

# *The Macrotheme Review*

*A multidisciplinary journal of global macro trends*

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## Ways of obtaining citizenship in Albania

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### Abstract

*Citizenship shows the affiliation of the individual to the state. Citizenship is the manifestation of sovereignty and identity of the country and represents the legal relationship of the citizen to the state. It provides individuals and more protection of civil and political rights. Citizenship is closely associated with democracy. In a democracy every citizen is the holder of a part of political sovereignty. Every citizen exercises in his way citizenship, based on the laws and customs of the society to which it belongs. During the twentieth century there was a growing awareness in the field of protection of human rights within the framework of international agreements awareness of states to solve the problems of statelessness, regulating the consequences of this institute in terms of stay of a foreigner in territory of a state, their integration in the territory of a foreign country, where they are placed. The goal of the paper is to analyze the meaning of citizenship, how it gained and lost, what rights and duties are included in it.*

Keywords: Citizenship, Statelessness, Foreign nationality, Citizenship acquisition, Reacquisition of citizenship.

### 1. Introduction

#### 1.1 *An overall perspective of the institute of citizenship*

The issue of citizenship and statelessness is recognized as a global problem and can come as the result of disputes between states concerning the legal identity of individuals, state succession etc. The issue of citizenship is regulated on the basis of domestic jurisdiction of any state, but the internal decisions of a state can be limited by international law.

*Article 15 of the Universal Declaration of Human Rights states: "Everyone has the right to citizenship. No one may be arbitrarily deprived of his nationality nor denied the right to change his nationality. "*

*According to Article 1 of the European Convention on Nationality of 1997: "Nationality is a legal bond between an individual and the state and does not show the first ethnic origin".*

Convention on the Elimination of All Forms of Racial Discrimination obliges states to "guarantee to every man, regardless of race, color or national or ethnic origin, to equality before the law, " particularly in the enjoyment of certain fundamental human rights, including the right to citizenship<sup>1</sup>.

Citizenship is one of the most important rights of human rights, after the right to life, because all the prerogatives, guarantees and benefits derived from membership in a political community and society - the state - from the stem or protected by law<sup>2</sup>.

Citizenship can be acquired:

1. With *ius sanguinis* (blood principle ), the fact of the birth of a parent who is a citizen.
2. With *ius soli* ( the principle of land ), the fact of birth in the territory of a state.
3. Naturalization as a result of an act of a public authority, that depends on the existence of certain conditions.

Citizenship can be gained or lost because of international treaties. Other ways of losing citizenship are the removal of citizenship despite the will of the person concerned, the end of the term when the citizen abroad lies beyond the time limits established by law etc.

Foreign nationals will be called all those people who do not have citizenship of a state, but the citizenship of another state.

## **2. The current legal basis for regulating the institution of citizenship in Albania**

The Constitution of the Republic of Albania in 1998, in its Article 19 sanctions: "Whoever, having arises if one parent with Albanian citizenship gains Albanian citizenship automatically. Albanian citizenship is acquired for other reasons provided by law. Albanian citizen may not lose the citizenship, except when he gives it up."

Law no. 8389, dated 05.08.1998 " For the Albanian citizenship."

Law no. 8442, dated 21.01.1999 "On some amendments to Law no. 8389 , dated 05.08.1998" For the Albanian citizenship. "

Join Instruction of the Minister of Public Order ( no. 925 dated 03.03.1999 ), the Minister of Foreign Affairs ( nor 337/1 dated 08.03.1999 ), the Minister of Justice ( 782/1 dated 25.03.1999 ) and Minister of Finance ( nr.583/3 dated 05.03.1999 ) "through the procedures for acquiring citizenship by naturalization".

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<sup>1</sup>Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination, 1965.

<sup>2</sup>According to the Inter-American Commission on Human Rights, Report on Chile, 1986, paragraph 6.: "(Nationality) is one of the most important rights of man, after the right to life itself, because all prerogatives, guarantees and benefits man derives from this membership in a political and social community – the state – stem from or are supported by the right".

Instruction of the Minister of Public Order (No. 3583 dated 27.11.2001) and Minister of Foreign Affairs (No. 6252 dated 10.12.2001) "On the procedures and documentation for obtaining, retrieving and withdrawal of Albanian nationality ".

*By law no. 8389, dated 05.08.1998, Albanian citizenship is granted<sup>3</sup>:*

- a. birth
- b. naturalization
- c. adoption

Blood principle is applied consistently by the Albanian legislation. This solution provided Citizenship Act 1954. The same solution also gives new decree of July 1998, which addresses the problems associated with Albanian citizenship<sup>4</sup>.

Everyone born of at least one parent with Albanian citizenship gains Albanian citizenship automatically.

A child born or found within the territory of the RA, acquires Albanian citizenship, if he is born of unknown parents and as a result the child would be left stateless.

If the child's parents are known before the child reaches the age of 14 years and they are foreign nationals, Albanian citizenship can be revoked at the request of parents legally recognized provided that the child does not become stateless due this action.

A child born within the territory of the RA, to parents of another, who are legally resident in the territory of RA can get Albanian citizenship with the consent of both parents<sup>5</sup>.

**Conditions, you must meet the foreign national to make the Albanian citizenship by naturalization and marriage:**

- Have reached age 18.
- Have resided legally in the territory of the Republic of Albania, steadily, but not less than 5 years.
- Be flat and dispose of sufficient income.
- Not have been sentenced in his state or in Albania or in any third country for criminal offenses for which the law provides penalties of not less than 3 years in prison.
- Have knowledge of at least basic Albanian language.
- His admission as a citizen not affects the security and protection of RA.
- A foreigner who has reached the age of 18 years, may be granted Albanian citizenship by naturalization even if he does not fulfill the above conditions with the exception of point 6 , if the RA has a scientific, economic, cultural and national.

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<sup>3</sup>Article 6 of law no. 8389, dated 05.08.1998, "For the Albanian citizenship."

<sup>4</sup>A. Puto, (2010), Public International Law, Dudaj Publishing House, Tirana, p. 269.

<sup>5</sup>Article 8 of law no. 8389, dated 05.08.1998, "For the Albanian citizenship."

If the person is stateless, the conditions of point 1, 3, 4 and 5 of this Article shall not be considered.

In that case, the alien proves that he is of Albanian origin to 2 degrees , even from one parent, the residence time in the RA, mentioned in point 2, should be at least three years. All other conditions remain unchanged<sup>6</sup>.

A foreigner who is married to an Albanian citizen of not less than 3 years, if he wants, can win Albanian citizenship by naturalization even if not legally resided in the territory of the Republic of Albania, steadily, but not less than 5 years and if there is at least basic knowledge of the Albanian language, but he or she must have lived continuously and lawfully in the territory of the Republic of Albania, at least for a year<sup>7</sup>.

In the event that both parents acquire Albanian citizenship by naturalization, their child under the age of 18, when living with parents also become Albanian citizens, at the request of the parents and with the consent of the child, if that is at age 14 - 18 years. If one of the parents acquires Albanian citizenship child under the age of 18 become citizen, if requested by both parents, and one parent when the other parent is stateless and the child is resident in the Republic of Albania<sup>8</sup>.

**Foreign national for profit Albanian citizenship with naturalization must meet these conditions<sup>9</sup>:**

- The application of foreign nationals to the President of Republic. The application contain the applicant's full identity (name surname, birthdays, birthplace, citizenship), the exact address of his permanent residence and the address where the hosts information about the progress of his application, the reasons for the request for acquisition of Albanian citizenship. The application signed with the surname name of the applicant firm;
- The written opinion of the employee who accepts documents for the level of knowledge of the Albanian language;
- Birth certificate;
- The residence or stay permit in Albania, according to the criteria of the law on nationality (notarized photocopy), in that he resides in Albania;
- Act of house ownership or rental contract occupancy of the accommodation (notarized photocopy);
- Contract work for employees or certification by the Office of taxes for self-employed or investors (notarized photocopy);

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<sup>6</sup>Article 9 of law no. 8389, dated 05.08.1998, "For the Albanian citizenship."

<sup>7</sup>Article 10 of law no. 8389, dated 05.08.1998, "For the Albanian citizenship."

<sup>8</sup>Article 11 of Law no. 8389, dated 05.08.1998, "For the Albanian citizenship."

<sup>9</sup>State Police, Information for Albanian citizenship, 2003, [http://www.asp.gov.al/pdf/shtetesia\\_shqiptare.pdf](http://www.asp.gov.al/pdf/shtetesia_shqiptare.pdf), 2014.02.23.

- Documents certifying the availability of funds for living as bank guarantees, savings, certificates of revenue official ( notarized photocopy );
- Evidence obtained clearance in the country of origin and the place where the applicant has had legal residence for the last six months;
- Document that proves being a refugee, if such ( notarized photocopy );
- Photographs of the applicant, three piece (If there are children under 14 years, files for each of them).
- Certificate (when necessary) to prove the Albanian origin of the applicant, up to two degrees, and if one parent.

### **Acquisition of citizenship by adoption**

According to the laws of some countries where people, who have the citizenship of a particular state, adopt a child who has citizenship of another country or nationality has not at all, the child takes the citizenship of adoptive parents.

Albanian legislation mentions adoption, as a way of gaining the Albanian citizenship. Article 12 of the Decree of July 1998 treats this case with a very broad statement. It says: "If two parents with Albanian citizenship adopt a child to another nationality or without nationality, the child acquires Albanian citizenship. The adopted child acquires Albanian citizenship if one parent is Albanian and both parents at the time of adoption, residing in the territory of Albania, and in every other case where the child may become stateless<sup>10</sup> .

### **Conditions must meet Albanian citizen to relinquish Albanian citizenship:**

Albanian citizenship is terminated at the request of the person if it meets the following conditions:

- 18 years of age.
- Not become stateless as a result of withdrawal from the Albanian citizenship, has since acquired foreign citizenship, acquires foreign citizenship, or guarantees that it will acquire a foreign citizenship.
- Is resident in a foreign country.
- There is under investigation, for which, according to Albanian law, punishable by imprisonment of not less than 5 years.
- There is no legal obligation to state authorities, individuals and entities.

The decision to recognize waiver Albanian citizenship can be revoked if it is proved, that the former Albanian national knowingly used incorrect information or falsified documents for resigning citizenship<sup>11</sup> .

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<sup>10</sup>A. Puto, (2010), Public International Law, Dudaj Publishing House, Tirana, p. 271-272.

<sup>11</sup>Article 15 of law no. 8389, dated 05.08.1998 "For the Albanian citizenship."

The decision to grant Albanian citizenship can be revoked if it is proven that the foreigner or a stateless person knowingly making a request for Albanian citizenship was based on incorrect information or falsified documents<sup>12</sup>.

Albanian citizenship for minors may be ended, when at least one parent has relinquished Albanian citizenship. In this case, the consent of both parents<sup>13</sup>.

### **Recovery of Albanian nationality**

Law no. 8389, dated 05.08.1998, "On Albanian nationality", Article 24 encourages citizens stateless remaining before the release of the new law (before 1998), allowing retrieval of Albanian nationality, on the basis of a request and a certificate. The person who has renounced from the Albanian citizenship, because of the promise for gaining another citizenship, the reacquired citizenship unless the promised gains within a reasonable time<sup>14</sup>.

### **Stateless person to recover Albanian citizenship deposits<sup>15</sup>:**

- The application of the citizen to the President of the Republic. The application contain the applicant's full identity (name surname, birthdays, home ), number and date of the decree of the President of the Republic through which the Albanian citizenship is removed, the exact address of his permanent residence and address which receives information about the progress of his application, the reasons for the request for reinstatement of Albanian citizenship. The application is signed with the name and surname of the applicant firm;
- Birth certificate and family;
- An explanation and confirmation from the local police station and the respective prefectures regarding nationality that have or have had parents of each applicant;
- Notarized statement from each applicant over 14 years of application of the fact or not to gain another citizenship;
- Verification of the respective administrative unit for every applicant over 14 years;
- Certificate of birth or death of the parents of each applicant;
- Photographs of the applicant, three piece (If there are children less than 14 years, files for each of them).

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<sup>12</sup>Article 13 of Law no. 8389, dated 05.08.1998 "For the Albanian citizenship."

<sup>13</sup>Article 16, first paragraph, of law no. 8389, dated 05.08.1998, "For Albanian nationality", amended by Article 2 of law no. 8442, date 21.01.1999.

<sup>14</sup>Article 14 of Law no. 8389, dated 05.08.1998 "For the Albanian citizenship."

<sup>15</sup>State Police, Information for Albanian citizenship, 2003, [http://www.asp.gov.al/pdf/shtetesia\\_shqiptare.pdf](http://www.asp.gov.al/pdf/shtetesia_shqiptare.pdf), 2014.02.23.

### **3. Procedural deadlines for Albanian citizenship**

Ministry of Interior within 6 months from day of filing of the individual, based on the conditions set forth in this law for the acquisition, acquiring or losing Albanian citizenship decides whether to forward the request to the acquisition, acquiring or losing citizenship to the President of the Republic.

Request of the Ministry of Interior accompanied by a complete file individual researcher. The decision to make or not to request the Ministry of Interior is made known to the parties concerned, which, if you do not agree with its content, may file a suit in the Court of Tirana<sup>16</sup>.

President of Republic, within 3 months of the request of the Ministry of Interior, issues relevant decree. If the application is not complete, the material is returned to the Ministry of Interior completed within one month from the date of submission<sup>17</sup>.

#### **The application for Albanian citizenship deposits in:**

- The local police station where the applicant is residing temporarily or registered civil state.
- Foreign nationals, or Albanian, application residing abroad can also occur in the diplomatic or consular mission of the Republic of Albania in the State where he is resident or to the consular services covering the country where you reside<sup>18</sup>.

#### **The application for Albanian citizenship deposits by:**

1. Albanian citizenship applicant directly to.
2. From his representative with special attorney.

There is no legal obstacle to an Albanian citizen with residence in a foreign country to submit a request for Albanian citizenship in the local police station where he registered his civil status, in that if and occasionally physically located in the Republic of Albania<sup>19</sup>.

### **4. Conclusions**

Treatment of the population is not only an internal matter of sovereign states, but increasingly is taking an international dimension. For this reason it created a whole mechanism, complex, established to monitor the observance of human rights in all countries.

Position of population varies from country to country and the determination of this position is one of the main manifestations of state sovereignty. At the beginning of this paper I have

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<sup>16</sup>Article 19 of law no. 8389, dated 05.08.1998 "For the Albanian citizenship."

<sup>17</sup>Article 20 of law no. 8389, dated 05.08.1998 "For the Albanian citizenship."

<sup>18</sup>State Police, Information for Albanian citizenship, 2003, [http://www.asp.gov.al/pdf/shtetesia\\_shqiptare.pdf](http://www.asp.gov.al/pdf/shtetesia_shqiptare.pdf), 2014.02.23.

<sup>19</sup>State Police, Information for Albanian citizenship, 2003, [http://www.asp.gov.al/pdf/shtetesia\\_shqiptare.pdf](http://www.asp.gov.al/pdf/shtetesia_shqiptare.pdf), 2014.02.23.

emphasized that citizenship is one of the basic human rights, because it can be obtained through a number of benefits and guarantees for the progress of people's lifestyles.

Obtaining citizenship, renouncement of its reacquisition of citizenship, ways of dealing with foreign nationals, stateless persons are matters regulated by the national legislation of each country, taking into account compliance with international standards.

With regard to the elimination or reduction of statelessness cases, international cooperation is essential, also plays an important role in the promotion of the rights of minorities and other groups to become part of the totality of citizens that make up the state.

The law no. 8389, dated 05.08.1998 and the changes that were made, has brought some improvements as Albanian citizenship in cases of adoption, also provides when a foreigner acquires Albanian citizenship by naturalization for special interests.

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Udhëzimi i Ministrisë së Rendit Publik (Nr. 3583 datë 27.11.2001) dhe Ministrisë së Punëve të Jashtme (nr. 6252 datë 10.12.2001) “Për procedurat dhe dokumentacionin për fitimin, rifitimin dhe heqjen dorë nga shtetësia shqiptare”.

Udhëzim: Për disa shtesa dhe ndryshime në udhëzimin e përbashkët të Ministrisë së Punëve të Jashtme dhe Ministrisë së Rendit Publik për procedurat dhe dokumentacionin për fitimin, rifitimin dhe heqjen dorë nga shtetësia shqiptare.