



**Muja Law** brings you the latest issue of the *Legal Update*.

Recently in the Official Journal No.174, dated 29.09.2020, among other legal acts, has been published Law No.113/2020, dated 29.07.2020, “**On citizenship**” (hereinafter referred to as “*Law on Citizenship*”).

The object of Law on Citizenship is to determine the principles, procedures and rules for gaining, regaining and losing Albanian citizenship.

*Some of the most important aspects of Law on Citizenship are as follows:*

## **Law on Citizenship**

### **Ways of gaining citizenship**

Law on Citizenship provides that Albanian citizenship is gained by:

- a) birth;
- b) origin;
- c) birth in the territory of the Republic of Albania;
- d) naturalization;
- e) adoption.

### **Gaining of citizenship by birth**

Law on Citizenship provides that whoever is born, having at least one of the parents with Albanian citizenship, automatically gains Albanian citizenship and is registered as an Albanian citizen. The right to register as an Albanian citizen does not expire even after reaching the age of 18 (*eighteen*).

### **Gaining of citizenship by origin**

Law on Citizenship provides that Albanian citizenship is gained by a foreign citizen, whose ancestors are of Albanian origin,

provided that the family connection in a straight line up to three generations of the applicant with his ancestors is proved.

The necessary documentation proving the Albanian origin of the applicant is determined by the instruction of the minister.

### Gaining of citizenship by birth in the territory of the Republic of Albania

Law on Citizenship provides that a child born or found within the territory of the Republic of Albania and who may remain stateless gains Albanian citizenship.

In virtue of Law on Citizenship if the child's parents become legally recognized before the child has reached the age of 14 (*fourteen*) years and are foreign nationals, they can request the revocation of the Albanian citizenship of the child, provided that the child does not remain stateless as consequence of this action.



### Gaining of citizenship by naturalization

Law on Citizenship specifically provides that the Albanian citizenship is gained by

naturalization by a foreigner who has submitted an application and meets the following conditions:

- a. has reached the age of 18 (*eighteen*) years;
- b. has legal capacity to act;
- c. has resided legally and for a continuous period of not less than 7 (*seven*) years in the territory of the Republic of Albania, and has also gained a permanent residence permit, valid at the time of application;
- d. has a residence in accordance with the approved residence standards in the Republic of Albania;
- e. has legal income and financial resources, sufficient for living in the Republic of Albania, which correspond to the minimum standard of living;
- f. has not been convicted by a final court decision in his country, in the Republic of Albania or in any third country for criminal offenses, for which the Albanian law provides sentences of not less than 3 (*three*) years of imprisonment. Exception to this rule is made only in those cases when it is proved that the sentence was given for political motives;
- g. possesses knowledge of the Albanian language, spoken and written, certified by the relevant educational institution, as well as basic knowledge of the history of the Republic of Albania, according to the rules set by the institutions of higher education;
- h. does not pose a threat to public order and national security of the Republic of Albania.

When the person is stateless, he could gain Albanian citizenship if he meets the conditions set out in letters "c", "f" and "h" above.

Furthermore, Law on Citizenship provides that a foreigner, who is married to an Albanian citizen for a period of not less than

3 (*three*) years, may submit an application to gain citizenship by naturalization, even if he does not meet the conditions set out in letters "c" and "g" above, if he has resided legally and continuously in the territory of the Republic of Albania for at least 1 (*one*) year.

The foreigner, whose minor child has Albanian citizenship, can submit a request to gain citizenship by naturalization, even if he does not meet the condition defined in letter "c" above, if he has resided legally and continuously in the territory of the Republic of Albania for at least three years.



In case both parents gain Albanian citizenship by naturalization, their child, under the age of 18 (*eighteen*) years, when living with the parents, gains Albanian citizenship at the request of the parents and with the consent of the child when he is aged 14-18 (*fourteen to eighteen*) years old.

If one of the parents gains Albanian citizenship by naturalization, his child, under the age of 18 (*eighteen*), gains Albanian citizenship if requested by both parents or by one of the parents and the child resides in the Republic of Albania and in this case, the other parent must give consent. Excluded are cases where the objective inability of the other parent to give consent is proved.

The necessary documentation for gaining of Albanian citizenship by naturalization is determined by instruction of the Minister.

### Special cases of gaining Albanian citizenship

Law on Citizenship provides that Albanian citizenship can be gained by a foreign citizen who has reached the age of 18 (*eighteen*) years when it does not pose a threat to public order and national security of the Republic of Albania, even in cases where the Republic of Albania has a national interest or interest in the field of education, science, art, culture, economics and sports.

For the drafting of special programs, the definition of specific rules of special control of security and purity of the image in the highest standards and the monitoring of their implementation, a special state agency is created under the minister. The organization and functioning of the agency are approved by a decision of the Council of Ministers.

Criteria for gaining citizenship, according to special programs defined above, application procedures, rules for conducting necessary verifications and controls are approved by decision of the Council of Ministers, with co-proposal of the minister and responsible ministers according to the field of their responsibility.

### Gaining of citizenship by adoption

Law on Citizenship provides that the adopted child gains Albanian citizenship if the adopter has Albanian citizenship.

In case of adoption by two spouses of Albanian citizenship of a child with other citizenship or without citizenship, the child gains Albanian citizenship. The adopted child gains Albanian citizenship even when only one of the spouses is an Albanian

citizen, as well as in any other case when the child risks becoming stateless as a result of the adoption.

The necessary documentation for gaining Albanian citizenship by adoption is determined by instruction of the Minister.

#### Gaining of citizenship by refugees or persons under subsidiary protection

Albanian citizenship is gained by a refugee or person in additional protection, who has submitted an application and meets the following conditions:

- a. has reached the age of 18 (eighteen) years;
- b. has legal capacity to act;
- c. has resided legally and for a continuous period for not less than 7 (*seven*) years in the territory of the Republic of Albania from the day of communication of the decision for granting the status by the authority responsible for asylum and refugees;
- d. has a residence in accordance with the approved residence standards in the Republic of Albania;
- e. has legal income or financial resources, sufficient for living in the Republic of Albania;
- f. has not been convicted by a final court decision in his own country, in the Republic of Albania or in any third country for criminal offenses for which Albanian law provides for sentences of not less than 3 (*three*) years of imprisonment. Exception to this rule is made only in those cases when it is proved that the sentence was given for political motives;
- g. has knowledge of the Albanian language, spoken and written, certified by the relevant public educational institution, as

well as basic knowledge of the history and the Constitution of the Republic of Albania, according to the rules set by higher education institutions operating in the relevant field;

- h. does not pose a threat to public order and national security of the Republic of Albania.

The necessary documentation for gaining Albanian citizenship for this category is determined by instruction of the Minister.



#### Filing an application

The request for gaining, regaining and leaving the Albanian citizenship is submitted to the local responsible structures of the State Police of the person's residence. Detailed rules for the necessary documentation, form and manner of completing the request under this article are approved by instruction of the Minister.

In case the person resides outside the territory of the Republic of Albania, the request for leaving and gaining the Albanian citizenship and the documentation required under this law may be submitted to the diplomatic mission or consular post of the Republic of Albania accredited in the country

of residence. The detailed rules for the necessary documentation, the form and the manner of completing the request are determined by a joint instruction of the minister and the minister responsible for foreign affairs.

The fee for the application for gaining, regaining and leaving the Albanian citizenship shall be determined by a joint instruction of the minister and the minister responsible for finance. In any case, the fee may not exceed the cost of the service.



### Application review

After submitting the application, the local structure of the State Police performs the necessary verifications for the assessment of the violation of public safety and within a period of 1 month from the submission of the application, sends the request and accompanying documentation to the structure responsible for dealing with citizenship cases in the ministry.

After submitting the application, the diplomatic mission or consular post sends the application and the accompanying documentation to the ministry responsible for foreign affairs, which within 15 (*fifteen*)

days forwards it for review to the responsible structure in the Ministry.

Upon submission of the application and accompanying documentation, the ministry within 6 (*six*) months reviews the submitted documentation, in order to verify the fulfillment of the conditions set out in this law and forwards the proposal to the President of the Republic for the issuance of the decree. The procedure for conducting verifications at the responsible institutions is determined by the instruction of the Minister.

In case the documentation is not complete, the ministry within 45 (*forty-five*) days returns it to the designated structures and institutions, which notify the interested person within a 15-day period.

In cases where the verifications performed show that the conditions set out in this law are not fulfilled, the ministry through the structures and institutions defined above, notifies the interested person for the rejection of the application. The refusal is made by an administrative act of the minister. Against this act, the person who has submitted the request may file an appeal to the competent administrative court, in accordance with the deadlines set out in the relevant legislation in force.

### Decree on gaining, regaining and leaving citizenship

The President of the Republic within 60 (*sixty*) days from the submission of the proposal by the ministry, issues the relevant decree and communicates it to the person who submitted the application, in accordance with the provisions of the Code of

Administrative Procedures. In case the request and the accompanying documentation are not complete, they are returned for completion to the structure responsible for handling citizenship issues in



the Ministry of Interior within 30 (*thirty*) days from the day of submission.

A copy of the decree for gaining, regaining or leaving of Albanian citizenship is also sent to the Ministry of Interior to perform the necessary administrative actions in accordance with the legislation in force on civil status.

The decree is published in the Official Journal.

The decree for gaining, regaining and leaving the Albanian citizenship is registered in a special register for statistical purposes, for the administration of which the provisions of the legislation for personal data protection are respected, the format of which is determined by the instruction of the minister.

### Oath

The person who gains Albanian citizenship according to this law, swears before the mayor, in whose territory he resides or before the employee authorized by him for loyalty to the Albanian state and for implementing the Constitution and the legislation of the Republic of Albania.

In special cases of gaining citizenship, the oath can be taken at the diplomatic mission or consular post of the Republic of Albania accredited in the country where the person has the last residence.

### Deadline for taking the oath

The decree for gaining Albanian citizenship will not have effect if within 6 (*six*) months from its notification the person has not been sworn in according to the above provisions.

The deadline defined above does not apply if, for objective and reasonable reasons, the person finds it impossible to appear to take

the oath. In this case, the person submits the request and the accompanying documentation to the ministry for the postponement of the deadline for taking the oath, as long as the reasons that dictated the postponement last but, in any case, not more than 12 (*twelve*) months from the date of the expiration of the term defined above.

The procedure and documentation for postponing the deadline for taking the oath is determined by the instruction of the minister.



### Repeal

Law No. 8389, dated 05.08.1998, "*On Albanian citizenship*", as amended, Decision of the Council of Ministers No. 554, dated 03.07.2013, "*On determining the procedures for the recognition or gaining of the Albanian citizenship by persons of Albanian origin, with the exception of citizens of the Republic of Kosovo*" and any other provision contrary to this law are repealed.

### Entry into force

*This law enters into force 15 days after its publication in the Official Journal.*



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[contact@mujalaw.com](mailto:contact@mujalaw.com)

**Muja Law Office**

Rr. “Ibrahim Tukiqi”, Nr.2

1057 Tirana

Albania

Mob: +355 69 28 28 562

Web: [www.mujalaw.com](http://www.mujalaw.com)

**Muja Law** is a family-run law office where we work hard for the success of our clients and to provide excellence in legal service. Our roots go back to 2001 when our Managing Partner, Krenare Muja (Sheqeraku), opened her law practice office in Tirana, Albania. Krenare’s son Eno joined her in 2014, and the other son Adi entered the practice in 2019. What started in Tirana as a small, family-run law office has grown and flourished in the community for the last 20 years. The office consists of various respected and talented lawyers who possess outstanding educational and community service backgrounds and have a wealth of experience in representing a diverse client base in various areas of the law.

The office is full-service and advises clients on all areas of civil, commercial and administrative law. With significant industry expertise, we strive to provide our clients with practical business driven advice that is clear and straight to the point, constantly up to date, not only with the frequent legislative changes in Albania, but also the developments of international legal practice and domestic case law. The office delivers services to clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods. In our law office, we also like to help our clients with mediation services, as an alternative dispute resolution method to their problems.

While we have grown over the past 20 years and become recognized as one of Albania’s leading law offices, we are grounded in the essence of “who” we are and “where” we started. We understand the importance of family, hard-work, and dedication.

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