

## **SUMMARY:**

A.M. is a young Albanian woman who was targeted for prostitution, kidnapped and raped at age 16. She managed to escape to the United States, but was denied asylum because she filed her application one month after the one-year filing deadline imposed on asylum seekers. In addition, the Immigration Judge held that she would be ineligible for asylum even if she had applied on time because her kidnap, rape and threatened sale into prostitution was merely a “personal” and “criminal” act. Learn more about A.M.’s case below, and find out what you can do to ensure that she and many other women fleeing similar violence in their home countries are not sent back into the hands of their persecutors.

## **FACTS OF THE CASE:**

A.M. was 16 years old when she was attacked and kidnapped in front of her mother in Albania, and raped and beaten daily for a month while being held hostage in a remote location. Her kidnapper was a politically connected man who had initially tried to entrap her into trafficking with a false offer of marriage, a typical method used by traffickers. While in captivity, she overheard her captor making plans to sell her and other young girls to Italy and Greece for prostitution. Fortunately, she managed to escape, but was afraid to return home because the trafficker knew where she lived and had threatened to kill her. And both A.M. and her family knew that it would be futile to seek the help of the police because of her trafficker’s strong political connections with the ruling Socialist Party. Instead, she went into hiding at her aunt’s home in another town until she was able to leave for the U.S. on a student exchange visa.

Unfortunately, A.M.’s host mother was physically and verbally abusive. She was forced to move in with a neighbor, then moved to Massachusetts to stay with family friends after the exchange program ended, and moved again to live with a distant cousin and his wife in New York. Just 17 years old, ashamed, wrestling with the effects of Post Traumatic Stress Disorder, and desperate to make a new life for herself, A.M. never told anyone of her ordeal in Albania, although she continued to explore ways to extend her visa so she could stay in the U.S. Eventually, over the Christmas holiday, she became deeply depressed and finally confided her horrifying experience to her cousin’s wife. At this point, 11 months after her entry into the U.S., A.M. learned of asylum. She then promptly obtained a lawyer, completed her application within a few weeks, and filed for asylum when she was still just 17 years old. Unfortunately, she narrowly missed the one-year filing deadline imposed on asylum seekers, by one month.

Under the statute, applicants who fail to apply within one year can be barred from asylum unless they are able to demonstrate either “changed” or “extraordinary” circumstances. According to regulations issued by the Department of Justice, examples of those circumstances include mental trauma caused by the harm a person faced in her home country and being an unaccompanied minor in the U.S. The one-year bar, enacted in 1996, was intended to weed out false asylum claims. At the same time, Congress made clear that the exceptions to the one-year bar would be interpreted broadly to ensure that bona fide refugees were not denied protection.

As A.M.’s case compellingly demonstrates, however, the application of the one-year bar has strayed far from this intent. At the time of her application, A.M. was still an unaccompanied

minor bearing fresh scars from the horrors that she suffered, and had been diagnosed with Post-Traumatic Stress Disorder. Her circumstances fell explicitly within the exemptions from the one-year deadline in the regulations. Nevertheless, despite believing A.M.'s testimony and the testimony of her psychologist, who explained how her mental condition had prevented her from confiding about her traumatic experiences, the IJ ruled that her claim was time-barred.

In addition, the IJ denied A.M.'s claim on the merits, concluding that A.M. had merely suffered a personal criminal act of revenge by a jilted suitor, rather than persecution linked to her gender. This denial came despite A.M.'s credible testimony, the testimony of an expert on Albania who has consulted with the U.S. State Department, and ample documentation to show that traffickers in Albania generally target young girls from rural villages through false offers of marriage, kidnapping and rape.

The IJ then ordered A.M. deported to Albania, a country that the State Department says does not "fully comply with minimum standards for the elimination of trafficking." The Board of Immigration Appeals summarily affirmed the denial, and A.M.'s case is currently pending in the Second Circuit Court of Appeals.

### **CALL FOR ACTION:**

Please write to Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff, asking them to:

1. Recognize that the grievous harm of being targeted for trafficking amounts to persecution on account of a gender-defined social group, and recognize that unaccompanied minors who have managed to escape persecution deserve the protection of the U.S.
2. Properly apply regulatory exceptions and recognize that the one-year deadline must not operate to bar cases where sexual assault victims were unable to file asylum applications on time because of clinically-diagnosed PTSD.