

Written evidence submitted by Asylos, Helen Bamber Foundation, Asylum Aid, ILPA, Migrant and Refugee Children's Legal Unit (MiCLU), Public Law Project, Rainbow Migration, Women for Refugee Women and Shpresa Programme (joint submission) (BSAIB20)

**Border Security, Asylum and Immigration Bill
Commons General Committee
Written Evidence**

1. Introduction

1.1 This response to the call for evidence is a joint submission from Asylos, Helen Bamber Foundation, Asylum Aid, ILPA, Migrant and Refugee Children's Legal Unit (MiCLU), Public Law Project, Rainbow Migration, Women for Refugee Women and Shpresa Programme. Collectively we have come together to call for the repeal of section 59 of the Illegal Migration Act 2023 (IMA) which, if fully commenced, would have a discriminatory impact on individuals we support to make asylum and/or human rights claims and would lead to refoulement in breach of the UK's commitments under both the Refugee Convention and the European Convention on Human Rights.

1.2 We welcome the repeal of the Safety of Rwanda (Asylum and Immigration) Act 2024 and the repeal of many of the provisions of the IMA. We are however concerned that the Government intends to retain section 59 IMA which, if fully commenced, would extend the list of so-called 'safe' countries from whose nationals asylum claims are 'inadmissible' - and will therefore not be considered at all - beyond EU states to include countries which are not in fact safe, and extends inadmissibility to human rights claims, including those based on family and private life.

1.3 We believe that this extension is unlawful, discriminatory and likely unworkable in practice. It will lead to significant breaches of international law, including the Refugee Convention, the Human Rights Convention, and the Convention on Action Against Trafficking in Human Beings. It is inconsistent with this Government's stated commitment to the Rule of Law and the protection of human rights.

1.4 During the Second Reading of the Border Security, Asylum and Immigration Bill on 10th February 2025, the retention of section 59 IMA was criticised by five MPs. The concept of 'safe' states was also robustly criticised by the Labour Party in opposition during the passage of the IMA and the Safety of Rwanda Act.

1.5 While organisations may submit further evidence on the Border Security, Asylum and Immigration Bill in their own name, this submission focuses explicitly on our shared concerns about section 59 IMA.

1.6 In light of the evidence presented here we encourage the Committee to also repeal this part of the IMA alongside the other provisions this Bill repeals. This could be achieved by amending clause 38(1)(f) to read “sections 53 to 59”.

2. Section 59 of the Illegal Migration Act 2023

2.1 Section 59 IMA amends provisions in the Nationality, Immigration and Asylum Act 2002 relating to the inadmissibility of certain asylum claims (amending section 80A and inserting section 80AA). The text of section 80A with the changes made by section 59 IMA (shown in tracked changes) is appended to this briefing, together with the text of section 80AA, which is a list of ‘safe states’ to which section 80A will apply, as inserted by section 59 IMA.

2.2 Section 59 has, to date, only been brought into force for the purpose of making regulations¹ and the regulation-making power has been used by the previous Government to add India and Georgia to the list of ‘safe’ states² in section 80AA.

2.3 Section 80A itself was introduced by section 15 of the Nationality and Borders Act 2022. It provides that asylum claims from EU nationals must be declared inadmissible to the UK’s asylum system, unless there are exceptional circumstances. This was based on the EU’s ‘Spanish Protocol’ which provided that asylum claims by nationals of one Member State should generally be considered inadmissible in another Member State. As the [Explanatory Notes to the 2022 Act](#) explain:

The basis of the Spanish Protocol is founded in the fact that EU member states are required by Article 2 of the Treaty on European Union to respect human dignity, freedom, democracy, equality, the rule of law and human rights. It is therefore considered that the level of protection afforded to individuals’ fundamental rights and freedoms in EU member states means that they are deemed to be safe countries. As such, there is, except in the most exceptional of circumstances, no risk of persecution for individuals entitled to reside in EU countries that would give rise to a need for international protection.

2.4 To give effect to this principle after the UK left the EU, section 80A was inserted. There is no right of appeal against a decision to treat an asylum claim as inadmissible (section 80A(3)). Asylum claims by EU nationals could be considered only in exceptional circumstances, such as where the Member State was derogating from the European Convention on Human Rights (ECHR) or the subject of suspension proceedings by the European Council for serious breach of the values protected by Article 2 of the Treaty.

¹ The Illegal Migration Act 2023 (Commencement No. 1) Regulations 2023, SI 2023/989, Reg 2(c) <https://www.legislation.gov.uk/uksi/2023/989/contents/made>

² The Nationality, Immigration and Asylum Act 2002 (Amendment of List of Safe States) Regulations 2024: <https://www.legislation.gov.uk/uksi/2024/523/regulation/2/made>

2.5 Section 59 significantly extends the inadmissibility process in two ways:

- (1) It extends the list of countries to whose nationals automatic inadmissibility applies to include not only the EU member states, Iceland, Liechtenstein, Norway and Switzerland, but Albania and, following the regulations made by the last government, India and Georgia, despite concerns about their general safety.
- (2) It makes not only asylum claims but also human rights claims from nationals of these countries inadmissible. Those human rights claims include claims made by people in the UK that their removal from the UK would breach their human rights, including the prohibition on torture, inhuman or degrading treatment and the prohibition of slavery (which encompasses modern slavery and trafficking), and claims made by those seeking entry to the UK on the basis that the refusal of entry to the UK would, for example, breach their family member's right to family life.

3. What does this mean for asylum and human rights claims?

3.1 The effect of a person's asylum and human rights claim being deemed inadmissible under section 80A is that:

- There will be no substantive consideration of their asylum or human rights claim.
- The decision to treat the claim as inadmissible does not attract the right of appeal.
- Their only remedy will be an application for judicial review of the decision to treat their claim as inadmissible.

3.2 Although inadmissibility is mandatory/automatic, section 80A(4) does allow the Home Office to treat a claim from a national of a listed state as admissible in "exceptional circumstances". These are non-exhaustively defined in section 80A(5) as including cases where the state concerned is derogating from the ECHR, or is the subject of suspension proceedings by the EU for serious breach of the obligations in Article 2 of the Treaty on European Union.

3.3 Hungary is subject to such suspension proceedings at the moment and the Home Office guidance³ states that asylum claims by Hungarian nationals should not be treated as inadmissible.

3.4 Albania, Georgia and India are not EU member states and India is not a signatory to the ECHR so these examples of exemptions are of limited relevance to them. Although the examples in section 80A(5) are non-exhaustive, current caseworker guidance on inadmissibility under section 80A does not give any guidance on what other circumstances might be covered by the concept of "exceptional circumstances".

³ Guidance: Asylum policy instruction: EEA/EU asylum claims:
<https://www.gov.uk/government/publications/eea-and-eu-asylum-claims-instruction/asylum-policy-instruction-eeaeu-asylum-claims-accessible>

4. What would repealing Section 59 mean for asylum and human rights claims of EU nationals?

4.1 If section 59 IMA is repealed by the Border Security, Asylum and Immigration Bill, the existing section 80A of the Nationality, Immigration and Asylum Act 2002 would remain in place. This means that asylum claims by EU nationals would continue to be inadmissible, other than in exceptional circumstances.

4.2 However, any human rights claim made by a person from one of the countries on the section 80AA list seeking to enter or remain in the UK would still be considered substantively, just as any human rights claim made by a national of any other country is. This ensures that the Home Office is not breaching the European Convention on Human Rights by removing a person from the UK, or refusing to allow them to come here, e.g. to join or stay with their family members.

4.3 There is already a high threshold for private and family life claims to succeed where a person cannot meet the requirements of the Immigration Rules. There is no reason for human rights claims by nationals on this list to be treated differently. If they are clearly unfounded the Home Office continues to have the power to certify them, which removes any right of appeal.

5. What would repealing Section 59 mean for asylum and human rights claims of Albanian, Georgian and Indian nationals?

5.1 For nationals of Albania, Georgia, and India, repealing section 59 would not mean any change in the current position where:

- The Home Office may decide to treat an asylum claim as inadmissible if the person has a connection to a safe third state: see section 80B of the 2002 Act;
- Asylum claims which are admissible and human rights claims are considered substantively by the Home Office unless treated as withdrawn;
- However, the Home Office can decide not to hold a substantive interview under paragraph 339NA of the Immigration Rules on various grounds including where it considers that the applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in their removal, or where the facts raised do not appear to have any relevance to examining whether they are a refugee;
- If refused, the Home Office can certify claims as clearly unfounded if they are bound to fail on appeal. This removes any right of appeal.

6. Why is Section 59 of the Illegal Migration Act likely unlawful

6.1 Section 59 introduces two changes to the 2002 Act which are likely unlawful and, when fully implemented, will have serious adverse consequences for a wide range of people.

Inadmissibility of protection claims

6.2 Inadmissible asylum claims are not considered by the government other than in exceptional circumstances, meaning that individuals have no way for their asylum claim to be substantively considered and have no right of appeal.

6.3 The inadmissibility of claims from certain countries is based on the “safe country of origin” concept. A “safe country of origin” is normally a country where it is determined that in general persons residing there are not at serious risk of persecution. In section 80A of the Nationality, Immigration and Asylum Act 2002, currently only EU countries are on the list of countries from which an asylum claim is inadmissible.

6.4 The ‘safe countries’ concept is one of a range of policies that governments can choose to pursue to prevent what they consider ‘non-genuine’ asylum claims, and to deter individuals genuinely seeking asylum from travelling to their borders. This might include denying or limiting access to the asylum system to people who are from countries that they consider to be ‘safe’.

6.5 This policy mechanism has received significant criticism from a range of sources. The UN High Commissioner for Refugees (UNHCR) is clear that designating countries as safe within asylum decision-making may be acceptable as a way of positively prioritising which claims to examine, but safe country rules that impose blanket bans on asylum claims by people of certain nationalities are not acceptable:

“Application of the safe-country concept in relation to countries of origin leads to nationals of countries designated as safe being either automatically precluded from obtaining asylum/refugee status in receiving countries or, at least, having raised against their claim a presumption of non-refugee status which they must, with difficulty, rebut.

In so far as application of the concept would a priori preclude a whole group of asylum-seekers from refugee status, in UNHCR's view this would be inconsistent with the spirit and possibly the letter of the 1951 Convention relating to the Status of Refugees.”⁴

6.6 Placing countries such as Albania, Georgia and India on a ‘safe country list’, from whose nationals asylum claims can only be admitted in ‘exceptional circumstances’ risks giving rise to breaches of the Refugee Convention, including the prohibition of *refoulement*, which may be a norm of customary international law.⁵

Inadmissibility of human rights claims

6.7 Section 59 makes inadmissible (other than in exceptional circumstances) not only protection claims, but also human rights claims (a claim that removal from the UK would breach an individual’s rights under section 6 of the Human Rights Act 1998). It renders human rights

⁴ UNHCR, Background Note on the Safe Country Concept and Refugee Status EC/SCP/68, 1991 <https://www.unhcr.org/publications/background-note-safe-country-concept-and-refugee-status>

⁵ *R (AAA (Syria) & Others) v SSHD* [2023] UKSC 42, para 25.

claims inadmissible according to the nationality of the person making the human rights claim. This is strikingly unlawful and contrary to Article 14 ECHR as it discriminates on the basis of nationality, with no objective justification.

6.7 For example, in the case of an Italian citizen and an American citizen both relying on the right to private or family life to stay in or enter the UK, the American citizen would have their case heard, and be able to appeal any decision to refuse them the right to remain in the UK. The Italian on the other hand would be unable to make any such claim, or to have any appeal on the basis of their rights under the ECHR.

6.8 The unlawfulness of these provisions means that it is highly likely that a challenge made to the European Court of Human Rights would be successful. By retaining these provisions the Government is potentially further undermining the role of the ECHR in our society, despite repeatedly stating it is committed to it.

6.10 The 'exceptional circumstances' indicated in the non-exhaustive list in section 80A, is wholly inappropriate for human rights claims, and has been narrowly construed by the Court of Appeal in the past, in relation to UK's former obligations under the Spanish Protocol, requiring 'compelling reasons to believe that there is a clear risk that they will be liable to persecution in the country of origin' and 'plainly cogent evidence (typically of some systemic default)'.⁶ However, many human rights claims are not based on risk of return but on a person's private and family life, their connection to the UK, such as having a partner or children in the UK, dependency on a person in the UK, or lack of ties to the country of proposed return. Requiring cogent evidence and compelling reasons to prove a person's liability to persecution in the so-called safe-country, is simply the incorrect test for these human rights claims. Therefore, it is likely to cause breaches of individual rights to impose a near-blanket ban on their consideration due to the perceived safety of the country of return.

6.11 Furthermore, in human rights claims regarding torture, inhuman and degrading treatment and punishment under Article 3 ECHR, the case law also makes clear that states are required to carry out a **rigorous** and **individualised** assessment of the merits of claims that expulsion would breach that prohibition because of the risk of ill-treatment in the country of expulsion (whether that is the country of origin or a third country). Treating human rights claims from countries such as Albania, India and Georgia as inadmissible other than in exceptional circumstances risks giving rise to breaches of the ECHR because claims which are deemed inadmissible will not be subject to such an individualised and rigorous assessment of risks.

6.12 In the ECHR Memorandum⁷ to the Illegal Migration Bill, the Home Office relied on *Ilias and Ahmed v Hungary*, Application no. 47287/15 to argue that the extension of section 80A to human rights claims and the inclusion of countries such as Albania is compatible with the

⁶ *ZV (Lithuania) v Secretary of State for the Home Department* [2021] EWCA Civ 1196, paras 34 and 35.

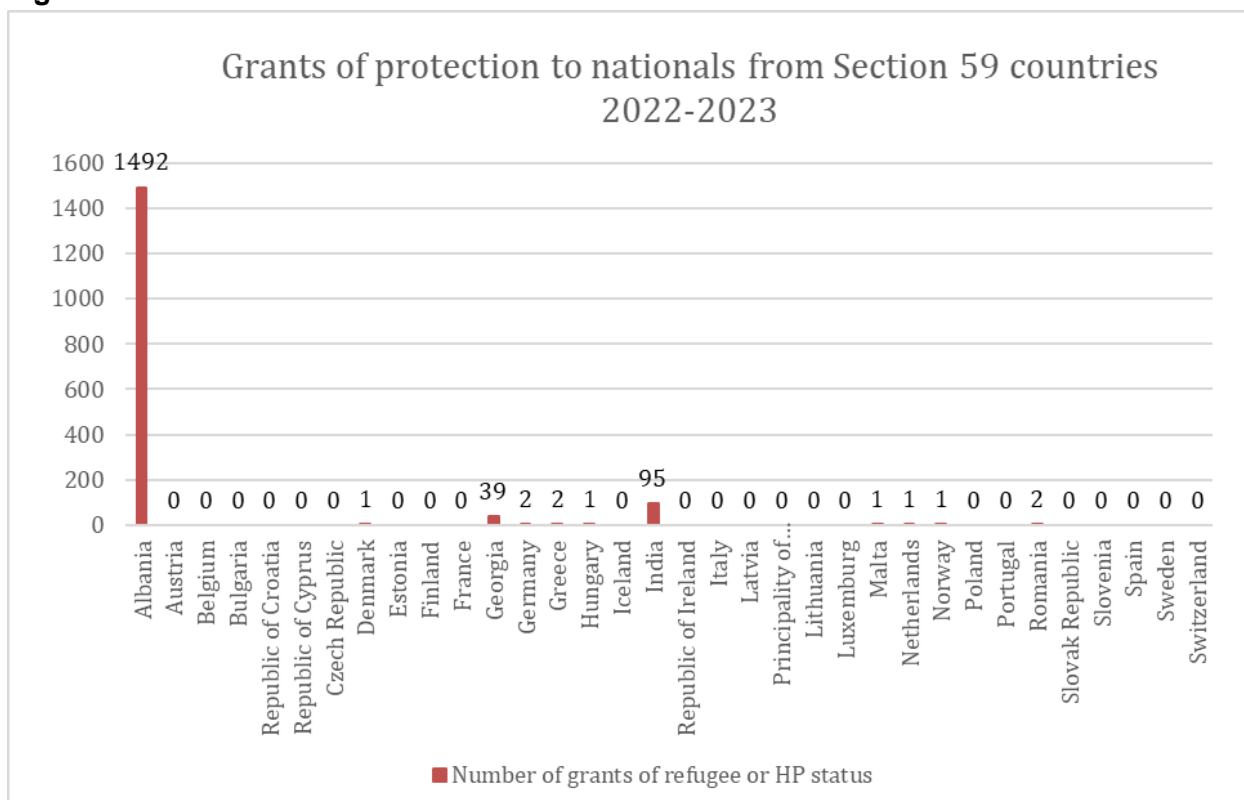
⁷ Illegal Migration Bill, European Convention on Human Rights Memorandum: <https://publications.parliament.uk/pa/bills/cbill/58-03/0262/ECHR%20memo%20Illegal%20Migration%20Bill%20FINAL.pdf>

ECHR. However, this judgment was concerned with removal to safe *third* countries, rather than safe countries of origin or habitual residence. Even in that context, the Court held that Hungary had violated Article 3 ECHR because it had simply relied on the presumption that Serbia was safe without conducting the necessary rigorous examination, which required consideration of whether the applicants would have effective access to an asylum procedure in Serbia.

7. How many individuals will likely be affected?

7.1 Home Office Statistics inform us of a minimum number of individuals that will likely be affected if section 59 is retained.

Figure 1



7.2 A total of 1,626 individuals from Albania, Georgia and India were granted protection in 2022 and 2023 alongside 11 individuals from EU countries. This means that after substantively considering their claims, the Home Office itself felt they warranted protection or leave to remain on human rights grounds. Full implementation of section 59 would result in all their claims being treated as inadmissible, other than in 'exceptional circumstances'.

7.3 In addition to these individuals who were granted leave to remain in the UK by the Home Office itself, there will be many more granted permission to stay in the country during their appeal proceedings. Furthermore, there will be many other individuals who received decisions certified by the Home Office and as a result have been removed or gone underground.

7.4 The provisions outlined in section 59 would have implications for many thousands of people. It is impossible to reasonably expect that there would not be litigation in the courts, including the European Court of Human Rights. In our view, given the discriminatory nature of provisions based on an unchangeable characteristic, nationality, it is highly likely that such litigation would be successful.

7.5 If the government is serious about fixing the broken asylum system it must ensure that the system in place actually functions. If enacted, section 59 is highly likely to be dysfunctional. Its implementation will likely deny thousands of people access to protection or to exercise their human rights. Furthermore, it will lead to considerable costs for the taxpayer, arising from litigation, and it will undermine the UK's commitments to internationally recognised human rights.

7.6 Repealing section 59 would have no impact on the Home Office's current ability to refuse and certify claims it finds to be unfounded.

8. Why 'safe states' do not work

8.1 Designating a state as safe for asylum and human rights decision making applies a blanket generalisation to individuals who will all have unique experiences and a specific set of vulnerabilities and factors that leave them in need of protection.

8.2 In the sections below, focused on India, Georgia and Albania, we outline some of the key reasons why a safe states policy is unlikely to work when viewed in the context of each country. Reasons for this include:

- the effect such policies have on minorities like certain religious groups and LGBTQ+ people;
- the impact it has on victims of systemic societal challenges in countries like violence against women and girls or organised crime;
- the extent to which a supposedly safe state is able to provide state protection, healthcare and psychological support for individuals who are returned there;
- the fact that political contexts on the ground can change quickly meaning a 'safe state' can quickly become unsafe if there is a change in government, or the rise of a particular political force; and
- the politicisation of the asylum system both in the UK and in countries of origin which see states as 'safe' as a result of political or diplomatic narratives.

8.3 In relation to the final point on the politicisation of the 'safe states' it is worth considering the Safety of Rwanda Act which was an attempt to assert that a country is safe in law despite a real risk of refoulement to individuals seeking sanctuary in that country.

8.4 Furthermore, is it worth considering the slow creeping expansion of the safe states list over time. What started out, under the Spanish Protocol, as a European Union exercise, now

encompasses a range of states which do not have the same standards of rule of law as the European Union. Moreover, given any UK Government's ability to add further states to the list with minimal scrutiny from Parliament (as happened under the last government in respect to India and Georgia) there is little to stop nationals of other countries having their ability to claim protection, or exercise their human rights, curtailed in the future.

8.5 There are very few safeguards in place to prevent further states being added to the safe list. The current criteria being that there should be, in the Government's assessment, no general risk of persecution and that removal should not contravene the UK's obligations under the ECHR. Despite both of these criteria, India and Georgia were still added. Furthermore, while there is a power to remove states from the list through Regulations, unlike the addition of states, there is no in-built statutory criteria for or requirement to review of the safety of States on the list, to ensure the Secretary of State *remains* satisfied of their general safety and that return of nationals to those states would not contravene the ECHR. There is thus the grave and real risk that the list quickly becomes out of date. This is compounded by the banning of individualised assessment of claims, absent exceptional circumstances.

9. Consideration of the inclusion of India on the safe states list

9.1 In the two years prior to the end of September 2024, 183 Indian nationals⁸ were granted asylum or a subsidiary protection status in the UK.⁹ The subject of human rights in India has been raised in the UK Houses of Parliament on a number of occasions in recent years,¹⁰ including concern for the situation of religious minorities.¹¹ Yet, in April 2024, India was added to the list of countries from where protection and human rights claims will be declared automatically inadmissible, in all but exceptional circumstances.¹³

9.2 Further consideration of the Home Office's [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#) version 4.0, published in April 2024 (April 2024 CPIN), highlights the risk that protection issues for certain groups who are disproportionately likely to be exposed to the risk of ill-treatment in their country of origin may be overlooked in the process of designating a country as generally "safe".

⁸ This number is different from the one shared in Figure 1 because they cover different time periods. Figure 1 covers calendar years 2022 and 2023, whereas the 183 national cited here covers the period September 2022 - September 2024.

⁹ UK Home Office, [How many people claim asylum in the UK?](#), 28 November 2024

¹⁰ UK Parliament, House of Lords Library, [Human rights in India](#), 14 November 2022

¹¹ Hansard, HL Deb, ([South Asia: Minority Faith Communities](#)), Volume 840: debated on Monday 28 October 2024

¹² Hansard, HC Deb, ([Christians and Religious Minorities: India](#)), Volume 709: debated on Thursday 24 February 2022

¹³ Legislation.gov.uk, [Nationality, Immigration and Asylum Act 2002 \(Amendment of List of Safe States\) Regulations 2024](#), 17 April 2024

9.3 In the April 2024 CPIN, the Home Office assessed that religious minorities and scheduled castes and tribes are unlikely to be at risk of persecution.¹⁴ The CPIN further assessed that the authorities are willing and able to provide effective protection to religious minorities and scheduled castes and tribes, despite extensive information within the CPIN suggesting that this is far from always the case.

9.4 In particular, the country information describes “extremely” poor responses by the authorities to violations against Muslims, Christians and members of scheduled castes and tribes,¹⁵ and a context in which institutional prejudices lead to impunity for actors that threaten, harass or attack them.¹⁶ For example, sources point to the victimisation of minorities who report violations against them,¹⁷ reluctance on the part of the police to file First Information Reports,¹⁸ and poor quality investigations or absence of investigation into reported violations.¹⁹ Alarming, some country information referenced in the CPIN describes the active participation of police in cases of communal targeting of religious minorities, including Christians and Muslims.²⁰

9.5 Information included in the CPIN illustrates how failures to provide adequate protection for religious minorities and scheduled castes and tribes has occurred in a wider environment of discriminatory laws and policies,²¹ and hateful and violent rhetoric directed particularly at Muslims by public figures associated with the BJP.²²

9.6 The Home Office’s [Country Policy and Information Note: India: Women Fearing Gender Based Violence](#) version 3.0, published November 2022, highlights how women and girls can face multiple forms of Gender Based Violence (‘GBV’) including domestic violence, sexual violence including rape, ‘honour crimes’, Female Genital Mutilation/ Cutting (FGM/C), early and forced marriage, and women accused of committing adultery or having pre-marital relations. The CPIN documents that GBV against women and girls in India is widespread and that women and girls in more rural areas or from scheduled-caste and tribes are especially vulnerable. For example, studies revealed that more than 75% of Bohra girls, aged around seven years, were

¹⁴ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), April 2024, see paras 12.1.1, 13.3.2, 14.1.3

¹⁵ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), April 2024, see paras 12.1.3, 12.2.12, 15.4.8

¹⁶ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), April 2024, see para 12.1.2

¹⁷ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), April 2024, see paras 12.2.2, 16.1.3

¹⁸ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), April 2024, see paras 12.2.2, 12.2.3, 12.2.4

¹⁹ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), April 2024, see paras 12.2.12, 12.3.4, 15.4.8, 16.1.4, 16.1.6, 16.1.10

²⁰ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), see paras 12.1.4, 12.2.1, 12.3.5, 12.2.13, 16.1.3

²¹ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), see paras 12.3.2, 12.3.4, 12.4.2

²² UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), see paras 11.2.12, 12.3.1, 12.3.7, 12.3.9, 12.3.11, 12.3.12, 12.3.16

subjected to FGM/C in India, whereas the latest study reveals the number to be 99%.²³ and Girls Not Brides reported that for instance, child marriage rates in districts of Rajasthan and Bihar range from 47% to 51%.²⁴

9.7 The Home Office itself recognises that some women may indeed be at risk of persecution in India: ‘Some women may be at more risk of persecution or serious harm, including those who are seen to have transgressed social, cultural and religious norms, or are single and living alone, or belong to a Scheduled Caste or Tribe.’²⁵ Information included in the CPIN highlights how women and girls experiencing GBV in their country of origin may be overlooked in the process of designating a country as generally “safe”. At a time when the Government has committed to supporting survivors of violence against women and girls (VAWG), treating asylum claims as inadmissible based on a person’s country of origin would be in contradiction to this strategy and prevent survivors of VAWG from receiving the protection they require.

9.8 The fact that conditions frequently evolve, potentially leaving the assessment of the safety of a country quickly outdated, further illustrates the problematic nature of designating countries as generally “safe”, raising the risk that well-founded protection claims could be deemed automatically inadmissible without due consideration. In the case of religious minorities in India, information published subsequent to the April 2024 CPIN indicates that the situation has not improved. In fact, the United States Commission on International Religious Freedom stated that religious freedom conditions worsened throughout 2024.²⁶ Hate speech against Muslims and other religious minorities by politicians, Hindu nationalist groups and religious figures,²⁷ continued and intensified during election periods,²⁸ and public officials repeatedly incited vigilantism, lynching and violent attacks on religious minorities through the year. The Indian state and social media companies reportedly failed to take action on the role of social media in such attacks.²⁹ Sources reported surges in violence toward Muslims, Christians and

²³ Equality Now, [‘Joint Stakeholder Submission... Female Genital Mutilation/Cutting...’](#), 18 July 2022

²⁴ Girls Not Brides, [‘Child marriage atlas – India’](#), nd

²⁵ UK Home Office, [Country Policy and Information Note: India: Religious Minorities and Scheduled Castes and Tribes](#), see paras 2.4.3

²⁶ United States Commission On International Religious Freedom, [Increasing Abuses against Religious Minorities in India](#), Country Update for India, October 2024

²⁷ CJP India Hate Lab Report 2024, [Unveiling the rise of hate speech and communal rhetoric](#), 13 February 2025; Centre for the Study of Organised Hate, [Hate Speech Report 2024](#), 10 February 2025; The Observer Post, [Kill a Hundred Muslims for Every Hindu’: Hindu Monk in Rajasthan Calls for Violence Against Muslims](#), 20 August 2024

²⁸ United States Commission On International Religious Freedom, [Increasing Abuses against Religious Minorities in India](#), Country Update for India, October 2024; CJP India Hate Lab Report 2024, [Unveiling the rise of hate speech and communal rhetoric](#), 13 February 2025; UN Human Rights Committee, [Concluding observations on the fourth periodic report of India* \[CCPR/C/IND/CO/4\]](#), 2 September 2024; Economic Times, [Land Jihad, Love Jihad leading demographic changes in state: Amit Shah in Jharkhand](#), 20 July 2024; Human Rights Watch (HRW), [World Report 2025 - India](#), 16 January 2025; BBC, [India election: Modi’s party accused of demonising Muslims in video](#), 7 May 2024

²⁹ United States Commission On International Religious Freedom, [Increasing Abuses against Religious Minorities in India](#), Country Update for India, October 2024; Center for the Study of Organized Hate, [Social Media and Hate Speech in India](#), 10 February 2025

Dalits, and other minorities,³⁰ and in September 2024, the UN Human Rights Committee raised concerns about “very high levels of violence against religious minorities”, and a lack of accountability for perpetrators of such violations.³¹

10. Consideration of the inclusion of Georgia on the safe states list

10.1 In the two years to the end of September 2024, 53 Georgian nationals were granted asylum or another protection status.³² Whilst the number of Georgian nationals who seek protection in the UK is relatively low, the statistics nevertheless show that Georgian nationals are granted protection in the UK.

10.2 The importance of legislation and policy that adequately accounts for the situation of groups who may be disproportionately exposed to ill-treatment in their country of origin is clearly illustrated by considering the case of LGBTQI+ Georgians who claim asylum in the UK. Experimental statistics produced by the Home Office on claims involving sexual orientation show that over the calendar years 2021, 2022 and 2023, 50 Georgian nationals made an asylum claim based on sexual orientation.³³ In 2023, more than a third of decisions on this type of claim resulted in a grant of asylum.

10.3 In December 2023, the UK Home Office published the [Country Policy and Information Note: Georgia: Sexual Orientation and Gender Identity, December 2023, version 1.0](#), which claimed that “[i]n general, persons identifying as LGBTI are not subject to treatment by the state or non-state actors that is sufficiently serious, by its nature or repetition, to amount to persecution or serious harm,” and that “[i]n general, the state is both willing and able to offer sufficient protection from non state actors”.³⁴

10.4 In April 2024, Georgia was added to the list of countries from where protection and human rights claims will be declared automatically inadmissible, in all but exceptional circumstances.³⁵

³⁰Center for the Study of Organized Hate, [Social Media and Hate Speech in India](#), 10 February 2025; United Christian Forum, Press Release, December 2024; Human Rights Watch, ‘[World Report 2025 - India](#)’, 16 January 2025; Citizens for Justice and Peace, [The alarming rise of anti-Dalit violence and discrimination in India: A series of gruesome incidents since July 2024](#), 5 September 2024; Human Rights Watch, [India: Renewed Ethnic Violence in Manipur State](#), 14 September 2024.

³¹ UN Human Rights Committee, [Concluding observations on the fourth periodic report of India* \[CCPR/C/IND/CO/4\]](#), 2 September 2024

³² UK Home Office, [How many people claim asylum in the UK?](#), 28 November 2024

³³ UK Home Office, [Immigration system statistics data tables](#), see table ‘[Asylum claims on the basis of sexual orientation, year ending June 2024](#)’

³⁴ Note that the CPIN was updated in September 2024 following a [review](#) by the Independent Chief Inspector of Borders and Immigration, although the core assessment regarding risk and protection did not change. For the most recent CPIN, see [Country Policy and Information Note: Georgia: Sexual Orientation and Gender Identity, September 2024, version 2.0](#).

³⁵ Legislation.gov.uk, [Nationality, Immigration and Asylum Act 2002 \(Amendment of List of Safe States\) Regulations 2024](#), 17 April 2024

10.5 The Home Office's assessment on risk and sufficiency of protection with respect to the situation of LGBTQI+ Georgians is out of step with the country information presented in the CPIN. It also fails to reflect a stark deterioration in the situation in 2024. In general, the CPIN assessment minimises the role that hostile political rhetoric has played in enabling violence and harassment against LGBTQI+ Georgians, and normalising homophobia within the political discourse.³⁶

10.6 The Home Office's assessment downplays the threat from non-state actors, which has, over the last decade, manifested in threats, physical attacks, violent disruption in the context of annual Pride events. In recent years, open Pride events have been cancelled, due to a lack of effective state protection for LGBTQI+ people in the face of such violence.^{37 38}

10.7 The conclusion that the authorities are both willing and able to offer sufficient protection from non-state actors fails to reflect the realities documented in the CPIN. These include the persistent failures of authorities to protect LGBTQI+ people from violence,³⁹ the use of abusive language and aggressive attitudes on the part of law enforcement when LGBTQI+ people attempt to report violations,⁴⁰ and a lack of effective investigation of crimes against LGBTQI+ people.⁴¹ Crucially, the CPIN assessment fails to reference or consider sweeping anti-LGBTQI+ legislation adopted by the Georgian parliament in September 2024, and signed into law in October 2024, which signifies major backsliding in the human rights situation for LGBTQI+ Georgians.⁴²

10.8 Once again, consideration of the situation since the publication of the September 2024 CPIN demonstrates how information relied upon in making the decision to designate a country as "safe" can become outdated, particularly where countries experience periods of volatility, raising the risk that those with well-founded claims could be deemed inadmissible without

³⁶ UK Home Office, [Country Policy and Information Note: Georgia: Sexual Orientation and Gender Identity, September 2024, version 2.0](#), see paras 8.1.2, 8.1.5, 8.1.7, 8.1.8.

³⁷ A recent Independent Advisory Group (IAGCI) on Country Information Report on Georgia highlighted that the Home Office had only partially accepted the reviewer's comments on coverage of Pride events in the CPIN on sexual orientation and gender identity and expression (SOGIE), suggesting that it was important to make clear that there was a long history of disruption of, and antagonism towards, those events. The head of CPIT agreed that the SOGIE CPIN should specify that protests against, and hostility towards, Pride events were not new or isolated phenomena. See pages 13-21 of:

Independent Chief Inspector of Borders and Immigration, Inspection report on Home Office country of origin information on Georgia:

https://assets.publishing.service.gov.uk/media/6718afc138149ce9d09e3883/Inspection_report_on_Home_Office_country_of_origin_information_on_Georgia_July_2024_Accessible.pdf July 2024

³⁸ UK Home Office, [Country Policy and Information Note: Georgia: Sexual Orientation and Gender Identity, September 2024, version 2.0](#), see paras 9.3.6, section 9.4 of the CPIN.

³⁹ UK Home Office, [Country Policy and Information Note: Georgia: Sexual Orientation and Gender Identity, September 2024, version 2.0](#), see paras 9.3.4, 9.3.5, 9.3.7, 9.3.8, 9.3.9, 9.3.10, 9.3.13, 9.3.14.

⁴⁰ UK Home Office, [Country Policy and Information Note: Georgia: Sexual Orientation and Gender Identity, September 2024, version 2.0](#), see paras 9.3.6, 9.3.8, 9.3.12, 9.3.13.

⁴¹ UK Home Office, [Country Policy and Information Note: Georgia: Sexual Orientation and Gender Identity, September 2024, version 2.0](#), see paras 9.3.7, 9.5.4.

⁴² Politico, [Georgia signs sweeping anti-LGBTQ+ bill into law](#), 3 October 2024

individualised consideration of their protection claim. In relation to Georgia, for example, Human Rights Watch has reported that “Georgia took significant steps backward on human rights in 2024, with several new repressive laws undermining freedom of expression and of association”, and in November 2024 suspended its efforts to join the EU.⁴³ In December 2024, 3 UN Special Rapporteurs issued a statement condemning “a pattern of repression and human rights violations in Georgia, as the Government seeks to suppress [sic] spontaneous, popular protests in the country”.⁴⁴ These developments occurred after Georgia was added to the list of “safe” states in April 2024.

10.9 Reports on the situation of LGBTQI+ people in Georgia since the publication of the September 2024 CPIN suggest that the adoption of anti-LGBTQI+ legislation has already had a chilling effect,⁴⁵ and has escalated stigmatisation, hate speech and violence towards LGBTQI+ people.⁴⁶ Homophobic rhetoric by politicians, public figures, and the media is reported to have intensified.^{47,48,49,50} Sources also point to an increase in hate crimes and violence linked to the adoption of the anti-LGBTQI+ law,^{51,52} including vandalism and death threats. A transgender activist was physically attacked on the streets of Tbilisi in October 2024, coming only a month after the killing of a high profile transgender model the day after the adoption of the anti-LGBTQI+ legislation.^{53,54,55}

⁴³ [World Report 2025: Georgia | Human Rights Watch](#)

⁴⁴ [Georgia: UN experts concerned by widespread human rights violations amid ongoing protests | OHCHR](#)

⁴⁵ The Black Sea, [The End of the Rainbow?](#), 7 December 2024

⁴⁶ Council of Europe Commissioner for Human Rights, [Georgia: Protect freedom of assembly and expression, ensure accountability for human rights violations and end stigmatisation of NGOs and LGBTI people](#), 24 January 2025; Civil.ge, [HRC Releases Critical Annual Human Rights Report](#), 30 January 2025; The i Paper, [Georgia's LGBT community is living in fear of violence after sweeping new law](#), 25 October 2024; Institute for War and Peace Reporting, [Georgia's LGBT Community Faces Stark Choices](#), 24 October 2024

⁴⁷ The i Paper, [Georgia's LGBT community is living in fear of violence after sweeping new law](#), 25 October 2024

⁴⁸ Women's Initiatives Supporting Group, [The attack on the transgender activist occurred within a context of government-driven hate rhetoric](#), 21 October 2024

⁴⁹ OC Media, [A cog in the 'machine of evil': ex-TV Imedi employees on working for Georgian Dream's spin machine](#), OC Media, 6 February 2025

⁵⁰ The European Human Rights Advocacy Centre (EHRAC), the Women's Initiatives Support Group (WISG), the Georgian Young Lawyers' Association (GYLA), ILGA-Europe and Transgender Europe (TGEU), [Rule 9 \(1\) submission to the Committee of Ministers of the Council of Europe concerning the implementation of Aghdgomelashvili and Japaridze v. Georgia \(App. no. 7224/11\) and Women's Initiatives Supporting Group and Others v. Georgia, \(App. nos. 73204/13 and 74959/13\) Rule 9 \(2\) submission to the Committee of Ministers of the Council of Europe concerning the implementation of Identoba and Others v. Georgia group of cases \(App. No 73235/12\)](#), 14 January 2025

⁵¹ Institute for War & Peace Reporting, [Georgia's LGBT Community Faces Stark Choices](#), 24 Oct 2024

⁵² i Paper, [Georgia's LGBT community is living in fear of violence after sweeping new law](#), 25 Oct 2024

⁵³ Radio Free Europe/Radio Liberty, [Transgender Activist Attacked Amid Rising LGBT Hostility In Georgia](#), 21 Oct 2024

⁵⁴ BBC, [Trans woman killed in Georgia day after anti-LGBT law passed](#), 19 Sep 2024

⁵⁵ Civil.ge, [“HRC Releases Critical Annual Human Rights Report”](#), 30 Jan 2025

10.10 Case study of Noah, a gay Georgian and former service user of Rainbow Migration

Noah fled homophobic persecution in Georgia. He was extremely fearful of being sent back to Georgia, stating that he would rather take his own life than go back and face persecution. He said that:

'No one can know that you are gay in Georgia. If people do, homophobic people will try to attack you. Either with words, or they'll try to beat you.'

'In Georgia people don't understand. When your family finds out that you are gay, they think you need to go to the hospital because your mental health is so bad, they think it's impossible for men to love men, or women to love women. Or they think that you are a demon and that you need an exorcism. You cannot live openly as a gay man in Georgia, or feel protected. If they hear that you are gay, they will kill you.'

Noah was physically attacked by family members, forced to stay in a hospital for people with mental illnesses, and had an exorcism performed on him at church. His partner was attacked too, but the police in Georgia did not protect either of them. Thankfully, he was granted refugee status in the UK in 2024, due to the recognition of risk of harm, but is himself deeply concerned of Georgia's 'safe' designation. He said that:

'Georgia cannot be considered a safe country. They don't know what is going on in Georgia, how the LGBT people are living there, they cannot understand.

'The last time that Pride took place, the television operator was killed. Who will come and say Georgia is a safe country after that? If you're gay your two options are either hospital or exorcism.'

11. Consideration of the inclusion of Albania on the safe states list

11.1 With large numbers of Albanians granted refugee protection in the UK in recent years, the assertion that Albania is a 'safe state' for people seeking asylum to be returned to is flawed.

11.2 During 2023, for example, more than 800 Albanian nationals (13 of whom were unaccompanied children) were given protection status (refugee status or Humanitarian Protection) in the UK:

	2019	2020	2021	2022	2023
Grant of Protection	283	399	421	685	807

Source: Immigration System Statistics - Asylum and Resettlement - Applications, Initial decisions, and Resettlement - Year ending September 2024 (all applicants)

11.3 Furthermore, following an appeal, many Albanians whose initial asylum applications had been refused by the Home Office secured protection, although since Q1 of 2023 the government have not been publishing asylum appeal outcomes. The Home Office data that is available shows that in 2022, for example, some 57% of appeals were successful:

Year	2019	2020	2021	2022	2023 Q1
Success rate at appeal	52%	60%	57%	57%	51%

Source: *Immigration System Statistics - Asylum and Resettlement - Asylum appeals lodged and determined - Year ending March 2023 (main applicants only; no appeal data is available from the Home Office since Q1 2023)*

11.4 As such it is clear that Albania is not a 'safe state', and that it cannot correctly be asserted that in general there is no serious risk of persecution of nationals in that state.

Who might be at risk in Albania?

11.5 Country information and UK court decisions both indicate that Albania has significant and longstanding issues related to corruption, trafficking, blood feuds, discrimination and violence against the LGBTQI+ community, stigma and discrimination against the ethnic Roma and Egyptian communities, gang-related violence, and sexual and domestic violence.

11.6 Furthermore, much of the evidence suggests that the Albanian government struggles to address these issues - both systemically and for individuals - meaning that victims cannot obtain redress within Albania. Without redress and where the issues cause a threat to an individual's life or fundamental wellbeing, they are compelled to flee and seek sanctuary abroad.

11.7 Taking sexual and domestic violence as one example, the immigration statistics on the numbers of Albanian women granted protection, show that over 500 women were granted protection in 2023. Women for Refugee Women's research has consistently shown that the majority of asylum seeking women are survivors of violence against women and girls (VAWG) either in their countries or origin, and/or as they attempt to find safety in another country⁵⁶. At a time when the Government has committed to supporting survivors of VAWG, treating asylum claims as inadmissible based on a person's country of origin would be in contradiction to this strategy and prevent survivors of VAWG from receiving protection they require.

⁵⁶ See for example, Women for Refugee Women (2012) *Refused: The experiences of women denied asylum in the UK*; (2014) *Detained: Women asylum seekers locked up in the UK*; (2015) *I am human: Refugee women's experiences of detention in the UK*; (2017) *We are still here: The continued detention of women seeking asylum in Yarl's Wood*; (2020) *Will I ever be safe? Asylum-seeking women made destitute in the UK*. All available [here](#)

Year	2020	2021	2022	2023
Grant of protection	279	264	449	542

Source: *Immigration System Statistics - Asylum and Resettlement - Applications, Initial decisions, and Resettlement - Year ending September 2024*

Home Office Country and Policy Information Notes

11.7 In relation to Albania, the Home Office has published five Country and Policy Information Notes (CPINs): on trafficking, blood feuds, sexual orientation and gender identity and expression, on domestic violence against women, and on actors of protection. CPINs contain factual research-based information regarding those grounds and also policy guidance for Home Office caseworkers processing cases.

11.8 A CPIN is not binding on Tribunal judges nor a statement of the law. It is merely a statement of the Home Office's position⁵⁷, and there is clearly a tension, visible in the writing of the documents, between the objectives of providing guidance that will enable claims to be rejected, and providing guidance that is founded in the evidence - the Chief Inspector of Borders and Immigration's Inspection report on Home Office country of origin information on Albania highlighted this tension, among other weaknesses, recommending that the Home Office should "*Consider how the delineation between country information and policy guidance in its country of origin information (COI) can be made as clear as possible.*"⁵⁸

11.9 This contrasts with Tribunal Country Guidance, which is binding on Tribunal judges unless there are strong grounds, supported by cogent evidence, for departing from it.⁵⁹ In evaluating the strength of Albanian cases, it is therefore necessary to look beyond the policy summary in the CPIN, and consider the actual sources on which the CPIN is based, viewed against the backdrop of applicable Tribunal Country Guidance.

⁵⁷ As the Tribunal highlighted in *MST and Others (national service – risk categories) Eritrea CG* [2016] UKUT 443 (IAC) at [8], "*the Home Office has no legal competence to decide whether or not a UT country guidance case is to be followed or not... the production of "country guidance" is solely a matter for the Tribunal and the courts.*" The Tribunal similarly stated in *Roba (OLF - MB confirmed) Ethiopia CG* [2022] UKUT 1 (IAC) at [84] that "*COI reports, including the country information element of CPINs, whether originating from this country or from European countries such as Denmark, the Netherlands, Norway and Sweden, are not themselves evidence but identify the position adopted by a government department. They serve two other functions. They set out, in summary form, evidence from other sources. To that extent they might be secondary, or even tertiary, sources of information. They may also serve to reflect the policy position of the relevant government.*"

⁵⁸ Chief Inspector for Borders and Immigration, Inspection report on Home Office country of origin information, Albania and Pakistan, October 2023
https://assets.publishing.service.gov.uk/media/65e079e97bc329001ab8c195/Inspection_report_on_Home_Office_country_of_origin_information__Albania_and_Pakistan__October_2023.pdf.

⁵⁹ *SG (Iraq) v Secretary of State for the Home Department* [2012] EWCA Civ 940 at [47]

11.10 For example, many Albanian asylum claims are made by trafficking victims based on the risk of being re-trafficked on return. The Country Guidance in *TD and AD (Trafficked women) CG* [2016] UKUT 92 (IAC) makes clear that trafficked women may be at risk of re-trafficking on return, and inadequately protected against that risk, depending on various risk factors including the social status and economic standing of their family, their level of education, their state of health (particularly mental health), their area of origin, their age, and what support network will be available. Country evidence from sources contained in the Home Office's current and former CPINs confirms that similar risk factors apply to trafficked men and boys.⁶⁰ In our experience, many asylum-seeking Albanians exhibit some or all of these risk factors. Further, on analysis, many of the sources contained in the Home Office's current (July 2024) trafficking CPIN⁶¹ support the case that many vulnerable victims of trafficking will be inadequately protected on return, and will face barriers to reintegrating.⁶² Tribunal Country Guidance also makes clear that traffickers and other persecutors can often track down their victims in Albania through word of mouth, making internal relocation difficult,⁶³ and this is further supported by sources contained in the CPIN, including those interviewed for the Home Office's own Fact Finding Mission (FFM) report.⁶⁴ Thus, it is clear on the basis of existing Country Guidance that many Albanian trafficking-based asylum claims have merit, and the CPIN does not argue or present evidence of strong grounds for departing from established Country Guidance that would justify such a departure. Yet despite this, the CPIN's initial assessment section states: *"In general, male victims of trafficking are not at real risk of serious harm or persecution."*

11.11 The Home Office's CPIN on Actors of Protection in Albania moreover asserts that "the Albanian state is "both willing and able to offer sufficient protection" against persecution, yet the same document relies on multiple evidence that conflicts with this statement, such as US State Department reports that say: *"Corruption and lack of resources within the police present continual challenges,"* and *"political pressure, intimidation, corruption, and limited resources prevented the judiciary from functioning fully, independently, and efficiently."*⁶⁵

⁶⁰ Garden Court Chambers et al., Albanian trafficking and organised crime: Paper by Claudia Neale and Micah Neale, paras 9-11 and 16, available at: <https://miclu.org/assets/uploads/Albania-trafficking-and-organised-crime-paper-February-2025.pdf> February 2025

⁶¹ Home Office:Country Policy and Information Note Albania: Human trafficking, <https://assets.publishing.service.gov.uk/media/66910584ab418ab05559244c/ALB+CPIN+Human+trafficking.pdf> July 2024

⁶² Garden Court Chambers et al., Albanian trafficking and organised crime: Paper by Claudia Neale and Micah Neale, paras 17, available at: <https://miclu.org/assets/uploads/Albania-trafficking-and-organised-crime-paper-February-2025.pdf> February 2025

⁶³ *AM and BM (Trafficked women) Albania CG* [2010] UKUT 80 (IAC) at [186]-[187]; *BF (Tirana - gay men) Albania CG* [2019] UKUT 93 (IAC) at [181]

⁶⁴ Albanian trafficking and organised crime: Paper by Claudia Neale and Micah Neale, February 2025, paras 73-76, available at: <https://miclu.org/assets/uploads/Albania-trafficking-and-organised-crime-paper-February-2025.pdf>

⁶⁵ Actors of Protection: Albania CPIN, February 2025 <https://assets.publishing.service.gov.uk/media/67b3657dd15c152ea555be7e/ALB+CPIN+Actors+of+Protection.pdf>.

11.12 And, in another example, the Home Office frequently relies on its Country Information Note (CIN) on mental healthcare in Albania to assert that sufficient mental health treatment is available in Albania. However, there are significant weaknesses in the CIN (including the extensive citation of a paper from a probable predatory/counterfeit journal, and the omission of passages from other sources that paint the situation in a less favourable light). Much of the evidence contained in the sources of the CIN is in fact supportive of the contention that Albanians with mental health issues would face serious difficulties accessing the mental healthcare they need on return⁶⁶.

Other UK policy decisions affecting Albanians

11.13 In response to a significant peak of Albanian boat arrivals in the summer of 2022, successive governments have introduced a range of policy mechanisms, in addition to tightening the policy guidance mentioned above, to reduce the number of grants of asylum or other protection to Albanian nationals.

11.14 In December of 2022, the Home Office signed a communique with the Albanian Government to enable faster returns to Albania for those whose claims had failed or who were foreign national offenders⁶⁷.

11.15 Successive governments have also made changes to the UK's modern slavery policies which have had the effect of making it more challenging for victims of trafficking to evidence and pursue asylum claims.

11.16 For example, the amendments made in January 2023, to the decision-making thresholds in the Modern Slavery Statutory Guidance⁶⁸ have had a disproportionate impact on Albanians seeking refuge. By making it harder to secure a reasonable grounds decision, the Home Office effectively made all asylum claims based on experiences of trafficking (a common basis of claim for Albanians) more challenging to evidence.

11.17 Furthermore, the implementation of a secret policy to prevent victims of trafficking from obtaining discretionary leave to remain in the UK⁶⁹ has made it particularly hard for Albanians to secure legal advice as they can face speedy removal, even after positive decisions from the National Referral Mechanism that they are victims of trafficking.

⁶⁶ Micah Neale, Analysis of the Home Office CIN on Mental Healthcare in Albania, 2025 <https://miclu.org/projects/breaking-the-chains/albanian-asylum-claims-toolkit>.

⁶⁷ Home Office, Joint UK - Albania communique on trafficking, <https://www.gov.uk/government/publications/joint-uk-albania-communique-on-trafficking#:~:text=On%2013%20December%202022%20the,and%20the%20protection%20of%20returnees> December 2022

⁶⁸ Home Office, Statutory guidance: Modern Slavery: statutory guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and non-statutory guidance for Scotland and Northern Ireland, <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims/modern-slavery-statutory-guidance-for-england-and-wales-under-s49-of-the-modern-slavery-act-2015-and-non-statutory-guidance-for-scotland-and-northern-ireland#annexe> January 2025

⁶⁹ *XY v Secretary of State for the Home Department* [2024] EWHC 81 (Admin)

11.18 The grant rate for asylum claims for Albanians has also been further impacted by Operation BRIDORA. Inspection reports from the Chief Inspector of Borders and Immigration outline how Operation BRIDORA saw Albanian claims subjected to reduced scrutiny, and resulted in instructions not to implement any grants (apparently to avoid them showing up in Freedom of Information Requests) and an arbitrary Ministerial decision that no more than 2% of Albanian grants should be successful.⁷⁰

11.19 All these policy changes and the Country Policy Information Notes are important for two key reasons. Firstly, they demonstrate how it is now more than ever extremely challenging for Albanians to secure status through an asylum or human rights claim in the UK. Yet, despite these changes, 149 Albanians were recognised as refugees between September 2023 and September 2024. It is therefore clear that there are well-founded and compelling protection claims being put forward by Albanian nationals. Secondly, these policy changes help to explain the significant drop in success rate of Albanian claims in recent years - not because of any substantive changes in Albania, but rather because of policy decisions in the UK.

11.20 Section 59 IMA was another policy-driven approach to reduce the number of Albanians making asylum and other protection claims in the UK. By making all claims inadmissible, if commenced, it would effectively prevent all Albanians from having their claim properly examined and assessed (other than in exceptional circumstances).

Special consideration of trafficking

11.21 Individuals who are in a position of needing to flee Albania urgently are vulnerable to being preyed on by criminal gangs and as a result circumstances frequently arise where individuals become debt-bonded to the criminal gangs who claim they have to 'work' to repay the cost of their journey to the UK. Those individuals then become victims of trafficking.

11.22 The criteria under section 59 IMA for designating a state as a 'safe country' not only requires that there is in general in that State no serious risk of persecution of nationals of that State, but also that "removal to that State of nationals of that State will not in general contravene the United Kingdom's obligations under the Human Rights Convention."

11.23 Among the UK's obligations under the ECHR are its Article 4 obligations relating to the prohibition of slavery and modern servitude.

⁷⁰ Independent Chief Inspector of Borders and Immigration, An inspection of asylum casework: https://assets.publishing.service.gov.uk/media/65e06d45f1cab36b60fc47ad/An_inspection_of_asylum_casework_June_to_October_2023.pdf Oct 2023

11.24 It is accepted by the international community and the UK Home Office’s own guidance to its caseworkers that human trafficking is a significant problem within Albania,⁷¹ with Albanians being trafficked domestically and to other countries from Albania, as well as to destination countries such as the UK.

11.25 From 2022 to 2024 Albanians were among the top three nationalities (including UK nationals) referred into the National Referral Mechanism (NRM) for the recognition of victims of modern slavery and were also among the top three nationalities recognised to be victims of trafficking, with more Albanian victims of trafficking recognised than UK citizens in 2023. Despite changes in guidance making it more challenging for Albanians to gain recognition as victims of trafficking, the UK has recognised large numbers of Albanians as having been trafficked during the past five years.

	Albanians recognised as victims of trafficking (positive conclusive grounds decisions)
2024	728
2023	2527
2022	1238
2021	535
2020	497

Source: Home Office, *Modern Slavery Research & Analysis. (2024). National Referral Mechanism and Duty to Notify Statistics, 2014-2024. [data collection]. 14th Edition. UK Data Service. SN: 8910*

11.26 The UK’s Country Guidance case law⁷² accepts that some trafficked girls and women are at risk of re-trafficking on return, and would not be adequately protected by the Albanian state. The key factors to take into account include the social status and economic standing of their family, their level of education, their state of health (particularly their mental health), the presence of an illegitimate child, their area of origin, their age, and the presence or absence of a support network. This conclusion was reached by the Upper Tribunal after considering the best available country evidence and expert evidence, and hearing live evidence from experts.

11.27 That similar risk factors apply to trafficked boys and men was established by comprehensive research conducted by Asylos and Asylum Research Centre (ARC) in 2019⁷³ which identified that the risk factors for boys and young men include coming from an unstable or abusive family background, poverty, unemployment, lack of education, coming from a remote/rural area, having physical or mental disabilities, being LGBT, and being from an ethnic

⁷¹ Home Office: Country Policy and Information Note Albania: Human trafficking, <https://assets.publishing.service.gov.uk/media/66910584ab418ab05559244c/ALB+CPIN+Human+trafficking.pdf> July 2024

⁷² TD and AD (Trafficked women) (CG) [2016] UKUT 00092

⁷³ Asylos report May 2019 – Albania: Trafficked boys and young men [Download.ashx \(asylos.eu\)](https://www.asylos.eu/download.ashx)

minority. This research also illustrated a significant lack of adequate protection for trafficked boys and men, including a lack of shelters and a failure to recognise many boys/men as trafficking victims.

11.28 It is clear from the current Home Office CPIN that the country guidance remains valid and that some trafficked girls and women will be at risk on return, depending on their individual circumstances. While the CPIN downplays the risks for boys and men, it is not justified in doing so⁷⁴. The government's own statistics also show that the majority of Albanians recognised as victims of trafficking by the UK are male.⁷⁵

11.29 The Helen Bamber Foundation noted that removal of an Albanian trafficking victim from their support network in the UK can be "*devastating emotionally*" and "*likely to result in significant worsening of mental health conditions*" and increase suicide risk. They note that "*individuals with abusive histories are vulnerable to future abuse*" and "*there is a risk that survivors forcibly removed to Albania (particularly in the context of constant fear and non-engagement with any therapy that might be available) would be at great risk of further exploitation on return.*"⁷⁶

11.29 While the risk of trafficking on return to Albania has significance in relation to asylum claims, the UK government also has Article 4 ECHR and ECAT obligations towards victims of trafficking and potential victims of trafficking, to take measures to prevent trafficking, to identify victims, and to assist them in their physical, psychological and social recovery.⁷⁷ Removal to a country where an individual will be vulnerable to trafficking is unlawful under these obligations. So too is removal from a situation of recovery from the trauma that trafficking victims experience, whether that be pre-departure in Albania, en route to the UK, in the UK, or at all of these stages.

11.30 Should section 59 IMA be implemented, the hundreds of Albanian nationals currently given refugee status in the UK, as mentioned above, will be prevented from claiming asylum and will be returned (or 'refouled') to Albania without any individualised consideration of the risk of persecution that they would face, creating a real risk that they would experience serious harm, including death. Albanian victims of trafficking face being removed from a situation of safety and recovery to one where they are exposed to further exploitation and slavery, and other particularly vulnerable individuals face becoming new victims of trafficking on removal.

11.31 The above-mentioned scenario will undoubtedly entail breaches of the UK's obligations under the Refugee Convention, ECHR Article 4 obligations and ECAT.

⁷⁴ Albanian trafficking and organised crime: Paper by Claudia Neale and Micah Neale, February 2025, available at: <https://miclu.org/assets/uploads/Albania-trafficking-and-organised-crime-paper-February-2025.pdf>

⁷⁵ Home Office, Modern Slavery Research & Analysis. (2024). National Referral Mechanism and Duty to Notify Statistics, 2014-2024. [data collection]. 14th Edition. UK Data Service. SN: 8910

⁷⁶ Helen Bamber Foundation, *Albanians seeking protection and mental health*, January 2025 https://helenbamber.org/sites/default/files/2025-01/Albanians%20seeking%20protection_mental%20health_HBF_Jan25.pdf

⁷⁷ The Convention against Trafficking (ECAT) further elaborates the content of the obligations imposed on states by Article 4 of the ECHR in the context of trafficking – see Articles 12, 14, and 16.

11.32 Case study of a young Albanian who is a victim of trafficking.

This case study is of a boy, now an adult, who was trafficked from Albania. Some biographical details have been altered to preserve his anonymity.

D lived in Albania for the first 16 years of his life. His family circumstances in Albania comprised a context of alcoholism, domestic violence, serious injuries and suicide attempts. He experienced forced labour and criminality at the hands of a close family member.

Multiple state actors including the police, healthcare professionals and his school were aware of this abuse, as were his neighbours and wider family. Nothing was done to protect D, his siblings or his mother from this ongoing abuse.

At 16, D was taken by a family member and a family friend to an EU capital city. D was left there alone with the family friend and forced to beg on the streets. One day he met a group of Albanian boys whilst begging on the streets. He fled with them and came to the UK in the back of a lorry. Arriving in the UK aged 16, D was placed in foster care.

He received a positive "Reasonable Grounds" decision from the NRM but a negative "Conclusive Grounds" decision. The negative credibility findings relied on in the CG decision were derived from documentation provided by the British Embassy in Tirana. His asylum claim was refused and certified as clearly unfounded under Section 94 of the Nationality, Immigration and Asylum Act 2002. D was 19 years-old at the time of this decision.

At age 20, D received a phone call from his family home in Albania from traffickers. He was told that if he did not transport drugs for them, they would hurt or kill his mother. D felt he had no choice but to comply to keep his mother safe. He was also concerned because another young man D knew had been exploited by the same gang. When that young man had been returned to Albania by the Home Office, the gang had been waiting for him in the arrival hall of the airport, despite him having told no-one about his return to Albania. It was clear to D that this gang was powerful and their threats against his mother credible.

The first time D was compelled to transport cocaine for the traffickers D was arrested. He was convicted and sentenced to 2 years detention in a young offender institution.

Whilst D was in the Young Offender Institution the Home Office began deportation proceedings. D managed to secure new legal representation and was released on immigration bail. He was rereferred to the NRM and received a further negative RG decision.

Following release on immigration bail, D instructed public law solicitors who challenged the negative RG and CG decision with evidence that the documents relied on by the British Embassy were erroneous. D received a positive CG decision.

As a result of his experiences D has a history of suicidal ideation and self-harm. He has been diagnosed with severe psychological distress, with symptoms of anxiety, fear, depression and PTSD, including very poor sleep and flashbacks.

D's case is instructive as it demonstrates the ongoing power that traffickers can exert over long periods of time and the threats they can make against family members in Albania. It also demonstrates how the poor implementation of Modern Slavery Protections in the UK leaves individuals vulnerable to re-trafficking and exacerbates the challenges they face.

12. Conclusion

12.1 This response to the Committee's call for evidence has set out the major flaws in section 59 of the Illegal Migration Act. These include: the ways in which s. 59 risks breaches of multiple areas of international law and the discriminatory nature of the provision, the unnecessary nature of the provision given the Home Office's existing competency to reject protection and human rights claims it finds to be unfounded, and the inability of a 'safe states' policy to adequately protect individuals and minorities and to keep pace with changes on the ground in various countries.

12.2 For all the reasons set out in this document, we find that section 59 of the IMA is unlawful, discriminatory and likely unworkable in practice. It will lead to significant breaches of international law, including the Refugee Convention, the Human Rights Convention, and the Convention on Action Against Trafficking in Human Beings. In light of this, we propose the amendments set out below

13. Suggested Amendments to the Bill

13.1 We recommend that the entirety of the Illegal Migration Act be repealed, just as the Government intends to wholly repeal the Safety of Rwanda Act.

13.2 Failing full repeal, for the reasons set out above, we recommend the following amendment to the Border Security, Asylum and Immigration Bill be tabled and moved at Committee Stage to repeal section 59 IMA:

In clause 38(1)(f), page 31, line 3, for "58", substitute "59"

Member's explanatory statement: This amendment repeals section 59 of the Illegal Migration Act 2023, which amended section 80A and inserted section 80AA in the Nationality, Immigration and Asylum Act 2002, thereby expanding the provisions which initially applied to EU nationals, to all nationals of EEA countries, Switzerland, Albania and more recently India and Georgia, and making it so not only protection but also human rights claims must be declared inadmissible.

Appendix: Text of section 80A Nationality, Immigration and Asylum Act 2002 (with amendments made by section 59 underlined) and of section 80AA (inserted by section 59)

Section 80A

Claims by nationals of listed Safe States

(1)The Secretary of State must declare an asylum claim or a human rights claim made by a person who is a national of a ~~member State~~ State listed in section 80AA(1) inadmissible.

(2)~~An asylum~~ claim declared inadmissible under subsection (1) cannot be considered under the immigration rules.

(3)A declaration under subsection (1) that ~~an asylum~~ claim is inadmissible is not a decision to refuse the claim and, accordingly, no right of appeal under section 82(1)(a) or (b) (appeal against refusal of protection claim or human rights claim) arises.

(4)Subsection (1) does not apply if there are exceptional circumstances as a result of which the Secretary of State considers that the claim ought to be considered.

(5)For the purposes of subsection (4) exceptional circumstances include ~~where the member State of which the claimant is a national—~~

(a)in a case where the Claimant is a national of a State that is a signatory to the Human Rights Convention, where that State is derogating from any of its obligations under the Human Rights Convention, in accordance with Article 15 of the Convention;

(b)in a case where the claimant is a national of a member State, where that State is the subject of a proposal initiated in accordance with the procedure referred to in Article 7(1) of the Treaty on European Union and—

(i)the proposal has yet to be determined by the Council of the European Union or (as the case may be) the European Council,

(ii)the Council of the European Union has determined, in accordance with Article 7(1), that there is a clear risk of a serious breach by the member State of the values referred to in Article 2 of the Treaty, or

(iii)the European Council has determined, in accordance with Article 7(2), the existence of a serious and persistent breach by the member State of the values referred to in Article 2 of the Treaty.

(6)In this section and section 80AA—

- “asylum claim”, “human rights claim”, “the Human Rights Convention” and “the Refugee Convention” have the meanings given by section 113;
- “immigration rules” means rules under section 3(2) of the Immigration Act 1971;
- “national” includes citizen;
- “the Treaty on European Union” means the Treaty on European Union signed at Maastricht on 7 February 1992 as it had effect immediately before IP completion day.

80A **Safe States for the purposes of section 80A** (inserted by s59 IMA, with amendments made by The Nationality, Immigration and Asylum Act 2002 (Amendment of List of Safe States) Regulations 2024 underlined).

(1) The States are—

- (a) Albania,
- (b) Austria,
- (c) Belgium,
- (d) Bulgaria,
- (e) Republic of Croatia,
- (f) Republic of Cyprus,
- (g) Czech Republic,
- (h) Denmark,
- (i) Estonia,
- (j) Finland,
- (k) France,
- (ka) Georgia,
- (l) Germany,
- (m) Greece,
- (n) Hungary,
- (o) Iceland,
- (oa) India,

- (p) Republic of Ireland,
- (q) Italy,
- (r) Latvia,
- (s) Principality of Liechtenstein,
- (t) Lithuania,
- (u) Luxembourg,
- (v) Malta,
- (w) Netherlands,
- (x) Norway,
- (y) Poland,
- (z) Portugal,
- (z1) Romania,
- (z2) Slovak Republic,
- (z3) Slovenia,
- (z4) Spain,
- (z5) Sweden,
- (z6) Switzerland.

(2) The Secretary of State may by regulations amend the list in subsection (1) so as to add or remove a State.

(3) The Secretary of State may add a State to the list only if satisfied that—

(a) there is in general in that State no serious risk of persecution of nationals of that State, and

(b) removal to that State of nationals of that State will not in general contravene the United Kingdom's obligations under the Human Rights Convention.

(4) In deciding whether the statements in subsection (3)(a) and (b) are true of a State, the Secretary of State—

(a) must have regard to all the circumstances of the State (including its laws and how they are applied), and

(b) must have regard to information from any appropriate source (including member States and international organisations).

(5) Regulations under this section—

(a) must be made by statutory instrument;

(b) may include transitional or saving provision.

(6) A statutory instrument containing—

(a) regulations which add a State to the list in subsection (1), or

(b) regulations which both add a State to, and remove a State from, that list,

may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(7) A statutory instrument containing regulations under this section, other than one to which subsection (6) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.