

ROMA BELONG



Statelessness, Discrimination and Marginalisation of Roma in Albania

FEBRUARY 2018

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



European
Network on
Statelessness





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Table of Contents

1	Introducing the Interviewees	3
2	Introduction	7
	2.1 Methodology	8
	2.2 About Roma	9
	2.3 Discrimination and Statelessness	11
3	Roma and Statelessness in Albania	13
	3.1 Roma	13
	3.2 Statelessness	16
4	Relevant International and Regional Standards and Mechanisms	19
5	National Law and Policy Framework	21
	5.1 Nationality	21
	5.2 Equality and Non-Discrimination	23
	5.3 Statelessness in National Law	25
6	Birth Registration and the Risk of Statelessness	27
	6.1 Birth Registration Procedure and Challenges	27
	6.2 Legalisation of Documents of Children Born Abroad	32
	6.3 Legal Aid	33
	6.4 Addressing Statelessness	34
7	Marginalisation, Poverty and Exclusion	37
	7.1 Access to Employment	37
	7.2 Housing Conditions	38
	7.3 Access to Healthcare	39
	7.4 Access to Education and Literacy	40
8	Conclusions and Recommendations	43
9	Acknowledgements	47
10	Bibliography	49

1. Introducing the Interviewees

For the purposes of writing this report, 14 Roma individuals and families who experience statelessness or the risk of statelessness were interviewed. Below are short case studies presenting their stories.¹

Adelina is a mother of three children. She and her husband, who are Albanian citizens, and their eldest child moved to Greece and lived there for almost ten years, but they had no legal status there. Their eldest child had been born in Albania and was registered in the civil status office of Albania. During their stay in Greece, Adelina gave birth to two more children. Due to their parents' irregular status the birth of the children was registered as a matter of fact with key information, such as their names, missing. When their children were nine, six and five years old, they returned to Albania. Adelina insists on the fact that she is extremely poor, she and her husband do not receive any social welfare, and their children are not accepted in school and kindergarten because they do not have any valid documentation. Their Greek birth certificates are not accepted in Albania as they do not include the children's names and are not in the required legal format which is accepted by the civil status office. They have been left in limbo. Adelina says that all she wants is for their children to be registered so they can get help from the state.

Kujtim and **Rovena** are Albanian citizens. They are married and live in a city in the south of Albania. A lot of Albanians from this city, including many Roma, travel to Greece to work. During one of their stays in Greece one of their children was born. She is now three years old and is at risk of statelessness, as she does not have proper documentation – her birth certificate is in Greek and inaccurately records her parents' information. Like Adelina's children, she cannot access kindergarten or healthcare.

Ilmi and **Lule** – both Albanian citizens – are the parents of a young girl who is unregistered and at risk of statelessness. They too irregularly lived in Greece, where Lule gave birth to their daughter in a maternity ward. She received a vaccination book and a certificate from the hospital. She never went to the civil status office to verify the registration and she does not possess any birth registration document. Greek nationality law says that children born in Greece whose parents have lived legally and permanently in Greece for five years can acquire Greek nationality. As they were not legal residents, their child cannot acquire Greek citizenship. Lule wants her daughter to be registered in Albania, but both Ilmi and Lule are aware that they do not possess the necessary documentation to register the birth of their child there.

Mimoza faces a similar problem. Her daughter was born in Greece, where Mimoza was living irregularly. Due to her poverty, after her child was born, she left the maternity ward without paying the medical fees. As a result, she did not receive any document. After some time, she went to the civil status office and obtained a birth certificate for her daughter. However, this birth certificate did not record the name of the girl. The authorities refused to record the child's name

1 Fictional names have been used to protect the identity of the interviewees.

because she was a foreigner and without legal residency. Mimoza then returned to Albania with her child and the birth certificate from the Greece Civil Status Office. She then went to the civil status office in Albania and asked to have her child registered. The Albanian authorities did not accept the document she had, claiming it was invalid because it was missing basic data such as the name of the child, it was in the Greek language and was not legalised.

Lumturi is an Albanian citizen. She and her husband irregularly migrated to Greece fifteen years ago. They separated and Lumturi began living with another Albanian national living without residence status in Greece, while she was still legally married. During this new relationship she gave birth to a girl and some years later to a boy. The children are registered without names in their certificates in Greece. After many years as undocumented migrants, she and her partner decided to come back to Albania. Her financial situation is extremely poor. Neither she nor her partner receive social support even though they are entitled to it. The children do not go to school due to the fact that they are not registered. They lack all other public services as well. She is asking for help from the State.

Shpresa is a young mother from Albania. She is stateless and does not have any document to prove her identity. She has two children who are stateless as well. Shpresa was born in the nineties while her parents were irregularly living in Germany. At the time of her birth, her parents gave a false declaration about their identity. Shpresa identifies herself as Albanian. She and her children speak Albanian. She does not remember living in Germany because her parents brought her back to Albania when she was a baby. Her father now is dead. Her mother is alive and is an Albanian citizen with documentation. Shpresa asked the authorities to be registered in the Albanian civil status office based on the document her parents gave her – a birth certificate issued by German authorities – and also by descent based on her parents' Albanian nationality. However, as she is an adult, she was informed that she has to apply for Albanian citizenship through a naturalisation process. Her children are not registered and she is depressed. She did not give birth to her children in a maternity ward because of her lack of documentation. As a result, her children are also unregistered. She says that it is not her fault her parents emigrated and that she does not have regular documents. She cannot fix her situation. She cannot travel, and due to her lack of documentation she cannot legally marry the father of her children, nor can she legally give anything to them.

Flutura is in a similar situation to Shpresa. She is the mother of three young children. All of them are unregistered. Flutura has no documents to prove her identity. She feels Albanian and speaks Albanian. She was born in Albania, but due to a fire in the hospital the documents proving her birth were burned. She asked the authorities to register her because she has no documents to prove her identity. The authorities said she is an adult and has to apply for naturalisation. Her children cannot be registered either. They were born out of the hospital and she does not have any documentation of their births. She is devastated. She cannot marry the father of her children who is an Albanian national. She is asking for help.

Eni is a young child of Albanian parents. His birth was never registered and he is at risk of statelessness. The reason for this situation is that he is intersex. Eni has born in a maternity

ward and does have a birth notification, but his sex is recorded as ‘hermaphrodite’. Eni’s parents explain that they have not registered him because the law does not provide any option to register the sex other than “male” or “female”. The parents say they feel ashamed about their child’s biological situation and they have kept this secret from other family members and the community they live in. They say that they want their child to identify as male and they have raised him like that. They have not registered him in school yet –mainly because they fear their child will not be accepted because he lacks identity documents. They say that this is not a matter of nationality, but instead a matter of birth registration. But Eni remains at risk of being stateless, a victim of social and also familial prejudice.

Tana is a Romani woman coming from a city located in Southeast Albania. She is married with two children. She has never been registered because her mother gave birth outside the maternity ward. She lived abroad for many years and has used false documents. Her life has been very difficult and no one from her family ever managed to have her birth registered.

Fatime is a sixty-four-year-old Romani woman from a city located in central Albania. She is the grandmother of two children aged seventeen and fourteen. Her grandchildren were born out of wedlock. The father never acknowledged paternity. The children were born in France where Fatime’s daughter was living for many years. After Fatime’s daughter returned to Albania with her children some years ago, she died in an accident. Fatime took the children into her care. They now live in Albania and Fatime is facing difficulties having them registered. She managed to get some documents from France, but found that her daughter had used a false identity. Therefore, Fatime cannot prove her relationship to the children, as the authorities are demanding valid documents. Fatime receives social support but the officials have warned her that if she does not register the children they will suspend her welfare payments.

2. Introduction

The stories of the interviewees set out above demonstrate the essence of the causes and impact of (the risk of) statelessness among Roma in Albania and the intergenerational issues it raises with its consequences for children. Discriminatory attitudes among officials and rigid bureaucratic systems play a role, as does the irregular migration of Albanians to Greece and other countries, and the failure of Albanian authorities to address the documentation challenges that arise. The resultant lack of documentation makes it difficult for affected Roma to establish that they are Albanian, which can result in their children also being denied documents and nationality rights.

While in general terms, the discrimination and marginalisation of Roma populations in Albania has received some attention, there is less awareness or information on the resultant risk of statelessness, how it is caused and whether this has an additional discriminatory impact on the rights of Roma. Consequently, this report, which draws on field research carried out in 2016-2017, looks at the nexus between statelessness and discrimination as faced by Roma in Albania. It emphasises the importance of recognising and addressing direct and indirect discrimination faced by Roma, and confronting prejudicial attitudes and stereotypes that undermine their equality. It also unearths various challenges that can be addressed through greater awareness, making minor policy adjustments, and scrutinising the prejudicial attitudes faced by Roma when they encounter state authorities.

This report is one of the outputs of a research and advocacy project of the European Roma Rights Centre (ERRC), Institute on Statelessness and Inclusion (ISI) and European Network on Statelessness (ENS) in collaboration with partner organisations in Albania (Tirana Legal Aid Society), Bosnia and Herzegovina (Vaša Prava), Kosovo (Centre for Legal Aid and Regional Development), Macedonia (Macedonian Young Lawyers Association), Montenegro (Mladi Romi), Serbia (Praxis) and Ukraine (Desyate Kvitnya), which aims to better understand and address Roma statelessness in European Union candidate and neighbourhood countries. In particular, it aims to contribute to:

1. Strengthening understanding of Roma statelessness in the research countries; its causes and the obstacles that stand in the way of solutions;
2. Strengthening the understanding, attitudes and capacity of Roma rights NGOs and activists to effectively mobilise to end Roma statelessness; and
3. Strengthening international, regional (EU, Council of Europe and OSCE) and national responses to Roma statelessness.

Two other project outputs complement this report. Another country report which looks at the situation in Ukraine, and a sub-regional report which primarily focuses on the Western Balkan countries of Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia, with additional

anecdotal information from Albania, Kosovo and Ukraine. The sub-regional report synthesises research carried out in 2016 and 2017 on discrimination and statelessness in these countries and draws out the key issues which require further attention, setting out a series of recommendations for national, regional and international actors.²

2.1. Methodology

Research for this report was carried out by the Tirana Legal Aid Society³, through desk research including an extensive analysis of existing literature, stakeholder mapping, and qualitative semi-structured interviews with Roma who are stateless or at risk of statelessness and other key stakeholders, including international agencies, national human rights institutions, NGOs, Roma rights groups, government officials, media and academics.

The Romani interviewees spoke to the research team about their own experiences and struggles in relation to the lack of documentation and (risk of) statelessness. Fourteen interviews (with individuals and families) were conducted, in which the reasons behind their situation and the consequences, both material and emotional, were discussed. The interviewees were mostly unemployed, living in poverty, and had accessed very limited formal education. Most of them emigrated periodically to maintain themselves, through casual jobs or begging. Almost all the interviewees reported facing serious obstacles in relation to accessing education for their children. Some of them faced the prospect of not being allowed to attend school if they did not present an identification document or a birth certificate. Many of the interviewees lived outside Tirana, but some were resident in Tirana. To protect the confidentiality of research participants, the interview data has been anonymised.

Additionally, fourteen interviews were conducted with other key stakeholders including Albanian government officials, social activists, Roma organisations, NGOs and UN agencies.

It is important to acknowledge at the outset some of the limitations of the research. The project considers the situation of different groups of people, encompassed here under the term ‘Roma’, who are diverse, and between whom the dividing lines are not always clear. The identification of statelessness is also very complex and the characteristics or circumstances that may put someone at risk of statelessness are difficult to generalise. In particular, the research includes those who have been denied documentation, who are at the very least at risk of statelessness, but who may not necessarily be stateless. It is also important to note that this is a small-scale qualitative study, and therefore provides an insight into the problem, and not

2 ISI, ENS, ERRC, *Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine*, October 2017. Available at: <http://www.errc.org/cms/upload/file/roma-belong.pdf>; Desyate Kvitnya, ISI, ENS, ERRC, *Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in Ukraine*, forthcoming (2018). Available at: <http://www.errc.org/article/roma-belong--statelessness-discrimination-and-marginalisation-of-roma-in-ukraine/4616>.

3 Tirana Legal Aid Society is an Albanian independent not-for-profit organisation. For more information about its activities visit: <http://www.tlas.org.al/en/about-tlas>.

a comprehensive overview of it. It identifies various issues which in turn could benefit from further research as part of the process of addressing them. The intention of this research was not to reach finite conclusions, but to shine a light on some of these complex issues, and begin to better understand the contributing factors.

As evident in the region⁴, and also in Albania, there are significant challenges to quantifying Romani statelessness. There are varying estimates, making it difficult to understand the scope of the problem and to address it through policy planning and responses. One of the reasons for large discrepancies in data is that individuals often do not dare to declare themselves as stateless and/or as Roma, as they fear negative consequences such as losing whatever social security they are entitled to receive or additional difficulties finding employment. Furthermore, not all stateless people are recorded in official data, precisely because they are often legally invisible. For various reasons, many individuals who might be stateless may intentionally avoid registration. This, for instance, is the case where stateless persons live as irregular migrants in a country and risk being detained or expelled if they are identified.⁵

Lastly, although ‘nationality’ and ‘citizenship’ in the Albanian language and context have different meanings⁶, for the purposes of this report the two terms are used interchangeably, as they are in international law.

2.2. About Roma

Roma are known as one of Europe’s oldest, largest and most disadvantaged ethnic minorities. The Council of Europe estimates there to be around 10 to 12 million Roma in Europe.⁷ The

4 ISI, ENS, ERRC, *Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine*, October 2017. Available at: <http://www.errc.org/cms/upload/file/roma-belong.pdf>.

5 De Verneuill M, *Statelessness of Romani People in the Western Balkans: Negligence or Discrimination?*, PhD thesis, 2016, p.49. Available at: http://fnasat.centredoc.fr/opac/doc_num.php?explnum_id=940.

6 Although ‘nationality’ and ‘citizenship’ are often used synonymously in international law, they have different meanings in the Balkans where ethnic-national affiliations did not always correspond to one’s legal tie with the State. In Albania, *shtetas* and *shtetësi* (‘citizen’ and ‘citizenship’) are the legal terms used to describe the legal bond between the state (*shtet*) and an individual. They only refer to this bond and the mutual rights and obligations it implies, without any reference to ethnicity. According to Article 1 (paragraph 1) of the Law “*On Albanian Citizenship*”, “*Albanian citizenship is a stable legal relationship which is expressed in the interrelated rights and duties between the physical person and the Albanian state*”. The term *shtetas* is sometimes used interchangeably with the term *qytetar* (citizen), where the latter has additional civic and political connotations. The latter term derives from the word *qytet* (city) and although originally it was used to distinguish city dwellers from others, the term *qytetar* is now usually used to describe all legal subjects of the political entity (state). In the legal terminology of Albania, *kombësia* (nationality) is used to designate the national belonging of a person, referring only to their ethno/linguistic affiliation and not to a legal tie. The term *komb* (nation) is used to describe a nation as a whole (in ethnic terms), regardless of the state of residence. There is also a distinction between *shtetas shqiptar* (Albanian citizen) and *shqiptar* (Albanian), the first term referring to persons that have legal bonds with the Albanian state (regardless of their ethnic origin) and the second referring to a person of Albanian ethnic origin. More information is available at: EUDO Citizenship Observatory: <http://eudo-citizenship.eu/databases/citizenship-glossary/terminology>.

7 Council of Europe, *Descriptive Glossary of Terms relating to Roma Issues*, 2012, p. 6. Available at: <https://rm.coe.int/1680088eab>.

majority of Roma have a nationality, and the number of stateless Roma in Europe is largely unknown, as disaggregated data is generally lacking, particularly in non-EU countries.⁸

The term ‘Roma’ usually encompasses a wide diversity of groups, with ‘*complex and multi-layered*’ identities.⁹ There are also people who do not identify as Roma at all – such as Ashkali and Egyptians – who are nonetheless the targets of antigypsyism.¹⁰ For the purpose of this report, as for the “Roma Belong – Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine”¹¹, the term ‘Roma’ is used to encompass all groups in the country who are subject to antigypsyism, in line with the Council of Europe definition¹², and commonly adopted by international organisations in the last decade. However, it is important to underline that not all members of these populations agree on the single use of this standardised autonym.¹³

Roma are widely regarded as one of Europe’s most marginalised communities. They experience discrimination and rights deprivations in various forms, including police brutality, school segregation and denial of the right to work.¹⁴ Data collected by countries participating in the EU Regional Cooperation Council’s Decade of Roma Inclusion (2005-2015) demonstrated that Roma continue to live on the margins of societies in Europe, with poverty, inequality, discrimination, substandard housing and high rates of unemployment widespread¹⁵, and that in comparison to non-Roma their situation can be considerably worse in all areas of life.¹⁶ In some countries a rise in anti-Roma hate speech and hate crime in recent years has also been registered.¹⁷

Adapted from **Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine**

- 8 Roma Integration 2020, *Roma in the Region, The size of the Roma Community in the Region*. Available here: <http://www.rcc.int/romaintegration2020/pages/3/roma-in-the-region>.
- 9 Council of Europe, *Factsheets on Roma Culture*. Available at: <http://romafacts.uni-graz.at/index.php/culture.1>.
- 10 Alliance against Antigypsyism, *Antigypsyism: a reference paper*, 2016. Available at: <http://antigypsyism.eu/wp-content/uploads/2017/07/Antigypsyism-reference-paper-16.06.2017.pdf>.
- 11 ISI, ENS, ERRC, *Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine*, October 2017.
- 12 Council of Europe, Roma and Travellers Team, <http://www.coe.int/en/web/portal/roma>.
- 13 Council of Europe, *Factsheets on Roma History: General Introduction*. Available at: <http://romafacts.uni-graz.at/index.php/history/general-introduction/general-introduction>.
- 14 ERRC, *Written Comments for Consideration by the European Commission concerning Roma Inclusion in the Western Balkans Progress Reports 2016*, 2016. Available at: <http://www.errc.org/cms/upload/file/ec-submission-on-roma-inclusion-in-the-western-balkans-july-2016.pdf>.
- 15 Decade of Roma Inclusion Secretariat Foundation, *Roma Inclusion Index 2015*, 2015. Available at: <http://www.rcc.int/romaintegration2020/files/user/docs/Roma%20Inclusion%20Index%202015.pdf>.
- 16 *Ibid.*
- 17 European Commission Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Report on the implementation of the EU Framework for National Roma Integration Strategies 2015 COM(2015) 299*, 17 June 2015, p. 9. Available at: http://ec.europa.eu/justice/discrimination/files/roma_communication2015_en.pdf.

2.3. Discrimination and Statelessness

*One can neither tell the story of statelessness, nor seek to finish it for good, without addressing the inequality and discrimination faced by its protagonists... statelessness cannot be eradicated unless discriminatory societal attitudes which view some people as less worthy of inclusion than others are comprehensively tackled.*¹⁸

A stateless person has no nationality – she is someone who is “*not considered as a national by any state under the operation of its law*”.¹⁹ As already set out in “Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine”²⁰, there are many widely recognised causes of statelessness and a closer look at each of them reveals that discrimination often has a role to play.²¹ Moreover, with regard to the nexus between administrative practices, documentation and discrimination it has been noted that ‘*bad administrative practices often enable discrimination and prejudice to be determinative of whether or not a person will be recognised as a citizen*’, particularly where officials have discretion in decision making.²² It is often vulnerable groups who are excluded, their statelessness a justification for their continued exclusion. Finally, the subtler form of discrimination that arises from socio-economically disadvantaged groups facing difficulties accessing centralised administrative offices and being disproportionately affected by lack of documentation is another common cause of statelessness.²³

This is pertinent in the context of Roma statelessness in Albania, where the main cause of (risk of) statelessness is the lack of civil documentation and the inheritance of statelessness. As this report elaborates, Roma are disproportionately impacted by these causes because of their vulnerability and marginalisation as well as because their belonging is more likely to be questioned by authorities.

In addition to causing statelessness, discrimination can continue to undermine the enjoyment of rights of stateless persons. In the case of Roma, a minority that already suffers discrimination and exclusion, it can be difficult to identify how discrimination based on their statelessness adds to this overall experience. However, there is often a direct link between the lack of documentation and statelessness on the one hand, and barriers to

18 De Chickera A and Whiteman J, *Addressing statelessness through the rights to equality and non-discrimination*, in van Waas L and Khanna M (eds), *Solving Statelessness*, Wolf Legal Publishers, 2016, p. 100.

19 United Nations Convention Relating to the Status of Stateless Persons, 360 U.N.T.S. 117, 1954, Article 1(1).

20 ISI, ENS, ERRC, *Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine*, October 2017. Available at: <http://www.errc.org/cms/upload/file/roma-belong.pdf>.

21 Ibid; ISI, *The World's Stateless*, Wolf Legal Publishers, 2014, pp. 23–27. Available at: <http://www.institutesi.org/worldsstateless.pdf>.

22 De Chickera A and Whiteman J, *Addressing statelessness through the rights to equality and non-discrimination*, in van Waas L and Khanna M (eds), *Solving Statelessness*, Wolf Legal Publishers, 2016, pp. 104-105.

23 It should be emphasised that lack of documentation is not the same as statelessness. Many citizens lack documentation. However, lack of documentation can lead to statelessness due to inability to prove eligibility for citizenship.

accessing basic rights including healthcare, education, and the right to work and move freely on the other. Addressing Romani statelessness will not resolve all the problems Roma face, but it will eradicate one of the primary arguments made to justify their exclusion: that they '*are not from here*'.²⁴

Adapted from **Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine**

²⁴ ISI, ENS, ERRC, *Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine*, October 2017. Available at: <http://www.errc.org/cms/upload/file/roma-belong.pdf>.

3. Roma and Statelessness in Albania

3.1. Roma

There are Roma and Egyptians in Albania. Roma in Albania until very recently were only recognised as a linguistic minority, a second-tier status compared to national minorities such as Greeks, Montenegrins and Macedonians. However, following the adoption on 13 October 2017 of the “*Protection of National Minorities in the Republic of Albania*” 2017 by the Albanian Parliament²⁵, Roma in Albania are now officially recognised as a national minority.²⁶ Egyptians on the other hand, have not been granted minority status, under the rationale that they have not preserved their identity (including language) and tend to identify themselves as Albanians. Both the Roma and Egyptians are marginalised and socially excluded communities, and for the purposes of this report, unless specified, the term Roma will be used to include both groups. The 2011 census identified 8,300 Roma and 3,368 Egyptians in Albania.²⁷ However, as will be explored below, these statistics are considered to be a significant under-representation of the population and are not accepted by either Roma or Egyptian communities. However, other studies and surveys have estimated 18,276 to 120,000 Roma and over 200,000 Egyptians in the country.²⁸ The difference in these figures is dramatic, and it calls into question the basis upon which government strategies and plans to ensure the socio-economic inclusion of Roma have been made.²⁹

In general terms, Roma are disadvantaged and excluded, as evidenced by all development indicators. For example, a 2014 study showed that 48% of surveyed Roma in urban settings had never gone to school and 21% had dropped out of school while still below the age at which

25 Law No. 96/2017 “*On the Protection of National Minorities in the Republic of Albania*”, adopted on 13 October 2017.

26 Council of Europe, *Roma recognised as a National Minority in Albania*, press release. Available at: <https://www.coe.int/en/web/portal/-/roma-recognized-as-a-national-minority-in-albania>. As stressed by the Council of Europe, this formal recognition marks a very important achievement for Roma in Albania, granting them rights guaranteed in law, which raises the level of their protection in comparison to their previous legal status as an ethno-linguistic minority. Several positive rights emanate from this, which directly affect the lives of Roma in Albania, such as the right to equal and effective participation in public, cultural, social and economic life, the right to education in the minority language and to freedom of expression, thought and information. Roma are now in a better position to continue their efforts for the promotion and protection of Romani culture as an integral part of Albanian society.

27 Data from the census can be found here: <http://www.instat.gov.al/al/census/census-2011/të-dhënat-e-census-2011.aspx>.

28 See for example, OSFA, *Roma Census Study of Albania Communities*, April 2014. Available at: http://www.osfa.al/sites/default/files/roma_census_albanian.pdf (in Albanian). See also UNDP Albania, *A Needs Assessment Study on Roma and Egyptian Communities in Albania*, February 2012. Available at: <http://www.al.undp.org/content/dam/albania/docs/Roma%20Needs%20Assessment.pdf>.

29 The National Action Plan for Integration of Roma and Egyptians in the Republic of Albania was adopted by Decision of Council of Ministers no. 1072 dated. 23.12.2015 and published through the official gazette no. 241/2015. The 5 year Action Plan is available here: <http://www.al.undp.org/content/albania/en/home/library/poverty/national-action-plan-for-integration-of-roma-and-egyptians-in-th.html>.

compulsory education ends.³⁰ According to another source, 59% of Roma claim to have no formal education at all, 19% have attended school up to fourth grade, almost the same percentage have completed 8-9 years of education, and only 3% have completed secondary education.³¹ This critical situation in education is further exacerbated in relation to access to the labour market. The gross unemployment rate for Roma is estimated at 74%³², whereas the total unemployment rate for Albania is 15%.³³

The Roma housing situation in the country is characterised by very poor conditions: 15% of Roma live in shacks, tents or other non-brick housing units; 60% do not have running water within their premises; and 12% lack toilet facilities. The majority of Roma live in areas that have unpaved roads (52.2%) or roads which are in a very bad condition (22.5%).³⁴ Moreover, the situation is aggravated by the fact that many Roma fail to meet the income threshold required to access social housing or have been unable to regularise their homes under the 2014 law on the legalisation of property, which allowed “illegal constructions” to be demolished.³⁵

In 2017 the situation is still critical.³⁶ The forced eviction of Roma from their suburban homes is a particularly sensitive issue, particularly for Roma communities in the territory of Tirana Municipality.³⁷ While relocation is ostensibly to improve their quality of life, the

30 OSFA, *Roma Census Study of Albania Communities*, April 2014, http://www.osfa.al/sites/default/files/roma_census_albanian.pdf (in Albanian). The survey only included Roma that live in urban areas.

31 OSFA, *Hulumtimmbi profiling sociopolitike të populates Rome në Shqipëri*. Available at: <http://www.osfa.al/publikime/hulumtim-mbi-profilin-socio-politik-te-populates-rome-ne-shqiperi>.

32 OSFA, *Roma Census Study of Albania Communities*, April 2014, http://www.osfa.al/sites/default/files/roma_census_albanian.pdf (in Albanian). The survey only included Roma that live in urban areas. See also, UNDP Albania, *Roma and Egyptians in Albania: a socio-demographic and economic profile based on the 2011 Census*, April 2015. Available at: http://www.al.undp.org/content/albania/en/home/library/poverty/_roma-and-egyptians-in-albania--a-socio--demographic-and-economi.html.

33 UNDP Albania, *Roma and Egyptians in Albania: a socio-demographic and economic profile based on the 2011 Census*, April 2015. Available at: http://www.al.undp.org/content/albania/en/home/library/poverty/_roma-and-egyptians-in-albania--a-socio--demographic-and-economi.html.

34 See European Roma Rights Centre, *ERRC submission to the European Commission on the enlargement component of the EU Roma Framework*, p. 6, May 2017. Available at: <http://www.errc.org/cms/upload/file/submission-on-roma-inclusion-in-enlargement-countries-may-2017.pdf>.

35 Amnesty International, *Albania 2015/2016*. Available at: <http://www.refworld.org/docid/56d05b7b15.html>.

36 Amnesty International, *Albania 2016/2017*. Available at: <https://www.amnesty.org/en/countries/europe-and-central-asia/albania/report-albania/>. Amnesty International reports that the local authorities in Tirana threatened to forcibly evict over 80 families – mainly Roma and Egyptian – living in the area of Bregu i Lumit, an area at risk of flooding. The authorities failed to provide adequate notice, genuine consultation and alternative housing. Following the intervention by housing activists and the Albanian Ombudsman, evictions were temporarily suspended at the end of September 2017. As part of an “intervention plan”, proposed by the Mayor of Tirana, the families were given options on their eviction and resettlement. By the end of the year, it remained unclear if all families would be able to access resettlement and if the offered alternatives were adequate and sustainable.

37 These are recurring situations that have taken place over recent years, most typically affecting communities in the Municipality of Tirana, for example, forcible resettlement of the Roma community located near the former train station; forcible relocation of the Roma community located in the former “Dekorit” buildings; and the forcible resettlement of the Roma community located in the Artificial Lake area and in the area of Selita.

situation of those who have been forcibly evicted has not improved, but has instead been aggravated. As stated by the Ombudsman:

*Our administrative investigations showed that in all cases, the private or public entities that have operated for the removal of such communities, have not complied with the international principles and standards on forced evictions, provided in important UN acts, the European Convention on Human Rights and the jurisprudence of the Strasbourg Court.*³⁸

In principle, Roma should have equal rights to the Albanian social security system, being eligible to receive social housing, economic assistance, free education, employment, vocational training, healthcare, documentation and any entitlements that the Albanian social security system provides to its citizens. In reality however, they are largely excluded from such protections, and do not enjoy equality in real terms.³⁹

Discrimination, both direct and indirect, plays a critical role in leaving Roma at the margins and in putting them at risk of being stateless. While direct discrimination, which is more easily identifiable, is likely to have a deeper impact on the marginalisation and risk of statelessness of Roma, the more subtle forms of indirect discrimination hidden behind seemingly neutral procedures and requirements may also have a disproportionate impact on Roma rights, including nationality.

Indeed, a set of interconnected factors such as the lack of a permanent place of residence, forced evictions, illiteracy and the lack of a steady income, hinders the recording of vital events in civil registries by Roma. This challenge, which is a significant contributing factor to the risk of statelessness faced by Roma, will be looked at more closely in this report.

Since June 2014, the Republic of Albania is an official candidate for accession to the European Union. This status is conditioned on the implementation of structural reforms against organised crime and corruption. In this context, the Albanian Government committed to undertake deep reforms towards five key priorities; (i) a professional and depoliticised body of civil servants, (ii) a stronger independent judiciary, (iii) war against corruption, (iv) fight against organised crime, and (v) human rights protection. Under the fifth priority, the Government has set as a short-term goal the implementation of its national plan for the integration of the Roma, focusing among others on civil registration and access to justice, education, healthcare and the right to housing.⁴⁰ This requires the state to review and improve its performance in

38 Ombudsman of Albania, *Raport Vjetor, Për veprimtarinë e Avokatit të Popullit 1 Janar – 31 Dhjetor Viti 2016* (Report on the activity of the Ombudsman office in Albania in 2016), April 2017. Available at: http://www.avokatipopullit.gov.al/sites/default/files/RAPORTE_T/RAPORTE_T_VJETORE/Raporti_2016.pdf (in Albanian).

39 Ombudsman of Albania, *Annual Report, On the activity of the People's Advocate 1st January – 31st December Year 2015, February 2016*. Available at: <http://www.avokatipopullit.gov.al/sites/default/files/ctools/REPORT%20ENGLISH%202015.pdf>.

40 The National Action Plan for Integration of Roma and Egyptians in the Republic of Albania was adopted by Decision of Council of Ministers no. 1072 dated. 23.12.2015 and published through the official gazette no. 241/2015. The 5 year Action Plan is available here: <http://www.al.undp.org/content/albania/en/home/library/poverty/national-action-plan-for-integration-of-roma-and-egyptians-in-th.html>.

relation to many issues relevant to this report, including civil registration, access to justice, education, intercultural dialogue, employment and capacity building, healthcare, housing and urban integration, and social protection.⁴¹ However, much still needs to be done.

3.2. Statelessness

If statistical data on Roma is incomplete⁴² and problematic, the statistical data on statelessness is even more so. Inevitably, the statistical information on *Roma (at risk of) statelessness* – being the convergence of two statistically hidden and under-reported groups – is extremely thin. The nexus between lack of documentation and poor statistical representation is an important one to highlight and further points to the structural discrimination faced by these populations.

Fear of identifying themselves as stateless and/or Roma and frequent migration pose further challenges to the collection of comprehensive data on the lack of identity documents and/or nationality. Additionally, as will be explored below, although national legislation does enshrine a definition of statelessness⁴³, this definition falls short of international standards, and Albania has no statelessness determination procedure to identify and protect stateless persons.

This means that there is little incentive to record and monitor statelessness accurately in official statistics. According to the most recent population data gathered through the 2011 national census, and compiled by the Albanian Institute of Statistics (INSTAT), there were 7,443 stateless persons in Albania.⁴⁴ Of this total, 3,874 were men and 3,569 were women. UNHCR's statelessness data for 2016 indicates a known stateless population in the country of 4,921.⁴⁵

41 See also the 'Economic and Social Empowerment for Roma and Egyptians - a booster for social inclusion' project funded by the European Union and implemented by UNDP in partnership with the Ministry of Social Welfare and Youth. The project supports the Government of Albania in its efforts to achieve the objectives set forth in the National Action Plan for the Integration of Roma and Egyptians, 2016-2020, while promoting respect for human rights, gender mainstreaming and intercultural dialogue, as prerequisites for the country's EU accession. See: http://www.al.undp.org/content/albania/en/home/operations/projects/poverty_reduction/economic-and-social-empowerment-for-roma-and-egyptians--a-booste.html.

42 Decade of Roma Inclusion, *Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in ALBANIA*, 2013. Available at: http://www.al.undp.org/content/dam/albania/docs/misc/Roma%20decade%20civil-society-monitoring-report_en.pdf. The report states that the failure to provide accurate statistical data by government institutions represents "a significant example of institutional discrimination of the Roma communities" (p.9).

43 See Law no. 108/2003, date 28.03.2013 "On Foreigners".

44 Census data is available at: http://www.avokatipopullit.gov.al/sites/default/files/RAPORTET/RAPORTET_VJETORE/Raporti_2016.pdf. This number is based on the census questionnaire regarding citizenship, and consequently on individuals' answers and self-perception (Questionnaire available at: <http://catalog.ihsn.org/index.php/catalog/4279>).

45 UNHCR, *Global Trends – Forced Displacement in 2016*. Available at: <http://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/06/GlobalTrends2016.pdf>. Please note that this is a baseline calculated as follows: 7,443 minus the number of cases solved in administrative and court instances between 2011-2016. The potential increase in the number of persons at risk of statelessness is not considered due to a lack of available data. UNHCR, TLAS and the Albanian Government have conducted an in-depth mapping of the population at risk of statelessness (including Roma and other affected populations), which will be published in 2018.

Commenting on the stateless Roma population in the country, a representative of an International Agency interviewed for this report, said:

There is not enough data to say that statelessness is mostly affecting Roma. The major problem is that the state is not providing statistics and is not taking a specific registry book for the persons at risk of being stateless and that face problems with civil registration. Roma face multiple discrimination and are marginalised. On the other hand, the state is not taking the responsibilities. There is will, but still the concrete actions to fight statelessness and problems with certain categories at risk of being stateless (problems with civil registration) are lacking.

The Albanian law “*On Civil Status*” does provide that the General Directorate of Civil Status must maintain a distinct register for (at risk of) statelessness individuals, recording their whereabouts in the Republic of Albania. Yet, the registration does not confer the legal status of stateless to those registered. Moreover, such individuals are included in the same register as those who have renounced Albanian nationality. This makes it impossible to distinguish between individuals who have renounced Albanian nationality to acquire another one and those who are stateless. For this reason, it is not possible to extract accurate data on the number of stateless individuals from this source, nor data on the reasons for their statelessness. Indeed, recent studies conducted by INSTAT, UNHCR and non-governmental bodies have not produced any data on the number of stateless persons in the country.⁴⁶ As stated by a government official:

There is no distinct register providing a number of stateless persons in our civil registration system. But there are no obstacles to gain Albanian citizenship if you are born from Albanian parents or in Albanian territory. There is the General Directory of Citizenship within the Ministry that has the mandate to deal with this. For us it is important to reduce the number of unregistered persons and improve the system of registration in those directions where we face difficulties.

As will be explored more closely below, the lack of registration of children at birth leaves a significant number of children without proof of where they were born, who their parents are or where their parents are from. Not having a birth certificate does not automatically indicate a lack of citizenship, but in Albania as in many countries, not having proof of birth, origins or legal identity increases the risk of statelessness. Significantly, the phenomenon of lack of registration can be transferred from one generation to the next as unregistered parents who also have no permanent residence are unable to secure nationality for their children. The negative psychological impact of inheriting this state and having to pass it down to one’s children was evoked by the one interviewee:

I am extremely depressed. It is not my fault that my parents emigrated illegally and I do not have regular documents. This affects my children too. I did not give birth at the maternity ward because I was afraid. My children were not born in the maternity ward and they cannot be registered just like me. If I have no valid document they can’t have one, right? Is it my fault that my parents emigrated illegally? I cannot travel, I cannot marry my husband, the father of my children.

Shpresa, 26 year-old Romani woman

⁴⁶ TLAS and ENS, *Ending Childhood Statelessness: A Study on Albania, June 2015*. Available at: <http://www.tlas.org.al/sites/default/files/ENS%20-%20TLAS.pdf>.

4. Relevant International and Regional Standards and Mechanisms

The Republic of Albania is party to the United Nations 1954 Convention Relating to the Status of Stateless Persons (1954 Convention)⁴⁷ and the 1961 Convention on the Reduction of Statelessness, both of which it acceded to in 2003.⁴⁸ It is also party to the European Convention on Nationality (ECN) of 1997⁴⁹, but has not acceded to the 2006 Convention of the Council of Europe on the Avoidance of Statelessness in relation to State Succession.

Albania also has a strong record of accession to the core international human rights treaties, which are relevant to the prevention of statelessness and the protection of stateless persons. These include the Convention on the Rights of the Child (CRC), which it acceded to in 1991⁵⁰, the International Covenant on Civil and Political Rights (ICCPR)⁵¹ also acceded to in 1991, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)⁵² and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁵³, both acceded to in 1993, and the UN Convention on the Rights of Persons with Disabilities (CRPD)⁵⁴ acceded to in 2012. Albania is also party to the principal European human rights instrument, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).⁵⁵ The obligations of Albania under these treaties extend to the issues covered in this report, including minority rights, statelessness, documentation and birth registration. For example, Article 7 of the Convention on the Rights of the Child obligates states to register every child immediately after birth and to ensure that no child is left stateless. Similarly, Article 5(d)(iii) of the Convention on the Elimination of All Forms of Racial Discrimination prohibits racial and ethnic discrimination in relation to the right to nationality. Consequently, these treaties are relevant mechanisms in ensuring that Albania upholds its obligations under international law.

In accordance with the Albanian Constitution⁵⁶, ratified international treaties have direct effect in Albania. This means that they are legally enforceable, are part of the fabric of

47 Law no. 9057, date 24.4.2003, “*On the adherence of the Republic of Albania to the Convention Relating to the Status of Stateless Persons*”.

48 Law no. 9059, date 8.5.2003, “*On the adherence of the Republic of Albania to the Convention on the Reduction of Statelessness*”.

49 Law no. 8942, date 19.9.2002, “*On the ratification of the European Convention on Nationality*”.

50 Law no. 7531, date 11.12.1991, “*On the ratification of the Convention on the Rights of Child*”.

51 Law no. 7510, date 13.8.1991, “*On the adherence of the Republic of Albania to the International Covenant on Civil and Political Rights*”.

52 Law no. 7768, date 9.11.1993, “*On the adherence of the Republic of Albania to the International Convention on the Elimination of all Forms of Racial Discrimination*”.

53 Law no. 7767, date 9.11.1993, “*On the adherence of the Republic of Albania to the Convention on the Elimination of all Forms of Discrimination Against Women*”.

54 Law no. 108/2012, date 15.11.2012, “*On the ratification of the UN’s Convention on the Rights of Persons with Disabilities*”.

55 Law no. 8137, date 31.7.1996, “*On the Ratification of the European Convention on Human Rights*”.

56 Articles 116 and 122 of the Constitution of the Republic of Albania.

Albanian legislation, take priority over incompatible national laws, and are subject to direct application in the country.

Albeit until the early 2000s, the protection of Roma rights was largely absent from political discussions, in the context of European Union enlargement, its place gradually became more prominent.⁵⁷ In particular, with the publication of European Council conclusions in December 2007⁵⁸, Roma rights and inclusion became pivotal to the EU agenda. In 2008, the European Parliament adopted a resolution recognising “*the lack of progresses in combating racial discrimination against the Roma and in defending their rights to education, employment, health and housing*” in both candidate and Member States, urging the European Commission to implement the Council conclusions and develop a European framework for Roma inclusion.⁵⁹ In 2011, the European Commission did indeed adopt an EU framework for Roma integration, inviting Member States to present their strategies for Roma inclusion to the Commission.⁶⁰

Adapted from **Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine**

The Sustainable Development Goals are also relevant to the prevention and reduction of (risk of) statelessness. In particular, within the scope of Goal 16 dedicated to the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels, Target 9 requires that by 2030, legal identity, including birth registration, is provided for all.⁶¹

57 Vermeersch P, *Between Europeanisation and discrimination: the Roma as a special focus of EU policy*, in Romani mobilities in Europe: Multidisciplinary perspectives International Conference, 14-15 January 2010, University of Oxford. Available at: <https://romanimobilities.files.wordpress.com/2010/01/conference-proceedings1.pdf>.

58 Presidency Conclusions, Brussels European Council 14 December 2007, Brussels, 14 February 2008 16616/1/07 REV 1. Available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/97669.pdf.

59 European Parliament, *A European strategy on the Roma*, PE 401.031 European Parliament resolution of 31 January 2008 on a European strategy on the Roma. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0035+0+DOC+XML+V0//EN>.

60 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (2011), *An EU Framework for National Roma Integration Strategies up to 2020*, COM(2011) 173 final of 5 April 2011. Available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52011DC0173>.

61 The relevant indicator is the percentage of children under 5 whose births have been registered with a civil authority, disaggregated by age. For more information about the Sustainable Development Goals, see: <https://sustainabledevelopment.un.org/>.

5. National Law and Policy Framework

5.1. Nationality

The Constitution of the Republic of Albania guarantees the fundamental rights and freedom of foreigners and stateless people in the territory. In particular, it grants the entitlement to citizenship for persons born to an Albanian parent, and guarantees the safeguard against the loss of citizenship.⁶²

Albanian nationality law embraces two concepts of acquisition of citizenship, *jus soli* and *jus sanguinis*, based respectively on birth on Albanian territory and on a blood relationship with an Albanian national.⁶³ In each case, while acquisition should be automatic according to the law⁶⁴, in practice the acquisition of citizenship is granted pursuant to the registration of birth. As will be seen below, it is in this context that problems relating to the registration of children have contributed to the denial of citizenship.⁶⁵ Moreover, it must be noted that the *jus soli* principle is limited to children whose parents are lawful residents in the Republic of Albania.⁶⁶ Consequently, the children of parents who do not have residence permits, or who are themselves undocumented, are at heightened risk of statelessness.

Naturalisation is also closed to those who are undocumented and at risk of statelessness. Indeed, while Albanian law provides for facilitated naturalisation in the case of stateless

62 Articles 16 and 19 of the Constitution of the Republic of Albania.

63 TLAS and ENS, *Ending Childhood Statelessness: A Study on Albania*, 2015, pp. 5-6. Available at: <http://www.tlas.org.al/en/studies>.

64 Art. 7, Law no. 8442/1999, date 21.01.1999, “*On Some Changes in Law No. 8389 dated 5 August 1998 “On Albanian Citizenship”*” as amended.

65 The acquisition and relinquishment of Albanian nationality is regulated by Law no. 8389 “*On Albanian Citizenship*”, dated 05.08.1998 as amended by Law no. 8442, dated 21.01.1999. The legislative changes which occurred in 1999 are the most recent reforms passed. In accordance with the legal provisions that define the criteria for acquiring, relinquishing and re-acquiring Albanian citizenship, the following by-laws have been adopted which define the rules, time-limits, documentation and competent authorities to consider such applications:

1. Joint Instruction no.6252, dated 10.12.2001 and no.3583, dated 11.27.2001 of the Ministry of Foreign Affairs and the Ministry of Public Order “*On procedures and documentation for acquiring, reacquiring, and the renunciation of Albanian citizenship*”, as amended by mutual instruction no.10452/2, dated 26.09.2007 and no.5212/2, dated 17.09.2007 of the Ministry of Foreign Affairs and the Ministry of Internal Affairs;
2. Decision no.554, dated 07.03.2013 “*On defining of the procedures for recognition or acquisition of Albanian citizenship by persons of Albanian origin, with the exception of citizens of the Republic of Kosovo*”;
3. Joint Instruction no.4573/3, dated 12.07.2013 “*On the procedures, time-limits and documentation requirements for the recognition of Albanian citizenship, their review, and the form and manner of filling of the application for acquiring citizenship by persons of Albanian origin*”.

66 Article 8 Law no. 8389, dated 5.8.1998 “*On Albanian Citizenship*” amended by Law no. 8442, dated 21.1.1999 “*On Some Changes in Law No. 8389 dated 5 August 1998 “On Albanian Citizenship”*”, “... 2. *A child born in the Republic of Albania to parents with a different nationality, who are lawful residents in the Republic of Albania, can acquire the Albanian nationality with the consent of the two parents*”.

people⁶⁷, those undocumented but not officially recognised as stateless should apply for Albanian citizenship through the regular procedure. However, some of the requirements set out by the law, such as lawful and continuous residence for at least five years or a sufficient income and a habitation are impossible to be met.⁶⁸

Additionally, naturalisation as an Albanian citizen must be ratified through a decree of the President of the Republic.⁶⁹ The person concerned must complete the necessary documentation required and the Ministry of Interior checks and verifies these documents before delivering the request to the President for consideration and enactment. The President and the Ministry of Interior have different prerogatives: the Ministry checks whether the format of the request is correct, but it has no right to evaluate the legal basis of any application. Deciding whether an application is supported by the law is something only the President can determine.

A decision of the Ministry to refuse to deliver documentation to the President can be challenged in court.⁷⁰ It is of concern that the law does not provide a right of appeal against the Presidential decree to grant citizenship. However, in a 2002 case, the District Court of Tirana considered itself competent to rule on a Presidential decree revoking someone's nationality.⁷¹ This case demonstrates the Court's recognition that the constitutional principles of 'fair trial' and 'right to appeal' hold in the absence of legal provisions on the right to appeal, and that the courts may still consider cases related to nationality. Nevertheless, it is necessary to amend the law to introduce a clear right to appeal against Presidential decrees relating to nationality.

Finally, it should be noted that Albanian citizenship laws provide specific safeguards for foundlings⁷², and for persons who have renounced Albanian citizenship due to being promised another nationality, in case they do not acquire the promised citizenship within a reasonable period of time.⁷³

In 1998, UNHCR was entrusted by its Executive Committee and by the UN General Assembly with providing technical and advisory services pertaining to the preparation and implementation

67 See also Krasniqi G, *Country Report: Albania*, CITSEE project & EUDO Citizenship Observatory, November 2012, p. 12.

68 Article 9 of the Law "On Albanian Citizenship" provides that a foreigner who has submitted an application for acquisition of Albanian citizenship by naturalisation shall acquire Albanian citizenship if he or she fulfils the six following requirements: (i) age of 18; (ii) lawful and continuous residence for at least five years; (iii) sufficient income and a dwelling; (iv) absence of criminal offence records; (v) elementary knowledge of the Albanian language, and (vi) no threat to security and defence of Republic of Albania.

69 Articles 17-23 of Law no. 8389 "On Albanian Citizenship", dated 05.08.1998 as amended by Law no. 8442 "On Some Changes in Law No. 8389 dated 5 August 1998 "On Albanian Citizenship" – define the procedure.

70 According to Article 19(3) of the Law no.8389 "On Albanian Citizenship", dated 08.05.1998 - as amended, the competent court for such procedures is the District Court of Tirana.

71 Decision no. 5139/ 23.12.2002 of Tirana District Court.

72 TLAS, *Ending Childhood Statelessness: A Study on Albania*, 2015 (ENS), <http://www.tlas.org.al/sites/default/files/ENS%20-%20TLAS.pdf>.

73 Articles 14 and 24 of the Law "On Albanian Citizenship".

of nationality legislation to interested states. After examination of the draft Law on Citizenship of Albania, UNHCR estimated that it was ‘*of a high standard and, in principle, achieves this goal of the avoidance of statelessness*’.⁷⁴ Unfortunately, as will be shown in this report, there are significant gaps between the theoretical legal framework and the actual functioning of the Albanian institutions.

5.2. Equality and Non-Discrimination

The 18th amendment of the Constitution guarantees that:

1. All are equal before the law; 2. Nobody can be discriminated unjustly due to his/her sex, race, religion, ethnicity, language, political or philosophical beliefs, economic, social or education status, or origin; 3. Nobody can be discriminated for the reasons mentioned in point 2., unless there exists an objective and rational justification.

Further to this constitutional amendment, in 2010, the Albanian Parliament enacted law no. 10221 ‘*For the Protection from Discrimination*’, which regulates the implementation of this equality principle and foresees the establishment of the Office of the Commissioner for Protection against Discrimination as a public independent institution mandated to provide protection against discrimination and any form of conduct that encourages discrimination.⁷⁵ This law was also passed to bring Albanian law in line with relevant EU directives.⁷⁶ Under the antidiscrimination law, the main areas in which legal protection from discrimination is ensured include employment, education, and the delivery of goods and services. Furthermore, the enjoyment of all fundamental rights guaranteed under the Constitution is protected against discrimination. Equality and protection from discrimination are also enshrined in other laws. However, additional efforts are needed to develop a track record of anti-discrimination cases and to establish solid anti-discrimination case law.⁷⁷

⁷⁴ UNHCR, *Analysis and Comments Draft Law on Citizenship of Albania*, 21 April 1998 www.refworld.org/docid/3ae6b31dab.html.

⁷⁵ See *Fourth Report submitted by Albania pursuant to Article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities*, ACFC/SR/IV(2016)005, 8 November 2016. Available here: <https://rm.coe.int/16806befc5>. The report clarifies that the Commissioner for Protection from Discrimination (CPD) has the authority to assist victims of discrimination by examining the complaint or assistance in court and ex-officio investigations. In 2015, the CPD handled 288 issues (268 complaints and 20 issues ex-officio). Racial discrimination remains the main cause of claims. The concerns set forth by Roma complainants related to: not obtaining and unfair treatment regarding economic aid; unequal treatment in the field of employment in the public and private sectors; disregard of their right to housing and non-demolition of their dwellings under the legalisation process.

⁷⁶ This law is consistent with Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation; Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services; and Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

⁷⁷ *Progress Report on Albania*, 2016, pp 21; 57. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf.

Since 2009, the anti-discrimination legal and institutional framework has been substantially improved in Albania and the legislation in place is deemed to comply with the European Race Equality Directive.⁷⁸ However, there is little evidence to show that Roma have benefitted as a result. According to civil society representatives, the very low number of complaints confirms the lack of awareness of Roma about their right to complain as well as their inability to access legal assistance to challenge discrimination against them.⁷⁹

The Story of Eni

Eni is a Romani child who was born intersex. Born with both male and female characteristics, Eni's birth notification certificate stipulates the sex of the child as 'hermaphrodite'. The birth was never registered in the civil status office, due to there being no option to register a gender that was not 'male' or 'female'. The term 'hermaphrodite' was widely used by medical practitioners during the 18th and 19th centuries, and is now considered archaic and derogatory.

Eni's legal existence has therefore not been recorded or recognised for years – since birth – due to the failings of the system as well as social stigma and prejudice against intersex persons. Indeed, even Eni's parents find it difficult to accept the child's gender:

It was not enough to be Roma and poor and with a thousand problems, but now I have to deal with a child born this way. At least if I could register him he could go to school or enrol in a course or a hospital to have whatever treatment.

Jaho, Eni's father.

The failure of the system to accommodate intersex children in birth registration processes is both discriminatory and a breach of the child's right to a legal identity. When this discrimination on the basis of gender identity is experienced by someone already facing discrimination on grounds of ethnicity, the disadvantage is that much greater. This is further amplified by their lack of documentation and the resultant risk of statelessness.

The child's gender identity is currently at risk as the parents identify the child as a boy, and see a medical procedure as a way to deal with this situation:

"We want to operate him and correct this problem, because with an operation it can be fixed, this is what doctors have told us. After the operation he can be registered as a boy. Now we are ashamed if someone knows his situation, this is why I am afraid for him to be registered.

Donika, Eni's mother.

78 Council Directive 2000/43/EC of 29 June 2000 "On the principle of equal treatment between persons irrespective of racial or ethnic origin".

79 Decade of Roma Inclusion, *Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in ALBANIA*, pp. 29-31, 2013. Available at: http://www.al.undp.org/content/dam/albania/docs/misc/Roma%20decade%20civil-society-monitoring-report_en.pdf; Meçe M, *Accessible Justice System for All: The Case of the Roma Minority in Albania*, ECMI, February 2015. Available at: http://www.ecmi.de/uploads/tx_ifpubdb/ECMI_Working_Paper_84.pdf.

The research conducted for this report found that many of the key stakeholders interviewed agreed that Roma have long been the victims of multiple and intersectional discrimination⁸⁰ in Albania, and that this heightens their risk of being denied documentation and becoming statelessness.

Nonetheless, this problem is a complex and difficult one to address.

Firstly, there have been no complaints to the Commissioner for Protection from Discrimination relating to the inability to acquire citizenship and the consequences that arise as a result.

Roma at risk of statelessness who were interviewed for this report perceived the daily exclusion and discrimination they face as being linked to their poverty and lack of formal education. According to them, they are unable to pay to get social services, and this is the reason why they experience this situation.

Secondly, the law “*For Protection from Discrimination*” does not provide for a remedy for multiple and intersectional discrimination, and to date there has been no judicial redress for victims of these forms of discrimination.

5.3. Statelessness in National Law

Article 3.2 of the Albanian law “*On Foreigners*”⁸¹ defines a stateless person as “*a person who is not a citizen of any state*”. This definition falls short of the international law definition of a stateless person as someone who is “*not considered as a national by any state under the operation of its law*”.⁸² The failure to include the phrase “*under the operation of its law*” in the Albanian law is a significant gap in the definition. It means that those who under the letter of the law should have a nationality, but have been denied their nationality due to non-implementation (or discriminatory implementation) of the law, may not be considered to be stateless in the country. In the absence of a procedure to identify and protect stateless persons, the impact of this gap may be less obvious in practice, but it is a significant one nonetheless, as it can result in stateless people not being identified and being denied protection.⁸³ The gap in the definition identified above, together with the lack of a statelessness determination procedure, prevents stateless persons from being recognised as such in Albania, and from the protection and rights this entails, such as the right to a travel document and legal residence.⁸⁴

⁸⁰ For an overview of ‘Intersectional discrimination’ see for example, Fredman S, European network of legal experts in gender equality and non-discrimination, *Intersectional discrimination in EU gender equality and non-discrimination law*, pp. 27-28; 39-42, 2016. Available at: <http://ec.europa.eu/justice/gender-equality/document/files/intersectionality.pdf>.

⁸¹ Law no.108/2013, date 28.03.2013, “*On Foreigners*”.

⁸² United Nations Convention Relating to the Status of Stateless Persons, 360 U.N.T.S. 117, 1954, Article 1(1)

⁸³ ENS, Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change, 2017, p. 11, available here: <http://www.statelessness.eu/resources/protecting-stateless-persons-arbitrary-detention-agenda-change>; UNHCR, *Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons*, Geneva, 2014. Available at: http://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf.

⁸⁴ See articles 3(5), 16(3) and 38(2) Law no. 108/2013 “*On Foreigners*”.

6. Birth Registration and the Risk of Statelessness

As mentioned above, while the acquisition of Albanian nationality should be automatic⁸⁵, in practice according to the law “*On Civil Status*”⁸⁶ birth registration is required to be carried out as a necessary precondition for the acquisition of Albanian nationality. This is a requirement that many Roma are unable to fulfil, exposing them to (the risk of) statelessness. Indeed, as evident from the majority of the interviews conducted with Roma and other stakeholders, the main cause of (risk of) statelessness of Roma relates to the challenges they face accessing civil registration in general, and birth registration in particular. Children who have a clear right to Albanian nationality are denied this because their births cannot be registered.

Below, the main challenges related to the birth registration process, particularly for those who lack the requisite paperwork, will be explored (**6.1 Birth registration procedure and challenges**). The following subsection will analyse how this problem is exacerbated when children are born abroad particularly if their parents live abroad with no legal status (**6.2 Legalisation of documents of children born abroad**). The final subsection will examine the gaps in the Albanian legal aid system impeding effective access to justice for vulnerable groups (**6.3 Legal aid**).

6.1. Birth Registration Procedure and Challenges

The birth registration process in Albania can be complex and difficult to access. Those who are most likely to be unable to access documentation and registration are the children of parents who already lack the documentation needed to fulfil the legal requirements for civil registration in general, including registration of births, deaths, marriages, legal residency transfers, divorces, and child custody.

⁸⁵ See article 1 of the Law no. 8442/1999, date 21.01.1999, “*On Some Changes in Law no. 8389, dated 5 August 1998 “On Albanian Citizenship”*” that provides that “*Article 7 of Law no. 8389, dated 05 August 1998 “On Albanian Citizenship” is changed as follows: “Whoever is born from at least one parents of Albanian citizenship, obtains automatically the Albanian citizenship.”*”

⁸⁶ Law no. 10129/2009, date 11.5.2009, “*On Civil Status*”.

The table below provides a summary of the system and its main challenges:

Table A: Birth registration

Who can register a child?	A Parent; the legal representative or guardian; any other family member; a mother's legal representative ⁸⁷	
	The procedure / requirements	The challenges
Children born in hospital	<ul style="list-style-type: none"> • Birth notification certificate from hospital <u>must be</u> brought to civil registry office in place of parents' permanent residence • ID document of parent or person entitled to register the birth is required • Mother must be identified with documentation • Nationality and lawful residence of parents must be verified 	<ul style="list-style-type: none"> • Undocumented parents must first resolve their own documentation issues: <ul style="list-style-type: none"> • obtain their own birth certificates and ID cards • obtain notification of birth from health institution where they were born • Court procedure to prove the fact of the parent's birth <ul style="list-style-type: none"> • Required if parent was born at home and the birth not formally recorded • As parent is undocumented, procedure must be initiated by someone else who is documented and 'interested' • Testimony accepted as evidence • Availability of Legal aid <ul style="list-style-type: none"> • Available in theory, but denied to Roma in practice due to lack of documents to prove eligibility • Proof of permanent residence <ul style="list-style-type: none"> • Many Roma do not live in where permanent residence registered • Many have no means to return to place of residence to register birth • Many do not have permanent residence due to informal housing and lack of documentation.

⁸⁷ Art. 40 Law no. 10129/2009, date 11.5.2009, "On Civil Status".

STATELESSNESS, DISCRIMINATION AND MARGINALISATION OF ROMA IN ALBANIA

<p>Children born out of hospital</p>	<ul style="list-style-type: none"> • <u>Medical note</u> witnessing the fact of birth • <u>Birth notification certificate</u> issued by nearest health centre (within a few days of birth) including record of mother (based on her ID) and official stamp • <u>Birth notification certificate must then be taken to registry office in place of parents' permanent residence</u> 	<ul style="list-style-type: none"> • Undocumented parents must first resolve their own documentation issues (as above) • Additional documentation requested <ul style="list-style-type: none"> • Requirements are as per child born in health institution but with additional requirement for medical note witnessing fact of birth
<p>Children born abroad to Albanian parents</p>	<ul style="list-style-type: none"> • <u>Birth certificate</u> from country of birth as per form prescribed in Albanian law • <u>Must be legalised, translated and notarised</u> 	<ul style="list-style-type: none"> • Legalisation procedure <ul style="list-style-type: none"> • Complex procedure often impossible to fulfil for undocumented migrants abroad • Irregular status <ul style="list-style-type: none"> • Due to lack of documentation and/or irregular status, births often not in hospital so often no birth certificate • May be a birth notifications, but cannot be legalised if incomplete
<p>Children born in Albania to non-Albanian parents</p>	<ul style="list-style-type: none"> • Foreign nationals and stateless persons have equal right to register births as Albanian nationals • If legally resident in Albania, children eligible to acquire Albanian citizenship 	<ul style="list-style-type: none"> • Lack of permanent residence <ul style="list-style-type: none"> • Undocumented Roma may be considered non-nationals/stateless but without permanent residence, cannot obtain Albanian nationality for children.

While the challenges identified above are not exclusive to Roma, they disproportionately affect Roma. Lack of resources, economic migration, life in informal housing, and marginalisation more generally, are all factors impacting significantly on their ability to register the births of their children. This problem is further exacerbated by the law and policy framework, which makes it extremely difficult for undocumented parents with no permanent residence to acquire nationality for their children. Hence, there is an intergenerational aspect to the risk of statelessness. For example, one Roma interviewee stated:

My mother left since I was a child. I do not know who I was and who I am. I was never registered even though I am 35 years old. I have used different false names and documentation just to try to survive and to make a life. Now that I found a little peace and found my husband, my children cannot be registered. I do not want them to have my bad luck in life.

Tana, 35 year-old Romani woman

Without birth registration, Roma face barriers in obtaining other documents from the civil registry office and identity documents when they become adults. Furthermore, as Roma are

less likely to have property ownership records or housing lease agreements, they face many barriers at the civil registry office when changing or registering their residence.

I went to the civil status office and they just say bring the proper documents and then come back. I have been living in Tirana for the last three months and wanted to have my residency here but they said I needed a rent contract. I was living in a shack close to my cousin, how could I get a contract?

Ilmi, 34 year-old Romani man.

Albanian authorities are generally conscious of the challenges faced by Roma related to accessing civil registration. There have been initiatives to address the problem, such as encouraging early registration through the provision of financial support.⁸⁸ However, despite this, access to civil registration in Albania is still unsatisfactory and there are still many cases of late registration of births among Roma in Albania.

According to the Ministry of Interior, in cooperation with civil society organisations, 148 Romani children had their births registered as late registrations and 500 Roma individuals were provided with civil registration assistance in 2014.⁸⁹ As stated by a Ministry official:

We face difficulties especially in having data on Roma and Egyptians who are unregistered. We can only have data for the registered population. But we have had good collaboration with civil society organisations to have a view on the incidence of this problem.

TLAS' own statistics for 2015 showed 515 unregistered children, of which 60% were Roma. In the first six months of 2016, 274 unregistered children were identified by TLAS, of which, again 60% were Roma. In the second half of 2016, the organisation helped 408 unregistered children of which 270 were Roma.⁹⁰

Other barriers to birth registration that were identified during the research included:

1. Communities living in rural areas far from health care centres leading to women giving birth at home;
2. Lack of information or awareness about the registration process among Roma;
3. Prejudicial attitudes among officials and other stakeholders resulting in a lack of action to identify Roma who are unregistered and at risk of being stateless.

⁸⁸ Article 41 of Law no. 10129, date 11.5.2009, "On Civil Status" amended that provides that parents who register births inside Albania within 60 days, and births outside Albania within 90 days, receive monetary rewards. For more insight on initiatives undertaken to resolve the issue, see also Decade for Roma Inclusion, *Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in ALBANIA*, pp. 27-28, 2013. Available at: http://www.al.undp.org/content/dam/albania/docs/misc/Roma%20decade%20civil-society-monitoring-report_en.pdf.

⁸⁹ National Action Plan for Roma and Egyptians in Albania, available at: <http://www.al.undp.org/content/albania/en/home/library/poverty/national-action-plan-for-integration-of-roma-and-egyptians-in-th.html>.

⁹⁰ These statistics are from TLAS' internal casework management database. The data is collected based on self-declaration and any available legal documentation, as well as information from civil status offices or other organisations in some cases.

Several interviewees described ‘*institutionalised prejudice against Roma*’. That Roma in Albania are a target of antigypsyism is well documented. In 2011, the UN Committee on Elimination of Racial Discrimination, in its Concluding Observations, expressed concerns that “*members of the Roma minority, especially the young, face ethnic profiling and are subjected to ill-treatment and improper use of force by police officers.*”⁹¹ Hate speech and hate crime incidents have also been reported by civil society. However, according to ECRI, until 2015 the Albanian police have recorded only one hate crime in a case pending before the European Court of Human Rights⁹², and the Albanian courts have never made use of Article 50 of the Criminal Code providing for increased punishment for racist motivation.⁹³

Government institutions’ failure to provide accurate statistical data for the Roma community⁹⁴, as well as a tendency to shift responsibility from one Ministry to another, and the lack of proactive work to mainstream activities on these issues⁹⁵, can also be interpreted as symptomatic of institutionalised prejudice against Roma communities.

A further indicator of this problem is the apparent lack of trust among Roma for the institutions responsible for their protection. Similar to a recent EU Fundamental Rights Agency survey on Roma and other minorities’ interactions with the police in EU member states⁹⁶, the European Centre for Minority Issues conducted a recent survey of Roma perceptions of justice in Albania.⁹⁷ The research reports that when Roma who said they had not approached the authorities were asked why, their answers reflected serious doubts about the fairness of the system.⁹⁸

91 CERD Committee, *Concluding observations: Albania*, CERD/C/ALB/CO/5-8, 14 September 2011, para.15. Available at: <http://www.crca.al/sites/default/files/publications/Concluding%20observations%20of%20the%20Committee%20on%20the%20Elimination%20of%20Racial%20Albania%282011%29.pdf>.

92 *Hysenaj v Albania*, App. No. 78961/11 (EctHR); See ERRC, *Third-party intervention in Hysenaj v Albania*, App. No. 78961/11 (EctHR). Available at: <http://www.errc.org/article/hysenaj-v-albania-third-party-intervention-pending/4511>.

93 ECRI, *ECRI Report on Albania (fifth monitoring cycle)*, adopted on 19 march 2015, para. 48. Available here: <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-V-2015-18-ENG.pdf>.

94 Decade of Roma Inclusion, Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in ALBANIA, available here http://www.al.undp.org/content/dam/albania/docs/misc/Roma%20decade%20_civil-society-monitoring-report_en.pdf.

95 Isakovic Suni M, *Comparing Approaches to Combating Statelessness in Albania and Serbia*, 2015. Available at: <https://www.statelessness.eu/sites/www.statelessness.eu/files/2015-05-14%20Comparing%20Approaches%20Albania%20and%20Serbia.pdf>.

96 ERRC, *Third-party intervention in Hysenaj v Albania*, App. No. 78961/11 (EctHR). Available at: <http://www.errc.org/article/hysenaj-v-albania-third-party-intervention-pending/4511>. In December 2017, FRA released the second European Union Minorities and Discrimination Survey (EU-MIDIS II). Main findings are available at: <http://fra.europa.eu/en/publication/2017/eumidis-ii-main-results>.

97 Meçe M, *Accessible Justice System for All: The Case of the Roma Minority in Albania*, ECMI, February 2015. Available at: http://www.ecmi.de/uploads/tx_lfpubdb/ECMI_Working_Paper_84.pdf.

98 *Ibid*, p.17.

A Roma interviewee for this research, reported similar sentiments:

A friend of my husband tried to register his daughter. He had emigrated to Germany like my parents did. As far as I know they had no documents and despite this he tried registering the daughter. What can I say, my husband doesn't know anyone, they see us as Roma and say – come on they do not understand.

Shpresa, 28 year-old Romani woman

6.2. Legalisation of Documents of Children Born Abroad

Complexity and challenges related to birth registration are exacerbated in cases of children born abroad, especially for children whose parents live abroad irregularly. Such children are likely to not have their births registered, or only receive a birth notification which does not include the basic information (including name) required by the Albanian authorities to register their birth. In 2014, the Ministry of Interior, in collaboration with civil society organisations, identified more than 200 such cases.

As noted in the table above, to register the birth of a child born abroad, a birth certificate must be obtained from the country of birth and must be in the form prescribed by the law: a legalised act, translated into Albanian and notarised. This document must be verified by the Foreign Ministry and the Ministry of Interior of the foreign country (in most cases, but verification may vary from country to country). It must then be legalised at the Albanian Consulate in the foreign country. This document needs to be translated and the translation notarised. Once this has been done, the child can be registered with the civil registry office in Albania.⁹⁹

The bureaucratic requirements of this procedure are taxing, and often impossible to fulfil, particularly for undocumented women who give birth in foreign countries. Due to their own lack of documentation and irregular status, they often don't give birth in hospitals, and therefore, do not always receive birth certificates. At best, birth notifications are received, that do not contain all the information that the Albanian authorities require. Many parents do not manage to address all the bureaucratic hurdles linked to the legalisation of birth certificates in the foreign country and travel back to Albania before obtaining a certificate in the form required by the Albanian authorities. In such cases, the certificates are not legalised, and the children's births are not registered in Albania regardless of whether the parents are Albanian. Very often they are unable to return to the country where their children were born to resolve the issue, so there is a higher risk of statelessness among these children.

Under a 2012 agreement between TLAS and the Albanian Ministry of Foreign Affairs, TLAS notifies the Ministry of cases of citizens who require legalisation of their documents, but who do not have the economic or physical means to carry out this process themselves. This is a free service offered by TLAS, which has served thousands of primarily Romani beneficiaries, who would otherwise have remained at risk of statelessness. However, as this is not a state-run service, there

⁹⁹ Until January 2017 it was possible to register the birth of the child in the Albanian consulate at the place of birth.

is likely to be a multitude of Albanian citizens who are powerless in the face of a similar situation. Reflecting on this situation, a representative of the Ministry of Foreign Affairs stated:

The Ministry does its best to help citizens within its role and mandate, but this directorate has no competence to deal with statelessness. Consular offices provide help to citizens but when it comes to Roma the fees are sometimes a barrier to them benefitting from the services. The Ministry of Interior should do more to deal with this problem.

This problem is particularly significant for Roma children born in Greece where the authorities refuse firstly to issue a full birth certificate to those irregularly living in the country, and secondly to verify it for legalisation purposes with the Albanian authorities, who in turn refuse to acknowledge simple foreign acts for civil registration purposes.¹⁰⁰

6.3. Legal Aid

Although Albania adopted a law “*On Legal Aid*”¹⁰¹ in 2008 that theoretically guarantees free legal aid to persons who cannot afford it, access to justice remains a real challenge for vulnerable groups. Populations in vulnerable circumstances, including Roma in particular, continue to be excluded from legal aid due to restrictions on access, few lawyers providing the service, and high court fees.

Those denied documentation or who have been unable to access it due to the issues identified above, also face barriers to legal aid, despite its importance for resolving these problems. According to the Law on Legal Aid¹⁰², the Ministry of Justice is responsible for the provision of legal aid, the preparation of the necessary legal acts, their implementation, and the quality of legal assistance provided. The State Commission on Legal Aid, under the Ministry of Justice, implements government policy in this area, manages the legal aid budget, establishes criteria for assessing its quality, and cooperates with civil society organisations working in this field.

Despite these mechanisms, free legal aid remains largely inaccessible for Roma most in need, because they cannot provide the necessary documentation, especially proof of residence or income/economic assistance, to establish their eligibility to receive legal aid. Furthermore, in practice the system does not provide legal aid in statelessness cases. According to the law, legal aid can only be provided for civil registration matters where someone can prove that they cannot afford to pay the costs of legal representation and that they receive social assistance. As stateless and undocumented persons are not eligible for social assistance and are legally

¹⁰⁰ TLAS is currently working with 49 families who are in this situation. Of these, 27 are Romani families. In 2016, TLAS handled 701 cases of birth registration, of which 450 were Roma; 80% of these (360 cases) involved cases of Romani children born in Greece.

¹⁰¹ Law No. 10039 date 22.12.2008 “*On Legal Aid*” available in English at: http://www.eurailius.eu/pdf/13.Law%20on%20Legal%20Aid,%20promulgated%20on%2012_01_2009_en.pdf.

¹⁰² *Ibid.*

invisible, they cannot benefit from the legal aid system. As a result, legal aid on civil registration and nationality cases is provided by civil society organisations.

The State Commission on Legal Aid lacks capacity and resources to respond effectively to the rights of the Roma population. Even the small number of people who receive legal aid face a real risk of not having effective representation¹⁰³, as legal aid lawyers tend to lack competence and are poorly paid.¹⁰⁴

6.4. Addressing Statelessness

The above analysis demonstrates that despite identifying the significant challenges that many Roma (and others) in Albania face in registering the births of their children, the state has not yet been able to resolve these.

There have been some attempts to understand the extent of these challenges. For instance, UNHCR and the Albanian Civil Status Office have developed and are implementing new software, which allows registrars to record cases of ‘unregistered’ persons, including the causes, missing documentation, and basic biodata to allow for follow-up of the case. However, this tool is still underused. UNCHR, together with TLAS and the relevant government ministries are also conducting an in-depth mapping of the population at risk of statelessness in Albania, which is expected to be published in 2018. The provision of financial incentives to encourage early birth registration, the Ministry of Interior’s instruction to local registries to issue documents to all citizens regardless of whether they have paid income tax¹⁰⁵, and the Memorandum of Understanding entered into with TLAS to support the registration of births to Albanian citizens abroad, are all examples of efforts to address civil registration challenges.

However, such initiatives are somewhat piecemeal and do not constitute a concerted effort by the Albanian Government to eradicate the risk of statelessness. Moreover, no state institution has a clear mandate to deal with this phenomenon, resulting in a partial understanding of the issue of statelessness by Albanian government bodies. The state authority with responsibility for foreigners and stateless persons is a special unit under the Borders and Migration Police, while the central authority with responsibility for citizenship issues operates under the Ministry of Interior.¹⁰⁶ These entities have no data on the scale of the problem of statelessness,

103 TLAS, *Raport Mbi Ndihmën Juridike Në Shqipëri (Report on Legal Aid in Albania)*, 2013. Available at: <http://www.tlas.org.al/en/studies> (in Albanian).

104 TLAS, *Enhancing the protection of the rights of accused - Policy paper*, July 2016. Available at: <http://www.tlas.org.al/en/studies>.

105 Isakovic Suni M, *Comparing Approaches to Combating Statelessness in Albania and Serbia*, 2015. Available at: <https://www.statelessness.eu/sites/www.statelessness.eu/files/2015-05-14%20Comparing%20Approaches%20Albania%20and%20Serbia.pdf>.

106 See articles 17, 18, 19 and 20 of the Law no. 8389 “On Albanian Citizenship” dated 05.08.1998 as amended by Law no. 8442, dated 21.01.1999.

beyond (if at all) its direct relevance to their specific mandate.¹⁰⁷ As such, in general, state bodies have shown little interest in statelessness:

The role of the Ministry of Interior regarding statelessness is to review, verify and deliver to the institution of the President of the Republic, for enactment of applications for retrieval of Albanian nationality to stateless persons/ and or persons who have lost or renounced it, who apply to the Police Local Directories, or Albanian embassies where stateless persons have residence. Soon, the directory will begin working on drafting a new law on Albanian citizenship and statelessness will be one of the key points that will focus the necessary attention. Until now there have not been any mandate and attention to this topic.

Official, Ministry of Interior

Albania's failure to address these issues amounts to non-compliance with its international obligations, for example, under the Convention on the Rights of the Child. As a result, statelessness and the risk of statelessness is a serious and real problem that hundreds of citizens (particularly, but not limited to, Roma) face.

¹⁰⁷ TLAS and ENS, *Ending Childhood Statelessness: A Study on Albania*, 2015, ENS. Available at: <http://www.tlas.org.al/en/studies>.

7. Marginalisation, Poverty and Exclusion

In principle, barring a few limited exceptions (such as the right to vote), individuals are entitled to human rights regardless of their citizenship or lack thereof. In practice, however, statelessness often results in the denial of fundamental rights, causing social and economic hardship, and acute vulnerabilities, most notably in combination with discrimination, such as is the case of Roma who are stateless or at risk of statelessness, and especially their children.

The difficulties that Roma face in registering the births of their children were discussed above. Without a birth certificate, the child is much more likely to have difficulties acquiring or proving that they are entitled to Albanian nationality. Furthermore, the enjoyment of a host of other rights are also negatively impacted.

Undocumented and stateless Romani adults face significant challenges obtaining identity cards and establishing their permanent residence. This places them at increased risk of arrest, detention and expulsion, feeds into discriminatory and exclusionary attitudes, and often results in them not being able to (or having any incentive to try to) participate in the social and political life of the nation.

However, it should be noted that marginalisation is both a consequence and a cause of risk of statelessness that mutually reinforce each other. This section highlights how marginalisation and exclusion can exacerbate the challenges Roma face in access to documentation and be reinforced by (risk of) statelessness in different areas of life as employment, housing, healthcare and education.

7.1. Access to Employment

Roma, especially Romani women, are significantly underrepresented in the labour market¹⁰⁸, and long-term unemployment mostly affects Roma. Many Roma are unable to access employment in Albania due to low educational qualifications and the discrimination they face. Being Romani is in itself a disadvantage when looking for a job. Roma with the same level of education, age and sex as an Albanian person are significantly less likely to be employed.¹⁰⁹

The lack of documentation and statelessness further exacerbate this problem.

¹⁰⁸ UNDP Albania, *Roma in Albania*, June 2012. Available at: <http://www.al.undp.org/content/dam/albania/docs/misc/Roma%20in%20Albania%20June%202012%20profile.pdf>.

¹⁰⁹ UNDP Albania, *Roma and Egyptians in Albania: a socio-demographic and economic profile based on the 2011 census April*, 2015. Available at: http://www.al.undp.org/content/albania/en/home/library/poverty/_roma-and-egyptians-in-albania--a-socio--demographic-and-economi.html.

Most Roma earn a living from occasional informal work in agriculture, public service and construction with very low wages.¹¹⁰ In addition, the prospects of undocumented Roma in accessing formal employment are made worse by the fact that they are not registered in local employment offices due to their lack of documentation, and as a result they cannot benefit from employment promotion policies.¹¹¹

I would be very happy if meanwhile I could be registered as an unemployed jobseeker, as I wait for my identity documents. This way we would have more chances to increase our incomes. Only my husband works but this is not enough.

T.A. Romani woman 35 years-old

Being confined to the informal employment market, Roma are more exposed to health hazards and excluded from participation in social security and housing schemes.

7.2. Housing Conditions

As mentioned earlier, according to data currently available, 15% of Roma live in shacks, tents or other non-brick housing units; 60% do not have running water within their homes; and 12% lack toilet facilities. As concerns infrastructure, the majority of Roma report living in areas that have unpaved roads (52.2%) or have roads which are in a very bad condition (22.5%).¹¹²

Many undocumented Roma also have been unable to regularise their homes under the Law on the Legalisation, Urbanisation and Integration of Informal Areas/Buildings¹¹³, because they were unable to provide the required property documentation or because they lived on publicly owned land or in non-permanent structures, which are not covered by the law. They consequently risk forced evictions as well as demolition of their houses.¹¹⁴

Roma - particularly those who lack documents - are almost always excluded from social housing programmes. Many of them cannot benefit from low-cost social housing because they lack regular sources of income, because of the very onerous bureaucratic requirements (ECRI reports that about 17 conditions need to be fulfilled to become eligible for social housing) and because

110 ERRC, *Basic facts on Roma – Albania*, 2010. Available at: <http://www.errc.org/article/basic-facts-on-roma-albania/3622>.

111 ECRI, *Report on Albania (fifth monitoring cycle)*, adopted on 19 march 2015, CRI (2015)18, 2015 para. 67. Available at: <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-V-2015-18-ENG.pdf>.

112 ERRC, *Submission to the European Commission on the enlargement component of the EU Roma Framework*, p. 6, May 2017. Available at: <http://www.errc.org/cms/upload/file/submission-on-roma-inclusion-in-enlargement-countries-may-2017.pdf>.

113 Law 9482/2006, date 3.04.2006, “On the Legalisation, Urbanisation and Integration of Unauthorised Buildings”.

114 ECRI, *Report on Albania (fifth monitoring cycle)*, adopted on 19 march 2015, para. 73. Available at: <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-V-2015-18-ENG.pdf>; Amnesty International, *Albania 2015/2016*. Available at: <http://www.refworld.org/docid/56d05b7b15.html>.

they are not registered as residents. In addition, the documents required to be able to benefit from programmes are not specified by law, leaving the authorities considerable discretion and resulting in great discrepancies in the way that social housing programmes are implemented at local level.¹¹⁵

Also, as seen above, lack of tenure and life in informal housing also play a critical role in the birth registration procedure. Many Roma, due to their lack of documentation and because they often live in informal housing, face problems registering their permanent residence and, as a consequence, the birth of their children.

7.3. Access to Healthcare

Roma face discrimination in accessing healthcare. 76% of Roma, compared to 93% of non-Roma, have been immunised against polio, diphtheria, tetanus and whooping cough. There are reports that Roma are sometimes forced to pay bribes to receive proper medical treatment. Many children in large Romani families suffer from malnutrition, which affects their overall health and ability to study.¹¹⁶

Moreover, discrimination against Roma in healthcare is not only related to the common concerns of Albanian society about bribing doctors and nurses, but also takes into account many examples of direct or indirect discrimination regarding inappropriate treatment by healthcare providers, communication barriers and violation of healthcare rights that, together, make the health system and healthcare facilities hostile places for Roma.¹¹⁷

One of the main concerns of Roma is lack of health insurance cards. Many Roma are either unemployed or they work without a valid employment contract. Undocumented Roma are disproportionately impacted in this regard. In either case they do not pay social security contributions and are thus ineligible for benefits. Roma living on a low income are usually unable to afford health insurance contributions. In addition, they might not be aware of the procedures that must be followed to obtain a health insurance card.

Discrimination discourages Roma communities from immediately addressing their health concerns or to give birth in hospitals.¹¹⁸ Romani and Egyptian women continue to have limited

¹¹⁵ *Ibid*, para. 78.

¹¹⁶ ERRC, *Basic facts on Roma – Albania*, 2010. Available at: <http://www.errc.org/article/basic-facts-on-roma-albania/3622>; Decade for Roma Inclusion, *Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in ALBANIA*, 2013. Available at: http://www.al.undp.org/content/dam/albania/docs/misc/Roma%20decade%20_civil-society-monitoring-report_en.pdf.

¹¹⁷ Decade for Roma Inclusion, *Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in ALBANIA*, 2013. Available at: http://www.al.undp.org/content/dam/albania/docs/misc/Roma%20decade%20_civil-society-monitoring-report_en.pdf.

¹¹⁸ Immigration and Refugee Board of Canada, *Albania: Situation of Roma, including access to education, employment, housing and social services; treatment of Roma by society and authorities (2011-June 2014)*, 16 June 2014. Available at: <http://www.refworld.org/docid/53b13bfb4.html>.

access to primary health care and sexual and reproductive health-care services, and are often unaware of the availability of such services.¹¹⁹

7.4. Access to Education and Literacy

Poor education outcomes and low rates of literacy often result in limited access to employment for Roma and have a direct impact on their ability to understand and navigate bureaucratic procedures in all areas of life, including civil registration, or know from whom and where to seek help. Moreover, despite documentation in theory not being a barrier to undocumented children being able to attend school, in practice it prevents them from obtaining school and university degrees attesting their education.

Access to education for Roma in the country has made some progress in recent years. This is attributed, *inter alia*, to a number of targeted measures intended to facilitate the integration of Roma children in the national school system such as the possibility to enrol Roma children in school without birth and vaccination certificates, the distribution of free textbooks as well as free meals under the project “meal-providing schools”, or the exemption for Roma parents from paying costs associated with their children’s school attendance.¹²⁰

Notwithstanding all these measures, there is still a gap in school attendance between Roma children and the rest of the population.¹²¹ This especially affects Romani girls.¹²² As reported by the Roma Inclusion Index 2015, on every education indicator, girls are doing worse than boys, very few Roma are completing primary or secondary education, and segregation is worsening.¹²³

119 CEDAW, *Concluding observations on the fourth periodic report of Albania*, CEDAW/C/ALB/CO/4, 25 July 2016, Para. 32. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ALB/CO/4&Lang=En.

120 ECRI, *Report on Albania (fifth monitoring cycle)*, adopted on 19 March 2015. Available at: <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-V-2015-18-ENG.pdf>.

121 UNICEF, *The Cost of Underinvestment in Education: And ways to reduce it*, 2017. Available at: https://www.unicef.org/albania/2017_ALB_Underinvestment_in_education-en.pdf.

122 CEDAW Committee, *Concluding observations on the fourth periodic report of Albania*, CEDAW/C/ALB/CO/4, 25 July 2016, Para. 28. The Committee reports that “girls’ school enrolment remains lower than that of boys and the dropout rate among girls, especially girls from minority groups, at the secondary level of education remains disproportionately high. It also notes with concern the limited access to education for Roma and Egyptian girls and girls with disabilities, as well as children living in rural and remote areas, owing to poor school infrastructure and lack of teachers.” Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ALB/CO/4&Lang=En; UNICEF, *The Cost of Underinvestment in Education: And ways to reduce it*, 2017. Available at: https://www.unicef.org/albania/2017_ALB_Underinvestment_in_education-en.pdf. Nearly one third of Roma women are illiterate compared to 5% of non-Roma women. Roma women have spent an average of only 5 years in school, compared to 10 years for non-Roma women. See also the table on ethnic disparities relating to literacy levels of Roma and non-Roma in the country (p.10).

123 ERRC, Submission to the European Commission on the enlargement component of the EU Roma Framework, May 2017, p. 6. Available at: <http://www.errc.org/cms/upload/file/submission-on-roma-inclusion-in-enlargement-countries-may-2017.pdf>.

According to UNICEF Albania, in 2012 the nationwide school drop-out rate was less than 1%, while for Roma children it was nearly 4% and for Egyptian children 3.4%. This gap may be even higher due to school directors underreporting the issue.¹²⁴

Mistrust in education, discriminatory treatment, large distances between their homes and schools, as well as poverty pushing Romani children to work to contribute to the family income may explain lower school attendance among Roma.¹²⁵ Segregation in education also represents a barrier to full access to quality integrated education for Roma children in the country.¹²⁶

¹²⁴ ECRI, *Report on Albania (fifth monitoring cycle)*, adopted on 19 march 2015, para. 61. Available at: <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-V-2015-18-ENG.pdf>.

¹²⁵ *Ibid*, para. 62.

¹²⁶ ERRC, *Submission to the European Commission on the enlargement component of the EU Roma Framework*, p. 6, May 2017. Available at: <http://www.errc.org/cms/upload/file/submission-on-roma-inclusion-in-enlargement-countries-may-2017.pdf>.

8. Conclusions and Recommendations

This report set out to better understand the nexus between discrimination, statelessness and its consequences for Roma in Albania, so that the human rights challenges they face can be addressed in an effective and sensitive manner. The report drew on interviews with affected persons and key stakeholders, to identify and analyse the main contributing factors and consequences of (the risk of) statelessness.

There have been some underlying themes that have come out of the research. Firstly, while the legal framework in Albania is largely non-discriminatory, pervasive negative stereotypes of Roma continue to undermine social and official attitudes towards Roma. Consequently, there is a pattern of institutional racism against Roma, which is reflected both in the way the inclusion of Roma is perceived and pursued by state authorities and by the lack of urgency to address some of the most critical challenges that are disproportionately faced by this community. Furthermore, the legal framework itself is not equipped to address multiple discrimination, a key shortcoming given the various grounds on which Roma are likely to experience harassment, prejudice and disadvantage. Despite this situation and the obvious links, discrimination is not necessarily seen in Albania as a cause and consequence of statelessness.

Closely connected to the theme of discrimination, is that of access to justice. Roma face significant challenges accessing justice in Albania, and the State Commission on Legal Aid has failed to ensure that Roma who are denied nationality and documentation are able to seek legal redress. There is a structural shortcoming here, in that many Roma in this situation do not have the documentation they are required to show to prove their eligibility to access legal aid. This is a significant bureaucratic failing, as the injustice these Roma would be challenging is this very lack of documentation. A second challenge relates to the poor resourcing of the Commission, which means that even those who are able to access legal aid receive low-quality services.

A third challenge relates to the gap between Albania's legal framework (including its international obligations which have the force of law) and the bureaucracy that is mandated to implement the law and guarantee rights. Albania's international and national law obligations related to non-discrimination, birth registration, the right to nationality, the prevention of statelessness and the identification and protection of stateless persons are all undermined by an inadequate policy framework and a burdensome bureaucracy. Indeed, it is fair to say that statelessness is not recognised as a significant issue by authorities and stakeholders in Albania. It is significant that there is no one state entity with the mandate to address statelessness. Although the Directorate for Nationality and Directorate of Civil Status are the relevant authorities dealing with granting of nationality, little attention is given to the prevention and reduction of statelessness and the protection of the rights of stateless Roma persons.

Many of the bureaucratic procedures disproportionately disadvantage Roma, as they do not appropriately accommodate their specific circumstances. This indirect discrimination heightens

the barriers to documentation and birth registration faced by Roma; there are no bureaucratic solutions being implemented to address the situation of lack of documentation and permanent residence that many Roma live with, which, under the current system, they are condemned to pass on to their children. The situation of Roma children born abroad exemplifies the intransigence of the bureaucracy, which fails to uphold basic principles of non-discrimination and the best interests of the child, to ensure that children are not penalised or disadvantaged as a result of the imposition of requirements that cannot be met by their parents.

A fourth challenge relates to the paucity of data related to both statelessness and Roma populations. This lack of data is symptomatic of the invisibility that accompanies structural discrimination. It further exacerbates the problem at hand, makes it more difficult to plan a suitable policy response, and makes it easier to deny the scale or seriousness of the issue. Indeed, Albanian law does not provide for the identification and protection of stateless persons. As a result, they are vulnerable in all areas of life and face obstacles in attaining lawful residence. Consequently, even though Albania has strong international treaty accession records, and a reasonably strong legal framework (with some significant gaps), these national, regional and international norms and standards are not universally and equally applied to protect Roma from discrimination and statelessness.

The challenge of civil documentation and birth registration is clearly the biggest challenge faced by Roma (and other communities) in Albania which increases the risk of statelessness. It is important that a clear distinction be drawn between lack of civil registration (and/or being undocumented) and being stateless. However, it is equally important to be mindful of the heightened risk of statelessness faced by undocumented persons and their children, particularly when they also lack an abode of permanent residence.

These common themes point both to specific challenges of discrimination faced by Roma communities and individuals, and a more general bureaucratic challenge to effective governance and human rights in Albania. Importantly, addressing these structural issues would benefit not only Roma, but society as a whole.

Recommendations

Drawing on the research findings presented in this report, the following recommendations are made:

- 1. Compliance with international obligations.** The Albanian Government should ensure that all international and regional obligations related to the right to nationality, prevention and reduction of statelessness, protection of stateless persons, non-discrimination, and birth registration are fully incorporated into domestic law and implemented in practice. In particular, Albania should introduce a procedure in law to identify and protect stateless persons in line with the 1954 Convention and UNHCR's Handbook on Protection of Stateless Persons.

2. **Access to fundamental rights.** The Albanian Government should take steps to guarantee access (in law and practice) to fundamental rights for all Romani people on their territory, irrespective of documentation or citizenship status, including to education, healthcare (including reproductive rights and maternity care for women), shelter, work, freedom of movement, liberty and security of the person, equal participation in social and political life, and freedom from violations of rights such as child and early marriage.
3. **Right to a nationality and the Sustainable Development Goals.** The Albanian Government should take steps to reform law and practice that impedes the enjoyment of Albanian nationality by those entitled to it. In particular, Albania must safeguard every child's right to a nationality, irrespective of the status, documentation, or actions of their parents. This should be integrated into the Government's work towards the Sustainable Development Goals (SDGs), including in its SDG National Action Plan, to ensure that "no one is left behind" in the pursuit of Target 16.9 to "by 2030, provide legal identity for all, including birth registration".
4. **Tackling prejudice and discrimination.** The Albanian Government should act to address structural discrimination against Roma, including prejudicial attitudes and negative stereotypes, to ensure that Roma are not directly or indirectly discriminated against in their access to documentation, enjoyment of their right to a nationality, and all other human rights. The Government must ensure that the Albanian legal framework is equipped to identify and prevent multiple discrimination faced by stateless Roma.
5. **Access to civil registration.** The Albanian Government should ensure that all civil registration and documentation procedures, including birth registration, are universally accessible by simplifying complex procedures and eliminating barriers related to cost, time, distance and bureaucracy. A central, computerised registry system should be established to enable automatic birth registration by healthcare institutions, facilitate efficient case resolution through sharing of information across different registry offices on the number of people affected by registration problems, and actions required to remedy these.
6. **Children born abroad.** The Albanian Government should strengthen cooperation with other states on the issue of birth registration for Albanian nationals whose children are born abroad. There should be improved joint-working between the Ministries of Internal Affairs and Foreign Affairs to address bureaucratic challenges related to recognition of Albanian citizenship of children born to Albanian nationals abroad. State funded legal aid should be made available to those affected to ensure their births are registered and citizenship recognised.
7. **Statelessness lead in Government.** The Albanian Government should designate a lead authority with a mandate for preventing and reducing statelessness and identifying and protecting stateless persons in Albania. Their role should include awareness raising across government departments and institutions, including immigration and asylum, citizenship, and civil registry authorities. The National Human Rights Institutions and Ombudsperson should have a mandate to monitor and report on these issues.
8. **Capacity building of state officials.** The Albanian Government should mandate rigorous and continuous professional development for all state officials, such as registry office

staff, health workers, and consular officials, who have a legal role to play in civil registration procedures. Working with relevant experts, the Government should ensure that these officials, decision makers and other key actors are equipped to address statelessness and discrimination, by providing training and continuous capacity building on core topics including equality and non-discrimination, statelessness, gender, human rights and public law.

- 9. Community outreach.** The Albanian Government should conduct ongoing outreach programmes to improve connections and relationships between Roma communities and government institutions and officials. State officials should work with the community to design and conduct outreach campaigns to directly learn from Roma communities about their specific needs and the barriers they face, to share information with them, and to provide them with access to mobile registration teams.
- 10. Access to justice.** The Albanian Government should make available effective remedies for all those seeking to resolve their documentation status, including high-quality, state-funded legal aid (that does not require the very documentation they have been denied in order to access it), the removal of barriers such as court fees or fees for DNA testing, judicial oversight, and robust complaints and compensation mechanisms.
- 11. Data collection and monitoring.** The Albanian Government and international agencies should strengthen the collection and monitoring of disaggregated data (including by ethnicity, age, and gender) and conduct a comprehensive mapping on statelessness, the risk of statelessness, and Roma populations in Albania, with appropriate safeguards in place to ensure anonymity.
- 12. Support for Roma-led organisations.** The Albanian Government, international agencies, and other donors and actors should provide financial and practical support to Roma-led organisations to lead capacity building, empowerment and awareness raising activities within the community; provide legal and other services to Roma; strengthen Roma voices; inform initiatives to tackle societal prejudice and discrimination; and critique and influence national law and policy.
- 13. EU Accession.** European Union Institutions should ensure that Roma discrimination and statelessness in Albania is comprehensively addressed as a matter of priority through the EU accession process, closely monitored during accession negotiations, and scrutinised by the European Parliament.
- 14. Other regional and global processes.** The Roma 2020 Initiative, Council of Europe, OSCE/ODIHR, UNHCR, UNICEF, Human Rights Council, UN treaty bodies and other regional and global actors should ensure that Roma statelessness is addressed through all relevant human rights procedures in Albania as a matter of concern.

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This report is dedicated to all Romani people whose lives are impacted by discrimination, lack of documentation and statelessness. We hope this will be a useful tool in their continuing struggle for justice and inclusion.

10. Bibliography

Articles, Books, Reports and Studies

- Alliance against Antigypsyism, **Antigypsyism: a reference paper**, June 2017.
- Amnesty International, **Albania 2015/2016**.
- Amnesty International, **Albania 2016/2017**.
- Committee on the Elimination of Discrimination against Women, **Concluding observations on the fourth periodic report of Albania**, CEDAW/C/ALB/CO/4, July 2016.
- Council of the European Union, Brussels European Council 14 December 2007, **Presidency Conclusions**, Brussels, 14 February 2008 16616/1/07 REV 1, 2008.
- Decade of Roma Inclusion Secretariat Foundation, **Roma Inclusion Index 2015**, September 2015.
- Decade of Roma Inclusion, **Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in Albania**, 2013.
- De Chickera A and Whiteman J, *Addressing statelessness through the rights to equality and non-discrimination*, in van Waas L and Khanna M (eds), *Solving Statelessness*, Wolf Legal Publishers, 2016.
- De Verneuil M, **Romani Migration Resulting in Statelessness: the Case of Bosnia and Herzegovina**, in Roma Rights: Journal of the European Roma Rights Centre 1/2014: Going Nowhere? Western Balkan Roma and EU Visa Liberalisation, 2014.
- De Verneuil M, **Statelessness of Romani People in the Western Balkans: Negligence or Discrimination?**, 2016.
- European Commission against Racism and Intolerance, **Report on Albania** (fifth monitoring cycle), Adopted on 19 March 2015, CRI (2015)18, 2015.
- European Commission, **Albania 2016 Report**, 2016.
- European Commission Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, **Report on the implementation of the EU Framework for National Roma Integration Strategies 2015 COM(2015) 299**, 17 June 2015.
- European Network on Statelessness, **Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change**, 2017.
- European Parliament, **A European strategy on the Roma**, PE 401.031 European Parliament resolution of 31 January 2008 on a European strategy on the Roma, 2008.
- European Roma Rights Centre, **Basic facts on Roma – Albania**, 2010.
- European Roma Rights Centre, **ERRC submission to the European Commission on the enlargement component of the EU Roma Framework**, May 2017.

European Roma Rights Centre, **Third-party intervention in Hysenaj v Albania**, App. No. 78961/11 (EctHR).

European Roma Rights Centre, **Written Comments for Consideration by the European Commission concerning Roma Inclusion in the Western Balkans Progress Reports 2016**, July 2016.

Fredman S, **Intersectional discrimination in EU gender equality and non-discrimination law**, European network of legal experts in gender equality and non-discrimination, 2016.

Institute on Statelessness and Inclusion, **The World's Stateless**, Wolf Legal Publishers, December 2014.

Institute on Statelessness and Inclusion, **The World's Stateless**, Wolf Legal Publishers, January 2017.

Institute on Statelessness and Inclusion, European Network on Statelessness, European Roma Rights Centre, **Roma Belong - Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine**, October 2017.

Isakovic Suni M, **Comparing Approaches to Combating Statelessness in Albania and Serbia**, 2015.

Krasniqi G, **Reinventing the state: (e)migration and citizenship in Albania**, in Citsee Working Paper Series 27/2013, 2013.

Meçe M, **Accessible Justice System for All: The Case of the Roma Minority in Albania**, ECMI, February 2015.

Ombudsman of Albania, **Annual Report - On the activity of the People's Advocate, 1st January – 31st December Year 2015**, February 2016.

Ombudsman of Albania, **Raport Vjetor, Për veprimtarinë e Avokatit të Popullit 1 Janar – 31 Dhjetor Viti 2016**, April 2017 (in Albanian).

Open Society Foundation for Albania, **Hulumtim mbi Profilin Socio-Politik të Popullatës Rome në Shqipëri** (Research on Socio-Political Profile of the Roma Population in Albania), December 2015, (in Albanian).

Open Society Foundation for Albania (OSFA), **Roma Census Study of Albania Communities**, April 2014.

OSCE, **National Strategy for improving Roma living conditions**, September 2016.

Republic of Albania, **The Decade of Roma Inclusion, National Action Plan (2010 – 2015)**, 2011.

Republic of Albania, Ministry of Foreign Affairs, **Fourth Report submitted by Albania pursuant to Article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities**, November 2016.

Republic of Albania, **Ministry of Social Welfare and Youth, National Action Plan for Integration of Roma and Egyptians in Albania**, December 2015.

Tirana Legal Aid Society, **Ending Childhood Statelessness – A Study on Albania**, European Network on Statelessness, Working Paper 05/15, 2015.

Tirana Legal Aid Society, **Raport Mbi Ndihmën Juridike Në Shqipëri**, 2013 (in Albanian).

Tirana Legal Aid Society, **Enhancing the protection of the rights of accused - Policy paper**, July 2016.

UN Committee on the Elimination of All Forms of Racial Discrimination, **Concluding observations: Albania**, September 2011.

UN Committee on the Elimination of the Discrimination against Women, **Concluding observations on the fourth periodic report of Albania**, July 2016.

UN High Commissioner for Refugees, **Analysis and Comments Draft Law on Citizenship of Albania**, April 1998.

UN High Commissioner for Refugees, **Compilation of recommendations relating to statelessness made during the first cycle (1st - 12th sessions) of the Human Rights Council's Universal Periodic Review**, July 2013.

UN High Commissioner for Refugees, **Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons**, Geneva, 2014.

UN High Commissioner for Refugees, **Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: ALBANIA**.

United Nations Development Programme in Albania, **A Needs Assessment Study on Roma and Egyptian Communities in Albania**, February 2012.

United Nations Development Programme in Albania, **Final report of the EU-funded project 'Support to Social Inclusion of Roma and Egyptian Communities in Albania**, 2015.

United Nations Development Programme in Albania, **Roma and Egyptians in Albania: a socio- demographic and economic profile based on the 2011 Census**, April 2015.

United Nations Development Programme in Albania, **Roma in Albania**, June 2012.

UNICEF, **The Cost of Underinvestment in Education: And ways to reduce it**, 2017.

Vermeersch P, **Between Europeanisation and discrimination: the Roma as a special focus of EU policy**, in Romani mobilities in Europe: Multidisciplinary perspectives International Conference, University of Oxford, 14-15 January 2010.

Useful Websites

Commissioner for Protection from Discrimination, **Reports on the activities of the Commissioner**, (in Albanian).

Council of Europe, **Descriptive Glossary of Terms relating to Roma Issues**.

Council of Europe, **Factsheets on Roma Culture.**

Council of Europe, **Factsheets on Roma History: General Introduction.**

Council of Europe, **Roma and Travellers.**

Council of Europe, **European Committee on Legal Cooperation.**

European Union Democracy Observatory on Citizenship, **Protection against Statelessness Data.**

OSCE, **Roma and Sinti.**

Roma Integration 2020, Roma in the Region, The size of the Roma Community in the Region.

UNDP Albania, **National Action Plan for Integration of Roma and Egyptians in Albania.**

UNDP Albania, **Economic and Social Empowerment for Roma and Egyptians - a booster for social inclusion.**

United Nations Treaties

Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), 1976.

Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. A/RES/34/180, 1979.

Convention on the Rights of the Child, G.A. Res. A/RES/44/25, 1989.

International Covenant on Civil and Political Rights, G. A. Res. 2200A (XXI), 1976.

International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. A/RES/51/80.

United Nations Convention on the Rights of Persons with Disabilities, A/RES/61/106.

United Nations Convention on the Reduction of Statelessness, U.N.T.S. 989, 1961.

United Nations Convention Relating to the Status of Stateless Persons, 360 U.N.T.S. 117, 1954.

Regional Treaties

Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union 2012/C 326/01.

European Convention for the Protection of Human Rights and Fundamental Freedoms
European Convention on Nationality.

The European Roma Rights Centre (ERRC) is a Roma-led international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development and training of Romani activists. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

The European Network on Statelessness (ENS) is a civil society alliance with over 100 members in 40 countries committed to addressing statelessness in Europe. ENS believes that all human beings have a right to a nationality and that those who lack nationality altogether are entitled to full protection. ENS aims to achieve its mission through awareness-raising, law & policy and capacity-building activities.

The Institute on Statelessness and Inclusion (ISI) is an independent non-profit organisation committed to an integrated, human rights based response to the injustice of statelessness and exclusion through a combination of research, education, partnerships and advocacy.

Tirana Legal Aid Society (TLAS) is one of the foremost NGOs in Albania dealing with the issue of statelessness. TLAS offers free legal aid services for thousands of stateless children and adults and has continued to work for the improvement of the birth registration system in partnership with the Albanian Government. TLAS's mission is to fulfil the legal and social needs of the poor, and educate and raise the awareness of Albanian society on the rule of law and human rights; and to undertake initiatives on the improvement of the legal system, community development and strengthening democracy in Albania.

The #RomaBelong project is a joint initiative by the European Roma Rights Centre (ERRC), the Institute on Statelessness and Inclusion (ISI) and the European Network on Statelessness (ENS) in collaboration with partner organisations in Albania (Tirana Legal Aid Society), Bosnia-Herzegovina (Vaša prava BiH Association), Macedonia (Macedonian Young Lawyers Association), Montenegro (Mladi Romi), Serbia (Praxis) and Ukraine (Desyate Kvitnya). The project aims to better understand and address Romani statelessness (and risk of statelessness) in European Union candidate and neighbourhood countries in the Western Balkans (Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro and Serbia), and Ukraine.

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



European
Network on
Statelessness

