

## Legal Update

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

Recently in Albania has been approved the Law No.79/2021 "*On foreigners*", dated 24.06.2021 (hereinafter referred to as the "*Law*"), which repeals the law No.108/2013, "*On foreigners*". The Law has been published in the Official Journal No. 162, dated 18.10.2021.

The Law is aligned with the legislation of the European Union and aims to regulate the regime of entry, stay, employment and exit of foreigners in/from the Republic of Albania.

The Law aims to improve the necessary mechanisms for issuing electronic visas online and also aims to solve the problems encountered during the previous law's implementation.

Additionally, the Law aims to reduce unnecessary obstacles for the employment of foreign nationals in the territory of the Republic of Albania. In this regard, the Law meets some of the shortcomings of the previous legislation for foreigners, by integrating the provision of a **unique permit**, which guarantees a single application procedure for foreigners, who intend to work and stay in the territory of Republic of Albania and also clarifies the deadlines and procedures for obtaining such permit.

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

### ➤ Law No.79/2021

The Law regulates the regime of entry, stay, employment and exit of foreigners in/from the Republic of Albania. The Law defines the functions and competencies of state authorities and other entities, public and private, Albanian or foreign, which in accordance with the principle of best

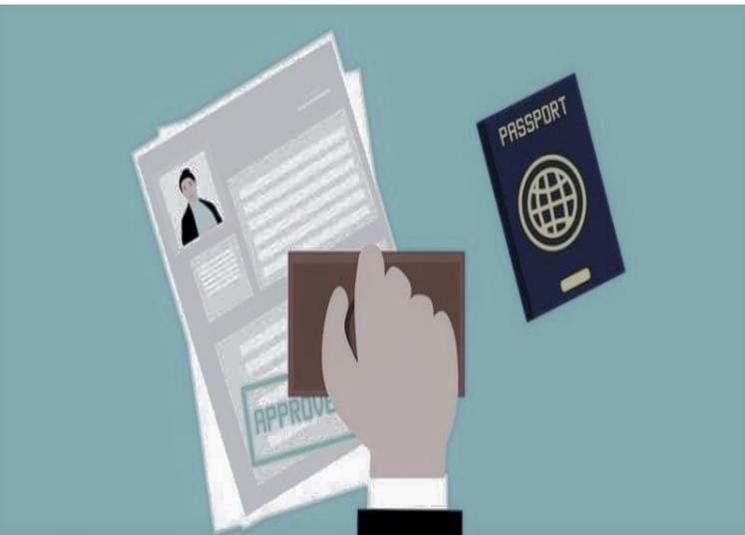
interests of the child, the principle of the right to family life, the principle of non-return, the principle of fair and transparent procedures and the principle of non-discrimination carry out activities in the Republic of Albania, which deal with foreigners seeking to enter, entering, staying and leaving the Republic of Albania.

## ➤ Visa application

The visa application from a foreigner is made **no more than 90 days before the planned date of arrival in the Republic of Albania**, at the diplomatic and/or consular missions of the Republic of Albania abroad through the electronic visa system or, in cases of bilateral or multilateral agreements with other countries, in the respective representative missions of these countries.

A visa can be issued if the foreigner's travel document:

- a) is valid for at least three months after the scheduled date of departure from Albania or, in the case of multiple entries, after the last scheduled date of departure from Albania;
- b) contains at least two blank pages;
- c) has been issued within the last decade.



## ➤ Types of visas

**Type "A" visa** is a transit visa at the airport, which entitles the holder to enter and stay in the area of international traffic of the airport until the departure of the flight to the country of destination. The validity of this visa is given in accordance with the time and ticket reservations for the trip (s)

in which the applicant anticipates transit.

This visa can be issued with multiple entries and exits and with a maximum validity of up to six months.

**Type "C" visa** is a visa issued in the form of a stamp visa or printed in electronic format, which entitles its holder to enter and stay in the Republic of Albania for up to 90 days within 180 days, starting from the date of first entry. This visa can be issued with one, two or more entries. The validity period may not exceed 5 years.

**Type "D" visa** is a visa issued in the form of a stamp visa or printed in electronic form for foreign nationals intending to stay in the Republic of Albania for more than 90 days within 180 days, and when it is necessary to obtain a residence permit.

This type of visa is also issued with a validity of one year, residence time 90 days, but not for more than 180 days, calculated from the day of first entry, with one, two or more entrances and exits, which entitles the holder to apply to obtain a residence permit upon entry into the Republic of Albania.

## ➤ Stay in the Republic of Albania

The foreigner can stay in the Republic of Albania for a short period, for a temporary period, as well as permanently.

The stay for a short period may not exceed 90 days for 180 days, based on the visa issued or entry without a visa, unless otherwise provided in this law or in agreements recognized by the Republic of Albania.

Residence for a temporary and permanent period can be realized only through the provision of a residence permit.

## Types of residence permits

The authority responsible for the border and migration provides one of the following types of residence permits for foreigners who seek to stay in the Republic of Albania for a period of more than 90 days in 180 days and who meet the conditions set out in this law:

- a) residence permit type "A", which gives the holder the right to stay only in the Republic of Albania within the time limit for which it is issued;
- b) residence permit or unique type "B", renewable permit, which is issued for a fixed term and entitles the holder to enter, stay and leave the Republic of Albania within the deadlines specified therein;
- c) residence permit or a unique type "C" permit, which is issued for a permanent term and entitles the holder to enter, stay and leave the Republic of Albania;
- d) unique residence permit "Blue card AL", renewable, which is issued for a period determined only for highly qualified employees and gives the holder the right to enter, stay and leave the Republic of Albania within the deadlines defined in it;
- e) residence permit "Blue Card AL-C", which is issued for a permanent term only for highly qualified employees and gives the holder the right to enter, stay and leave in/from the Republic of Albania.

## Issuance of residence permits

The residence permit, unless otherwise provided in this law or by international agreements ratified by the Republic of Albania, is issued with a term:

- a) 3 months, 6 months or 1 year, where the 1-year permit can be renewed no more than 5 times in a row;
- b) 2 years, which can be renewed not more than once;

c) 5 years, according to the provisions of this law;

d) permanent, in case the foreigner has had a legal residence for 5 consecutive years in Albania and has stable connections or activities in the country.



## Residence permits according to motive

In virtue of the Law, the residence permits issued, are as follows:

- a) residence permit for reasons of family reunification;
- b) residence permit for study motives (student and pupil);
- c) residence permit for the trainee free of charge;
- d) residence permit for *au pairs*;
- e) residence permit for youth exchanges;
- f) residence permit for scientific research;
- g) residence permit for job search or entrepreneurship for researchers and students;
- h) residence permit for humanitarian cases;
- i) residence permit for victims of trafficking of human beings;
- j) residence permit for stateless persons;
- k) unique residence permits for work reasons, such as:

- i. unique permit as an employee;
- ii. unique permit for seasonal employment;
- iii. unique permit to transfer within the enterprise;
- iv. unique permit as a cross-border worker;
- v. unique permit for vocational training;
- vi. unique permits for athletes;
- vii. unique permit for voluntary service;
- viii. unique permits for highly qualified employees;
- ix. unique permits for self-employed persons;
- x. unique permits for digital mobile employees;
- xi. unique permits for investors;
- xii. unique permit for contracting services;
- xiii. unique permits for specific categories.
  - l) residence permit for the crew of sailing vessels;
  - m) residence permit for the use of owned immovable property;
  - n) residence permit for retirees.

Some of the above-mentioned motives for residence permits that stand out from other motives and are novelties of this law are, as follows:



#### ❖ Residence permit for job search or entrepreneurship for researchers and students

After the completion of research or studies, foreign researchers and students have the opportunity to stay in the territory of the Republic of Albania on the basis of a residence permit, for a period of at least nine months, in order to look for work or develop a business.

In order for students to benefit from the application of this provision, they must have a level of education that must not be higher than level 7 of the European Qualifications Framework.

The Border and Migration Authority may request from researchers a confirmation from the research organization of the completion of the research activity or for students, proof that they hold a higher education diploma, certificate or other proof of official qualifications.

#### ❖ Residence permits au pairs

In order to obtain an *au pairs* residence permit, a foreigner must:

- a) provide an agreement between him and the host family, which defines the rights and obligations as an *au pair*, including the specifications regarding the monetary value he will take with him, the appropriate arrangements that allow the *au pair* to participate in the courses and maximum hours of family homework;
- b) be between the ages of 18 and 30 years.
- c) provide evidence that the host family or the intermediary organization for *au pairs*, to the extent provided by national legislation, accepts responsibility for the foreign national throughout the stay in the territory of the Republic of Albania, in particular in relation to living expenses, accommodation and risks from accidents;
- d) has never had criminal records;

e) has never been under psychotherapeutic and psychological treatment in the past.

The foreigner, who applies to be accepted as an *au pair*, needs to provide evidence regarding:

- a) knowledge of the Albanian language; or
- b) completion of secondary, higher education/professional qualifications or meets the conditions to practice a regulated profession, as required by the applicable national legislation.

The members of the host family must be of different nationalities from the foreigner who applies to be accepted for the purpose of *au pairs* and have not had any family connection with the foreign citizen.

#### ❖ Residence permit for stateless persons

A stateless person may obtain a temporary residence permit provided that he or she meets the criteria set in this law, has stayed in Albania for 1 year before submitting the application, and if he/she intends to continue his/her stay in the Republic of Albania.

A stateless person may stay in the Republic of Albania based on a travel document for a stateless person or temporary residence permit.

The request to certify whether the applicant is a stateless person is submitted to the responsible authority in the ministry responsible for public order and security.

This request cannot be submitted by a foreign citizen:

- a) who has submitted a request for international protection in the Republic of Albania;
- b) who has been recognized as a refugee in the Republic of Albania;
- c) who has been granted asylum, supplementary protection or

supplementary protection in accordance with the law on asylum.



#### ❖ Unique permit

A foreigner may be employed in the Republic of Albania by obtaining a unique permit, unless otherwise provided in this law, by international agreements recognized by the Republic of Albania or a unilateral position expressed by a decision of the Council of Ministers.

Preliminary actions for opening a business or service activity are not considered as work. The request for a unique residence permit for a foreigner can be made by the foreigner himself, with legal residence in the Republic of Albania.

The review of the application and the issuance of the unique residence permit, when the criteria required by the legislation in force are met, are made from 4 to 12 weeks from the day of application. At the time of application, a certificate of acceptance of the application is given.

The employer cannot employ a foreigner who stays illegally in the Republic of Albania.

*When the employer employs a foreigner, he/she must notify the local authority responsible for the border and migration within 8 days from the beginning of the foreigner's work.*



❖ Unique residence permit for digital mobile employees (Freelancer)

The authority responsible for border and migration provides the foreigner with a “*unique residence permit for mobile workers*” for a period of up to 1 year, for the first time, in cases when the foreign citizen is legally resident in the Republic of Albania and:

- a) proves with a valid employment contract with the employer abroad or service contract with the contractor or client abroad that he will work without a concrete headquarter for specific jobs, which allow work with information technology tools;
- b) proves that he has sufficient income to support himself and the dependents during his stay in the Republic of Albania;
- c) has evidence of accommodation and an address in the Republic of Albania;
- d) has a health insurance policy valid for at least 1 year;
- e) possesses a criminal certificate/proof

from his country of origin, detailing whether or not he has a criminal record.

❖ Temporary residence permit for use of owned immovable property

A temporary residence permit for the use and disposition of immovable property in the Republic of Albania may be issued to a foreign citizen according to this law and who proves the ownership of such immovable property, in accordance with the legislation in force, for which he is the owner during the time of the residence permit.

The authority responsible for border and migration provides the foreigner with a “*residence permit for the use of owned immovable property*” for a period of up to 1 year for the first time and renewable every year if the foreigner continues to meet the criteria set out in law.

The permit can be issued also to a foreign citizen, who is a co-owner of 1/2 of the immovable property.

❖ Residence permit for retirees

Foreign citizens, who are retired in their country, can apply for a residence permit for retirees at the authority responsible for border and migration in the Republic of Albania.

The authority responsible for border and migration provides the foreigner with a “*residence permit for retirees*” with a term of up to 1 year for the first time in cases when the foreign citizen is legally resident in the Republic of Albania and:

- a) proves that he is entitled to annual income from the pension up to the amount of 1 200 000 ALL through documents issued by the country of origin and legalized by a notary public;
- b) proves that he has sufficient income to

support himself and the dependents during his stay in the Republic of Albania;

c) certifies through documents issued by a bank in the Republic of Albania that he/she has a valid bank account, in which regular transfers of his/her pension will be made;

d) has evidence of accommodation and an address in the Republic of Albania;

e) has a health insurance policy valid for at least 1 year;

f) possesses a criminal certificate/proof from his country of origin, detailing whether or not he has a criminal record.

The residence permit for the retired foreign citizen can be renewed every year if the foreigner continues to meet the criteria mentioned above.

The holder of a residence permit granted on the basis of a pension abroad may request family reunification in the Republic of Albania for his/her spouse or non-retired partner.

The residence permit for retirees does not give the foreigner the right to carry out any kind of economic or professional activity in the Republic of Albania.



### **Entry into force**

*The Law enters into force 15 days after its publication in the Official Journal.*



If you wish to know more on our publications, legal updates, tax updates, legal bulletins, or other articles, you may contact the following:

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**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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