



ICLG

The International Comparative Legal Guide to:

Corporate Immigration 2017

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A practical cross-border insight into corporate immigration law

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General Chapters:

1	The Return of the Native: “Locals First” as the New Global Immigration Policy Trend – Nicolas Rollason & Benjamin Sookia, Kingsley Napley LLP	1
2	A Global C-Suite Through Second Citizenship – Micha-Rose Emmett & Beatrice Gatti Bennett, CS Global Partners	5
3	How Common or Exceptional is a Nationality-Based Entry Ban as an Instrument for Immigration Control? – Marcel A.G. Reurs, AILA Global Migration Section Analytics Committee	9

Country Question and Answer Chapters:

4	Albania	Gjika & Associates Attorneys at Law: Evis Jani & Njazueta Braholli	12
5	Argentina	NAVARRO CASTEX Abogados: Sofia Inchauspe & Florencia Cavazza	20
6	Australia	BDO Migration Services: Maria Jockel	27
7	Austria	Oberhammer Rechtsanwälte GmbH: Ewald Oberhammer & Petra Pardatscher	35
8	Belgium	Immigration Law Associates: Tanel Feldman	45
9	Canada	Gomberg Dalfen S.E.N.C.: Avi Gomberg & Isabelle Owston	52
10	Croatia	Čipčić-Bragadin and Associates: Silvije Čipčić-Bragadin & Tomislav Bartolić	59
11	Denmark	Lund Elmer Sandager Law Firm LLP: Michael Møller Nielsen & Julie Flindt Rasmussen	66
12	France	CMG LEGAL: Valerie Maricot & Stephane Coulaux	73
13	Germany	michels.pmks Rechtsanwälte Partnerschaft mbB: Dr. Gunther Mävers	80
14	Hong Kong	Lewis Silkin: Antonia Grant	90
15	Italy	Studio Legale Associato Simonetti Persico Scivoletto: Corrado Scivoletto	97
16	Japan	Nakai Immigration Services LPC: Masahito Nakai	105
17	Luxembourg	Arendt & Medernach: Philippe Schmit & Françoise Faltz	112
18	Macedonia	Debarliev, Dameski & Kelesoska, Attorneys at Law: Dragan Dameski & Ema Dimitrieska	119
19	Malaysia	Skrine: Selvamalar Alagaratnam & Sara Lau Der Yin	127
20	Mexico	Enrique Arellano Rincón Abogados, S.C.: Enrique J. Arellano	133
21	Netherlands	Mynta Law: Arend van Rosmalen LL.M.	140
22	Peru	Barrios & Fuentes, Abogados: Ariel Orrego-Villacorta Icochea & María Gracia De La Piedra	149
23	Philippines	Gulapa Law: Aris L. Gulapa & Phillip Don G. Recentes	157
24	Singapore	Magrath Global: Ruth Wilkins	164
25	Slovenia	Law firm Šafar & Partners, Ltd: Martin Šafar & Polona Boršnak	171
26	Switzerland	Lenz & Staehelin: Rayan Houdrouge & Dr. Matthias Oertle	177
27	Turkey	Günbay Attorney Partnership: Başar Kural & Ahu Pamukkale Günbay	184
28	United Arab Emirates	PricewaterhouseCoopers Middle East LLP: Anirban Chatterji	191
29	United Kingdom	Kingsley Napley LLP: Nicolas Rollason & Kim Vowden	198
30	USA	Mayer Brown, LLP: Paul W. Virtue & Elizabeth Espín Stern	211

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Albania



Gjika & Associates Attorneys at Law

Njazuella Braholli

1 Introduction

1.1 What are the main sources of immigration law in your jurisdiction?

- Law 108/2013 “On foreigners” (Law 108/2013);
- Law 9901/2008 “On entrepreneurs and commercial companies” (Law 9901/2008);
- Law 7995/1995 “On employment promotion” (Law 7995/1995);
- Decision of Council of Ministers (DCM) 513/2013 “On the determination of requirements, procedures and documentation of entrance, residence, and treatment of foreigners in the Republic of Albania” (DCM 513/2013);
- DCM 66/2014 “On the determination of requirements, documentation and procedures for the obtainment, refusal and cancellation of the work permit for the highly skilled individuals of the type ‘A/KL’” (DCM 66/2014);
- DCM 69/2014 “On the determination of requirements, documentation and procedures for the obtainment, refusal and cancellation of the permanent work permit of type ‘D’” (DCM 69/2014);
- DCM 74/2014 “On the determination of requirements, documentation and procedures for the obtainment, refusal and cancellation of the work permit for voluntary services of type ‘A/SHV’” (DCM 74/2014);
- DCM 78/2014 “On the determination of requirements, documentation and procedures for the obtainment, refusal, renewal and cancellation of the work permit, for specific cases, of type ‘C’” (DCM 78/2014);
- DCM 79/2014 “On the determination of requirements, documentation and procedures for the obtainment, refusal, renewal and cancellation of the work permit for independent professional activity, as an investor of type ‘B/I’” (DCM 79/2014);
- DCM 80/2014 “On the determination of requirements, documentation and procedures for the obtainment, refusal, renewal and cancellation of the work permit for the family members of type ‘A/AF’” (DCM 80/2014);
- DCM 82/2014 “On the determination of requirements, documentation and procedures for the obtainment, refusal, renewal and cancellation of the work permit for professional training of type ‘A/FP’” (DCM 82/2014);
- DCM 85/2014 “On the determination of requirements, documentation and procedures for the obtainment, refusal and cancellation of the work permit for the secondees within the companies of type ‘A/TN’” (DCM 85/2014); and

- Joint Instruction of the Ministry of Interior Affairs and the Director of the Secret Intelligence Service no. 265/2015 “On the cooperation between the structures of the Ministry of Interior Affairs and of the Secret Intelligent Services with regard to the treatment procedures of the foreign employees legally residing in Albania” (Instruction 265/2015).

1.2 What authorities administer the corporate immigration system in your jurisdiction?

The Ministry of Foreign Affairs, through its consular representation offices outside Albania, is the competent authority for granting entrance, residence and transit visas for foreigners (Section II (B) of DCM 513/2013).

The consular representation offices of other countries may grant entrance, residence and transit visas, if so stipulated in bilateral or multilateral agreements. In some particular cases, the relevant regional border and immigration authority is responsible for granting visas at the border, as well as issuing residence permits (Articles 23, 26, 33, 61 of Law 108/2013).

Working permits are issued by regional Labour Offices where the employer exercises its activities, or by the General Directorate of National Labour Service, in the case an employer exercises its activities in more than one region. The request for working permits may also be filed with the diplomatic representations of the Republic of Albania in the country of origin of the foreigner, and is then transferred to the file of the General Directorate of the National Labour Service (point 4 of DCM 85/2014; point 6 of DCM 80/2014).

1.3 Is your jurisdiction part of a multilateral agreement between countries (EU/NAFTA/MERCOSUR) which facilitates the movement of people between countries for employment purposes?

Albania is not part of any multilateral agreements facilitating the movement of people for employment purposes.

2 Business Visitors

2.1 Can business visitors enter your jurisdiction under a relevant visa waiver programme?

Business visitors are not treated as a specific category under Albanian law with regard to visa requirements for foreign citizens.

Business visitors are entitled to freely enter into the territory of the Republic of Albania provided that they are:

- (1) citizens of countries that are excluded from the obligation of applying for a visa, namely citizens of Andorra, Argentina, Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Brazil, Canada, China, Chile, EU countries, the Holy See, Hong Kong, Israel, Japan, Kazakhstan, Kosovo, Kuwait, Malaysia, Macedonia, Monaco, Montenegro, the Republic of South Korea, New Zealand, San Marino, Schengen zone countries, Serbia, Singapore, Taiwan, Turkey, Ukraine, the United Arab Emirates and the USA;
- (2) holders of a Schengen visa with multiple entries, provided that the visa has been previously used in one of the Schengen area Member States, or holders of a residence permit granted in one of the Schengen area Member States;
- (3) holders of a visa with multiple entries, or a residence permit, granted from the USA, Great Britain or Northern Ireland, provided that the visa has been previously used; or
- (4) citizens that are entitled to enter into and stay in the Schengen area Member States without a visa (Article 30 (1) of Law 108/2013, section II (A) (2) (6) and Annex 3 of DCM 513/2013).

2.2 What is the maximum period for which business visitors can enter your jurisdiction?

Business visitors and citizens of countries that are excluded from the obligation of applying for a visa, as well as business visitor holders of a type 'C' visa, are entitled to enter Albania for a maximum period of 90 out of 180 days as of their first entrance date (Article 30 (2) of Law 108/2013).

2.3 What activities are business visitors able to undertake?

Business visitors are entitled to carry out negotiations for the purpose of establishing a commercial activity, enter into agreements for services offered, manage a company or a department/section within a company and supervise and manage employees (Article 3 (11) of Law 108/2013).

2.4 Are there any special visitor categories which will enable business visitors to undertake work or provide services for a temporary period?

There are no special visitor categories; however, business visitors are entitled to stay in Albania for up to one month per year for the purpose of their activity without being subject to work permit requirements (Article 72 (b) (ii) of Law 108/2013).

2.5 Can business visitors receive short-term training?

Business visitors can receive short-term training provided that they have obtained a residence permit for unpaid training from the competent border and immigration authority. EU and Schengen zone citizens are excluded from the obligation to obtain the above permit (Article 48 of Law 108/2013).

3 Immigration Compliance and Illegal Working

3.1 Do the national authorities in your jurisdiction operate a system of compliance inspections of employers who regularly employ foreign nationals?

Employers who employ foreigners are subject to inspection by the Labour Inspectorate and the regional border and migration authority (Article 137 (c) of Law 108/2013).

3.2 What are the rules on the prevention of illegal working?

In order to prevent illegal working, Law 108/2013 stipulates rules to be observed by employers, as well as the right of the relevant authorities to inspect such employers. Employers should:

- request that a foreign employee provides a residence permit or other authorisation, valid for the duration of the employment period;
- keep a copy of the residence permit or authorisation;
- notify the Labour Inspectorate and the relevant border and immigration authority within eight days as of the commencement or the termination of a foreigner's employment;
- cover the expenses of repatriation for a foreign employee in case they are found to have been illegally working for the respective employer; and
- pay any outstanding amount related to a foreign employee working illegally, i.e. social and health contributions, administrative penalties, etc. (Article 71 (7) and 137 (1) of Law 108/2013).

Failure to comply with the above may result in the following fines being imposed on the employer:

- from 350,000 Albanian lek ("ALL") to 400,000 ALL per person in case of an illegal worker;
- from 50,000 ALL to 100,000 ALL per person in case of failure to keep a copy of the residence permit or authorisation of a foreign employee;
- from 20,000 ALL to 30,000 ALL per foreign employee in case of failure to notify the relevant authorities on the commencement/termination of their employment (i.e. the Labour Inspectorate and the relevant border and immigration authority); or in case the foreign employee does not have the relevant identifying documentation, permit or visa, and has been employed even if they do not have right to profit (i.e. the Labour Inspectorate and the relevant border and immigration authority); and/or
- from 200,000 ALL to 300,000 ALL in case of failure to comply with the obligations imposed by the Law on Foreigners, other than those listed above (Article 145 1 (a), iii, d, h, g and j).

In addition to the above, in case of an illegal worker (due to illegal residence in the territory of Albania), the relevant border and immigration authority may propose to the competent Albanian authority additional measures, such as:

- exclusion from the right to take advantage of public benefits, aids or financing for a period up to five years;
- exclusion from the right to enter into public contracts for a period up to five years; and/or
- temporary or definitive closing of the legal entity that illegally employed an employee (Article 137 (4) of Law 108/2013).

3.3 What are the penalties for organisations found to be employing foreign nationals without permission to work?

Organisations found to be employing foreign nationals without permission to work are subject to a fine of between 350,000 ALL and 400,000 ALL for each employee (Article 145 (j) of Law 108/2013).

4 Corporate Immigration – General

4.1 Is there a system for registration of employers who wish to hire foreign nationals?

Albanian law does not provide for a general registration system for employers, irrespective of whether the vacant position refers to Albanian nationals or foreigners (Law 7995/1995).

4.2 Do employers who hire foreign nationals have ongoing duties to ensure immigration compliance?

With the exception of the notification to the relevant Labour Office and the border and immigration authority for the commencement and termination of the employment of a foreign citizen, which should be delivered within eight days of the commencement of the work or termination, there are no other ongoing duties for hiring foreign nationals (Article 71 (7) of Law 108/2013).

4.3 Do the immigration authorities undertake routine inspections of employers who sponsor foreign nationals, to verify immigration compliance?

The competent border and immigration authority is entitled to undertake routine inspections in order to verify immigration compliance. Unless otherwise evidenced by the employer, the employment relationship with illegal foreign workers shall be deemed to have been entered into at least six months prior to the day they were identified by the immigration authorities (Article 137 (3) of Law 108/2013).

4.4 Do the immigration authorities maintain a list of skilled occupations which may be filled by foreign nationals?

There is no such formal list of skilled occupations which may be filled by foreign nationals.

4.5 Is there a recognition that some occupations may be in short supply and do special exemptions apply to certain sectors and occupations?

Albanian law does not provide for an occupation shortage list.

4.6 Are there annual quotas for different types of employment-related work permits or visas?

The annual employment quota is approved by the Council of Ministers every year by 1 October, upon the proposal of the Ministry of Labour, Social Affairs and Equal Opportunities (Article 82 of Law 108/2013). The annual employment quotas determine the activities and professions allowed to employ foreigners, as well as the maximum number of foreigners allowed for such professions.

Nevertheless, foreigners that are employed in one of the following sectors are excluded from the annual employment quota:

- immigrant employers on the basis of bilateral agreements;
- employers that hold key positions in companies, branches and representative offices;
- inter-company transfer employees;
- employees self-employed by a company that they wholly own or in which they own more than 51% of shares;
- service providers in the Republic of Albania on behalf of a foreign employer;
- teachers and lecturers in educational institutions that conduct teaching in language learning courses for national minorities;
- athletes and artists working in the Republic of Albania;
- employees that are remunerated for their work in a foreign non-profit organisation registered in the Republic of Albania;
- members of Boards of Directors of religious or humanitarian foundations registered in the Republic of Albania;
- employees in the context of youth exchange activities in the Republic of Albania in cooperation with other countries;
- scientific research employees in scientific research, educational institutions or legal entities;
- university professors, lecturers, instructors and guest lecturers from other universities; and
- foreign employees that work on the basis of an international agreement (Article 83 of Law 108/2013).

4.7 Are there restrictions on the number of foreign workers an employer may sponsor, in relation to a maximum percentage of foreign workers in the employer's workforce?

The number of foreign workers an employer may sponsor should not exceed 10% of the total number of employed staff in case of a company with ongoing activity, and should not exceed 10% of the general staff at the moment of application in case of a newly opened activity.

However, it is to be noted that the number of foreign workers employed should be in compliance with the annual employment quota for foreigners, approved by the Council of Ministers every year by 1 October for the next year (Article 82 and Article 84 of Law 108/2013).

4.8 Are employees who are sponsored to work in your jurisdiction required to demonstrate language proficiency?

With the exception of employers wishing to obtain a permanent work permit, which requires an employee to demonstrate good knowledge of the Albanian language, there is no language proficiency requirement for the purposes of working in Albania (point 1 (e) of DCM 69/2014).

4.9 Are employees who are sponsored to work in your jurisdiction required to undergo medical examinations before being admitted?

Foreign employees are not required to undergo any special medical examination before being admitted to work in Albania, with the exception of requirements applied for specific works, which applies for Albanian nationals as well (Article 145 (1) e of Law 108/2013).

4.10 Are employees who are sponsored to work in your jurisdiction required to have medical insurance or are they entitled to any free public medical services?

Considering that a foreign employee can work in Albania upon the acquisition of the relevant residence permit, the attainment of which is subject to its filing with the competent authorities of a health insurance certificate covering the territory of Albania, medical insurance is required (Section III (B), point 6 of DCM 513/2013).

4.11 Does the work permit system allow employees who hold work permits to be seconded to a client site?

Albanian legislation does not prohibit the secondment of an employee to a client site.

Foreign employees are not required to undergo any special medical examination before being admitted to work in Albania, with the exception of requirements applied for specific works, which applies for Albanian nationals as well (Article 145 (1) e of Law 108/2013).

5 Highly Skilled Visas

5.1 Is there an immigration category which covers highly skilled individuals?

Albanian law does not provide for a category that covers highly skilled visas.

6 Investment or Establishment Work Permits

6.1 Is there an immigration category which permits employees to be authorised to work based on investment into your jurisdiction?

A foreign investor is entitled to obtain a two-year work permit, provided that the following conditions are met:

- the value of investment amounts to at least €200,000;
- the ratio of employees is 1:5 (one foreign employee to five Albanian employees; this is applicable to the governing bodies of the company as well);
- the salary paid to employees is at least equal to the average salary in Albania for the same positions during the previous year; and
- a foreign investor should prove that the company they invested in is not running at a loss and has no outstanding amounts owing to tax authorities.

The work permit for the foreign investor may be extended for a period of time of three years provided that the conditions of the works has not changed. Upon termination of the second work permit, the foreign investor is entitled to a permanent work permit provided that the conditions for which the second work permit is issued has not changed.

Foreign investors, as well as the business visitors, are entitled to obtain a permanent work permit provided that the value of the investment amounts to over €1 million and that more than 10 Albanian employees are employed (Article 100 of Law 108/2013).

7 Temporary Work Permits

7.1 Is there an immigration category permitting the hiring of temporary workers for exchanges, career development, internships or other non-economic purposes?

There is an immigration category permitting the hiring of temporary workers for youth exchanges and voluntary services, provided that the activity at hand does not exceed a period of one year. In addition, Albanian law offers another category of work permit to foreign nationals wishing to undertake an internship in Albania; in such case, the work permit is issued for a duration equal to the duration of the internship (Articles 93 and 95 of Law 108/2013).

7.2 Are there sector-specific temporary work permit categories which enable foreign workers to perform temporary work?

In relation to a sector-specific temporary work permit, Albanian law provides for a seasonal employment category that enables foreigners to perform temporary work in Albania for up to six months each year (Article 88 (1) and (5) of Law 108/2013).

8 Group or Intra-Company Transfer Work Permits

8.1 Does a specific immigration category exist for inter-company transfers within international groups of companies?

Albanian law provides for a specific immigration category for inter-company transfers within international groups of companies, namely work permits of type "A/TN" (Article 89 of Law 108/2013).

8.2 What conditions must an employing company or organisation fulfil in order to qualify as part of a group of companies?

A company shall be considered part of a group of companies, provided that (a) it exercises its activities under the direction and instruction of another company, (b) at least 30% of the members of its Board of Administration, Supervisory Board or administrators are appointed by another company, or (c) at least 30% of votes at a General Meeting of Shareholders are held by another company (Article 207 of Law 9901/2008).

8.3 What conditions must the employer fulfil in order to obtain a work permit for an intra-company group employee?

Albanian law provides for a priority for the issuance of work permits for intra-company group employees, by exempting the application of the conditions related to the market as well as other conditions stipulated by the law.

However, the procedure described in question 8.4 below should be followed for the purposes of obtaining the work permit (Article 85 (d) of Law 108/2013 and Point 3 of DCM 85/2014).

8.4 What is the process for obtaining a work permit for an intra-company group employee?

An application for a work permit can be filed by the employee themselves or the employer to which the employee will be transferred, to the duly authorised person at the relevant Labour Office in the territory where the employer exercises its activities, to the General Directorate of the National Labour Service, in case the employer exercises its activities in more than one geographical region, or to the diplomatic representations of the Republic of Albania in the country of origin of the transferring company.

The following documents should be filed for the purpose of obtaining a work permit:

- the application form with personal data, duly signed;
- an excerpt from the commercial register of the country where the foreign company is registered;
- the individual employment contract between the employee and the foreign company, for a duration of at least 12 months prior to the transfer, or the individual employment contract certifying the existing employment relationship for other employee categories;
- the declaration of transfer, issued by the foreign company, certifying the transfer of the relevant employee, and determining the duration and content of the work to be performed by the employee, as well as identifying the employer to which the relevant employee shall be transferred;
- any certificates and evidence of specialised qualifications and experience;
- a copy of the employee's passport;
- an authorisation in case the applicant is submitted by a third person; and
- five photos of the employee.

All the documents should be original or certified copies translated into the Albanian language.

The work permit is issued within 10 days from the date of filing of the complete documentation.

In case the application is filed with the diplomatic representations of the Republic of Albania in the country of origin of the transferring company, the latter transfers the application to the Ministry of Social Welfare and Youth, through the Ministry of Foreign Affairs. The Ministry of Social Welfare and Youth examines the application through the relevant Labour Office or the General Directorate of the National Labour Service, and notifies the relevant diplomatic representations of the Republic of Albania, through the Ministry of Foreign Affairs, of approval or refusal of the work permit (DCM 85/2014, Article 89 of Law 108/2013).

8.5 What is the process for the employee to obtain a visa under the intra-company group transfer category?

For the purpose of obtaining a visa, the employee should file the following documents with the diplomatic representations or consular offices outside Albania:

- the application form for the visa;
- one photo of 47mm x 36mm, no older than six months before the application;
- a copy of a valid travel document (valid for at least three months more than the period of validity of the requested visa);
- a Health Insurance Policy valid for the duration of the required visa, for a minimum of €30,000 (thirty thousand euros);

- the invitation by the employer to which the employee will be transferred, supported by an excerpt from the National Business Centre; and
- a copy of the work permit issued by the competent Albanian authority (point B of DCM 513/2013).

In the case of a first-time application, the application should be filed personally by the employee. For follow-up/extension applications, and if it is impossible for the employee to file the application personally, the application may be filed by an authorised person, provided that the application form is signed by the beneficiary of the visa.

8.6 How long does the process of obtaining the work permit and initial visa take?

A work permit is issued within 10 days from the application date, provided that all of the required documents are submitted. The issuance of a visa takes 15 days from the acceptance of the application and in exceptional cases it may take up to 30 days (point 7 of DCM 85/2014, Article 25 (3) of Law 108/2013).

8.7 How long are visas under the "initial" category valid for, and can they be extended?

Visas under the "initial" category of type "D" are valid for a one-year period. An extension is possible only in the case of *force majeure* or in humanitarian cases, provided that the request for the extension is filed prior to the visa's termination and that the foreigner was unable to leave the Albanian territory prior to the visa's termination (Article 22 (2) and Article 27 (1) of Law 108/2013).

8.8 Can employees coming under the intra-company transfer route apply for permanent residence?

An employee coming under the intra-company transfer route may apply for permanent residence, provided that all of the requirements for permanent residence, listed in Section 12 below, are fulfilled.

8.9 What are the main government fees associated with this type of visa?

The fee related to visa type C and D, which are the type of visa required for the purpose of obtaining the work permit, depends on the country of origin, number of entries and varies from €0 to €100 (Section II (4), Annex 4 and Annex 7 of DCM 513/2013).

For States not listed in the Annex 4 of DCM 513/2013, a fee based on the principle of reciprocity is applied and when none is set, a fixed fee of €35 applies.

Further, a fee on the residence permit is applicable, which depends on the duration of the residence and varies between 5,000 ALL and 25,000 ALL plus the cost of the card. For U.S citizens, the residence permit fee is 70,000 ALL plus the cost of the card for all types of residence permit. (Annex 4 of DCM 513/2013 and Annex 7 of DCM 513/2013.)

9 New Hire Work Permits

9.1 What is the main immigration category used for employers who wish to obtain work permits for new hires?

Albanian law does not provide for any immigration category for employers who wish to obtain work permits for new hires.

9.2 Is there a requirement for labour market testing, to demonstrate that there are no suitable resident workers, before a work permit can be issued to new hires?

Before the approval of the foreign request for a work permit, the relevant state authority proposes appropriate candidates as per the required profile as below:

- Albanian unemployed job-seekers;
- foreigners who are family members of Albanian citizens;
- EU citizens and citizens of the Schengen zone;
- family members of foreigners legally residing in Albania; and
- citizens of countries with which Albania has entered into bilateral or multilateral employment agreements.

Foreigners who enjoy priority are as listed below in question 9.3 (Article 84 of Law 108/2013).

9.3 Are there any exemptions to carrying out a resident labour market test?

The following categories of foreigner enjoy priority, and are exempted from the labour market test for the purpose of obtaining a work permit:

- the spouse of an Albanian citizen holding a one-year residence permit;
- highly skilled professionals;
- transferred employees of an intra-company group;
- a foreigner who has completed a public or private professional high school in the Republic of Albania;
- a foreigner who has been employed pursuant to an international or inter-governmental agreement; and
- a foreigner who will perform professional training in the Republic of Albania (Article 85 of Law 108/2013).

9.4 What is the process for obtaining a work permit for a new hire?

The process for obtaining a work permit for a new hire is the same as the process that applies for an intra-company group employee described in question 8.4 above.

9.5 What is the process for the employee to obtain a visa as a new hire?

The process for obtaining a visa for a new hire is the same as the process described in question 8.5 above. In this case, the invitation mentioned in question 8.5 should be issued by the employer where the employee shall commence as a new hire, supported by an excerpt from the National Business Centre.

9.6 How long does the process of obtaining the work permit and initial visa for a new hire take?

The time period for obtaining a work permit and visa for a new hire is the same as the time period for obtaining a visa under the intra-company group transfer category described in question 8.6 above.

9.7 How long are initial visas for new hires granted for and can they be extended?

Initial visas for new hires may be extended for the same time under

the same conditions as visas under the “initial” category, described in question 8.7 above.

9.8 Is labour market testing required when the employee extends their residence?

In case of an extension of a residence permit, a labour market test is not required.

9.9 Can employees coming as new hires apply for permanent residence?

Employees coming as new hires may apply for permanent residence under the same conditions as employees coming under the intra-company transfer route described in question 8.8 above.

9.10 What are the main government fees associated with this type of visa?

The fee related to visa type C and D, which are the type of visa required for the purpose of obtaining the work permit, depends on the country of origin, number of entries and varies from €0 to €100 (Section II (4), Annex 4 and Annex 7 of DCM 513/2013).

For States not listed in Annex 4 of DCM 513/2013, a fee based on the principle of reciprocity is applied and when none is set, a fixed fee of €35 applies.

Further, a fee on the residence permit is applicable, which depends on the duration of the residence and varies between 5,000 ALL and 25,000 ALL plus the cost of the card. For U.S citizens, the residence permit fee is 70,000 ALL plus the cost of the card for all types of residence permit. (Annex 4 of DCM 513/2013 and Annex 7 of DCM 513/2013.)

10 Conditions of Stay for Work Permit Holders

10.1 What are the conditions of stay of those who obtain work permits and are resident on this basis?

Any foreigner resident in the Republic of Albania on the basis of a work permit should comply with the conditions and the purpose of the work permit, and should notify the Labour Office or General Directorate of the National Labour Service immediately of any change in relation to the identity of the employer and/or the employment contract and the activities authorised to undertake as an employee, and should obtain approval from the above-mentioned authorities (Article 74 of Law 108/2013).

10.2 Are work permit holders required to register with municipal authorities or the police after their arrival?

Work permit holders should, within 10 days as of their entry into Albania, notify the competent border and immigration authority of their address. Exceptionally, citizens of Australia, Andorra, Canada, the Holy See, Israel, Japan, Lichtenstein, New Zealand, San Marino, the USA and EU and Schengen area Member States are excluded from the above obligation (Articles 30 (5) and 134 of Law 108/2013, Annex 1 of DCM 513/2013).

11 Dependants

11.1 Who qualifies as a dependant of a person coming to work on a sponsored basis?

The following qualify as dependants of a person coming to work on a sponsored basis:

- spouses;
- civil/unmarried partners with whom the relationship is stable and has a proved character;
- minor and unmarried children who are part of the family, including those placed in a custody regime who are in the charge of the person coming to work in Albania or adopted by the latter;
- adult unmarried children when they cannot satisfy their needs due to their state of health; and
- immediate ancestors, provided that they are in the charge of the person coming to work in Albania or their spouse according to the law of the country of origin and that they do not enjoy proper family support in the country of origin (Article 3(14) of Law 108/2013).

11.2 Do civil/unmarried or same-sex partners qualify as family members?

By virtue of Albanian law, civil/unmarried partners are considered family members, provided that their relationship is stable and has a proved character, while same-sex partners do not qualify as such (Articles 3(14) and 69(2) of Law 108/2013; Article 163 of the Family Code).

11.3 Do spouses and partners have access to the labour market when they are admitted as dependants?

Spouses and partners have access to the labour market, through obtaining a one-year work permit on the basis of an employment contract/employment certificate in a family business, provided that they have obtained a residence permit for family reunification purposes and that the dependant has resided with the foreigner on a regular basis and for a continuous period of at least three years. Exceptionally, dependants that are EU and Schengen zone citizens are excluded from the obligation to obtain a work permit and therefore have access to the Albanian labour market under the same conditions as Albanian citizens (Articles 71 (9) and 94 of Law 108/2013).

11.4 Do children have access to the labour market?

Minors of 16 years or older may be employed and undertake works that do not damage their health and development and that do not prevent their right to attend school, professional training programmes or their capacity to benefit from them. Exceptionally, minors aged between 15 and 16 may be employed during summer vacations only and undertake works that do not damage their health and development and that do not prevent their right to attend school, professional training programmes or their capacity to benefit from them. The employment of minors between the ages of 15 and 16 is subject to a prior authorisation from the Labour Inspectorate. Minors under 15 years may take part in cultural activities, under authorisation from the Labour Inspectorate, as far as their health and development is not damaged and their right to attend school, professional training programmes or their capacity to benefit from them is not precluded. (Articles 98, 99 and 102 of the Labour Code; Article 9 of DCM 108/2017.)

12 Permanent Residence

12.1 What are the conditions for obtaining permanent residence?

For the purpose of obtaining permanent residence, a foreigner should:

- have legally resided in Albania for five consecutive years as of the first application for a residence permit. For the purpose of calculating such time limit, it is allowed for the foreigner to be out of the territory of Albania for up to six consecutive months, but for no more than 10 months within five years. In case that a foreigner has resided in Albania for study or professional training reasons, the above time limit is 2.5 years;
- have sufficient revenue and legal financial resources to ensure the sustainability and continuity of his/her life, and any relevant dependants, without needing to address the social welfare system;
- have in place health insurance coverage in accordance with the health insurance system for Albanian citizens;
- have appropriate accommodation for himself/herself and his/her family in Albania;
- have fulfilled all of the obligations towards the tax authorities;
- have status of refugee in Albania (if applicable);
- have good knowledge of the Albanian language, certified by a certificate; and
- have not been convicted (Article 61 of Law 108/2013).

12.2 Is it possible to switch from a temporary work visa to a work visa which leads to permanent residence?

A foreigner is entitled to obtain permanent residence provided that the conditions stipulated above in question 12.1 are fulfilled. Therefore, in case a foreigner has obtained several temporary work visas, and complies with the rule of five consecutive years' residence, as well as the other above-mentioned conditions, they may be entitled to a permanent residence permit.

13 Bars to Admission

13.1 What are the main bars to admission for work?

The main bars to admission for work are the following:

- the quotas determined every year by the Council of Ministers with regard to the number of foreign employees that may obtain work permits in Albania and the relevant sectors; and
- the number of foreigners allowed to be employed in a company, which in case of an ongoing activity should not exceed 10% of the total number of employed staff and in case of a newly opened activity should not exceed 10% of the general staff at the moment of application (Article 84 of Law 108/2013).

13.2 Are criminal convictions a bar to obtaining work permission or a visa?

By virtue of Albanian law, the issuance of a work permit or visa may be refused in case a foreigner is considered to be a risk to public security. Therefore, criminal convictions may constitute a bar to obtaining both a visa and a work permit; however this is decided on a case-by-case basis (Articles 29 (1) (e) and 77 (g) of Law 108/2013).

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