum system fails the people it should protect

A case study of Albanian nationals

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Timi, Hasan, Gezim, Ola, Ervin and Arber – the Albanian asylum seekers who have shared their stories

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About the organisations

Public Law Project (PLP) is a national legal charity dedicated to advancing access to justice, the rule of law and human rights, particularly for the most disadvantaged in British society. PLP has six priority areas: a constitution that promotes accountability; fair and transparent government use of new technologies; a fair and humane immigration and asylum system; a just and non-discriminatory welfare system; an effective and accessible legal aid scheme; and anti-discrimination. PLP achieves its objectives through a mix of strategic and individual litigation; research; public affairs advocacy; and training.

Shpresa Programme is a user-led organisation dedicated to supporting the human rights, dignity, wellbeing and integration of Albanian nationals in the UK. This includes assisting Albanian nationals navigate the UK's asylum and immigration system. Shpresa Programme has a specific partnership called "Breaking the Chains"¹ with the Migrant and Refugee Children's Legal Unit (MiCLU) at Islington Law Centre (ILC) focused on providing unaccompanied asylum-seeking Albanian children with trauma-informed legal advice and representation, as well as empowering Albanian young people through education and training to advocate for themselves to policy, legal and other audiences.² Breaking the Chains has produced the Albanian asylum claims toolkit for asylum practitioners.³

Islington Law Centre (ILC) was established in 1972 to serve members of the local community in Islington, London providing access to high-quality, specialist legal advice free of charge. ILC's legal services include: debt; education; housing; immigration; and welfare benefits. ILC houses MiCLU, which has a nation-wide remit to advance the interests of migrant and refugee children in the UK through a mix of strategic litigation; individual legal representation; consultancy; training; and legal education.⁴

¹ <https://miclu.org/breaking-the-chains>

² <https://shpresaprogramme.org/>

³ <https://miclu.org/resourcesandpublications/albanian-asylum-claims-toolkit>

⁴ <https://www.islingtonlaw.org.uk/>

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Key concepts

Asylum claim: This is defined under section 113(1) of the Nationality, Immigration and Asylum Act 2002 as a claim that the removal of a person would breach the United Kingdom’s obligations under the Convention relating to the Status of Refugees 1951. This treaty is more commonly known as the Refugee Convention. Article 1 of the Refugee Convention defines a refugee as someone “unable...or unwilling to avail himself of the protection” of his country of origin “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a social group or political opinion”.⁵

Section 31(2) of the Nationality and Borders Act 2022 defines “persecution” as conduct “sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the European Convention on Human Rights (ECHR)” or an accumulation of measures having the same effect. This includes physical, mental or sexual violence; discriminatory judicial measures; discriminatory or disproportionate punishment; or denial of judicial redress (section 31(3)).

In addition, Article 33 of the Refugee Convention prohibits signatories from committing “refoulement”; that is, expelling a refugee to a territory where his life or freedom would be threatened on account of his race, religion, nationality, membership of a social group or political opinion.⁶

Humanitarian protection: If a person is not eligible for refugee status because, for example, they are not targeted because of a protected characteristic such as race, they may nevertheless be entitled to protection via a “humanitarian protection claim”. This provides temporary protection in the UK if the individual faces a “real risk of suffering serious harm” should they be removed. The definition of serious harm includes the death penalty or execution, unlawful killing, torture or inhuman or degrading treatment, or a serious and individual threat to their life by reason of indiscriminate violence due to conflict.⁷

Human rights claim: This is defined by section 113(1) of the Nationality, Immigration and Asylum Act 2002 as a claim made by an individual that it would be unlawful under section 6 of the Human Rights Act 1998 for the Home Office to remove the individual as to do so would violate one or more human rights in the European Convention on Human Rights (ECHR).

Modern slavery and human trafficking: The process for recognising and protecting victims of modern slavery is governed principally by the Modern Slavery Act 2015. Section 49 of the Act permits the Home Secretary to produce statutory guidance for public authorities helping them identify and support victims of modern slavery. This guidance establishes the so-called “National Referral Mechanism” (NRM), an administrative mechanism enabling public authorities to refer victims of modern slavery into relevant support schemes administered by the Home Office.⁸

⁵ <https://www.unhcr.org/uk/about-unhcr/who-we-are/1951-refugee-convention>

⁶ <https://www.unhcr.org/uk/about-unhcr/who-we-are/1951-refugee-convention>

⁷ Paragraph 339CA, Immigration Rules.

⁸ <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims>

The Home Office’s “Competent Authority” may make an initial “reasonable grounds decision” assessing that there are reasonable grounds that a person is a victim of modern slavery and a final “conclusive grounds decision” that a person is, indeed, a victim of modern slavery.⁹ By virtue of section 61 of the Nationality and Borders Act 2022, once a “reasonable grounds decision” is made, a victim of modern slavery is entitled to a “recovery period” whereby they may not be removed from the UK for at least 30 days. Thereafter, if a “conclusive grounds decision” is made, under section 65(2) of the Nationality and Borders Act 2022, the victim of modern slavery is entitled to be granted limited leave to remain in the UK by the Home Office to support their recovery from physical or psychological harm; to seek compensation; or to cooperate with a public authority in relation to an investigation or legal proceedings connected with their exploitation.

⁹ <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims>

The UK's broken asylum system

If I wasn't Albanian and didn't know what it's really like, I'd ask why Albanians needed to be protected. If you listen to the media or politicians, Albanians are criminals or thieves and you need to get rid of us. But there's lots of violence and corruption in my country and we do need help.

Ola, a female Albanian national seeking asylum and survivor of human trafficking

In their first King's Speech in July 2024, the Government stated in terms that "our current asylum system is broken".¹⁰ This report is about the human costs imposed on people claiming asylum in this broken system and what can be done to help fix it. It does this through case studies describing the experiences of six Albanians being supported by Shpresa Programme, a user-led Albanian organisation, and lawyers at Islington Law Centre (ILC).

The report takes both a lawyers' eye view – looking at the asylum system's faulty legal framework – and an asylum seekers' eye view – highlighting problems of administration, culture and practice on the ground. The report addresses the five problems below, which have been identified and prioritised in coordination with the individuals who have shared their experiences and their legal advisers. Taken together, they amount to failures at every stage of the journey through the UK's asylum system, from start to finish.

1. **Difficulty accessing quality legal advice and representation:** Because asylum legal advice and representation is a "legal aid desert", with a dwindling number of increasingly unsustainable providers, asylum seekers frequently struggle to access publicly funded legal advice and representation when they need it. There can be long delays finding a solicitor with the capacity to take on cases and, even when a solicitor is found, there can be serious quality concerns due to the unsustainable asylum legal aid market, such as long waiting lists; inability to dedicate adequate time to cases and client care; lack of expertise to meet to an asylum seeker's complex needs; and law offices can be located a long distance from where they are required.
2. **Difficulty making personal and traumatic disclosures:** The asylum system requires people to make highly personal and often traumatic disclosures about their private lives, which are often the source of great shame or fear. Yet, throughout the process, the Home Office does not provide the conditions or safe spaces to support individuals to share their experiences and needs. The result is too many wrongful refusals of initial claims; too many successful appeals in the tribunals; and the consumption of additional resources through the necessity for fresh claims.
3. **Systemically poor Home Office processes for decision-making:** Once claims are submitted, the problems continue. There are endemic delays in Home Office decision-making, with decisions taking at least many months and, in some cases, even years. The longest delay detailed in this report was nearly five years. Worse, when decisions are

¹⁰ Prime Minister's Office, 'King's Speech 2024: Background briefing notes' (17 July 2024). Available at <https://www.gov.uk/government/publications/kings-speech-2024-background-briefing-notes> p.54.

ultimately made, particularly to refuse claims, reasons for refusal letters (RFRLs) can be low-quality, difficult to understand, and inadequately justified and reasoned according to evidence. This – again – produces upstream costs with the necessity of appeals.

4. **Inability to meet basic needs due to inadequate financial support:** While their asylum claim is being considered or their appeal being heard by a tribunal, people can be provided with financial support by the Home Office to prevent destitution. Local authorities also have a duty to provide accommodation and support for unaccompanied asylum-seeking children. The evidence in this report is that these safety nets are not working effectively. Adult asylum seekers regularly cannot meet their essential needs due to the meagre financial support available from the Home Office via so-called “asylum support” – currently £49.18 a week.¹¹ Moreover, the failure to provide adequate financial support makes children and young people in particular more susceptible to exploitation and trafficking by criminal gangs.¹²
5. **Encouraging returns to unsafe countries:** These case studies illustrate the flaws in the current legal framework for returning people to countries where there are significant safety concerns. Specifically, section 94 of the Nationality, Immigration and Asylum Act 2002 requires the Home Office to certify, unless there are strong reasons not to, that claims from nationals of some countries are “clearly unfounded”. This renders them automatically unsuccessful. Section 94 countries include Albania. The result is the presumptive removal of vulnerable people from the UK to potentially serious harm.

Avoiding the errors of the past – Recommendations for a workable, fair and humane asylum system

Rather than fixing these failures, the previous Government’s approach was to make the asylum system’s failings worse. This has included the passage of three Acts of Parliament in quick succession:

- The Nationality and Borders Act 2022, which authorises differential treatment of refugees depending on whether they arrived in the UK via a pre-approved route;
- The Illegal Migration Act 2023, which seeks to make almost all asylum claims in the UK inadmissible and authorises the indefinite detention of asylum seekers;
- The Safety of Rwanda (Asylum and Immigration) Act 2024, underpinned by the UK’s asylum partnership with the Republic of Rwanda,¹³ which facilitates the removal of asylum seekers to Rwanda, a country found to be not generally safe by the UK Supreme Court.¹⁴

¹¹ Home Office, ‘Asylum support: What you’ll get’. Available at <https://www.gov.uk/asylum-support/what-youll-get>

¹² Migrant and Refugee Children’s Legal Unit, ‘Into the Arms of Traffickers’ (October 2021). Available at <https://miclu.org/into-the-arms-of-traffickers>

¹³ Home Office, UK-Rwanda Treaty: Provision of an Asylum Partnership (5 December 2023). Available at <https://www.gov.uk/government/publications/uk-rwanda-treaty-provision-of-an-asylum-partnership>

¹⁴ *The King (AAA) v Secretary of State for the Home Department* [2023] UKSC 42.

Given their unworkability, most of the provisions of these Acts have not been brought fully into force. For example, the previous Government decided to “pause” its own proposals in the Nationality and Borders Act 2022 to treat refugees differently depending on their mode of arrival expressly because this would cause further delays and expense by increasing the complexity of asylum claims.¹⁵ In addition, on the Rwanda partnership, the new Home Secretary, the Rt Hon Yvette Cooper MP, has revealed that around £700m in total has been spent on the plan, with a further £10bn earmarked over six years.¹⁶

Instead of repeating the mistakes of the past, a fresh approach is needed – one which is workable, fair and humane. The new Government has achieved early progress already. For example, the Government cancelled the asylum partnership with Rwanda,¹⁷ and, in November 2024, the Lord Chancellor announced a welcome increase in asylum legal aid rates.¹⁸

However, given the scale of the issues facing our broken asylum system, there is more to do. This report makes the following recommendations – a mix of legislative, administrative and cultural actions:

Failure	Recommendations
<i>Difficulty accessing quality legal advice and representation</i>	<p><i>The Ministry of Justice should develop a long-term strategy for the sustainability of immigration legal aid within twelve-months.</i></p> <p><i>The Solicitors’ Regulation Authority should conduct a full updated review of the quality of asylum legal services, with a view to issuing good practice guidelines.</i></p> <p><i>The Office of the Immigration Services Commissioner (OISC) should require identifying and responding to client trauma to be a mandatory component of training for immigration advisers.</i></p>
<i>Difficulty making personal and traumatic disclosures</i>	<i>During the course of this Parliament, the Home Office should commission an independent</i>

¹⁵ Immigration Minister, Statement of changes to the Immigration Rules: HC 1496, 17 July 2023. Available at <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1496-17-july-2023/statement-of-changes-to-the-immigration-rules-hc-1496-17-july-2023-accessible>

¹⁶ Home Secretary, Border Security and Asylum – Volume 752, Monday 22 2024. Available at <https://hansard.parliament.uk/commons/2024-07-22/debates/FBB2B906-592F-4047-A6E1-59D6DB97573A/BorderSecurityAndAsylum>

¹⁷ Sam Francis, Sir Keir Starmer confirms Rwanda deportation plan dead (BBC News, 6 July 2024). Available at <https://www.bbc.co.uk/news/articles/cz9dn8erg3zo>

¹⁸ Ministry of Justice, ‘Historic increase in legal aid to support most vulnerable’ (29 November 2024). Available at <https://www.gov.uk/government/news/historic-increase-in-legal-aid-to-support-most-vulnerable>

	<p><i>expert review of Home Office’s progress towards making screening interviews more effective at identifying and responding to vulnerabilities.</i></p>
<p><i>Systemically poor Home Office processes for decision-making</i></p>	<p><i>The Home Office should establish a cross-government task-force on delays in the asylum system, including representatives from the Ministry of Justice and the Treasury and produce a plan for reducing delays over the next twelve months in a way which does not undermine the quality of Home Office decisions.</i></p> <p><i>The Border Security, Immigration and Asylum Bill should place on the Home Office an obligation to produce an asylum “service standard”, including a target that unless there are good reasons decisions should take no more than six months, alongside a duty to report to Parliament annually on the fulfilment of that standard.</i></p> <p><i>The Home Secretary should publish a strategy for improving Home Office decision-making drawing on previous recommendations made by the Independent Chief Inspector of Borders and Immigration (ICIBI) in his 2021 inspection, implementing this programme of reform over the course of the current Parliament. Further, Parliament’s Home Affairs Select Committee should hold an annual evidence session during this Parliament on the quality of Home Office decision-making to assess progress.</i></p>
<p><i>Inability to meet basic needs due to inadequate financial support</i></p>	<p><i>While recognising the Government’s difficult financial position, the Home Office should review the financial support available to asylum seekers via “asylum support” in coordination with asylum civil society, a view to setting a new rate which provides a humane standard of survival over the course of this Parliament.</i></p>

<i>Encouraging returns to unsafe countries</i>	<i>Remove Albania from the safe countries list.</i> <i>Repeal the Illegal Migration Act 2023.</i> <i>Restore “second pair of eyes” (SPE) quality assurance for the certification of clearly unfounded claims.</i>
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I. The case studies of Albanian nationals and research methodology

This report draws on case studies of the experiences of six Albanian nationals who are having – or who have had – their asylum, humanitarian protection, human rights and/or trafficking claims considered by the Home Office. The Public Law Project secured access to these individuals via Shpresa Programme, a user-led organisation dedicated to supporting Albanians resident in the UK, and Islington Law Centre.

The case studies were obtained through a series of semi-structured interviews held between October 2023 and June 2024 in person with the asylum seekers and their legal advisers at Islington Law Centre. The participants were identified by Islington Law Centre, who were asked to identify a sample of representative cases illustrating the experiences of Albanian nationals seeking protection in the UK.

The case studies provide examples of: the human trafficking of male victims for criminal exploitation; the human trafficking of female victims for sexual exploitation; victims of blood feuds; anti-LGBTQI+ violence; and violence against women and girls. The participants include both adults and children at the time of their initial and/or fresh asylum claims.

From the material that emerged at interview, the Public Law Project conducted a coding exercise identifying key themes, challenges or problems that arose. Subsequently, the Public Law Project and Islington Law Centre worked with the participants to identify the most pressing themes to prioritise.¹⁹

The decision was taken to research the experiences of Albanian nationals because they are a group exposed to particular risk of harm and discrimination at this time. For example, in December 2022, the Home Office launched an internal scheme codenamed Operation BRIDORA with the express

¹⁹ The full list of themes included: difficulty distinguishing high-quality solicitors from unregulated or low quality legal advisers; difficulty securing legal aid solicitors within a reasonable distance from accommodation; waiting lists once a solicitor is found; solicitors not being able to dedicate enough time to a case; solicitors not approaching cases in a trauma-informed way; conditions in detention; conditions in asylum hotels; delays in providing accommodation; delays obtaining medico-legal reports; inappropriate behaviour from Home Office staff in asylum interviews; delays in Home Office decision-making; low quality reasons for refusal letters; presumption of removal because of the certification of claims as clearly unfounded; Home Office evading responsibility for unaccompanied children by forcing them onto local authorities; delays in tribunals listing cases for appeals; and delays in tribunals producing judgments.

intention of expediting the processing of Albanian claims.²⁰ The consequence of Operation BRIDORA was an unprecedented reduction in the number of Albanians being granted asylum by the Home Office. In 2022, for example, the average Albanian grant rate for asylum claims was 49% (11% for men and 87% for women and children),²¹ but just a year later in 2023 it was 14% (2% for men, 37% for women and 30% for children).²² This has reduced to 9% in 2024.²³ Home Office staff told the Independent Chief Inspector of Borders and Immigration (ICIBI) as part of his 2023 inspection report, that this was expressly because of ministerial interference with their decision-making independence, with the then Immigration Minister setting a target that no more than 2% of Albanian claims should be granted.²⁴

In addition, while the new Border Security, Immigration and Asylum Bill published in January 2025 repeals most of the Illegal Migration Act 2023, it retains section 59 of the Act. This provision makes inadmissible asylum claims from European Economic Area (EEA) states, as well as Albania, India, and Georgia, unless there are exceptional circumstances.²⁵ Many – even all – of the successful asylum claims highlighted in this report would likely not have been granted under the standard proposed in section 59.

Therefore, there is considerable political and legislative will directed to reducing the number of Albanian claims from multiple governments. The Albanian community requires particular attention at present to ensure that their treatment is fair, lawful, non-discriminatory, and in compliance with their human rights and dignity.

The names of the people who shared their experiences – Timi, Hasan, Gezim, Ola, Ervin and Arber – have been changed to ensure anonymity. Each gave their consent to the use of their experiences.

These case studies contain graphic content, including descriptions of physical violence, rape, serious harm to children, and discrimination.

Case study 1: Sexuality and gender identity

The first case study relates to persecution on the grounds of sexuality and gender identity. According to the Home Office's Country Policy and Information Note (CPIN) published in 2022, Albania has a decidedly mixed record on LGBTQI+ rights. On the one hand, according to the letter of the law, same-sex relations are lawful; LGBTQI+ people are permitted to serve in the military; there is an equal age of consent between opposite and same-sex sexual activities; conversion therapy is banned; and no laws prohibit the promotion of LGBTQI+ rights. However, in practice, the

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https://assets.publishing.service.gov.uk/media/65e06d45f1cab36b60fc47ad/An_inspection_of_asylum_casework_June_to_October_2023.pdf 7.59.

²¹ <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-december-2022>

²² <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-september-2023/how-many-people-do-we-grant-protection-to>

²³ <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-march-2024/how-many-people-do-we-grant-protection-to>

²⁴ <https://www.gov.uk/government/publications/an-inspection-of-asylum-casework-june-october-2023> 7.79

²⁵ <https://bills.parliament.uk/bills/3929>

picture is starkly different and more troubling, particularly in non-urban communities – with homophobic and transphobic attitudes common, discrimination rife, and physical violence frequent, in rarer instances amounting to active persecution.²⁶

As the Home Office’s CPIN states at 2.4.15:

“Albania is a patriarchal, conservative society in which homophobic attitudes still exist, particularly in rural areas. Although protection from discrimination is provided for in law, in practice, NGOs report that the collective LGBTI community face difficulties in accessing education, employment, housing, healthcare and goods and services due to prevailing negative attitudes of LGBTI persons in Albanian society.”²⁷

Timi’s story is one example of where this discriminatory environment led to violence and persecution.

Timi's story:

Timi was born in a small, traditional village in northern Albania.

From aged 13, he experienced physical violence from a large group of boys at school, who accused him of being a “pederast”, a common term of abuse for gay men in Albania. Timi knew that he was attracted to other boys but was so terrified by this that he would practice walking and talking in a manly way and increasingly stayed in the house to avoid inadvertently “acting gay” in public.

By the time Timi was 15, a group of boys at school were physically assaulting him every day. On one occasion, they attempted to rape him with a stick and he was left with cuts across his head and body.

Timi’s father soon saw that he was avoiding school. When he found out that it was because Timi was being bullied, he started to beat Timi himself. He would tell Timi that every time he was beaten at school and did not fight back, he would be beaten at home twice as hard. Timi’s father’s violence towards him escalated quickly.

When Timi was 16, his father came home from the village pub having heard rumours that Timi was a “pederast”. He was extremely drunk and beat Timi seriously. Timi’s mother intervened and was herself beaten badly. Timi’s father’s drinking escalated, and he would physically assault Timi most days. He would pray over Timi while he was lying on the ground after the beatings, asking God to kill his shameful “pederast” son. He stopped using Timi’s name and referred to him only as “the pederast”. He forbade Timi’s mother from letting Timi talk to, or be in the same room as, his younger brother and sister, in case he “infected them with his illness”.

²⁶ <https://www.gov.uk/government/publications/albania-country-policy-and-information-notes/country-policy-and-information-note-sexual-orientation-and-gender-identity-albania-december-2019-accessible>

²⁷ <https://www.gov.uk/government/publications/albania-country-policy-and-information-notes/country-policy-and-information-note-sexual-orientation-and-gender-identity-albania-december-2019-accessible>

On one occasion when he came home to find Timi speaking with his younger sister, he attempted to strangle Timi's mother, saying "I will kill you if you let that pederast infect my family". Timi planned to kill himself – including obtaining rat poison – but he thought of the pain this would cause his mother, so he made no suicide attempts while in Albania.

When Timi was 17, his maternal uncle spoke with his mother and arranged for Timi to leave for Germany. When in Germany, Timi was transferred to a refugee camp a long distance from his uncle. One day at the camp, Timi came down to breakfast to find two boys from his school there who used to bully him. Timi left the camp that day as he could not tolerate the thought that the violence would restart.

Through another group of men at the camp, Timi arranged to be smuggled to the UK in the back of a lorry. When here, Timi claimed asylum aged 17 through a solicitor he was referred to by another member of the Albanian community. It was a struggle for Timi to make this claim as he had never told anyone that he was gay. He had no language to describe his feelings, experiences, identity and sexuality. For example, he told his first solicitor that he fled Albania because he had "trouble with boys at school". Given that this is not a ground of asylum, his original claim was certified as "clearly unfounded" by the Home Office under section 94 of the Nationality, Immigration and Asylum Act 2002. Timi had only a limited understanding of what the solicitor did for him and received very few updates on the progress of his case. It took approximately 18 months from submission of his claim for them to advise him that his claim had been refused.

After this refusal, Timi avoided all contact with the authorities and survived by working on building sites for a meal and slept in houses that were half built. Timi was arrested and detained and his boyfriend, an Albanian man he met in the UK, borrowed £4,000 to pay a solicitor to assist him because he was not able to find a legal aid solicitor at that time without an extensive waiting list.

Timi was later released on bail but detained again by the Home Office on Boxing Day a few months later. They contacted Islington Law Centre, who took conduct of his case between Christmas and New Year. Islington Law Centre contacted Shpresa Programme, who attended Timi in detention three times and, after that, for the first time he was able to disclose the violence he had been subjected to because of his sexuality. Based on this new evidence, Islington Law Centre lodged a fresh claim on New Year's Eve.

While being detained, Timi was so fearful of being returned to Albania that he attempted suicide twice by hanging himself in his room. After another delay of a year and 2 months by the Home Office, Timi was ultimately granted asylum based on his fresh claim.

Case Studies 2 and 3: Human trafficking of male victims for criminal activity

The second and third case studies relate to the human trafficking of males and their coerced involvement in criminal activities, especially drug dealing. The Home Office's CPIN on human trafficking in Albania, published in July 2024, states that:

"Albania is significantly affected by human trafficking...The country is recognised as a major source for human trafficking, with Albanians mostly trafficked to Italy, Greece, the United

Kingdom, Sweden, Germany and Switzerland, often through organized criminal networks. Meanwhile, domestic trafficking has been a significant phenomenon for approximately two decades, with most domestic victims being children and youth.”²⁸

In general, men and boys are exploited for forced labour, criminal activities relating to drugs or theft, and begging.²⁹

The CPIN recognises that, while Albania has in place a legislative and policy framework to combat traffickers and to support victims, as with Albania’s system on sexuality and gender identity, there is a stark gap between theory and reality. While Albanian law contains meaningful and appropriate protections, there is a deep and systemic problem in implementation and practice. Prosecutions for trafficking are rare despite widespread acknowledgement of a pressing problem and support for victims too often falls short of what is needed.³⁰

Hasan and Gezim’s stories are just two examples of this endemic and tragic criminal enterprise in Albania.

Hasan’s story

Hasan was born to a poor family in a small village in the north of Albania in 2000.

When he was 14, with promises of money and power, Hasan was induced by members of an international criminal gang to sell drugs in Albania and to carry drugs across the Greek border. The gang members correctly believed that Hasan could avoid suspicion and detection as a child. When Hasan began to realise the risks that he faced in being caught by the authorities, he refused to continue trafficking the drugs. In response to this bravery, Hasan was seriously physically beaten and injured by the gang members as punishment and told that he would be murdered if he refused again.

Deciding to flee Albania to save his life, Hasan managed to arrive in the UK without leave in November 2016, aged only 16. Initially, he was a looked-after child, cared for by the London Borough of Hounslow. In December 2016, Hasan was referred by his social worker to the National Referral Mechanism and shortly afterwards the Competent Authority decided that there were reasonable grounds to believe that Hasan was a victim of trafficking.

Soon after, with the support of his social worker, Hasan was able to contact solicitors to pursue an asylum claim. Hasan’s original solicitors took only very limited instructions from him. Hasan remembers them asking questions which he did not understand, which he was scared to answer, and which brought back painful memories which reminded him of his past. He also struggled to

²⁸ Home Office, Country policy and information note: human trafficking, Albania, July 2024. Available at <https://www.gov.uk/government/publications/albania-country-policy-and-information-notes/country-policy-and-information-note-human-trafficking-albania-february-2023-accessible>

²⁹ <https://www.gov.uk/government/publications/albania-country-policy-and-information-notes/country-policy-and-information-note-human-trafficking-albania-february-2023-accessible>

³⁰ <https://www.gov.uk/government/publications/albania-country-policy-and-information-notes/country-policy-and-information-note-human-trafficking-albania-february-2023-accessible>

trust his solicitors as he did not appreciate that his lawyers worked for him and not the Home Office. In addition, Hasan's social worker believed that he had learning difficulties as he was very slow in responding to questions. He also struggled in school and was not able to make friends, providing him with a total absence of support mechanisms during this time.

After a two-and-a-half-year delay, in April 2019, the Home Office refused Hasan's asylum, protection and human rights claims and certified under section 94 of the Nationality, Immigration and Asylum Act 2002 that they were "clearly unfounded". Because of section 28 of the Nationality and Borders Act 2022, Hasan had no right of appeal against that decision and was liable to be returned to Albania after the "recovery period" of thirty days.

Terrified of removal to Albania and return to his traffickers, Hasan absconded from his local authority accommodation. He was street homeless for long periods from April 2019 to January 2022. He was subjected to labour exploitation on a building site where he slept at night, in a container where tools were stored. Working in dangerous conditions, he suffered numerous injuries resulting in permanent sight loss in his left eye and partial sight loss in his right eye.

During this period in September 2019 – almost three years after accepting that there were reasonable grounds for believing that Hasan was a victim of trafficking – the Competent Authority eventually decided that there were conclusive grounds that he was a victim of trafficking.

In the summer of 2021, through meeting another Albanian national, Hasan was able to access Shpresa Programme. Over a four-week period, Hasan built up the courage to speak to a solicitor at Islington Law Centre. At his first meeting with his solicitor, he was so convinced that she was from the Home Office and had come to remove him, that the meeting had to be terminated. Realising over several months that Hasan was very unwell and significant external support would be needed to make accurate and meaningful legal representations, his solicitor instructed a psychiatrist to assess Hasan's needs.

Eventually in December 2021 when Hasan was able to communicate his experiences, Islington Law Centre was able to make written submissions to the Home Office supporting a fresh asylum and human rights claim. His solicitors also pursued a claim for asylum support from the Home Office under section 95 of the Immigration and Asylum Act 1999, as he was still sleeping on a building site. In January 2022, the Home Office refused Hasan's application for support, arguing that he had failed to show that he was destitute and failed to show that he was eligible for support as he did not have an outstanding claim at that time. Islington Law Centre lodged an appeal against this decision.

After this, due to Hasan's deteriorated mental state and medical evidence indicating severe post-traumatic stress disorder, depression, suicidal ideation and learning difficulties, Islington Law Centre wrote to the Home Office requesting an urgent Recovery Needs Assessment (RNA), setting out a roadmap for recovery, care and support given the earlier conclusive grounds decision that Hasan was a victim of trafficking. Further, Islington Law Centre contacted the London Borough of Hounslow, who agreed to accommodate Hasan on an emergency basis until he was provided with accommodation by the Home Office.

In February 2022, Hasan's appeal to the First-tier Tribunal (Asylum Support Chamber) against the Home Office's refusal of asylum support was allowed. However, even with this financial support, Hasan found it extremely difficult to manage. The minimal support of – at that time - £40.85 per week was insufficient to cover his basic needs, meaning that Hasan regularly went without proper meals for days at a time, could not afford public transport to visit his solicitors, and could not afford to purchase new clothing. Shortly afterwards in March 2022, Hasan was granted twelve months discretionary leave to remain in the UK as a victim of trafficking.

Eventually in January 2023, due to the painstaking work by his solicitors over many months to produce accurate and meaningful legal submissions in a fresh claim – three years after the Home Office's refusal of his first asylum application and seven years after his initial arrival in the UK as a child – Hasan was granted asylum by the Home Office.

Gezim's story

At 17, Gezim arrived in the UK in May 2017 as an unaccompanied child. He was referred to Islington Law Centre by the Shpresa Programme when his original application for asylum was refused by the Home Office at the start of the Covid-19 lockdown. He was aged 20 on referral to Islington Law Centre.

When Gezim was 14, his father borrowed a large sum of money from criminal lenders, as the family had no money for food or energy. In time, his father was unable to repay the loan. When the lenders became aware of this, Gezim was kidnapped from his family and forced to work, initially selling cigarettes and later growing cannabis. Gezim understood that he was being forced to work to repay his father's debt.

Gezim was trafficked to the UK where he managed to escape and apply for asylum. However, he felt unable to explain to his original solicitors his experiences when he was under the control of the traffickers. Having experienced serious physical violence at their hands, Gezim found speaking about his past experiences too traumatic and upsetting. Gezim also remembers long periods of time, often months, where he received no update or communication from his solicitors. This made him feel isolated and provoked hopelessness. The Home Office refused Gezim's initial claim for asylum.

The same week that Islington Law Centre took conduct of Gezim's appeal against the Home Office's refusal of asylum, the Prime Minister announced a nationwide lockdown in response to Covid-19. The work to ensure that Gezim was able to give accurate and meaningful evidence to support his appeal was gruelling, time-consuming and painstaking. His solicitors met with Gezim at least once a month but each time he instructed that he was struggling to cope and that thoughts of being forced back to Albania were overwhelming him. He advised that he felt suicidal but was forcing himself to live as he would be "letting the traffickers win" if he took his own life. Gezim recalled the extreme physical abuse by the traffickers and he experienced ongoing nightmares, flashbacks and audio-visual hallucinations.

Ultimately, his solicitors recognised that he would be unable to safely give evidence in his appeal hearing and sought to instruct medical experts to assist the tribunal. Gezim's assessment for a

medico-legal report was listed in January 2021 during the second lockdown. Gezim was to attend Islington Law Centre to use their internet connection and laptop facilities to enable him to take part in the remote assessment, as well as to ensure that he had privacy for the assessment as he lived in shared accommodation. In the days leading up to this assessment, Gezim advised Shpresa that he thought he could not complete the assessment because he had no hope for his future and that he did not believe he would ever be safe.

On the morning of the assessment, the Shpresa advocate started to text Gezim very early. Knowing he could be overwhelmed with intrusive thoughts and hallucinations, she sent him YouTube recordings of traditional Albanian music, urging him to listen to that to calm himself down. She spoke with Gezim on the phone for as much of the journey as she could. Gezim arrived at the Law Centre but advised the Shpresa advocate by phone that he was too scared to enter the building. She called his solicitor, who went outside to encourage Gezim to come inside the building and commence the remote assessment.

The assessment took three hours and Gezim had to request three breaks. The medical expert found Gezim to be suffering from PTSD and major depressive disorder. Further, the expert identified that Gezim was suffering from persistent audio, visual and sensory hallucinations because of the extreme violence he experienced. She also found him to be at risk of suicide and advised that giving evidence in his appeal hearing would be retraumatising and place him at further psychological risk.

On the morning of the tribunal hearing, once again the Shpresa advocate called Gezim very early and supported him throughout the journey to the Immigration and Asylum Tribunal. He arrived at the tribunal in time to have a brief conference with his solicitor and barrister. Gezim was able to engage with them effectively and attend the hearing. Ultimately, with the support of his solicitors and the Shpresa Programme, Gezim's appeal was allowed, the Immigration Judge accepting his entire account as credible and that it was not safe for him to return to Albania due to the risk of re-trafficking and revenge attacks by his traffickers.

Case study 4: Violence against women and girls and trafficking of women for sexual exploitation

According to the Home Office's CPIN on domestic violence against women in Albania, Albania is a patriarchal, conservative country where discriminatory attitudes against women are common and where domestic abuse against women and girls is frequent:

“The prevalence of domestic violence is difficult to assess due to gaps in reliable data and likely underreporting by victims, especially in rural areas. The Albanian Institute of Statistics surveyed women in 2018, 47% of whom reported that they had experienced intimate partner domestic violence in their lifetime, most commonly in relation to controlling behaviour”.³¹

³¹ <https://www.gov.uk/government/publications/albania-country-policy-and-information-notes/country-policy-and-information-note-domestic-abuse-and-violence-against-women-albania-december-2018-accessible>

Ola's story is one such example, where she was exploited and failed repeatedly by people who should have protected her.

Ola's story

Ola was born and raised in Diber, in northern Albania.

Ola grew up with a violent father, which greatly affected her self-esteem and mental health. Ola recalls incidents where, for example, her father threw her school biology textbook into a fireplace because, according to him, women should not study science. She also recalls a painful incident when her father instructed Ola to clean her younger brother after he had used the toilet because "that's all women are good for". It took a lot of persuasion on Ola's behalf by her mother before her father even allowed her to continue her education past secondary school. Despite these obstacles, Ola managed to finish university and obtain both a Bachelor's and Master's degree.

Whilst a student in Albania, Ola was raped by a neighbour's cousin. She subsequently entered into a relationship with a fellow male student. However, he became violent towards her after she disclosed the rape to him. Ola tried to end the relationship but her ex-boyfriend continued contacting her to blackmail her; rape being a serious social taboo in Albania.

Ola's family subsequently found out about the relationship after the young man sent compromising photographs to her brother. Ola's father gave her an ultimatum – either marry a much older man of the father's choosing who was 40 years old and had two children or marry the abusive ex-boyfriend to save the family from shame. Wishing to avoid the commitments of marriage, Ola's ex-boyfriend suggested leaving Albania for Spain. He apologised to Ola for his behaviour and promised her a happier future. Ola loved him and agreed to flee Albania.

However, shortly after arriving in Spain, Ola's ex-boyfriend began sexually exploiting her again and subjected her to further violence. Ola was coerced into working in a Spanish brothel to support her abusive partner and managed to escape only when a fight ensued between a client and the manager of the brothel.

Ola arrived in the UK in November 2021 and, through other members of the Albanian community, was referred to a solicitor. Ola remembers that she struggled to work effectively with her original solicitor because he was a man. Due to her experiences, Ola was scared of him and could not trust him enough to fully reveal the details of her story. His office was also a long way from where she was based in London and she had very little money. This meant she sometimes had to choose between visiting her solicitor and eating properly. Ultimately, Ola did not receive a good experience from her original solicitor. She remembers a time where he told her that he was going to drop her case but still demanded payment from her.

Through other Albanian nationals, Ola was connected with Shpresa Programme and Islington Law Centre. Ola was advised to pursue both an asylum claim and to enter the National Referral Mechanism to be recognised as a victim of human trafficking. There were long delays in her asylum and trafficking claims being processed. She remembers feeling terrified and hopeless after, waiting almost a year, she received no update from the Home Office about the progress of her claims.

In December 2022, she received a positive conclusive grounds trafficking decision based on a positive assessment of her credibility. She was granted leave to remain as a victim of trafficking for twelve months. However, the Home Office refused Ola's asylum claim for the opposite reason, making negative assessments of her credibility. The reasons for refusal letter (RFRL) did not adequately explain why the decision-maker reached a different assessment of her credibility to the National Referral's Mechanism's Competent Authority; did not properly engage in detail with the dangers facing her in Albania from her ex-boyfriend and father; failed to deal adequately with strong medical evidence indicating Ola's serious mental health needs; and ignored case law on internal relocation.

Ola's physical and mental health have been greatly affected by her experiences. She has required extensive support and continues to need mental health treatment, including medication and regular counselling. Ola fears re-trafficking and further gender-based serious harm on return to Albania. She fears that her ex-boyfriend, who took advantage of her vulnerability and exploited her, will be able to locate her given that Albania is a small country. She also fears her own family in Albania, as her experience of rape will be viewed as extremely shameful. Ola would be returning to Albania as a vulnerable lone female, recognised victim of trafficking suffering from serious physical and mental health conditions and without family support.

Ola is currently pursuing an appeal against the Home Office's refusal of asylum.

Case studies 5 and 6: Blood feuds

According to the Home Office's 2022 CPIN on Albania and blood feuds, the notion of blood feuds stem from the Kanun – or customary – law of Albania, most often adhered to in rural communities. The feud can be resolved in three ways – mediation, forgiveness, or revenge, normally involving a murder. However, all close family members must agree before a course other than murder is agreed upon. While the number of blood feuds is low and declining, “Blood feuds continue to occur – although it is not clear how many of these are existing or new feuds - with the phenomenon stemming from Kanun (customary) law. They are most prevalent in the northern areas of Albania, in particular Shkodër, Lezha, Kukes and Diber.” (2.4.2). There are at least seventy up to a few hundred families affected, out of a population of around three million. Blood feuds, as the name suggests, runs with a family – particularly the male line. Sons will be expected to obtain revenge on behalf of their fathers and grandfathers, exacting revenge on sons and grandsons of the initial progenitor of the feud.³²

Ervin's story is one such example of a violent persecutory blood feud.

Ervin's story

Ervin was born in Durrës, a populous city in the west of Albania.

³² <https://www.gov.uk/government/publications/albania-country-policy-and-information-notes/country-policy-and-information-note-blood-feuds-albania-september-2022-accessible>

Unknown to Ervin, his grandfather had become embroiled in a blood feud with a neighbouring family for reasons which were not clear even to the family. Since Ervin's grandfather had died, this made Ervin and his father targets for the individuals seeking revenge. Ervin's father borrowed money from criminal lenders in order to pay off the opposing family but, given high rates of interest, in a short time he could not repay the money.

When Ervin was 15, three men approached him in the street, revealing AK-47 guns underneath their jackets. They threatened him on a number of occasions saying if his dad did not repay the loan he would have to pay for it. His father took him to Italy to stay with his sister who lived there, and to escape from the men who were threatening him. In Italy he was kidnapped and made to work for three months in a grow house under threat of severe beatings and death. He was guarded by men with guns.

When the plants in the grow house were ready for harvesting, Ervin was trafficked alone to north London and kept under armed guard in a house for four months, where he was forced to grow cannabis plants. The heat from the lamps would make him feel unwell and poor-quality lighting meant that he often cut himself on the knives he had to use to cultivate the cannabis plants. The house had no running water, which meant that Ervin could not clean himself properly and that the conditions were dangerous and unsanitary. Ervin was completely reliant on his traffickers for food, water and other essentials for basic survival.

Ervin's traffickers would often smoke the cannabis growing in the house. One day police vans parked outside the house and the traffickers fled. Ervin was able to escape and, through another Albanian man who he met, was referred to an immigration solicitor to seek protection. Ervin remembers that the initial meeting with this solicitor lasted only ten minutes, with the man seeming dismissive, uninterested and inattentive.

Ervin found it a struggle to explain what happened to him. His words to his original solicitor were that "he got into trouble with some people". Ervin found it traumatic to speak in detail about his injuries and experiences – and even to this day his account to his solicitors is not fully complete – but his eventual solicitors at Islington Law Centre and medical experts have described his injuries as consistent with cultivation of cannabis plants.

It was only through meeting an Albanian national from Shpresa that Ervin was able to secure access to Islington Law Centre. It took intensive meetings once a week for five to six months to produce a statement which could be used as part of an asylum claim.

There were severe delays awaiting a decision on Ervin's asylum claim. From start to finish, it took almost five years for the Home Office to reach a decision, sometimes involving lengthy periods without updates from the Home Office. Ultimately, Islington Law Centre served the Home Office with a Pre-Action Protocol (PAP) letter threatening a judicial review if the Home Office did not make a decision swiftly. The Home Office responded that they would do so within three months of the letter. Only just within this three-month period, the Home Office decided to grant Ervin asylum.

Arber's story

Arber is a male Albanian national who was born and raised in a small village of approximately 30 houses in Peshkopi, Diber in northern Albania. He arrived in the UK when he was 16 years old.

He has five older sisters, and he is the only son and the youngest child of the family. One of his sisters was born with significant health problems. She has been paralysed since birth and requires around the clock care with all her tasks. The family was stigmatised in the community due to his sister's health condition and if anyone came to visit, they would have to move her to another room where she was out of sight. The family's financial position was not good and they always struggled. Arber remembers being hungry a lot.

Arber's father was an angry and aggressive man who would shout and hit all the family members other than his sick sister. He started beating Arber when he was around 5-6 years old and he was beaten 2-3 times per week. Arber remembers being very afraid of his dad.

When Arber was around 9 years old, he overheard that his father had borrowed money from some men in Albania and that his family were now in trouble because the men wanted this money back. He later asked his mother about this and she confirmed that the money was borrowed to take his sister to Turkey for treatment. The situation was very tense at home and although his father worked, he had no way of paying this money back. He asked others to lend him money to pay back the loan, but they refused.

Sometime after he saw two men at his house asking his father for money. His father instructed Arber to tell the men that he would do anything for them to pay the money back. Shortly after, Arber saw the men waiting for him outside school and they told him that he would transport drugs for them across Albania to pay off his father's debt. He did this 3-4 times per week and when he told his father he did not want to do it, he was beaten. The gang members made threats of harm against his family if he did not work for them, and especially against his sisters.

On two occasions, a bag of drugs was stolen from him - first when he was 11 and second when he was 13 – and on both occasions he was beaten severely by the gang members. He sustained serious long-lasting injuries.

Sometime later the men told him that they had work for him abroad. They told him he would be working in Hungary in a restaurant washing dishes. He left Albania with his father, and his father left him with the men in Budapest. The men took him in a taxi to Belgium where he was forced to work in a cannabis house. After some time, he was told he is being sent to the UK. On the lorry into the UK, he met another man being trafficked and told him his position. The man helped him escape before the lorry stopped at the destination and dropped him off outside a solicitor's office.

Arber was not effectively represented by his initial solicitors. In 11 months, the only work he could see that had been done was a witness statement presented to the Home Office which was 1.5 sides of A4. It simply detailed his journey to the UK and gave no information of his problems in Albania or with the gang. He did not have many appointments with his initial solicitors and the contact was rare.

Arber was introduced to Shpresa and Islington Law Centre through the Breaking the Chains Project, and he began sharing information with the advocate at Shpresa. After ILC took conduct of his case,

he was referred to the National Referral Mechanism as a victim of trafficking, medical evidence was obtained, and a detailed witness statement was taken. Due to a lack of trust in professionals and his experience with his former representatives, it took significant time before Arber was able to disclose full details what he had been through. He had also been conditioned by his father into believing it was his choice to work for the gang and so it took time for him to accept and admit that he had been forced into this work.

Since being in the UK, Arber was located by the same two men who forced him to work in Albania and Belgium, and he was re-trafficked while in the UK. He was kidnapped by them outside of college. He was then caught by the police in the UK and there was an ongoing criminal case against him for those activities. This was eventually resolved by Arber pleading guilty to possession of cannabis. He was given an absolute discharge for the possession of cannabis charge.

The delay Arber faced with the National Referral Mechanism and his asylum claim were very significant. From the point of receiving a positive reasonable grounds decision, Arber waited 13 months until a positive conclusive grounds decision was made. In addition, the Home Office took four years and three months after Arber lodged his asylum claim to reach a decision. He was granted humanitarian protection rather than asylum. This was reversed on appeal, just one month shy of five years after he claimed asylum.

II. Common experiences illustrated by the case studies

These case studies illustrate five failures of the UK's asylum system:

1. Difficulty accessing quality legal advice and representation;
2. Difficulty making personal and traumatic disclosures;
3. Systemically poor Home Office decision-making;
4. Destitution due to grossly inadequate financial support; and
5. Encouraging return to unsafe countries.

Difficulty accessing quality legal advice and representation:

The first challenge illustrated by these case studies is the struggle that asylum applicants face to access quality legal aid solicitors for legal advice and representation.

“Legal aid” refers to state-funded legal advice or representation available free of charge to the individual receiving it. Legal aid comes in two forms: “legal help” and “legal representation”. Legal help refers to initial advice and assistance to resolve a problem, including specialist casework to help with the assessment of the merits of a claim, to correspond and negotiate with the other party, and to progress a claim towards a court or tribunal. Legal representation refers to formal representation by a solicitor or a barrister in court or at a tribunal.³³ Under major reforms to the

³³ Equality and Human Rights Commission, ‘The impact of LASPO on routes to justice’ (2018). Available at <https://www.equalityhumanrights.com/sites/default/files/the-impact-of-laspo-on-routes-to-justice-september-2018.pdf>

scope of legal aid in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, asylum claims remain covered by legal aid, unlike most other immigration matters.

As the Solicitors' Regulation Authority (SRA) stated in its 2024 thematic review of asylum legal services:

Like all users of legal services, it is important that [asylum seekers] receive appropriate good quality legal advice and services. For people who use asylum services, the consequences of poor advice can be particularly severe, long-lasting, and difficult to rectify – for example, it may result in them incorrectly being returned to a country they felt compelled to leave and where they could suffer harm.³⁴

Despite the importance of accessible legal advice for asylum seekers, the current immigration and asylum legal aid system is widely recognised as a “legal aid desert”, where individuals struggle to obtain quality advice and where practitioners struggle with capacity.³⁵ A key reason for this is that, prior to the Lord Chancellor announcing an emergency increase in rates in December 2024,³⁶ legal aid rates had not increased for thirty years. Indeed, after inflation, they had lost almost a third of their value since 1997.³⁷ The result is that 66% of people in England and Wales cannot access an immigration legal aid lawyer when they need one.³⁸

In addition, as a 2023 report by the Public Law Project reveals, approximately 73% of immigration solicitors do unfunded, unbillable work every day and a third expect to do less immigration work in future and even foresee leaving the immigration market entirely. On top of this, only 3% of referrals made by solicitors seeking to find legal representatives for asylum seekers are successful.³⁹ Furthermore, for the first time in September 2024, there was a decline in the number of immigration legal aid offices – from 226 to 222 across England and Wales.⁴⁰

Given the difficulty accessing legal aid solicitors, many asylum seekers are forced to try to represent themselves. At least 54,555 people, or 57% of main applicants claiming asylum or appealing a refusal in the First-tier Tribunal, are now unable to access a legal aid representative.⁴¹

³⁴ <https://www.sra.org.uk/sra/research-publications/thematic-review-asylum-legal-services/>

³⁵ Daniel Rourke, Ed Cripwell, Joseph Summers and Jo Hynes, *Adrift: An explainer for Navigating the Immigration Legal Aid Framework* (September 2023, Public Law Project. Available at <https://publiclawproject.org.uk/content/uploads/2023/09/Adrift-explainer.pdf>

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³⁷ Written evidence submitted by the Wilson Solicitors LLP, Public Accounts Committee inquiry into the effectiveness of LASPO (March 2024). Available at <https://committees.parliament.uk/writtenevidence/128763/html/>

³⁸ <https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/a-decade-of-cuts-legal-aid-in-tatters>

³⁹ <https://younglegalaidlawyers.org/young-legal-aid-lawyers-release-a-new-report-overstretched-unsustainable-a-case-study-of-the-immigration-and-asylum-legal-aid-sector>

⁴⁰ National Audit Office, 'Government's management of legal aid', (2023-24, HC 514), para 1.15.

⁴¹ Jo Wilding, 'Stemming the tide: The case for demarketising the legal aid sector' (6 November 2024). Available at <https://ilpa.org.uk/stepping-the-tide-the-case-for-demarketising-the-legal-aid-sector/>

As MiCLU has put it, while challenges accessing quality legal advice are not unique to Albanians, they nevertheless face specific challenges given the will to remove them from the UK:

Whilst it is increasingly difficult for anyone to secure legal representation in the UK, Albanians face particular difficulties because of the nature of their cases. Any asylum claim for an Albanian...is unlikely to be successful without significant expert testimony to identify and explicate key risks and outline areas where the claimant's individual circumstances are at odds to the country guidance... For example, at MiCLU we regularly support young Albanians to achieve successful outcomes in their claims by ensuring that we include expert testimony in their applications. It is not unusual for a successful case for have in the region of £5,000 worth of disbursements to secure expert testimony alongside our own costs in the region of £8-10,000. Holding this level of cost through the lifetime of a case is not possible for many firms and is only possible for us due to charitable funding. The result of this for young people is that it is increasingly difficult for us to secure representation for them. Currently we have a large waiting list of young people in need of representation.⁴²

A striking illustration of the struggle that asylum applicants face accessing legal advice is Timi's boyfriend feeling compelled to borrow £4000 to pay for a solicitor because he was unable at that time to secure the services of a legal aid lawyer for Timi's urgent circumstances in detention. Furthermore, Ola highlights an experience where she could not access her solicitor adequately once she found one, because his office was in a location which she could not easily access without public transport and she had very little money.

This funding environment has major consequences for the quality of legal advice provided to asylum seekers. As a solicitor at Islington Law Centre put it:

While we are reluctant to criticise other legal representatives, there are too many examples of where legal advice was not provided in a trauma-informed way, especially for unaccompanied children. More often, this is because of the funding regime rather than any competence issues with the legal representatives. In fact, the way legal services are funded does not encourage patient, holistic work with clients. Instead, it encourages a transactional, one-in one-out mentality. There is also the problem that legal aid funding does not cover basic things that would provide traumatised people with support, such as counsellors or support advocates to help emotionally guide people through asylum interviews, medical assessments and applications.

In 2018, the Solicitors' Regulation Authority commissioned a review on the quality of legal advice provided to asylum seekers. The review concluded that there were several serious obstacles to asylum seekers obtaining quality advice, including: difficulties identifying a quality immigration solicitor, with many community referrals to low-quality providers, and time constraints on

⁴² <https://miclu.org/assets/uploads/Brook-House-Albanian-asylum-seekers-mental-health-risks.pdf>

practitioners' availability because of overburdened practices.⁴³ A 2024 thematic review of compliance within asylum legal services reiterated these concerns.⁴⁴

Almost all participants noted that, prior to their contact with Islington Law Centre, they did not believe that their legal advisers were able to provide an adequate service. Meetings with legal advisers often felt rushed, impersonal and insensitive. Participants felt pressured to disclose private and traumatic information before they were ready to trust their solicitor. For example, Ervin noted that his first meeting with his initial solicitor lasted ten minutes and that he received very few updates about the progress of his case after that. Moreover, despite 11 months of work and disclosures from Arber, Arber's initial solicitors were only able to produce a witness statement of 1.5 sides of A4 for the Home Office.

Difficulties making personal and traumatic disclosures:

The second challenge illustrated in these case studies is the difficulty that asylum seekers experience disclosing highly personal and often traumatic information the Home Office and thereby being able to submit effective claims. As many of these case studies demonstrate, reaching the point of a completed, high-quality, evidence-rich asylum claim is challenging.

If asylum seekers are not supported to disclose relevant and important information and evidence it satisfactorily, a claim or appeal is likely to be wrongly refused, leading to a higher rate of successful appeals and risks of serious harm through wrongful returns. In this report's case studies, these consequences are particularly stark in relation to Timi, who attempted to hang himself twice after his claim's initial refusal, and Hasan who became street homeless between 2019 and 2022 after his claim's refusal.

In the context of this report's case studies, a strong example of multifaceted, complex and interacting vulnerabilities impeding effective communication with the Home Office for the purposes of an asylum claim is Timi. The primary reason that Timi struggled to effectively complete his initial asylum claim was his shame. He tried very hard not to think of himself as gay. He had never met anyone who called themselves gay and he had no language with which to discuss his sexuality and identity. He had had no intimate relationships. He was in fear of his life and even some years after these experiences he could not articulate what had happened to him. It took skilled work from the Shpresa Advocate to enable him to speak with Islington Law Centre and disclose in detail the basis of his asylum claim.

Moreover, due to his experiences, Timi had serious mental health problems on his arrival in the UK and this acted as a further barrier to disclosure. Although Timi now works and has a boyfriend of seven years who has also been granted asylum, he remains vulnerable and very anxious. He has

⁴³ <https://www.sra.org.uk/globalassets/documents/sra/research/asylum-report.pdf?version=4a1ab3>

⁴⁴ <https://www.sra.org.uk/sra/research-publications/thematic-review-asylum-legal-services/>

not been able to engage with mental health services as he continues to struggle to articulate his feelings and fears.

In addition, Timi had advised his head teacher at school in Albania of the violence he was subjected to. The teacher was not unsympathetic but advised him to “man up” and did nothing about the assaults. Timi’s father had abused rather than protected him. Timi lacked trust in authorities as he constantly feared he could be returned to Albania. It took years for him to develop a relationship with Shpresa staff and confide in them. The assumption that he was able simply to share this information with the Home Office is unrealistic. It took dedicated work, often for months at a time.

What is more, for cultural reasons Timi had no language with which to speak of his sexuality. It was only after he had been in the UK for more than a year that he realised there were pubs and clubs for gay people and that some people saw it as acceptable to be gay.

Finally, Timi did not know that sexuality could be the basis of an asylum claim. Therefore, given his shame, his preference was not to mention it – not just as shameful but as irrelevant to his interactions with the Home Office.

The Home Office’s ability to adequately identify asylum seekers requiring additional support has long known to be patchy. The Home Office will conduct an initial “screening interview” prior to a substantive “asylum interview”, which is designed to identify any additional needs of the asylum seeker, such as housing, financial support or mental health support. This could involve the Home Office referring the asylum seeker to support services.⁴⁵ However, in the Independent Chief Inspector of Borders and Immigration’s 2018 inspection of asylum casework, he noted that Home Office’s approach was largely governed by the individual attitudes of caseworkers rather than guided by consistent training or strategy.⁴⁶

There were no quality assurance processes for screening interviews until the ICIBI recommended this in 2021,⁴⁷ which the Home Office accepted the same year.⁴⁸ Similarly, only in 2017 did the ICIBI recommended standardised training for identifying vulnerability,⁴⁹ which the Home Office accepted only in 2021.⁵⁰ Unfortunately, the scale of the met and unmet need is unclear. In his 2023 inspection report, the ICIBI recommended that the Home Office routinely collect data on

⁴⁵ <https://www.gov.uk/claim-asylum/asylum-interview>

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https://assets.publishing.service.gov.uk/media/5c35bbbf40f0b644683036ad/ICIBI_inspection_of_the_Home_Office_safeguarding_of_Vulnerable_Adults_Feb-May_2018.pdf

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https://assets.publishing.service.gov.uk/media/6194e64f8fa8f50380e90241/An_inspection_of_asylum_case_work_August_2020_to_May_2021.pdf

⁴⁸ <https://www.gov.uk/government/publications/response-to-an-inspection-of-asylum-casework/the-home-office-response-to-the-independent-chief-inspector-of-borders-and-immigrations-report-an-inspection-of-asylum-casework-august-2020-to-may#introduce-calibre-assurance-assessments-for-screening-interviews>

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https://assets.publishing.service.gov.uk/media/5a81eacfed915d74e6234cf3/An_Inspection_of_Asylum_intake_and_casework.pdf

⁵⁰ <https://www.gov.uk/government/publications/response-to-an-inspection-of-asylum-casework/the-home-office-response-to-the-independent-chief-inspector-of-borders-and-immigrations-report-an-inspection-of-asylum-casework-august-2020-to-may#introduce-calibre-assurance-assessments-for-screening-interviews>

vulnerabilities identified in screening interviews so that the scale of asylum seeker vulnerability was known.⁵¹ The Home Office accepted this recommendation in February 2024.⁵² In October 2024, Home Office’s Asylum Mental Health and Wellbeing Team published examples of good Trauma-Informed Practice.⁵³

Systemically poor Home Office decision-making:

Delays in Home Office decision-making

The third concern which these case studies illustrate is the serious delays which are common across many forms of Home Office decision-making; from asylum claims to decisions about recognising victims of human trafficking. In these case studies, the worst instances of Arber and Hasan’s stories involving a four-and-a-half-year and a two-and-a-half-year delay respectively for an asylum decision and a conclusive grounds trafficking decision.

While not exclusively to blame, these long delays are connected with the UK’s large backlog of asylum claims. For example, as of September 2024, there were 97,170 cases awaiting an initial decision.⁵⁴ Waiting times for asylum decisions in the UK are consistently longer than other European countries.⁵⁵ According to the latest available figures, 68% of asylum applicants wait six months or more for an initial decision.⁵⁶ This is despite the UK being below the European average for the number of asylum claims received.⁵⁷

The time taken for a decision via the National Referral Mechanism for recognition as a victim of human trafficking is similarly egregious. For the year 2024, for example, the average time taken from referral to conclusive grounds decision was between 542 and 601 days.⁵⁸

After the Home Office abolished a six-month target for deciding most asylum claims in 2019,⁵⁹ since 2021 the Independent Chief Inspector of Borders and Immigration (ICIBI) has called on the Home Office to produce and implement a so-called “service standard”, a public document setting out what expectations asylum applicants should have of the Home Office while their claims are being processed. The ICIBI concluded that this should include a commitment that ordinary claims

⁵¹ <https://www.gov.uk/government/publications/an-inspection-of-asylum-casework-june-october-2023>

⁵² <https://www.gov.uk/government/publications/response-to-an-inspection-of-asylum-casework-june-to-oct-2023/response-to-an-inspection-of-asylum-casework-june-to-oct-2023>

⁵³ <https://www.gov.uk/government/publications/asylum-mental-health-workstreams-tools-and-case-studies/workstreams-tools-and-case-studies-by-the-home-office-asylum-mental-health-and-wellbeing-team-accessible>

⁵⁴ <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-september-2024/how-many-cases-are-in-the-uk-asylum-system>

⁵⁵ <https://migrationobservatory.ox.ac.uk/resources/briefings/the-uks-asylum-backlog/>

⁵⁶ <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-december-2022>

⁵⁷ <https://researchbriefings.files.parliament.uk/documents/SN01403/SN01403.pdf>

⁵⁸ <https://www.gov.uk/government/statistics/modern-slavery-nrm-and-dtn-statistics-april-to-june-2024/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-2-2024-april-to-june#national-referral-mechanism-referrals>

⁵⁹ <https://www.civilserviceworld.com/professions/article/home-office-scraps-sixmonth-target-for-asylum-decisions>

should take no more than six months to decide.⁶⁰ In 2024, the Home Office accepted this recommendation and suggested that it would happen within six months of the commencement of the Illegal Migration Act 2023.⁶¹ However, no discernible progress has been made at the time of writing.

Delays can often impose gruelling mental health consequences on asylum applicants. As Ola put it in her interview: *“Waiting for the Home Office to decide was a horrible time in my life. I remember it reached a year and we heard nearly nothing and I was really scared. I was thinking, does this mean they didn’t believe me? Does this mean I’m going to be sent back to Albania to get hurt? It was horrible and I can’t repeat it.”*

In addition, research by Islington Law Centre’s Migrant and Refugee Children’s Legal Unit has demonstrated that severe delays in the processing and administration of trafficking claims by the Home Office significantly increases the risk that children and teenagers are re-trafficked while in the UK. Specifically, interviews with young Albanians seeking asylum in the UK found that young people are being kept in a desperate holding pattern for years waiting for an asylum decision, leaving them unoccupied with very little money, anxious, and socially isolated. Immigration laws do not allow them to work, get apprenticeships, progress in higher education or to get a driving licence. Unable to pursue skills training or employment, these vulnerable young people are deprived of both emotional and social development as they transition to adulthood. This increases the risk that young people are driven into exploitation by traffickers and criminal gangs, particularly for forced labour, sex work and drug dealing.⁶²

UN High Commissioner for Refugees’ recommendations for reducing delays in Home Office decision-making

Between 2011-12 and 2021-22, there was a 62% decline in productivity in the Home Office’s asylum casework team, despite an increase in the size of that team.⁶³ Therefore, just increasing the number of people making decisions will not necessarily be enough to reduce delays. There needs to be a proactive and determined effort to increase the Home Office’s productivity alongside its size. The UN High Commissioner for Refugees (UNHCR) believes that this should be done through greater triaging and prioritisation in Home Office asylum decision-making: *“Triaging cases will enable those with vulnerabilities and/or meritorious claims to obtain the protection they need on a timely basis.”*⁶⁴

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https://assets.publishing.service.gov.uk/media/65e06d45f1cab36b60fc47ad/An_inspection_of_asylum_casework_June_to_October_2023.pdf

⁶¹ <https://www.gov.uk/government/publications/response-to-an-inspection-of-asylum-casework-june-to-oct-2023/response-to-an-inspection-of-asylum-casework-june-to-oct-2023>

⁶² <https://miclu.org/into-the-arms-of-traffickers>

⁶³ <https://freemovement.org.uk/two-ways-to-address-the-asylum-backlog-and-improve-access-to-justice/>

⁶⁴ <https://www.unhcr.org/uk/media/unhcrs-guide-asylum-reform-united-kingdom>, para.7.

Specifically, the UNHCR suggested Home Office should develop and implement a programme of triaging and prioritisation within the Home Office as soon as practicable, including greater use of pre-filled templates, especially for high grant countries; making claims on the papers without interviews for more high grant countries; and creating “tracks” such as manifestly unfounded, manifestly well-founded, and atypical claims to ensure appropriate prioritisation and thematisation.⁶⁵

However, any triaging must be implemented in a way that is procedurally fair. The Home Office’s current approach to triaging in Streamlined Asylum Processing (SAP) has too often failed this test. SAP is used for a small number of high-grant countries with success rates of 95% or over. This includes Afghanistan, Eritrea, Libya, Syria, Yemen, Iran and Iraq.⁶⁶ The ICIBI’s 2023 report on asylum casework noted a range of concerns in relation to the written questionnaire used for SAP: “The main issues related to the questionnaire being too long, overly complicated, only available in English with no foreign language versions, and having a short deadline (20 working days) to return it.”⁶⁷ Before greater streamlined processes are introduced, these concerns would need to be addressed as a matter of urgency.

Furthermore, the Home Office must ensure that any efforts to speed up decision-making do not undermine quality. Since 2023, for example, there is evidence that efforts to deal with the legacy backlog have had negative implications for the quality of decisions – with the Home Office prioritising merely the making of decisions rather than making them well. As the ICIBI put it in his 2023 inspection of asylum casework: “Routine quality assurance on interviews and decisions has...been sacrificed for increased productivity. This has the potential to add to the appeals queue as a result of poor-quality refusals, and to further prolong the length of time a claimant’s life is put on hold.”⁶⁸

Quality of Home Office decision-making

In addition to delays in Home Office decision-making, these case studies illustrate how low-quality Home Office decision-making too often is. The reasons for refusal letter (RFRL) provided by the Home Office to Ola, for example, singularly failed to explain to her and her solicitors adequately the major reasons for refusal.

⁶⁵ <https://www.unhcr.org/uk/media/unhcrs-guide-asylum-reform-united-kingdom>

⁶⁶ <https://www.gov.uk/government/publications/streamlined-asylum-processing/streamlined-asylum-processing-accessible>

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https://assets.publishing.service.gov.uk/media/65e06d45f1cab36b60fc47ad/An_inspection_of_asylum_casework_June_to_October_2023.pdf p.48.

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https://assets.publishing.service.gov.uk/media/65e06d45f1cab36b60fc47ad/An_inspection_of_asylum_casework_June_to_October_2023.pdf

As a 2019 report by Freedom from Torture noted, the poor quality of Home Office decisions has been evident for at least two decades. While there are many reasons for this which can change over time, there are equally ongoing issues. This is especially in relation to flawed credibility assessments, with the Home Office wrongly taking as its starting point a “culture of disbelief” and a “culture of refusal”, and an inadequate learning culture and lack of independent oversight.⁶⁹

In addition, the ICIBI flagged in its 2021 asylum casework report the following causes of poor Home Office decision-making: the Home Office’s pervasive use of template refusal letters with inadequate engagement with the specific facts of a case; high turnover of staff, with few experienced caseworkers; and poor asylum interview quality, with regular failures to obtain relevant or sufficient information to make a fair decision.⁷⁰

The result is that, where the Home Office refuses an asylum application, almost half of appeals to the tribunals are successful.⁷¹ As the ICIBI has put it, the Home Office too often prioritises the quantity of decisions rather than their quality.⁷² The financial cost of this failure to make timely, accurate decisions is immense. The Home Office spends around £8m per day accommodating asylum seekers in hotels awaiting decisions and the outcomes of appeals.⁷³

The ICIBI 2021 report on asylum casework is instructive on what training to prioritise, including: how to use screening interviews to identify vulnerabilities and safeguarding issues; how to carry out fair and effective substantive interviews; and quality assurance good practice advice. ICIBI recommended that any training should take a “face behind the case” approach, recognising that asylum claims are sensitive and can involve traumatised people.⁷⁴

Inability to meet basic needs due to grossly inadequate financial support

A fourth concern illustrated by these case studies is the inadequate financial support provided to asylum seekers by the Home Office and local authorities.

To avoid the destitution, financial support from the Home Office is available to asylum seekers called “asylum support”. This is provided to asylum seekers when they are awaiting a decision from the Home Office about an asylum claim or are awaiting the outcome of an appeal. Asylum support is provided by virtue of section 95 of the Immigration and Asylum Act 1999 and the Asylum Support

⁶⁹ https://www.freedomfromtorture.org/sites/default/files/2019-09/FFT_LessonsNotLearned_Report_A4_FINAL_LOWRES_1.pdf

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https://assets.publishing.service.gov.uk/media/65e06d45f1cab36b60fc47ad/An_inspection_of_asylum_casework_June_to_October_2023.pdf

⁷¹ <https://www.refugeecouncil.org.uk/information/refugee-asylum-facts/top-10-facts-about-refugees-and-people-seeking-asylum/>

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https://assets.publishing.service.gov.uk/media/6194e64f8fa8f50380e90241/An_inspection_of_asylum_case_work_August_2020_to_May_2021.pdf

⁷³ Home Office Annual Report and Accounts 2022-23. Available at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1185849/Home_Office_Annual_Report_and_Accounts_22-23.pdf

⁷⁴ <https://www.gov.uk/government/publications/an-inspection-of-asylum-casework-august-2020-may-2021>

Regulations 2000. Moreover, local authorities have an obligation under section 17 and section 20 of the Children Act 1989 to provide support and accommodation for unaccompanied children – including asylum-seeking children. Support under section 17 can include financial support.⁷⁵

In 2022, in the case of *R (CB) v Secretary of State for the Home Department*, the Administrative Court decided that the Home Secretary’s failure to review asylum support under section 95 was unlawful and that support should accordingly be increased on an interim basis.⁷⁶ In 2023, the Home Secretary increased asylum support from £45 a week to £47.39 a week via the Asylum Support Regulations 2023, in a move that has been described as “pitiful”.⁷⁷ This follows a pattern of very small increases in asylum support. In 2021, for example, following a review, the Home Office decided to increase asylum support from £39.63 a week to £40.85 a week.⁷⁸ As of 2024, the rate of asylum support is £49.18.⁷⁹

Research by MiCLU indicates that Albanian asylum-seeking children are provided on average with around £35 per week from local authorities via their duties under the Children Act 1989.⁸⁰

In a 2023 report by Asylum Matters, the consequences of this meagre financial support for asylum seekers are set out starkly:

“Deprived of the right to work, people seeking asylum in the UK face a continuous struggle to meet their most fundamental needs. Without the ability to earn for themselves, people are forced to rely solely on government-provided financial support for survival... People are enduring life below the poverty line for months, and in many cases, even years while they wait for a decision on their asylum claim. The consequences are far-reaching, affecting their physical and mental health, and most painfully, casting a shadow over the lives of their children.”

As Asylum Matters explained in their earlier 2020 report, 92% they did not have enough money to buy essentials; 84% said that this included food; 63% could not always afford medicines; 75% could not afford cleaning products; and 95% could not afford public transport.⁸¹ Equally concerning, research by MiCLU suggests that the low-levels of financial support for Albanian asylum-seeking children by local authorities increases the risks that these young people will be

⁷⁵ Coram Children’s Legal Centre, ‘Local authority support for unaccompanied asylum-seeking children’ (May 2017). Available at https://www.childrenslegalcentre.com/wp-content/uploads/2017/05/Local-authority-support-for-unaccompanied-asylum-seeking-children.May_.2017.final_.pdf

⁷⁶ [2022] EWHC 3329 (Admin).

⁷⁷ <https://righttoremain.org.uk/pitiful-increase-in-home-office-asylum-support-payments/>

⁷⁸ <https://www.gov.uk/government/publications/report-on-review-of-cash-allowance-paid-to-asylum-seekers/report-on-review-of-weekly-allowances-paid-to-asylum-seekers-and-failed-asylum-seekers-2021>

⁷⁹ <https://www.gov.uk/asylum-support/what-youll-get>

⁸⁰ Christine Bedoe, ‘Into the Arms of Traffickers: An examination of how delays in asylum and trafficking decision-making increase the risks of trafficking for young asylum seekers’ (Migrant and Refugee Children’s Legal Unit, October 2021). Available at <https://miclu.org/assets/uploads/2021/10/Into-the-Arms-of-Traffickers-Main-Report.pdf>

⁸¹ <https://asylummatters.org/app/uploads/2020/10/Locked-into-Poverty-Life-on-Asylum-Support-Nov-2020-Web-Ready.pdf>

exploited by traffickers and criminal gangs while in the UK, given gangs can offer money in a way that local authorities cannot.⁸²

This issue arose with Hasan, who found it extremely difficult to survive on asylum support. The minimal support of – at that time - £40.85 per week was insufficient to cover his basic needs, meaning that Hasan regularly went without proper meals for days at a time, could not afford public transport to visit his solicitors, and could not afford to purchase new clothing. The same issue arose with Ola, who struggled to travel across London to see her solicitor because of the low levels of support available.

Encouraging returns to unsafe countries:

The fifth and final concern illustrated by these case studies is the expansion of the list of countries deemed to be safe.

Section 94 of the Nationality, Immigration and Asylum Act 2002 states that the Home Office must certify an asylum claim to be “clearly unfounded” if the applicant is entitled to reside within a specified list of countries, unless they are satisfied that the claim is not clearly unfounded. These countries include Albania, Ghana (in respect of men), Nigeria (in respect of men), Liberia (in respect of men) and Mali (in respect of men). These are referred to as the “white list”.⁸³ By virtue of section 28 of the Nationality and Borders Act 2022, the result of certification under section 94 is that even the earlier out of country right of appeal is removed. Both lists apply to adults as well as children. The Home Office has been able to certify asylum claims from Albanians as “clearly unfounded” since the Asylum (Designated States) Order 2003.

In this report’s case studies, Timi, Hasan and Ola all had their asylum and human rights claims certified as “clearly unfounded” under section 94. It is important to assess the concerns about clearly unfounded certifications alongside the concerns about the unavailability of legal advice and the obstacles that asylum applicants face effectively mounting claims and appeals. Because of shame, distrust of authority, and lack of legal awareness, Timi was unable to submit an accurate original asylum claim and accordingly it was refused and certified as clearly unfounded. Without Shpresa and Islington Law Centre, he would have been returned to Albania with no right of appeal. The clearly unfounded procedure – combined with legal advice and struggle communicating – weigh the system against vulnerable, legitimate applicants and increase the likelihood of wrongful, dangerous removals and returns to countries which are unsafe for those applicants.

On 17 April 2023, the then Minister for Immigration, Robert Jenrick MP, published a written ministerial statement announcing that the certification of human rights claims as clearly

⁸² Christine Bedoe, ‘Into the Arms of Traffickers: An examination of how delays in asylum and trafficking decision-making increase the risks of trafficking for young asylum seekers’ (Migrant and Refugee Children’s Legal Unit, October 2021). Available at <https://miclu.org/assets/uploads/2021/10/Into-the-Arms-of-Traffickers-Main-Report.pdf>

⁸³ https://miclu.org/blog/is-albania-a-safe-country#_edn1

unfounded under section 94 would not be required to go through “SPE” (second pair of eyes) quality assurance.⁸⁴

In addition, there was specific pressure to certify Albanian claims as clearly unfounded in a scheme codenamed Operation BRIDORA, which has existed since 2022. Of BRIDORA, the ICIBI said in its 2023 report, with DM referring to Home Office decision-makers:

Many DMs who had worked on Op BRIDORA told inspectors that they felt they had been “dropped in at the deep end”, as they received limited training for the work, and said that working exclusively on Albanian claims was a “big learning curve”, as those outside NSA and Detained Asylum Casework had no previous experience of writing certified refusals. Responses to the inspection survey indicated that working exclusively on high-refusal rate nationalities had a negative impact on DMs’ morale, as well as their ability to remain impartial. One DM described Op BRIDORA work as “demotivating” and said that they became “case hardened very quickly”. This affected their interview style as they “came across stronger and more disbelieving of the claimant as they tell you the same claim as the last claimant”.⁸⁵

In recent years, the Home Office’s approach has been to expand the list of countries deemed safe, including to countries where there are identifiable safety concerns. For example, section 59 of the Illegal Migration Act 2023 added Albania to the section 80A-80AA list in the Nationality, Immigration and Asylum Act 2002, through which asylum and human rights claims must be rendered totally inadmissible. By virtue of section 68(1) of the Illegal Migration Act 2023, the new section 80A(1) is not yet in force and will not come into force unless the Home Secretary designates an appropriate day in secondary legislation.

Under the amended section 80A(1), the Home Office will be required to declare an asylum claim inadmissible if it is made by a national of a designated “safe country”, unless there are exceptional circumstances justifying consideration of the claim (section 80A(4)). The result is that the Home Office will take no action to examine the claim and decide it according to evidence; the claim will simply not be assessed and will not proceed. There is no statutory right of appeal against the decision to declare a claim as inadmissible (section 80A(3)). The safe countries for section 80A purposes are contained in section 80AA and include EEA countries, as well as Albania.

Moreover, on 19 March 2024, the Home Secretary passed the Nationality, Immigration and Asylum Act 2002 (Amendment of List of Safe States) Regulations 2024, which added Georgia and India to the section 80AA white list.

This was despite serious safety concerns in India and Georgia, particularly for LGBTQI+ people, where discrimination and violence are frequent and where there is evidence of regular failures of

⁸⁴ <https://questions-statements.parliament.uk/written-statements/detail/2023-04-17/hcws716>

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https://assets.publishing.service.gov.uk/media/65e06d45f1cab36b60fc47ad/An_inspection_of_asylum_casework_June_to_October_2023.pdf 7.6.8.

state protection.⁸⁶ As Lord Scriven, a Liberal Democrat peer, has put it: “the Home Office is...living in the world of fantasy and fiction when it comes to safe countries”.⁸⁷

III. Recommendations for reform

This report has highlighted a series of severe, endemic failures of the UK’s asylum system, which can have life-altering consequences for people claiming asylum. They need urgent attention. This section takes each of the five failures in turn and identifies a set of priority actions and reforms identified in coordination with the asylum seekers themselves and their legal representatives.

Difficulty accessing quality legal advice and representation:

First recommendation: The Ministry of Justice should develop a long-term strategy for the sustainability of immigration legal aid within twelve-months.

Second recommendation: The Solicitors Regulation Authority should conduct a full updated review of the quality of asylum legal services, with a view to issuing good practice guidelines.

Third recommendation: The Office of the Immigration Services Commissioner (OISC) should require identifying and responding to client trauma to be a mandatory component of training for immigration advisers.

Difficulties making personal and traumatic disclosures:

Fourth recommendation: During the course of this Parliament, the Home Office should commission an independent expert review of Home Office’s progress towards making screening interviews more effective at identifying and responding to vulnerabilities.

Systemically poor Home Office decision-making:

Fifth recommendation: The Home Office should establish a cross-government task-force on delays in the asylum system, including representatives from the Ministry of Justice and the Treasury and produce a plan for reducing delays over the next twelve-months in a way which does not undermine the quality of Home Office decisions.

Sixth recommendation: The Border Security, Immigration and Asylum Bill should place on the Home Office an obligation to produce an asylum “service standard”, including a target that most decisions should take no more than six months, alongside a duty to report to Parliament annually on the fulfilment of that standard.

⁸⁶ <https://www.rainbowmigration.org.uk/news/stop-lgbtqi-people-being-sent-back-to-india-and-georgia/>

⁸⁷ House of Lords Hansard, 19 March 2024, Column 174.

Seventh recommendation: The Home Secretary should publish a strategy for improving Home Office decision-making drawing on previous recommendations made by the Independent Chief Inspector of Borders and Immigration (ICIBI) in his 2021 inspection, implementing this programme of reform over the course of the current Parliament. This should include reintroducing quality assurance for certifying clearly unfounded claims. Further, Parliament’s Home Affairs Select Committee should hold an annual evidence session during this Parliament on the quality of Home Office decision-making to assess progress.

Destitution due to grossly inadequate financial support:

Eighth recommendation: While recognising the Government’s financial position, the Home Office should review the financial support available to asylum seekers via “asylum support” with a view to setting a new rate which provides a fair and humane standard of survival over the course of this Parliament.

Encouraging returns to unsafe countries:

Ninth recommendation: Remove Albania from the section 94 and section 80AA “white lists” in the Nationality, Immigration and Asylum Act 2002.

Tenth recommendation: Repeal the Illegal Migration Act 2023.

Eleventh recommendation: Restore “second pair of eyes” (SPE) quality assurance for the certification of claims as clearly unfounded under section 94 of the Nationality, Immigration and Asylum Act 2002.