

Joint Submission to the
Human Rights Council

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ALBANIA

Tirana Legal Aid Society
Roma Active Albania
European Network on Statelessness

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European
Network on
Statelessness

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Introduction

1. The [Tirana Legal Aid Society](#) (TLAS), [Roma Active Albania](#) (RAA), and the [European Network on Statelessness](#) (ENS) make this joint submission to the Universal Periodic Review (UPR) on the right to a nationality, human rights challenges relating to statelessness, and discrimination against minoritised groups in Albania.
2. This submission focuses on:
 - I. Birth registration and the risk of statelessness
 - II. Children born abroad (jus sanguinis)
 - III. Discrimination against minoritised groups
3. The Annex provides information about the co-submitting organisations.

Previous UPR and UN Treaty bodies' recommendations to Albania

4. Albania received five recommendations during the first (2010) and third (2019) cycles of the Universal Periodic Review (UPR) regarding the right to a nationality and the prevention of statelessness, all of which were accepted.¹ During the third cycle, Argentina recommended that Albania “strengthen the measures to avoid statelessness, especially for groups in vulnerable situations, facilitating the process of naturalization for refugees and Roma.”² During the first cycle, Albania received four recommendations to ensure birth registration for all children. Mexico recommended Albania “facilitate and ensure registration of all children born in Albania,”³ while

¹ United Nations General Assembly, Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Albania’ (3 July 2019) UN Doc A/HRC/42/4; United Nations General Assembly, Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Albania’ (4 January 2010) UN Doc A/HRC/13/6.

² United Nations General Assembly, Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Albania’ (3 July 2019) UN Doc A/HRC/42/4, recommendation 95.197.

³ Albania UPR 2010 (n1), recommendation 72.

Czechia recommended adopting “further measures to ensure birth registration of all children.”⁴ Azerbaijan also recommended that Albania “take appropriate measures to promote the registration of all children, paying particular attention to the most vulnerable and marginalized groups.”⁵ Similarly, Norway recommended that Albania “adopt the Law on the Rights of the Child and the Law against Discrimination as matters of priority,”⁶ which the Government of Albania implemented in 2017 and 2020 respectively.

5. In 2011, the Special Rapporteur on the Human Rights of Migrants visited Albania, offering several recommendations regarding nationality and statelessness. Among other observations, he reiterated that “Albania is under an obligation to ensure to “everyone” all fundamental civil, political, economic, social and cultural rights. The Special Rapporteur noted that the national legal framework did not fully comply with the country’s international human rights obligations. [...] A review of [the Law on Foreigners] should also [...] include an explicit provision on the right to a nationality of children born to foreigners in Albania.”⁷ Furthermore, he noted that Albania should “take urgent necessary consulate measures necessary to guarantee to each child born to Albanian parents abroad the right to free and compulsory registration, a name and nationality.”⁸
6. The Committee on the Rights of the Child (CRC) has also made several recommendations to Albania regarding birth registration and nationality. In 2023, it noted that minority groups, including but not limited to Romani, Egyptian, and migrant populations, “experience disproportionately lower birth registration rates,”⁹ and recommended that Albania “ensure the issuance of birth certificates for all children born on its territory, immediately after birth, regardless of the immigration status of the child or the parents, including those who are undocumented.”¹⁰ The Committee also recommended that Albania “improve collaboration between civil registry authorities and the Ministry of Foreign Affairs to facilitate the registration of children born abroad”¹¹ and “expand community education and outreach regarding the registration process and legal aid available, targeting children whose registration continues to present challenges.”¹² As a means to target these issues, the Committee recommended that Albania “consider ratifying the 2009 Council of Europe on the Avoidance of Statelessness in Relation to State Succession.”¹³ Similar recommendations were made by the Committee in 2012.¹⁴

⁴ United Nations General Assembly, Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Albania’ (3 July 2019) UN Doc A/HRC/42/4, recommendation 71.

⁵ United Nations General Assembly, Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Albania’ (3 July 2019) UN Doc A/HRC/42/4, recommendation 73.

⁶ United Nations General Assembly, Human Rights Council, ‘Report of the Working Group on the Universal Periodic Review: Albania’ (3 July 2019) UN Doc A/HRC/42/4, recommendation 12.

⁷ United Nations General Assembly, Human Rights Council, ‘Report of the Special Rapporteur on the human rights of Migrants’ (10 April 2012) UN Doc A/HRC/20/24/Add.1, paragraph 66.

⁸ United Nations General Assembly, Human Rights Council, ‘Report of the Special Rapporteur on the human rights of Migrants’ (10 April 2012) UN Doc A/HRC/20/24/Add.1, paragraph 72(c).

⁹ United Nations General Assembly, Human Rights Council, ‘Report of the Special Rapporteur on the human rights of Migrants’ (10 April 2012) UN Doc A/HRC/20/24/Add.1, paragraph 21.

¹⁰ Committee on the Rights of the Child, ‘Concluding observations on the combined fifth and sixth reports of Albania’ (17 October 2023) UN Doc CRC/C/ALB/CO/5-6, paragraph 21(a).

¹¹ *Ibid*, paragraph 21(b).

¹² *Ibid*, paragraph 21(c).

¹³ *Ibid*, paragraph 21(d).

¹⁴ Committee on the Rights of the Child, ‘Concluding observations the combined second to fourth periodic reports of Albania’ (7 December 2012) UN Doc CRC/C/ALB/CO/2-4, paragraph 36.

7. In 2019, the Committee on the Elimination of Racial Discrimination (CERD) gave similar recommendations to Albania regarding the birth registration of children from minority groups. It called for Albania to “develop a comprehensive strategy to prevent unregistered births,”¹⁵ as well as for “the early identification of persons lacking birth certificates and other personal documents, particularly among Roma and Egyptians and members of other minority groups, families returning from an irregular stay abroad, migrants, refugees, and asylum seekers, to prevent statelessness and ensure access to the rights enshrined in the Convention.”¹⁶ In 2011, the Committee raised concerns regarding the situation of unregistered Roma in Albania, recommending that Albania “take immediate steps to ensure that all Roma have access to the personal documents that are necessary for them to enjoy, among other things, their economic, social and cultural rights.”¹⁷
8. The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) has recommended action regarding birth registration for the children of migrant workers. In 2019, it recommended, among other things, that Albania “ensure that all children in situations of migration and those affected by migration can enjoy the same rights as all other children, including those to birth registration, proof of identity and a nationality, and access to education, health care, housing, and social protection.”¹⁸ The Committee also recommended that Albania raise awareness of the importance of birth registration among migrant workers and members of their families.”¹⁹
9. The Committee on Economic, Social and Cultural Rights (CESCR) recommended that Albania “guarantee access of Egyptians and Roma to procedures for birth registration and personal identity documents.”²⁰ This included recommending action “through steps such as exempting families who are marginalized and living in poverty from payment of fees for birth registration and identity documents.”²¹
10. The UN Human Rights Committee has also recommended Albania take action regarding the human rights challenges relating to statelessness, specifically to “ensure that all Roma have identity cards to facilitate their right to vote.”²² The Committee also included the birth registration rate in the list of issues prior to submission of the third periodic report of Albania, currently under consideration.²³

Albania’s International Obligations

¹⁵ Committee on the Elimination of Racial Discrimination, ‘Concluding observations on the combined ninth to twelfth periodic reports of Albania’ (2 January 2019) UN Doc CERD/C/ALB/CO/9-12, paragraph 26.

¹⁶ Committee on the Elimination of Racial Discrimination, ‘Concluding observations on the combined ninth to twelfth periodic reports of Albania’ (2 January 2019) UN Doc CERD/C/ALB/CO/9-12, paragraph 26.

¹⁷ Committee on the Elimination of Racial Discrimination, ‘Consideration of reports submitted by States parties under article 9 of the Convention’ (14 September 2021) UN Doc CERD/C/ALB/CO/5-8, paragraph 14.

¹⁸ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, ‘Concluding observations on the second periodic report of Albania’ (8 May 2019) UN Doc CMW/C/ALB/CO/2, paragraph 60(b).

¹⁹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, ‘Concluding observations on the second periodic report of Albania’ (8 May 2019) UN Doc CMW/C/ALB/CO/2, paragraph 48.

²⁰ Committee on Economic, Social and Cultural Rights, ‘Concluding observations on the combined second and third periodic reports of Albania’ (18 December 2013) UN Doc E/C.12/ALB/CO/2-3, paragraph 13.

²¹ Committee on Economic, Social and Cultural Rights, ‘Concluding observations on the combined second and third periodic reports of Albania’ (18 December 2013) UN Doc E/C.12/ALB/CO/2-3, paragraph 13.

²² Human Rights Committee, ‘Concluding observations on the second periodic report of Albania’ (22 August 2013) UN Doc CCPR/C/ALB/CO/2, paragraph 23(e).

²³ Human Rights Committee, ‘List of issues prior to submission of the third periodic report of Albania’ (19 August 2021) UN Doc CCPR/C/ALB/QPR/3, paragraph 23.

11. In 2003, Albania acceded to the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
12. Albania has international obligations to protect the right to a nationality and the rights of stateless persons based on other UN and regional treaties to which it is a party. These include, among others:²⁴
 - International Covenant on Civil and Political Rights (see article 24.3)
 - International Covenant on Economic, Social and Cultural Rights (see articles 2.2 and article 3)
 - Convention of the Rights of the Child (see articles 2, 3, 7, and 8)
 - Convention on the Elimination of All Forms of Discrimination against Women (see article 9)
 - International Convention on the Elimination of All Forms of Racial Discrimination (see article 5(d)(iii))
 - Convention on the Rights of Persons with Disabilities (see article 18)
 - International Convention for the Protection of All Persons from Enforced Disappearance (see article 25.4)
 - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (see article 29)
 - Convention on the Nationality of Married Women (see articles 1, 2 and 3)
 - Convention Relating the Status of Refugees and its 1967 Protocol (see Article 1)

Furthermore, Article 15 of the Universal Declaration on Human Rights includes the right to a nationality.

13. Albania is a party to other relevant regional treaties, including the European Convention on Human Rights and the European Convention on Nationality. However, Albania is not party to the European Convention on the Avoidance of Statelessness in Relation to State Succession.
14. In October 2019, Albania made several pledges at the UNHCR High-Level Segment on Statelessness.²⁵ These included a commitment to “fully implement the 2018 legislative amendments that improve access to birth registration procedures for children of Roma and Egyptian communities, and for children born outside the territory of the Republic of Albania whose parents are nationals of the Republic of Albania”.²⁶ By 2019, Albania pledged to align its Law on Citizenship with the key provisions of the 1954 and 1961 Conventions to reduce the risk of statelessness and naturalise stateless persons. Albania also pledged to establish a statelessness determination procedure (SDP) by 2020. The legislation introducing an SDP entered into force in November 2021, and an Instruction operationalising the procedure was issued in June 2023.

Snapshot of Statelessness in Albania

15. In Albania,²⁷ the prevention and reduction of statelessness is a crucial concern and intersects with various factors, including historical discrimination, lack of access to civil

²⁴ See: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en>.

²⁵ See: <https://www.unhcr.org/ibelong/results-of-the-high-level-segment-on-statelessness/>.

²⁶ Ibid.

²⁷ See further information at ENS, Statelessness Index: Albania, <https://index.statelessness.eu/country/albania>.

registration, and gaps in nationality laws.²⁸ Some data on the stateless population in Albania is available, but this is somewhat limited. The 2011 census included a category 'stateless' for which data is available disaggregated by sex but not by residence or documentation status or ethnicity, therefore limiting its ability to be acted upon. The 2011 census identified 7,443 stateless people.²⁹ A new census was conducted in 2023. The results will be available in June 2024 and will include data on stateless people. Studies have identified individuals at risk of statelessness, including a mapping study by UNHCR and TLAS in 2018 that identified 1,031 people at risk of statelessness, 97% of which were children.³⁰

16. Nevertheless, gaps in data remain, particularly in asylum and immigration data, where there is no specific category for stateless individuals. Moreover, the exact size of Albania's Roma population remains unknown despite being a group disproportionately affected by and at risk of statelessness.³¹ Efforts have been made to improve data collection and census methodologies to better understand and address statelessness. A new tool was introduced in 2018 to aid identification and tracking of people at risk of statelessness by civil registration authorities. However, there are indications that it is not being used to its full potential, and only a few offices have recorded data on it so far.³²
17. Albania has positively developed its legal framework concerning the protection of stateless people since the previous UPR cycle. In June 2023, the Government published a dedicated Instruction³³ to implement and regulate the statelessness determination procedure (SDP), based on the law which was adopted in 2021.³⁴ This is a positive step towards the protection of stateless people in Albania as it fills a gap in the legislation. However, the implementation of this instruction needs to be monitored in practice, as uncertainties remain as to how it will operate. There is no information available yet about the implementation of the SDP in practice. This assessment will underscore if there is a need for further improvements in the domestic legal framework.
18. There are several positive aspects in the instruction implementing the SDP, which provides that if the applicant also applied for asylum, the SDP is suspended, with the applicant's approval, and they will be considered as an asylum seeker and treated according to the provisions of the Law on Asylum. The competent authority must certify acceptance of an application for statelessness status. The instruction also provides that country-of-origin information is to be gathered on the political, economic, social, and human rights situation of the relevant country, and foresees a process of verification and information gathering from foreign diplomatic representations and international organisations. The instruction sets a maximum time limit of 180 days for a decision to be made, with a possible three-month extension,

²⁸ European Network on Statelessness, European Roma Rights Centre, Institute on Statelessness and Inclusion, 'Roma Belong. Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine' (26 October 2017) ('Roma Belong Report'), available at: <https://www.statelessness.eu/updates/publication/roma-belong-statelessness-discrimination-and-marginalisation-roma-western>.

²⁹ Census data is available at: <https://www.instat.gov.al/en/themes/censuses/census-of-population-and-housing/publikimet/2011/publications-of-population-and-housing-census-2011/>.

³⁰ UNHCR and Tirana Legal Aid Society, Mapping of the Population at Risk of Statelessness in Albania (May 2018) available at: <https://www.unhcr.org/ibelong/statelessness-mapping-study-in-albania-a-new-advocacy-tool-for-the-coalition-and-partners/>

³¹ See Roma Belong Report.

³² See further information, ENS, Statelessness Index: Albania, <https://index.statelessness.eu/country/albania>.

³³ The Instruction is published in the Official Gazette no 87 dated 21.06.2023, "On the documentation and procedure for the application, evaluation, approval, and refusal of the request for the declaration of the stateless status" by Article 102 point 4 of the Albania Constitution and Article 54, Article 3 of the Law on Aliens, no 79/2021.

³⁴ Law on Foreigners, no. 79/2021: <https://qbz.gov.al/eli/fz/2021/162/8f6d9e67-0996-44fa-aadb4a32b30e7fad;q=ligji%20per%20te%20huajt>.

similar to the nine months needed for the Refugee Status Determination Procedure. It also provides that the applicant has the right to appeal before the first instance of the Administrative Court of Tirana against the decision to refuse statelessness status.

19. However, uncertainties and gaps in protection remain. Applicants are required to provide many documents in their application, but the instruction is not clear as to the consequences of not attaching some documents, including where the applicant may have difficulties in obtaining them. In particular cases, it may be impossible for an applicant to benefit from the services of one country where they are not a national. While it is foreseen that a representative of UNHCR may be present during the interviews, the instruction does not specify who decides on UNHCR presence. Applicants may also face barriers to accessing legal aid. Moreover, Annex 2 of the instruction (“The Decision Form”) includes information on nationality, but this is not relevant since this regulates an SDP.
20. There is no formal dedicated training on statelessness for government bodies. The NGO TLAS has provided regular training for authorities supported by international donors including ENS, UNHCR, and the US Embassy. No training specifically on statelessness has ever been delivered by the School of Magistrates nor the School of Advocates and this is not part of the curricula.
21. Since 2020, Albanian law has ensured that children born stateless on the territory, foundlings, adopted children, and most children born to nationals abroad acquire Albanian nationality. There have been measures to reduce the risk of statelessness and improve access to birth registration. However, children still face difficulties if parents are undocumented or have irregularities in their documentation, and Romani and Egyptian communities are disproportionately impacted. Same-sex marriages are not recognised, and children of same-sex parents may not be able to have both parents listed on their birth certificates. More information on children’s right to birth registration and children born abroad is provided under Issues 1 and 2, respectively.
22. Discrimination against minoritised groups in Albania also compounds challenges in protecting the rights of stateless people. These groups often face barriers in accessing civil registration, exercising nationality rights, and accessing social services such as education and healthcare. Romani communities in Albania are disproportionately affected by the risk of statelessness. Efforts such as the National Action Plan for Equality, Inclusion, and Participation of Roma and Egyptians 2021-2025 demonstrate a positive commitment to address statelessness risk among vulnerable communities, but further action is necessary.³⁵ More information on discrimination against minoritised groups is provided under Issue 3.
23. Through recent positive developments, Albania has shown efforts to fulfil its commitments under international human rights law related to statelessness. However, gaps in implementation and protection persist.

Issue 1: Birth registration and the risk of statelessness

³⁵ Ministry of the Interior, National Action Plan for Equality, Inclusion and Participation of Roma and Egyptians in The Republic of Albania (November 2021) Available at: <https://shendetesia.gov.al/wp-content/uploads/2022/03/NATIONAL-ACTION-PLAN-FOR-EQUALITY.pdf>.

24. Every child has the right to a nationality and to be registered immediately after birth.³⁶ These are core principles of international law which, if applied in a comprehensive and non-discriminatory manner, would end childhood statelessness.³⁷ States should have provisions in law to prevent statelessness at birth, including for children born to nationals abroad, foundlings, in the context of adoption, and provisions to grant nationality to all children born on the territory who would otherwise be stateless.³⁸ Moreover, States should resolve *in situ* statelessness by issuing identity documents, registering births, and confirming or granting nationality, including through targeted nationality campaigns or nationality verification efforts. States should also work to identify and eliminate discriminatory laws, policies, and practices that perpetuate intergenerational (risk of) statelessness affecting minoritised and marginalised populations.³⁹
25. Albanian nationality law was changed in 2020 to introduce a safeguard to enable children born on the territory “who remain stateless” to acquire Albanian nationality.⁴⁰ The provision should be automatic, however, according to the law on civil status,⁴¹ birth registration must be carried out as a necessary precondition for acquiring Albanian nationality. The provision is automatic once it is proven from the birth notification certificate at registration that the child was born on the territory and ‘may remain stateless’. These facts are proven by the birth notification certificate and the child is registered immediately.
26. The law states that the child has the right to be registered for free, immediately after birth, and to acquire a nationality, and that all children born in a health setting or elsewhere must be documented. If the fact of birth has not been certified by an appropriate official and a medical report drawn up, it must be proven through the court.⁴²
27. The nationality of the child is determined and recorded upon birth registration.⁴³ If the parents are Albanian nationals their nationality is confirmed in the electronic register of all nationals and automatically attributed to the child. If the parents are foreign nationals with lawful residence in Albania, their residence is verified, and the child is granted either Albanian nationality or the nationality of the parent/s at their will. If the parent/s are undocumented, refugees, or residing without a lawful status in Albania or stateless, the child will be registered based on the declaration of the parent/s. This is not regulated in law, but general rules apply, and this is confirmed by practice.
28. There is no specific provision in force requiring health or civil registry authorities to share information with immigration authorities, but there is also no ban on this happening in law or practice.

³⁶ UN Convention on the Reduction of Statelessness, 1961, Articles 1 and 4; International Covenant on Civil and Political Rights, 1966, Article 24(2); Convention on the Rights of the Child, 1989, Articles 3 and 7; UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 7; UN Sustainable Development Goal 16.9.

³⁷ See Article 7 of the UN Convention on the Rights of the Child, read in conjunction with Articles 2 and 3.

³⁸ See, e.g., UN Convention on the Reduction of Statelessness, 1961: Articles 1-4. European Convention on Nationality, 1997: Articles 2 and 6.

³⁹ Statelessness Index, Statelessness Determination and Protection in Europe: Good Practice, Challenges, and Risks, 2021: <https://index.statelessness.eu/resources/statelessness-determination-and-protection-europe>.

⁴⁰ Law On Nationality, available at: <https://qbz.gov.al/eli/ligj/2020/07/29/113/55eae8f6-f942-4df2-9481-41b8463bbf62;q=ligj%20per%20shtetesine>.

⁴¹ Law on Civil Status 69/2018, available at: <https://qbz.gov.al/search;q=ligj%20per%20gjendjen%20civile>.

⁴² Law on civil status, available at: <https://mb.gov.al/wp-content/uploads/2021/01/Ligji-per-Gjendjen-Civile-i-NDRYSHUAR.pdf>.

⁴³ Law on Civil Status 69/2018, available at: <https://qbz.gov.al/search;q=ligj%20per%20gjendjen%20civile>.

29. In practice children face difficulties if parents are undocumented or have irregularities in their documentation. In particular, many Romani and Egyptian people are unable to fulfil the birth registration requirements, exposing them to (a risk of) statelessness. The leading cause of (the risk of) statelessness of Romani and Egyptian communities 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 access to this right because their births cannot be registered. The birth registration process in Albania can be complex and challenging 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, lawful residence transfers, divorces, and child custody.
30. While the challenges identified above are not exclusive to Romani and Egyptian communities, they affect them disproportionately. A lack of resources, economic migration, life in informal housing, and marginalisation, more generally, are all factors significantly impacting 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 children of undocumented parents with no permanent residence to acquire Albanian nationality. Hence, the risk of statelessness is an intergenerational issue.
31. Without birth registration, Romani and Egyptian communities face barriers in obtaining other documents from the civil registry office and identity documents when they become adults. Furthermore, as Romani and Egyptian communities are less likely to have property ownership records or housing lease agreements, they face many barriers when changing or registering their residence at the civil registry office.
32. Other barriers to birth registration that were identified⁴⁴ include communities living in rural areas far from health care centres, leading to women giving birth at home, lack of information or awareness about the registration process among Romani communities, and prejudicial attitudes among officials and other stakeholders resulting in a lack of action to identify Romani and Egyptian communities who are unregistered and at risk of being stateless.
33. In recent years, there have been enhanced measures taken by the authorities, including initiatives implemented in cooperation with civil society, to identify Romani and Egyptian children who have not been registered at birth and to provide them with the necessary personal documents. However, there is a lack of an overall strategy to deal with this persisting challenge, and recent efforts do not address the situation of registration of families returning from an unlawful stay abroad and the increasing number of people who seek international protection.
34. More recently, civil society and Romani representatives have raised the issue of fictitious marriages, where a man pays a woman to marry him, allowing him to change his last name, for example to evade justice and then absconding or emigrating, thereby leaving the married woman without a husband. She may not be able to afford a divorce or may not be willing to go through this long process, before having children with a new cohabitant. The couple may not wish to register those children as they would automatically be registered as the children of the now-absent husband. This

⁴⁴ These barriers have been identified by TLAS through its work (i.e. research reports, casework, training of civil registry employees).

disproportionately impacts women who are in a disadvantaged situation, living in rural areas, or belonging to a minority, leaving them with bureaucratic and legal difficulties in getting divorced. 60% of cases of fictitious marriage reported by legal aid organisations concerned women belonging to the Romani minority, and 3,000 cases of fictitious marriage per year are recorded in Albania.⁴⁵ This may leave children of these marriages without the correct documentation to acquire Albanian nationality or access education, leading to further social issues, such as child begging or access to healthcare. Legal aid organisations also raised the concern that the authorities adopted a permissive approach to these “marriages,” not wishing to intervene in what they perceive as a cultural pattern.

35. A further obstacle to birth registration relates to children born to same-sex couples. The Albanian legal framework does not provide for the recognition of same-sex marriages nor the parenthood of same-sex parents. There are reports of registrars not recording two parents of the same sex in the birth certificate. A case about the refusal to register the children of two mothers by the authorities is currently before the courts, and is still pending for adjudication before the Administrative Court of Appeal as of April 2024.

Issue 2: Children born abroad (jus sanguinis)

36. Children born to Albanian nationals abroad acquire Albanian nationality. All children born to at least one Albanian parent automatically acquire Albanian nationality.
37. However, complexity and challenges related to birth registration highlighted above are exacerbated in cases of children born abroad, especially for children whose parents live abroad irregularly. It is likely that births of these children will not be registered, or they will receive only a notification of birth, which does not include basic information including such as their name, required by the Albanian authorities to register the birth in Albania.
38. 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. It 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.
39. The bureaucratic requirements of this procedure are taxing and often impossible to fulfil, particularly for undocumented women who give birth abroad. Due to their own lack of documentation and irregular status, they often do not give birth in hospitals, and therefore their child does not always obtain a birth certificate. Many parents do not manage to address 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

⁴⁵ The repercussions of a fictitious marriage encompass detrimental effects on the rights and interests of the women involved, the welfare of children born within these unions that are at risk of statelessness, and the undue burden placed on courts handling divorce proceedings, paternity claims, and childbirth registrations, among other related matters. https://www.tlas.org.al/sites/default/files/Studimi%20per%20Martesat%20Fiktive_30_06_final%20%281%29.pdf.

certificates are not legalised and the children's births are not registered in Albania regardless of whether the parents are Albanian nationals. 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.⁴⁶

40. To solve this situation and provide effective remedies for the registration of children, including children born abroad to Albanian parents, the Albanian Parliament approved amendments to the law "On civil status" in 2018, with technical support from Albanian NGOs, including TLAS, who played a significant role.⁴⁷ The amendments facilitate the resolution of unregistered cases through an administrative and a judicial procedure. The law regulates communication between hospital institutions where births take place and the registry offices, as hospitals are required to report all newborns to the registry offices. If the deadlines set by law for registration are exceeded, the registry office informs Child Protection Units to initiate registration procedures if parents do not register the child within 60 days.
41. Moreover, the General Directorate of Civil Status has indicated that the registration of all children regardless of ethnicity and whether born inside or outside the territory of Albania, or inside or outside health institutions, is a priority. The registration of a birth is free of charge, while persons declaring the birth of a child within 60 days (90 days for births abroad) receive a bonus of ALL 5,000 covered by the State budget. From 1 January 2019, for the first-born child, the family gets 40,000 ALL; for the second child, 80,000 ALL; and for the third benefits, 120,000 ALL. However, from October 2023, Albanian parents living abroad are not entitled to receive this bonus for the births and registration of their children.⁴⁸

Issue 3: Discrimination against minoritised groups

42. The current National Action Plan for the Equality, Inclusion, and Participation of Roma and Egyptians was renewed from 2021-25.⁴⁹ It has seven priority sectors, including access to education, employment, housing, health, and social services. The 2019 monitoring report of the previous Action Plan noted some improvements. However, the report stated that several serious gaps remained, notably in access to employment and funding for housing and education.
43. Conditions for Romani and Egyptian communities, alongside the rest of the population, worsened further in November 2019 when a 6.3 magnitude earthquake hit Albania. According to UNDP, the worst earthquake in over 30 years struck 11 municipalities, including the major urban centers of Tirana and Durres. Minority communities, especially Romani and Egyptian, were particularly affected, as they were more likely to be living in informal housing prone to earthquake damage. Since then, many have described being stuck in a bureaucratic situation where they could not access the rental bonus that they should have received to afford alternative accommodation because they needed a lease, identity documents, and the bank account of their landlords. Given widespread discrimination in the property sector, just obtaining a

⁴⁶ For more information on this issue, see TLAS, Institute on Statelessness and Inclusion, ENS and European Roma Rights Centre, Joint submission to the Human Rights Council at the 33rd session of the Universal Periodic Review, 4 October 2018, at: <https://www.statelessness.eu/sites/default/files/2024-01/Joint%20UPR%20Submission%20Albania%20-%20Oct%202018.pdf>.

⁴⁷ Amendments to Law No.10129/2009, "On Civil Status", adopted in October 2018.

⁴⁸ <https://qbz.gov.al/eli/ligj/2023/10/12/79/bdc232b6-beff-4a5f-a50c-1476fb0b3781>

⁴⁹ Council of Europe Office in Tirana, 19 November 2021, at: <https://www.coe.int/en/web/tirana/-/kjdfilkjs>. National Action Plan for the Equality, Inclusion and Participation of Roma and Egyptians 2021-2025.

lease could be a difficult obstacle. Romani and Egyptian communities facing these challenges noted that even if they received the bonus, it would only cover rent for a year.

44. The case *X and Others v. Albania* of the European Court of Human Rights (ECtHR) of 31 May 2022⁵⁰ will hopefully lead to better access to education for Romani children in Albania. It concerned the “Naim Frasheri” School situated on the outskirts of Korça. The school was colloquially labelled the ‘Roma and Egyptian school’ because virtually all students belong to either of these two communities. Segregation at the school appeared to increase in 2012 following an outflow of ethnic Albanian students from a formerly ethnically mixed institution. The ECtHR found a violation of Article 1, Protocol No. 12 of the European Convention on Human Rights. The Court noted that the government had taken steps to desegregate the school but had failed to implement sufficient measures to desegregate ethnic groups within a reasonable period. Albania is also obliged to remove discriminatory school segregation and ensure effective desegregation of the education process.
45. The Law “On Protection from Discrimination” of 2010 was amended in 2020. The amendments brought forward specific protections from multiple, intersecting, and structural discrimination, hate speech, segregation, and sexual harassment. Additionally, ‘serious forms of discrimination’ are defined and are to be punished more severely. The new amendments also provide for shifting the burden of proof and enable organisations to file complaints with the Commissioner against Discrimination and the courts, including on issues related to collective interests.
46. The Commissioner against Discrimination is mandated to promote and protect human rights and continue to enjoy the trust of national minorities and the respect of the authorities. The Commissioner regularly issues binding decisions on public authorities and may also issue such decisions against individuals. It makes recommendations to the authorities to aim to implement the principles of the Law on Protection from Discrimination. The Commissioner has publicly stated that most of his minority-related cases come from people belonging to the Romani and Egyptian minorities, relating to grounds of skin colour or “race” and concern access to goods and services (electricity, drinking water, sewerage, or lighting), school dropouts, poverty, language used in the media, and the dismissal of a Romani woman from her position in a public institution.
47. Free legal aid was introduced with the entry into force of the new Law “on Legal Aid” in June 2018. 20 state centres across Albania provide primary legal aid for civil, administrative, and criminal cases and 15 NGOs are authorised by the State to provide free legal aid. This is a welcome development as a contribution to adequate protection from discrimination and access to justice for people belonging to national minorities. However, unlike other groups, people belonging to Romani and Egyptian minorities were not included under the specific beneficiary category of the law, while they had been included under that category for the Law “on Social Housing.” This leads to a low number of Romani and Egyptian community members benefitting from secondary legal aid, as they are not aware that they have access to such rights or feel unable to exercise them. Being included under the specific beneficiary category of the law on Legal Aid would enable Romani and Egyptian communities to be taken more into account by State institutions, more conscious of their right, and would not face the

⁵⁰ European Court of Human Rights, *X and Others v. Albania*, applications nos. 73548/17 and 45521/19, judgment of 31 May 2022.

challenge of having to submit numerous documents to prove that they meet the criteria to receive free legal aid.

Recommendations

48. Based on the above information, the co-submitting organisations urge reviewing States to make the following recommendations to Albania:
 - I. The Albanian Government should fully implement the Law on Nationality, approved in 2020, and ensure that all children born on its territory who would otherwise be stateless automatically acquire a nationality at birth without conditions and regardless of the documentation status or identity of the parents.
 - II. The Albanian Government should designate a lead authority to prevent and reduce statelessness and identify and protect stateless people in Albania. Their role should include awareness-raising across government departments and institutions, including immigration and asylum, nationality, and civil registry authorities. The National Human Rights Institutions and Ombudspersons should be mandated to monitor and report on these issues.
 - III. The Albanian Government should mandate rigorous and continuous professional development for all State officials, such as registry office staff, social and health workers, and consular officials, who have a role to play in civil registration procedures. Working with relevant experts, the Government should ensure that these officials, decision-makers, and other vital 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.
 - IV. The Albanian Government should conduct ongoing outreach programmes to improve connections and relationships between Romani and Egyptian communities, government institutions, and officials. State officials should work with the community to design and conduct outreach campaigns to learn from Romani and Egyptian communities about their specific needs and the barriers they face, share information with them, and provide them access to mobile registration teams.
 - V. The Albanian Government should make effective remedies available for all those seeking to resolve their documentation status, including quality, state-funded legal aid (that does not require the very documentation they have been denied access to), the removal of barriers such as court fees or fees for DNA testing, judicial oversight, and robust complaints and compensation mechanisms.
 - VI. 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 of statelessness, the risk of statelessness, and Romani and Egyptian populations in Albania, with appropriate safeguards in place to ensure anonymity.
 - VII. Registrars should be adequately trained to ensure that the marriages they register are genuine and that, if they challenge a marriage, this is done in a non-discriminatory way, taking into account the particular situation of rural and isolated Romani women. Further awareness raising as to the risks of entering into a fictitious marriage among minority and rural communities should also be considered, to emphasise the cost, both financial for the women involved and in

terms of access to rights for the children left without their necessary documentation. The authorities should take a more active role in investigating and addressing the impact of fictitious marriages, in particular on women and children belonging to national minorities, including through providing the necessary social, legal, and financial support to them, ensure that the marriage law is adequately enforced in a non-discriminatory way, and raise awareness of the risks of this process among people belonging to national minorities.

- VIII. While access to personal documents has improved for Romani and Egyptian communities, State institutions offering public services should remove barriers which continue to prevent those communities from fully enjoying their rights and accessing increasingly digital public services and improve these communities' digital skills and access to technology.
- IX. The Albanian authorities should provide the Commissioner against Discrimination and the People's Advocate with the resources they need to carry out their respective mandates, and to cooperate further with both institutions as to the implementation of their recommendations.
- X. School segregation is a systemic problem across Albania, and one case of discrimination at a school has been the subject of a judgment of the European Court of Human Rights. While there is a clear will to address this problem, authorities should adopt a more coordinated and systemic approach to effectively desegregate the schools concerned.