

THE RIGHT OF RESIDENCE OF FOREIGNERS IN ALBANIA

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Abstract

Migration has been an essential part of Albania's history and still is to the present day, though it has changed both in size and nature since the fall of Communism. Since the introduction of reforms, the Albanian migration picture has evolved. Albania has opened itself up much more to migrants, though the relative number of immigrants remains low. This opening has included changes in the legislative framework governing immigration and a closer resemblance between Albanian legislation and international conventions governing individual rights and State obligations in the field of migration. Albania has transposed all EU directives relating to immigration and asylum into its national legal system and participates in the negotiations on new migration and asylum measures at the regional level. Albania has especially changed its legislation to improve its alignment with the standards of the EU necessary for its eventual accession. This is a desk-research, which provides an overview of rules and procedures for the residence of foreigners in the Republic of Albania. The objective is to trace the main institutional and legal procedures applicable to foreign citizens who seek to stay in Albania. This paper also highlights some of the challenges in the application, interpretation and development of immigration rules currently present in the Republic of Albania.

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JEL Classification: K33, K36

1. Introduction

The Republic of Albania lies in southeast Europe. It borders Montenegro in the north, Kosovo in the northeast, the Former Yugoslav Republic of Macedonia (FYRM) in the east, Greece in the south and the Adriatic and Ionian Seas in the west. In spite of recent changes, the population of Albania (2,800,138 inhabitants per *CENSUS 2011*),² is ethnically homogeneous: ethnic Albanians represent between 95 to 98% of the population while other ethnic groups such as Greeks, Aromanians, Macedonians, Montenegrins and Roma constitute the small remainder.³

Migration has been an essential part of Albania's history and still is to the present day, though it has changed both in size and nature since the fall of Communism. Since the introduction of reforms, the Albanian migration picture has evolved. Albania has opened itself up much more to migrants, though the relative number of immigrants remains low. This opening has included changes in the legislative framework governing immigration and a closer resemblance between Albanian legislation and international conventions governing individual rights and State obligations in the field of migration⁴.

This desk-research provides an overview of rules and procedures for the residence of foreigners in the Republic of Albania. The objective is to trace the main institutional and legal procedures applicable to foreign citizens who seek to stay in Albania. It also highlights some of the challenges in the application, interpretation and development of immigration rules currently present in the Republic of Albania.

We have also collected the data from important public institutions to trace approximately the categories of foreigners present in Albania these last 5 years (the data in the Electronic Register of Aliens for 2015–2020, the Ministry of Social Welfare and Youth, National Labour Service etc.), the purpose of the stay (citizens who come to Albania for employment purposes

The Albanian legislation indicates that foreign persons who intend to stay in Albania longer

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² On 1 Jan. 2018, the resident population of Albania is estimated to be 2,870,324 inhabitants. See: <http://www.instat.gov.al/al/temat/treguesit-demografik%C3%AB-dhe-social%C3%AB/popullsia/publikimet/2018/popullsia-e-shqip%C3%ABris%C3%AB-1-janar-2018/>, (accessed 13 Apr. 2018).

³ Statistical Yearbook, 10 (INSTAT 2017); A. Bërxfholi, *Veçoritë e vizualizimit të dinamikës së popullsisë*, 156 (Atlasi gjeografik i popullsisë së Shqipërisë, Akademia e Shkencave, Qendra per Studime Gjeografike, No. 15, 2005).

⁴ See Canaj E., *Migration Law in Albania*, Kluwer Law International, 2019, pg. 14.

than the visa or visa exemption period or in excess of ninety days are obliged to obtain a residence permit. Therefore, as the main rule anyone who is not an EU citizen, a Nordic citizen or an USA citizen, who intends to reside in Albania for longer than three months must apply for a residence permit. A residence permit can be issued for a period of residence of three or, six months or a year.⁵

2. General provisions. Conditions for residence

Permission to stay in Albania on temporarily or permanently is only granted if a foreigner has been issued a residence permit. A permit is evidence that the Albanian authorities have approved an application for permission to reside, work or study during period of validity of that permit.

The Law 'On Foreigners' defines residence permit as a permit that is issued upon application to a foreigner for any purpose other than tourism or a comparable purpose for short-term residence, and that entitles its holder to enter Albania repeatedly and to reside there during the validity period of the permit. To be issued a residence permit a foreigner must meet the conditions set out in Articles 4, 5 and 8 of the Law 'On Foreigners'.

The Law 'On Foreigners' introduces six types of residence permit that the Albanian authorities can issue to any one intending to reside in the Republic of Albania for a period longer than 90 days within a period of 180 days. Residence permits are issued for short-stays (90 out of 180 days) to family members, students, long-term residents and victims of human trafficking.

In addition, the Albanian authorities can issue humanitarian residence permits. Residence permit categories are as follows: (a) type 'A' residence permit, which is not renewable, the holder is entitled to reside in the Republic of Albania during the period for which the residence permit is issued; (b) type 'B' residence permit, renewable, issued for a defined period of time, gives holder or entitled to enter, stay and exit the Republic of Albania during the period defined in the residence permit; (c) a type 'C' residence permit is permanent permit and entitles the holder to enter, stay and exit the Republic of Albania; (d) a type 'S' residence permit, renewable, after a period of six months after expiry of the previous type 'S' residence permit, which is issued to seasonal workers, entitles the holder to enter, stay and exit the Republic of Albania within the period of time define in the residence permit; (e) an 'AL Blue Card' residence permit, renewable, issued for a defined period to the highly qualified workers, entitles the holder to enter, stay and exit the Republic of Albania during the period defined in the residence permit; (f) an 'AL-C Blue Card' residence permit, is a residence permit that is issued for an indefinite period to highly qualified workers and entitles the holder to enter, stay and exit the Republic of Albania.⁶

The type of residence permit varies according to the purpose of the stay: engaging in a subordinate professional activity; independent professional activities; research or highly skilled professional activities; study at an institution for secondary education; study at an institution for higher education; unpaid professional internships; attending a programme of volunteer activities; family reunion; as a victim of human trafficking or any other action involving illegal immigration etc. Short-time residence permits, valid for a maximum period of one year, are granted to foreigners who intend to conduct scientific research or establish a business; who possess immovable property; who receive medical treatment, who enter for tourist purposes; or who participate in student exchange programmes. Family residence permits are issued to the spouse, the minor children, and the dependent children of Albanian citizens, foreigners falling within the scope of the Albanian Citizenship Law; foreigners holding residence permits and refugees/subsidiary status holders, and to a minor child, and any dependent child of the spouse of the above mentioned people.

The maximum period of validity of the first family residence permit is one year and it may be renewed for a validity period of two years. This type of residence permit is only renewed once.⁷

Long-term residence permits are granted to foreigners who have resided in Albania with a residence permit for an uninterrupted period of at least five years and to foreigners who satisfy the

⁵ See L. Ikononi, *E drejta migratore*, 112 (Tirana, 2014); IOM, *E drejta migratore*, 121 (Tiranë, 2009).

⁶ See Art. 32, para. 1 of the Law 'On Foreigners'.

⁷ See Art. 34, para. 4 of the Law 'On Foreigners'.

criteria as determined by the Border and Migration Policies Department. This type of permit grants the holder a very advantageous status i.e., the same rights as those accorded to Albanian citizens with the exception of political rights and some other public rights.

As regards residence permits, the Law 'On Foreigners' has recently introduced a so-called Blue Card which is issued to specialized workers. According to Article 33 of the Law 'On Foreigners' there are two types of Blue Card residence permits. The first is an 'AL Blue Card' residence permit, which is renewable and is issued for a defined period of time to the highly qualified workers. This residence permit entitles the holder to enter, stay and exit the Republic of Albania within the period defined in the residence permit. The second is the 'AL-C Blue Card' residence permit, which entitles its holder to stay in Albania permanently and is only issued to highly qualified workers. It entitles the holder the right to enter, stay and exit the Republic of Albania.⁸

The introduction of the humanitarian residence permits and the permit for victims of human trafficking (Article 53 of the Law 'On Foreigners') reflects the impact of the developments in the field of International Law and Human Rights on Albanian immigration law. According to this article the Albanian authorities can issue type 'A' temporary residence permits to a foreigner who has lodged an application with the asylum authorities requesting them to grant him/her refugee status. A type 'A' temporary residence permit can also be issued to a victim or potential victim of human trafficking or somebody who is a victim of labour exploitation in the Republic of Albania. A residence permit is only issued to a victim of labour exploitation if he/she collaborates with the authorities in the criminal proceedings against the employer. The residence permit is issued for the duration of the criminal law proceedings, until the alien receives compensation for being exploited as determined by the authorities in the criminal proceedings. A type 'A' residence permit is also issued to victims of labour exploitation who have collaborated or have agreed to collaborate with justice authorities on the proposal of the State bodies or national security authorities.

Finally a type 'A' residence permit is also issued to a stateless person if stateless has been determined by the competent authorities; an abandoned minor, or a minor for whom there is no parental care available, with no legal guardian, or parental custody due to other reasons as well as to a woman who has been pregnant for more than six months.

The 2013 amendment to the Law 'On Foreigners' introduced a residence permit that can be issued to foreigners who stay in Albania to conduct voluntary work.⁹ The validity of this residence permit may not be longer than the duration of the relevant voluntary work programme for which the residence permit has been requested and issued. The residence permit for voluntary work with a validity period of one year is issued if the intended voluntary work is closely linked with the official voluntary work scheme of the Republic of Albania. Any voluntary work has to be limited in time and the applicant has to fulfil the requirements subject to which a 'residence permit for voluntary service' is issued. Only in exceptional cases, a residence permit may be extended if the duration of the voluntary work programme exceeds a period of one year.

Generally, to be issued a residence permit, the applicant must meet both the general requirements which apply to all applicants for a residence permit, and the requirements that are particular to the residence permit that he or she has applied for. Residence permits are always issued on a particular ground, for instance work, study, international protection or as a family member (family reunification).

The most important general requirements that have to be satisfied to obtain a residence permit are that the applicant has a valid passport or any other travel document. This requirement is, however, not applied in certain exceptional cases, for instance when the individual concerned applies for a residence permit for the purpose of international protection.

Another general condition that needs to be satisfied to obtain a residence permit is that the person concerned does not pose a danger to public order, public security or public health. If an applicant is regarded to pose a danger to these interests, he or she may be refused a residence permit.¹⁰

⁸ See Art. 33 paras *d* and *dh* of the Law 'On Foreigners'.

⁹ See Art. 50 of the Law 'On Foreigners'.

¹⁰ See Art. 35 para. *c* of the Law 'On Foreigners', as amended by the Law 74/2016.

A residence permit may also be refused or a residence permit that has been issued may be annulled if the holder has failed to lodge an application in time or to submit the necessary documentation within the specified period of time and fails to give justified reasons for such omission.

This is also the case if holder of a residence permit is unable to prove that he/she fulfils the conditions subject to which the residence permit was issued. In the same way, the residence permit may be refused or a residence permit that has been issued may be annulled if a removal order is issued against the holder of that residence permit. If the holder of a residence permit that is granted for the purpose of family reunion is divorced, this also justifies the annulment of the residence permit. More generally, if the reason for which the residence permit was issued no longer exists, this justifies a decision annulling a residence permit.¹¹ There are currently 12,519 foreigners staying in Albania who hold a residence permit.¹² The following figures show the breakdown according to the purpose of residence for which a residence permit was applied for: 6,263 applications were made for the purpose of work; 2,783 for family reunion; 652 for study; 2,395 on humanitarian grounds and 426 for other reasons. According to the data in the Electronic Register of Aliens for 2020, Italian and Turkish citizens who come to Albania for employment purposes are predominant in this category. Of the EU immigrants approximately 23% were Italians.

Approximately 28% of the labour migrants were Turkish nationals. Data provided by the Ministry of Social Welfare and Youth (National Labour Service) show that the list of foreigners employed in the country in these last five years is followed by citizens of Kosovo (7%), Chinese nationals (6%) and Greeks (5%). Closing the ranks are: Canadians, Egyptians, Macedonians and Indians.

3. Administrative procedures and documents for residence

The regulation on residence permits in particular reflects the impact of EU law on Albanian rules on proceeds. The non-national who has entered and stays in the Republic of Albania with a long-term type 'D' visa, or the alien who enters Albania without a visa, must lodge an application for a residence permit with the local authority responsible for border and migration.¹³ The Ministry of the Interior, after consulting with the State Intelligence Service, is the authority responsible for the procedure of issuing the residence permits. The regional/local State authority is responsible to issue the residence permit to the foreigner.

In Albania residence permits are either issued for a fixed-term or permanently. The first residence permit issued to a foreigner is always a fixed-term permit. Fixed-term permits are issued for residence of either a temporary nature (temporary residence permits) or a continuous nature (continuous residence permits). The residence permit is issued for a period of (a) three months, six months or a year and may be renewed no more than five consecutive times; (b) two years, and may be renewed once; (c) five years, according to the provisions of the Law 'On Foreigners'; (d) permanently, if the applicant has legally resided for five consecutive years in the Republic of Albania and has ties with or pursues a stable activity in the country.¹⁴

Usually, the first fixed-term residence permit is granted for one year unless it is applied for a shorter period (three or six months). A non-national is issued a temporary residence permit which is valid for the period of stay indicated in the application, but no longer than one year, if the application is lodged for the first time, unless otherwise provided for by law or an international agreements ratified by the Republic of Albania.¹⁵ Under exceptional circumstances it is possible, though, that the first permit issued with a longer or a shorter validity period than one year (*maximum* two years). This is the case, for example, if the permit is issued for the purpose of carrying out a specified work

¹¹ See Art. 35 of the Law 'On Foreigners'.

¹² See *Buletini Informativ nr. 41, Mbi aktivitetin e Strukturave te M.P.B. gjate muajit shkurt 2017*, 37 (Ministria e Puneve te Brendshme, 2014) http://www.mb.gov.al/files/programs_files/17-03-23-11-51-41Buletin_mujor_shkurt_2017.pdf. (accessed 14 Jan. 2018).

¹³ See Art. 34, para. 1 of the Law 'On Foreigners'.

¹⁴ *Ibid.*

¹⁵ See Art. 37, para. 2 of the Law 'On Foreigners'.

assignment or study that must be completed within a set period.

The students, and non-nationals who intend to work in Albania on a temporary basis, as well as beneficiaries of temporary protection, are issued a temporary residence permit. A person who moves to Albania, as we will see below, with an intention of working there for a longer period or permanently is issued a continuous residence permit. A continuous residence permit is also issued to refugees and persons receiving subsidiary or humanitarian protection. The duration of validity of the first fixed-term permit may not exceed two years. Neither may it exceed the validity period of the applicant's passport. There are, though, special rules on the validity period of residence permits as regards certain specified categories of foreigners. For instance, the first fixed-term residence permit issued to refugees and beneficiaries of subsidiary protection has a validity period of four years and a person who is a victim of trafficking in human beings is issued a residence permit which is valid for a period of at least six months with a maximum of one year.¹⁶

The holder of a temporary residence permit valid for at least one year is considered a temporary resident of the Republic of Albania only after the registration with the civil registry office of the local governmental unit of the place of temporary residence. Any change of the place of residence must be notified to the responsible authorities in compliance with the national legislation in force.¹⁷

All adults family member of a foreigner who intends to stay in Albania for more than one year and is over the age of eighteen, must file a separate application for a residence permit. Minor children are included in their parents' applications. However, once they themselves become adults (over the age of 18) and are resident in Albania they need to apply for their own residence permit.

In comparison with the old legislation, the new regulation setting out the terms for refusal, non-extension, or cancellation of residence permits is much more detailed and precise. The conditions for the acquisition and the refusal, cancellation, or non-extension of residence permits are regulated for each type of residence permit separately. Nevertheless, the rules on refusal, cancellation and non-extension of a residence permit share certain conditions, for instance not meeting the conditions subject to which a residence permit has been granted or the existence of a deportation decision or an entry ban. Stays outside Albania for a certain period justifies refusal, non-extension, or cancellation of short-term, long-term or family residence permits.

The non-refoulement principle is an important safeguard in the procedure to acquire entry permission as well as in cases when deportation is under consideration.¹⁸ Finally, the new legislation emphasizes that non-fulfilment of the conditions as stipulated in Articles 6, 7 and 8 of the Law 'On Foreigners' (on entry into and departure from Albania using official BCPs with valid passports, document checks and foreigners who do not qualify as foreigners who are not permitted entry into Albania) are not to be interpreted or implemented in any way that will prevent the application of the rules on international protection. It can be said, therefore, that the regime for international protection is designed to provide an 'extra' favour to foreigners in the field of entry into and stay in Albania.

A foreigner must apply for an Albanian residence permit at the police station nearest to the place of residence. The documents must be submitted in support of the application for a residence permit to the local Police Commissariat. The application for a residence permit or the renewal of a residence permit is lodged with the regional authorities responsible for border and migration in person, through the secure online electronic system, or by a legal representative assigned to the applicant according to the law. Residence permit applications made through the secure online electronic system is only possible for the citizens of several countries, amongst others Australia, Andorra, the EU/Schengen Member States, Israel, Japan, Canada, Lichtenstein, San Marino, the Holy City, the USA and New Zealand. The terms for the creation and functioning of this system are laid

¹⁶ The application for a residence permit is made by the non-national in person according to the criteria and documentation approved of by decision of the Council of Ministers. The procedure for issuing residence permits is approved of by Instruction of the Minister of the Interior and the Director of the State Intelligence Service.

¹⁷ See Art. 37, para. 1 of the Law 'On Foreigners' and the Law No. 10129, dated 11 May 2009 'On Civil Registry'.

¹⁸ J.H. Bhuiyan, *Protection of Refugees through the Principle of Non-refoulement*, 130 (Islam R., & Bhuiyan, J.H., eds., Leiden-Boston, 2013).

down in an instruction of the Minister of the Interior.

The non-national is issued a residence permit according to the form and content specified in the Decision No. 513 of 13 June 2013 'On determining the criteria, procedures and documentation for entry, stay and treatment of aliens in the Republic of Albania' i.e., in the form of a biometric document. The application for a biometric document residence permit has to be made in person.

In addition to the general documentation (*See* paragraphs 119–122), depending on the type of the requested visa, the applicant must submit the following supporting documentation: the invitation by the host and a copy of the identification document of the host attached to the former; a document proving the applicant's professional, commercial activity or capability to pursue such an activity, which is linked to the purpose of the applicant's visa application. In addition, the applicant must submit the copy of the work permit issued by the Albanian labour authorities.¹⁹

4. Legal position of residents

As mentioned above, everyone resident in the Republic of Albania is entitled to protection of their basic rights as guaranteed by the Albanian Constitution and the human rights treaties to which Albania is a party. In addition, according to Article 143 of the Law 'On Foreigners' all foreigners in the Republic of Albania enjoy economic and social rights and the right to protection of their cultural life. The most important right enjoyed by residents (be it short-term or long-term) is their integration into the Albanian society, especially in the economic and social field.

According to Albanian law, foreigners who have been issued a residence permit enjoy economic, health-related and social rights, in line with the legislation in force. Foreigners who stay in Albania temporarily have a limited right to engage in economic activities. From a perspective of access to the labour market, holders of a short-term residence permit can engage in subordinate or independent professional activities of a temporary nature.

The non-national, who satisfies the requirements, may be employed or self-employed or engage directly in a business activity. In terms of the labour market access, holders of a residence permit can engage in subordinate or independent professional activities that, as a general rule, do not exceed a period of six months or one year. They may also engage in scientific activities in research centres, teach in establishments of higher education or engage in highly skilled activities for a temporary period.

According to Articles 39–44, Law 'On Foreigners', a residence permit allows the holder to engage in subordinate or independent professional activities. In addition, a residence permit is a necessary and sufficient condition to receive professional guidance, training, improvement and rehabilitation, without the need for any additional authorization related to the condition of being a foreign national. The law also ensures equal treatment for foreigners in areas related to labour, such as social security, tax benefits and membership of trade unions.

Refugees recognized by the authorities of the Republic of Albania enjoy in compliance with Albanian legislation and pursuant to Section E of the Final Act of the Conference of the Plenipotentiaries, the legal status provided for in the Convention Relating to the Status of Refugees of 1951 and all rights stipulated in any other treaties to which the Republic of Albania is party, as well as the rights accorded to foreigners in general by Albanian legislation. A refugee is, in particular, entitled to a special residence permit and a work permit. Refugees enjoy the right to social assistance to the same extent as an Albanian national and receive any social welfare benefits to which he/she is entitled from the Office for Refugees. In accordance with Article 12 of the Law 'On Asylum' and Article 28 of the Convention Relating to the Status of Refugees of 28 July 1951, the MPO issues refugees, recognized by the authorities of the Republic of Albania, a travel document which bears a return clause. This document can be used to travel to all countries, with the exception of the country

¹⁹ See Arts 1 and 2 of the Decision No. 513 of 13 Jun. 2013 'On determining the criteria, procedures and documentation for entry, stay and treatment of aliens in the Republic of Albania', available online at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/99781/119213/F467343735/ALB-99781.pdf> (accessed 11 May 2018).

of origin, and to return to the Republic of Albania for as long as it is valid.²⁰

4.1. Long-term residence. Conditions for long term residence

A special five-year long-term residence permit is issued to foreigners who can prove they have been legally living and working in the Republic of Albania during this period. Hence, a non-national is entitled to apply for a permanent residence permit, if he/she has stayed legally for a continuous period and has been resident in the Republic of Albania for at least five years from the moment that the first application for a residence permit was made. The requirements are that the foreigner is over the age of eighteen and he/she has not left the territory of the Republic of Albania for an uninterrupted period of more than twelvemonths.²¹

Foreigners have to meet the general criteria set out in the law and the directions of the Council of the Ministers as well as the Border and Migration Police. Immigrants residing in Albania for study or vocational training purposes, foreigners who stay in the Republic of Albania on the basis of temporary protection, or who have lodged an application for residence on this basis and are awaiting a decision on their application, as well as asylum seekers or foreigners who have lodged an application for recognition as a refugee and whose application has not yet given rise to a final decision cannot apply for this permit.²² The same holds true for foreigners who stay in the Republic of Albania, is temporary by nature, such as seasonal workers or providers of cross-border services, whose residence permit has been officially restricted, or who are resident in the Republic of Albania on the basis of a subsidiary form of protection in accordance with international obligations or national legislation or who have lodged an application to reside on that basis and are awaiting a decision concerning that status.

The Ministry of Internal Affairs also issues a permanent residence permit if it is proven that the parents or grandparents of the applicant have Albanian citizenship or if the child was born in the Republic of Albania from parents who have been issued a permanent residence permit. In these cases compliance with the requirements to be issued a permanent residence permit is not required. An application for a permanent residence permit can also be made by a non-national, who has made an investment in the Republic of Albania in excess of a million euros and who can prove that he/she has employed more than ten Albanian citizens for at least one year. The family members and key staff of the investor are also entitled to a permanent residence permit as well.²³

Albanian legislation recognizes a residence permit issued to a long-term resident of another country. In fact, based on a bilateral or multilateral agreement in force in the Republic of Albania as well as the principle of reciprocity, the long-term resident of another country may lodge an application for a long-term residence permit in the Republic of Albania, if he/she fulfils the general conditions set out in the law 'On Foreigners' irrespective of the reason why a long-term resident wishes to stay in the Republic of Albania. The entry and residence conditions that apply to a long-term resident of another country who wishes to stay in the Republic of Albania in a bilateral or multilateral agreement to which the Republic of Albania has become a party applied on the basis of reciprocity to long-term residents in the Republic of Albania who wish to reside in the territory of another Contracting Party.²⁴

As a general rule, if a foreigner, a long-term resident of another country, wishes to remain in Albanian for a period longer than three months, he/she is entitled to a residence permit if he/she is not employed by a supplier of cross-border services or is not a supplier of cross-border services, but works as an employee or as a self-employed person; or pursues a study or a vocational training; or presents a credible reason for wanting to reside in Albania. These foreigners must have sufficient

²⁰ See Art. 12 of the Law 'On Asylum'.

²¹ See Arts 61 and 64 of the Law 'On Foreigners'. See *Buletini Informativ nr. 41, Mbi aktivitetin e Strukturave te M.P.B. gjate muajit shkurt 2017*, 26 (Ministria e Puneve te Brendshme, 2014) http://www.mb.gov.al/files/programs_files/17-03-23-11-51-41Buletin_mujo_r_shkurt_2017.pdf. (accessed 14 Jan. 2018).

²² See Art. 62 of the Law 'On Foreigners'.

²³ See Art. 65 of the Law 'On Foreigners'.

²⁴ See Art. 66 of the Law 'On Foreigners'.

means of subsistence and as well as adequate accommodation.²⁵

The entry and residence conditions that apply to long-term residents of another country are specified in Articles 66 and 67 of the Law 'On Foreigners'. A long-term resident of another country may, according to the conditions laid down in Article 66 of the Law 'On Foreigners', may enter and stay in the Republic of Albania for 90 days within a period of 180 days without having been issued a visa for a residence permit may be applied for within sixty days from entry if he/she meets the following requirements; a) has a valid travel document and long-term residence permit in the country which is party to an agreement concluded with the Republic of Albania on the mutual movement of long-term residents; b) has documentation to prove that he/she has guaranteed normal accommodation in the Republic of Albania; c) provides evidence of stable financial means which are sufficient to maintain him/her and any accompanying family members; d) has a sickness insurance that covers all risks as provided for by the legislation in force; and e) has a valid work permit if an economic activity is to be pursued; or f) has sufficient financial means to exercise a self-employment activity, in addition to the necessary permit to exercise this activity; or g) provides evidence of being registered with an educational or vocational training institution recognized by the Republic of Albania in the case of studies or vocational training.²⁶

The Law 'On Foreigners' recognizes other special circumstances in which the Albanian authorities issue a foreigner a permanent residence permit. For instance, if it is proved that the parents or grandparents of the non-national are Albanian, or a child was born in the Republic of Albania of parents who have been issued a permanent residence permit by the Albanian authorities. A child is issued a residence permit without consideration whether he/she satisfies the conditions subject to which the residence permit is normally issued.

After obtaining a residence permit, a foreigner has the right to invite his family members if they have been issued with residence permit in the country where the alien was a long-term resident. When a foreigner who has been issued a long-term residence permit by another country is granted a right to remain in the Republic of Albania under a bilateral or multilateral agreement, the Albanian authorities are obliged to notify the country of former residence of the long-term resident of their decision to grant residence permission to that foreigner.

The right to remain as a long-term resident of another country may be refused or annulled for reasons of public order or public safety, taking into consideration the seriousness and nature of the offence committed and the harm that may result if that person remains on Albanian territory. A residence permit issued to long-term residents of another country and any accompanying family members under the conditions set out in Article 67 of the Law 'On Foreigners' may be annulled or its renewal may be refused and their removal from the country may be ordered if it is proven that the residence permit has been obtained fraudulently or by using forged documents or if the holder of the residence permit does not reside in the Republic of Albania according to the conditions in this law. As regards the obligation to readmit a long-term resident in the case of an annulment of or refusal to renew his/her residence permit, the country that initially issued a long-term resident status to the foreigner is obliged to readmit that person.

5. Administrative procedures and documents for long-term residents

There are some specific documents that have to be submitted by long-term residents of another country who apply for a type 'B' residence permit, in addition to the general criteria. Namely: a copy of the work permit or a certificate of registration for work and a certificate of registration with the taxation office where they will run their activity as a self-employed person. If exempted from this obligation by law a certificate of declaration of employment with the respective employment office

²⁵ See L. Ikonomi, *E drejta migratore*, 113 (Tirana, 2014); IOM, *E drejta migratore*, 85 (Tirane, 2009); *Fjalorth i terminologjisë migratore*, 7 (ONM, Tirana, 2007); *Analiza e mangësive mbi legjislacionin dhe praktikën shqiptare të emigracionit krahasuar me standartet europiane dhe ato ndërkombëtare*, 22 (ONM, Tiranë, 2004).

²⁶ *Buletini Informativ nr. 5, Mbi aktivitetin e Strukturave të M.P.B. gjatë muajit shkurt 2014*, 27 (Ministria e Punëve të Brendshme, 2014).

has to be submitted. A copy of the residence permit of the long-term resident issued by the other country must also be submitted.²⁷ The application for the residence permit of a long-term resident of another country must be submitted to Albanian authorities no later than three months after the date of entry into Albania and must be accompanied by the documents which prove that the applicant meets the conditions, as well as a document that proves the long-term resident status granted by another country and a valid travel document (or certified copies of those documents). The decision on the application for a residence permit must be made within this period of three months. This period may be extended for a further period not exceeding three months if the application did not include all the aforementioned documents or if the case is unusually complex. An applicant is notified of any decision to extend the period for processing the application. If a decision is not taken within six months, the application for a residence permit is to be classed as approved.²⁸

A family member of the non-nationals, who has been issued a residence permit according to the requirements of Article 67 of the Law 'On Foreigners, seeking family reunification must submit: a valid travel document and a copy of the first page of that document; a copy of the residence permit of the sponsor already resident in the Republic of Albania; a certified copy of the family member's long-term residence permit issued by the authorities of the country of former residence and evidence of family ties with the long-term resident in the other country prior to their arrival in the Republic of Albania. hereto be admitted as a family member the following conditions apply: a sickness insurance covering all risks according to the legislation in force and certificate of vaccination against the diseases covered by the Albanian vaccination programme and proof of sufficient and stable financial means to prevent the family from becoming a burden on the Albanian social assistance system or proof that the long-term resident has sufficient financial resources to prevent the family from becoming such a burden.

If the family members of the long-term resident who has been issued a residence permit by the Albanian authorities according to the conditions Article 67 of the Law 'On Foreigners' does not reside in the country where the sponsor was a long-term resident, he/she has to apply for family reunification. As a general rule, this application falls under the regime for family reunification in Section V of the Law 'On Foreigners'.

According to the provisions of the Decision No. 513 of 13 June 2013 'On determining the criteria, procedures and documentation for entry, stay and treatment of aliens in the Republic of Albania', the procedure to grant long-term resident status should not be longer than six months. If a residence permit is annulled or if a request to have a residence permit refused, this decision can be appeal in an administrative court.²⁹

6. Legal position of long-term residents

The legal position of a long-term resident in Albania is very strong, especially under the new regulations. This type of residence permit grants the holder a very advantageous status as they enjoy the same rights as those enjoyed by Albanian citizens with the exception of political rights and some other public rights. During their stay, long-term residents not only enjoy the same rights as Albanian citizens, but are also entitled to the same benefits and advantages as Albanian nationals enjoy. Long-term residents enjoy economic rights, health-related and social rights under the same conditions as Albanian nationals, in line with the legislation in force in Albania. The key problem in the Republic of Albania as regards the fulfilment of these rights seems to be how this legal position can actually

²⁷ *Ibid.*, 26.

²⁸ See *Përmbledhje aktesh juridike në fushën e migracionit*, 122 (ACIL/ONM, Tiranë, 2005); L. Ikonomi, *E drejta migratore*, 116 (Tirana, 2014); *Integrimi i refugjatëve në Shqipëri*, 59 (UNHCR, Tiranë, 2004); IOM, *E drejta migratore*, 85 (Tirane, 2009); *Fjalorth i terminologjisë migratore*, 7 (ONM, Tirana, 2007); *Analiza e mangësive mbi legjislacionin dhe praktikën shqiptare të emigracionit krahasuar me standartet europiane dhe ato ndërkombëtare*, 78 (ONM, Tiranë, 2004).

²⁹ See L. Ikonomi, *E drejta migratore*, 120 (Tirana, 2014); *Integrimi i refugjatëve në Shqipëri*, 5 (UNHCR, Tiranë, 2004); IOM, *E drejta migratore*, 84 (Tirane, 2009); *Fjalorth i terminologjisë migratore*, 39 (ONM, Tirana, 2007); *Analiza e mangësive mbi legjislacionin dhe praktikën shqiptare të emigracionit krahasuar me standartet europiane dhe ato ndërkombëtare*, 22 (ONM, Tiranë, 2004).

be enjoyed in practice.

Long-term resident holders also enjoy the same rights as Albanian nationals do with regards to: access to professional work as either a self-employed person or employee; the protection by the law regulating employment and work conditions, including dismissal and remuneration; access to education and vocational training; the recognition of professional diplomas, certificates and other evidence of formal qualifications; access to social security, social welfare and social protection services; tax exemptions or reductions; access to health care; and the freedom to move freely within the whole of Albanian territory.³⁰

7. Conclusions

In comparison with the old legislation, the new regulation setting out the terms forth refusal, non-extension, or cancellation of residence permits is much more detailed and precise. The conditions for the acquisition and the refusal, cancellation, or non-extension of residence permits are regulated for each type of residence permit separately. The Albanian legislation indicates that foreign persons who intend to stay in Albania longer than the visa or visa exemption period or in excess of ninety days are obliged to obtain a residence permit. The type of residence permit varies according to the purpose of the stay: engaging in a subordinate professional activity; independent professional activities; research or highly skilled professional activities; study at an institution for secondary education; study at an institution for higher education; unpaid professional internships; attending a programme of volunteer activities; family reunion; as a victim of human trafficking or any other action involving illegal immigration etc. Short-time residence permits, valid for a maximum period of one year, are granted to foreigners who intend to conduct scientific research or establish a business; who possess immovable property; who receive medical treatment, who enter for tourist purposes; or who participate in student exchange programmes. Family residence permits are issued to the spouse, the minor children, and the dependent children of Albanian citizens, foreigners falling within the scope of the Albanian Citizenship Law; foreigners holding residence permits and refugees/subsidiary status holders, and to a minor child, and any dependent child of the spouse of the above mentioned people. All foreigners in the Republic of Albania enjoy economic and social rights and the right to protection of their cultural life. The most important right enjoyed by residents (be it short-term or long-term) is their integration into the Albanian society, especially in the economic and social field. According to Albanian law, foreigners who have been issued a residence permit enjoy economic, health-related and social rights, in line with the legislation in force. Foreigners who stay in Albania temporarily have a limited right to engage in economic activities. From a perspective of access to the labour market, holders of a short-term residence permit can engage in subordinate or independent professional activities of a temporary nature.

A non-national is entitled to apply for a permanent residence permit, if he/she has stayed legally for a continuous period and has been resident in the Republic of Albania for at least five years from the moment that the first application for a residence permit was made. The requirements are that the foreigner is over the age of eighteen and he/she has not left the territory of the Republic of Albania for an uninterrupted period of more than twelvemonths. If a foreigner, a long-term resident of another country, wishes to remain in Albanian for a period longer than three months, he/she is entitled to a residence permit if he/she is not employed by a supplier of cross-border services or is not a supplier of cross-border services, but works as an employee or as a self-employed person; or pursues a study or a vocational training; or presents a credible reason for wanting to reside in Albania. The legal position of a long-term resident in Albania is very strong, especially under the new regulations. This type of residence permit grants the holder a very advantageous status as they enjoy the same rights as those enjoyed by Albanian citizens with the exception of political rights and some other public rights. Long-term residents during their stay, not only enjoy the same rights as Albanian citizens, but are also entitled to the same benefits and advantages as Albanian nationals enjoy. Long-term residents

³⁰ See Art. 70 of the Law 108/2013 as amended by the Law 74/2016.

enjoy economic rights, health-related and social rights under the same conditions as Albanian nationals, in line with the legislation in force in Albania. The key problem in the Republic of Albania as regards the fulfilment of these rights seems to be how this legal position can actually be enjoyed in practice. We consider this issue to be subject to further discussion or research in the future.

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