



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

Distr.: General  
20 November 2009

Original: English

---

**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**

**Consideration of reports submitted by States  
parties under article 73 of the Convention**

**Initial reports of States parties due in 2008**

**Albania\***

[6 October 2009]

---

\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
Abbreviations.....		4
Introduction.....	1–17	6
Part I Information of a general nature.....	18–273	8
A. Description of the constitutional, legislative and administrative framework governing the implementation of the Convention, and bilateral, regional and multilateral agreements in the field of migration entered into by Albania .....	18–214	8
B. Complete information about the characteristics and the nature of migratory movements (immigration, transit and emigration) from Albania.....	215–243	33
C. The actual situation relating to the practical enforcement of the Convention by the Republic of Albania .....	244–267	40
D. Information about the steps undertaken by Albania for the publicity and promotion of the Convention.....	268–273	49
Part II Information with regard to each article of the Convention .....	274–536	50
A. General principles.....	274–306	50
B. Section III of the Convention: Human rights of immigrant workers and of members of their families .....	307–418	54
C. Section IV of the Convention: Other rights of migrant workers and their families who are documented or in a regular situation.....	419–498	70
D. Section V: Provisions applicable to particular categories of migrant workers and members of their families .....	499	81
E. Section VI: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families .....	500–536	81
List of tables		
Table 1	Priority countries for emigration.....	37
Table 2	Countries of destination and the number of Albanian immigrants 2001–2006.....	37
Table 3	Statistics in 2007 for the destination countries and the number of Albanian emigrants.....	40
Table 4	Categories of employed people.....	41
Table 5	Employment by sector .....	41
Table 6	Foreign nationals supplied with work permits in 2006 by country of origin .....	43
Table 7	Employment by service sector .....	45
Table 8	Information on employment of foreign nationals by city .....	46
Table 9	Provision of foreigners with work permits according to employment categories .....	47
Table 10	Foreign nationals working in Albania and their countries of origin (2007).....	48

---

Table 11	Numbers of foreign nationals working in Albania and their countries of origin .....	49
Table 12	Types of visas issued by the MFA .....	71
Table 13	Types of work permit.....	72
List of figures		
Figure I	Classification of services .....	42
Figure II	Employment sectors.....	43
Figure III	Provision of foreigners with work permits 2006.....	44
Figure IV	Proportion male/female of persons supplied with work permits.....	44
Figure V	Entries of foreign nationals for the first time .....	44
Figure VI	Provision of foreign nationals with work permits in 2007 .....	46
Figure VII	Gender indicators of immigrant labourers .....	47
Figure VIII	Settlements of foreign nationals.....	47

## Abbreviations

ASA	Agreement of Stabilization-Association
CAPRA	Code of Administrative Procedures of the Republic of Albania
CCPRA	Code of Civil Procedures of the Republic of Albania
CCRA	Civil Code of the Republic of Albania
CsCRA	Customs Code of the Republic of Albania
CoM	Council of Ministers
Constitution	Constitution of Albania
CPPRA	Code of Penal Procedures of the Republic of Albania
DCM	Decision of the Council of Ministers
DMPRR	Directorate of Migratory Policy, Return and Reintegration
FCRA	Family Code of the Republic of Albania
Frame Convention	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
GDNES	General Directorate of the National Employment Service
GDSP	General Directorate of the State Police
IHCI	Insurance and Health Care Institute
INSTAT	Institute of Statistics
LCRA	Labour Code of the Republic of Albania
LREO	Local regional employment offices
MAFCP	Ministry of Agriculture, Food and Consumer Protection
MCTYS	Ministry of Culture, Tourism, Youth and Sports
MES	Ministry of Education and Science
METE	Ministry of Economy, Trade and Energy
MFA	Ministry of Foreign Affairs
MH	Ministry of Health
MLSABEO	Ministry of Labour, Social Affairs and Equal Opportunities
MoF	Ministry of Finance
MoI	Ministry of Interior
MoJ	Ministry of Justice
NES	National Employment Service
NIPNES	National Implementation Plan of the National Employment Strategy
NMS	National Migration Strategy
Parliament	Parliament of Albania
PCRA	Penal Code of the Republic of Albania

PEA	Private employment agency
RoA	Republic of Albania
SEI	State Employment Inspectorate
SII	Social Insurance Institute

## Introduction

1. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter referred to as Frame Convention) is ratified by the Republic of Albania under the Law 9703, dated 02.07.2007. (Published in the Official Gazette No. 47/2007.)
2. This report, apart from being an obligation (referred to Article 73 of the Frame Convention), constitutes also the commitment of the Republic of Albania (hereinafter referred to as RoA) regarding the measures undertaken for ensuring the effective enforcement of the Convention at the domestic level.
3. The report provides a summary of the legal, administrative, institutional and statistical framework regarding the completion by the RoA of obligations derived from this Convention. In order to give a complete picture concerning the enforcement of the Articles of the Frame Convention, the Report involves all amendments made to the internal regulatory and legal framework including also those adopted before 2007.

### General considerations

4. The Constitution of the RoA, international agreements ratified by the Parliament, laws, regulatory acts and by-laws, constitute the legal framework that secures the protection of human rights and freedoms generally and to migrant workers in particular.
5. The Convention, as an integral part of internal legislation,<sup>1</sup> lays down the legal basis for undertaking further steps for the management of the migratory movement of Albanian nationals and foreigners, abroad or within the country.
6. Institutional framework, provided for the enforcement of Frame Convention in the RoA, represents merely a policy-making structure headed by the Ministry of Labor, Social Affairs and Equal Opportunities including participation of representatives from the Ministry of Foreign Affairs, the Ministry of Interior; the Ministry of Justice; the Ministry of Education and Science, the Ministry of Culture, Tourism, Youth and Sports; the Ministry of Economy, Trade and Energy; the Ministry of Finance; the Ministry of Public Health and the Institute of Statistics.
7. The Ministry of Labor, Social Affairs and Equal Opportunities (hereinafter referred to as MLSAEO) is responsible for all aspects of migration for employment motives. The Directorate of Migratory Policy, Return and Reintegration, which is under the authority of this institution, is dealing directly with migratory process. One of its tasks is also the provision of legal conditions for participation of the private sector in the migration process. Other organizations, under the control of the MLSAEO, dealing with migration issues include also the National Employment Service, State Social Service and the Institute of Social Insurance. The MLSAEO is also the main and competent authority for concluding employment agreements with other countries.
8. The Ministry of Foreign Affairs (hereinafter referred to as MFA) has also the responsibility for the protection of the rights of Albanian nationals working abroad. Through its diplomatic missions, the MFA collects and distributes information on social and employment legislation paying special attention to the area of social protection.
9. In addition, it is the principle participant in the signature of bilateral or multilateral agreements ratified by the RoA and also for the signature of Readmission Agreements. The

---

<sup>1</sup> Articles 1 and 122/Constitution of RoA.

Ministry of Interior (hereinafter referred to as MoI) has a dual classic role: i) the control of foreigners admission and (ii) the control of Albanian nationals leaving the country. The MoI is the responsible institutions which adopts and executes the required measures against trafficking and illegal migration. It plays an important role in the signature and enforcement of Readmission Agreements.

10. The Ministry of Education and Science (hereinafter referred to as MES) controls its organizations of compulsory education, the secondary general schools and the vocational schools attended by pupils from the age of 6 to 18 years.

11. There are some priorities in the policies of the MES such as the establishment of Albanian cultural centers in host countries, Italy and Greece, creation of conditions for the qualification of teachers, implementation of the existing national educational programs.

12. The Ministry of Justice (hereinafter referred to as MoJ) participates actively in the policy of employment abroad. With its legal amendments, it takes necessary steps for preventing and penalizing several abuses which threaten the rights and freedoms of the migrant workers ensured under international conventions.

13. Its activity also constitutes the undertaking of initiatives to draw up required provisions for the conviction of offenders of criminal acts connected with the trafficking and smuggling of human beings or for the protection of witnesses and victims who give proofs for such offences.

14. The Ministry of Culture, Tourism, Youth and Sports (hereinafter referred to as MCTYS) drafts plans and develops the national policies in the fields of tourism, culture, youth and sports. It leads, plans and supports the national and international activities with the aim of identifying and developing the cultural, artistic, sportive and youth's trends within the country and also including and matching the best national values with the regional ones, either inherited or contemporary values.

15. The Ministry of Economy, Trade and Energy (hereinafter referred to as METE) is drawing up and enforcing the policies that encourage economic growth and stability. It facilitates the development of domestic businesses and attraction of foreign investments, and also ensures market competition and the stable and prospective development of economic resources in the country.

16. The Ministry of Finance (hereinafter referred to as MF) draws up fiscal policies which orientate the economy of the country.

17. The Ministry of Health (hereinafter referred to as MH) develops the health policies in country's level and defines and drafts the development and the plan of health services in national level and by regions. It prepares the legislation that will govern the relations with respect to the maintenance and protection of people's health and it strictly enforce the legislation related to public health.

## Part I

### Information of a general nature

#### A. Description of the constitutional, legislative and administrative framework governing the implementation of the Convention, and bilateral, regional and multilateral agreements in the field of migration entered into by Albania

##### 1. Constitutional framework – the Constitution of the Republic of Albania<sup>2</sup>

18. Article 15 of the Constitution of the RoA ensures the protection of human rights and fundamental freedoms. They are specified as “undivided, inalienable, inviolable standing firmly on the foundation of the judicial order”. Organs of public power, in fulfilling their duties, are responsible for ensuring human rights and fundamental freedoms and contribute to their enforcement.

19. The content of such provision in the Constitution complies with Article 1 of the European Convention on Human Rights (*signed by the RoA on 13.07.1995, ratified on 31.07.1996 and entered into force on 2.10.1996*).

20. Article 16 of the Constitution prescribes explicitly that “human rights and fundamental freedoms, and obligations of Albanian nationals are also valid for foreign nationals and aliens staying in the territory of the RoA”. Exceptions are only allowed for cases where the exercise of rights and freedoms is specifically connected with Albanian citizenship.

21. Limitations to a person rights and freedoms are made for the protection of public interests. Section 2 of Article 17 defines that such limitations “*shall not restrict the essentials of human rights and freedoms*” and above all “*shall not exceed limitations stipulated under the European Convention on Human Rights*” (Article 18 of the European Convention on Human Rights).

22. Article 122 of the Constitution defines the proportions between domestic rights and international ones with respect to their practical enforcement. In pursue of such provisions, international agreements ratified by the Parliament are components of domestic legislation which are enforced directly. Exceptions are made for cases where the Convention is not self-applicable and its enforcement requires the issue of legal acts and other by-laws. In this respect, the approval lastly of the law 9959, dated 17.07.2008, “For foreigners” and the law 9570, dated 03.07.2006, “For encouraging employment”, is a result of obligations derived from the Convention.

23. Section 3 of Article 122 of the Constitution defines, in case of conflicts, the prevalence of international laws over the domestic rights.

24. A separate Chapter of the Constitution prescribes “The personal rights and freedoms”, which include: the right to a person life (Article 21); the right to freedom of expression, press, radio and television (Article 22); the right to information (Article 23); freedom of conscience and religion (Article 24); prohibition of torture, cruel and inhuman punishment and degrading treatment (Article 25); abolition of compulsory labor (Article 26); personal liberty (Article 27); the right to lawful and fair penal judicial proceedings (*Articles 28, 29, 30, 31, 32, 33, 34 and 35*); the right to freedom of correspondence (*Article*

---

<sup>2</sup> Approved by the Referendum, dated 22.11.1998, and promulgated under the Decree of the President of the Republic, no. 2260, dated 28.11.1998.



36); inviolacy of the house (*Article 37*); the right to chose residence and liberty of movement (*Article 38*); prohibition of personal and collective expulsion (*Article 39*); the right to private property (*Articles 41 and 42*); the right to court appeal and to indemnity (*Articles 43 and 44*).

25. Chapter III of the Convention prescribes “Political rights and freedoms” including the right to election and the right to be elected (*Article 45*); the right to freedom of organizations and associations (*Article 46*); the right to assemblies and freedom of participation (*Article 47*).

26. “Economic, social and cultural rights and freedoms” (Chapter IV of the Constitution) includes the right to the choice of profession (*Article 49*); the right to participation in trade unions (*Article 50*); the right to strike (*Article 51*); the right to social assurances (*Article 52*); the right to family life (*Article 54*); the right to health care (*Article 55*) and also the right to education (*Article 57*).

27. Article 59 of the Constitution defines the social objectives of the Albanian state: (i) employment in appropriate conditions of all people able to work; (ii) fulfilling the needs of nationals for housing; (iii) providing the highest possible health, physical and mental standards; (iv) education and qualification according to children and young people abilities and unemployed people; (v) protection of national cultural inheritance and paying special attention to Albanian language development.

## 2. The legal framework – codes, laws and by-laws

28. The legal framework on migratory policies includes codes, laws and by-laws, which have been approved by the Parliament of Albania (hereinafter referred to as the Parliament) and by the Council of Ministers (hereinafter referred to as CoM).

29. For the purpose of preventing negative occurrences in the process of people free movement, the Parliament has adopted a complete legal framework, which allows the correct management of the migratory process.

30. Developed completely in accordance with international commitments undertaken by the RoA, such legal framework supports its enforcement with respect to the fundamental legal principles, secures the protection of public interests and the rights of private individuals, equality, proportionality, justice, impartiality, legal efficiency, etc.

### (a) *The Civil Code of the Republic of Albania*<sup>3</sup>

31. The Civil Code of the Republic of Albania (hereinafter referred to as CCRA) presents a complete and systematic summary of acts on private law. Divided into sections, it deals with property and non-property personal relations between subjects to civil law.

32. Article 1 of the CCRA specifies as subjects to civil law any physical person, who, within a certain legal framework, enjoys equal and full capacity to carry on his rights and obligations. Succeeding provision predicts that judicial ability of subjects starts from the birth of a person and ends with his death.

33. Being in harmony with the Universal Declaration on Human Rights<sup>4</sup> and with the European Convention on Human Rights,<sup>5</sup> the CCRA recognizes foreign nationals the same

<sup>3</sup> Approved under law no. 7850, dated 29.07.1994, CCRA was amended by laws approved in 1999, 2001.

<sup>4</sup> Articles 1 and 7/Universal Convent of Human Rights.

<sup>5</sup> Articles 1 and 18/European Convent of Human Rights.

rights and obligations like those for Albanian nationals save exceptions prescribed by law (Article 3).

34. The ability related to the exercise of the rights is restricted by age factor. Articles 6, 7, 8, 9 and 10 of the CCRA classify these subjects into three categories: (i) persons with full ability to act (*people above the age of 18*); (ii) persons with limited abilities to act (*persons from 14–18 years of age*); (iii) persons with no ability to act (*persons under age 14 and persons with mental diseases or handicaps*).

35. Based on the Universal Declaration on Human Rights,<sup>6</sup> on the European Convention on Human Rights<sup>7</sup> and Protocols 1 and 4<sup>8</sup> hereto, and also on the International Pact on Civil and Political Rights,<sup>9</sup> the CCRA legitimates, among others, as “the rights of a physical person” the following: (i) the right to the name and surname; (ii) the right to chose and determine the residence; (iii) the right to the membership in syndicates and associations; (iv) the right to representation; (v) the right to perform juridical acts; (vi) the right to ownership of things, etc.

(b) *The Code of the Civil Procedures of the Republic of Albania*<sup>10</sup>

36. The Code of the Civil Procedures of the Republic of Albania (hereinafter referred to as the CCPRA) defines the obligatory rules for the judgment of civil, public and private disputes stipulated under this Code and by separate laws.

37. The Court is the competent body for the enforcement of the rules laid down in this Code. The Court has the obligation to care and take required steps for carrying out a fair trial. Upon its completion, the Court, after hearing all claims of the “Parties” involved, evaluates the proofs and evidences brought before the trial and makes and declares its decision for the object of the civil case (Articles 4, 6, 9, 10).

38. Based on Article 16 of the Constitution and on Articles 1 and 3 of the CCA, the definition of the term “Party” in Article 2 of the CCPRA refers to both Albanian and foreign nationals. Unless the law defines it differently, the civil case may be pushed forward only by the “Parties”, who have the right to bring their claims before the court (bring a lawsuit) and to give it up as well (Article 2).

39. Adhering to international acts and respecting human rights and freedoms, the CCPRA sanctions, under separate provisions, the general legal principles to be followed up in civil case proceedings. Solution of disputes by the court based on; (i) evaluation of facts; (ii) evaluation of proofs; (iii) confrontation of the parties; (iv) their rights to protection and translation (*when they do not understand Albanian language*), comprise the legal guarantees for carrying out a fair, independent and impartial trial.

(c) *The Penal Code of the Republic of Albania*<sup>11</sup>

40. The Penal Code of the Republic of Albania (hereinafter referred to as PCRA) consists of a system of criminal-judicial norms, which clearly identifies organizations, subjects and penalties with regard to criminal offences.

---

<sup>6</sup> Articles 1–23, 28/Universal Declaration of Human Rights.

<sup>7</sup> Articles 1, 8–14/European Convent of Human Rights.

<sup>8</sup> Articles 1 and 3/Protocol 1 – and articles 1 and 2/Protocol 4 of European Convent of Human Rights.

<sup>9</sup> Articles 2, 12, 23 and 24/International Pact on Civil and Politic Rights.

<sup>10</sup> Approved under law no. 8116, dated 29.03.1996, and revised by laws no. 8431, dated 14.12.1998, no. 8491, dated 27.05.1998, no. 8335, dated 18.10.1999 and law no. 8812, dated 17.05.2001.

<sup>11</sup> Entered into force on 1<sup>st</sup> June 1995, The PCRA has been amended under the laws approved over the years 1996, 1997, 1998, 2001, 2003 and 2004.

41. Articles 6, 7 and 8 of the PC prescribe the enforcement of penal law on Albanian nationals, on foreign nationals and aliens. These subjects, with reference to the same articles, are convicted based on the Albanian criminal law for criminal offences performed within the territory of the Republic of Albania.

42. Albanian nationals are subject to provisions of the PCRA even when they commit a crime in the territory of another state. In such circumstances, the law requires: (i) the offence to be at the same time punishable by the Albanian penal law; (ii) no final decision for the offence is given by a court of another state.

“In the context of this Article, Albanian nationals will be considered also those persons that apart from the Albanian citizenship they enjoy another citizenship”  
(Article 6).

43. Foreign nationals and aliens are tried and punished according to the Albanian penal law for offences committed outside the territory of the RoA, which affect the interests of Albanian state or Albanian nationals. The category of such criminal offences includes the following: (i) crimes against mankind; (ii) crimes to independence and constitutional order; (iii) terroristic acts; (iv) organization of prostitution, illegal production and trafficking of drugs and other controlled substances, arms and nuclear substances, pornographic materials, etc; (v) hijacking aircrafts and ships; (vi) counterfeiting seals of the Albanian state, fabrication of money and other Albanian bonds; (vii) crimes that threaten the life and health of Albanian nationals (*for which law provides more than five years imprisonment or other heavier punishment*); (viii) clearance of products of criminal offence; (ix) offences of active and passive corruption performed by persons that are holding positions in public or private sectors (Article 7).

44. Article 10 of the PCRA prescribes the recognition of the power of decisions made by foreign law courts (when bilateral or multilateral agreements do not state differently) for Albanian nationals convicted of criminal offences. Their enforcement within the limits of Albanian law is also made for the effect of: (i) specifying the recidivist character of the penal subject; (ii) executing decisions that contain additional punishment; (iii) enforcing security measures; (iv) remedy of damages and of other civil effects.

#### Article 10

45. Enforcement of international agreements in penal field in the PCRA is connected with the institute of Extradition. Article 11 of the Code allows extradition only in cases when (i) it is explicitly stated in bilateral or multilateral agreements where the RoA is a party, and (ii) the object of the request for extradition is specified accordingly in Albanian and foreign legislation.

46. In other cases, when the subject of extradition: (i) suspected to be persecuted, punished or wanted for the reasons of his political, religious, national, racial or ethnic thoughts and convictions; or when (ii) he is tried by the Albanian competent court related to the criminal offence that extradition is required for; or (iii) the criminal offence that constitutes the object of the extradition request is of political or military character, the act of extradition institution is null and void.

47. Article 12 of the PCRA specifies strictly that the subject under criminal prosecution shall be any person who, at the time of performing a crime, has reached the age of 14, for felonies, and the age of 16 for criminal offences.

48. Punishments given by the court for felonies and criminal offences are divided in two categories: (i) principle sentences (*life imprisonment, prison sentences, and fines*); (ii) additional sentences (*seizure of means of felonies, termination of licenses for practicing professions, deportations from a country, etc.*).

49. For special felonies and criminal offences alternative sentences are prescribed by law (*Articles 29, 30*).

50. Characterized of the human character of the PCRA (Article 1/c), the penal law lays down indirectly that the sentence to life imprisonment is given only for male adults, excluding thus women and children.

51. Also, the same treatment is provided for juveniles,<sup>12</sup> who, at the time of committing a crime are below the age of eighteen. Sentences specified by law for such category should not exceed half of the sentence prescribed by penal law for such offence (*Articles 33 and 51*).

52. “Deportation from the territory of Albania” is a competence of law courts, which judge and decide whether further stay of a foreigner or an alien who commits a crime in the territory of the RoA will continue or not in the future (article 42).

53. Certain provisions set forth in a Special Section of the PCRA aim at the exercise of preventive effects against both, crimes and penal subjects as well.

54. Complying fully with all acts and international agreements ratified by the RoA, among other things, they ensure: (i) life, health and the liberty of a person (*Articles 76, 86, 109, 110/a, 112, 113, 114, 119, 120, 121, 122, 123, 124, 124, 127, 128/b, 131, 132, 133*), (ii) property and domestic economic system (*Articles 134, 150, 170/a, 186, 189, 193, 194, 195, 196*), (iii) independence and constitutional order (*Articles 218, 219, 220, 223, 225*), (iv) state authority, the system of justice and free election (*Articles 235, 236, 248, 250, 253, 254, 255, 261, 262, 265, 266, 268, 289, 295, 297, 298, 300, 305, 306, 308, 309, 313, 314, 315, 320, 321, 329, 330, 331*).

(d) *The Code of Penal Procedures of the Republic of Albania*<sup>13</sup>

55. The Code of Penal Procedures of the Republic of Albania (hereinafter referred to as the CPPRA) represents a complete framework of rules compatible with modern standards of penal procedure law, provision of guarantees for fair legal proceedings (*Articles 2, 3, 4, 5*) where individual freedoms and legal rights of nationals are obviously respected (*Articles 6, 7, 8, 9*) and all of them constitutes the goal of this law.

56. The Albanian State recognizes and enforces international agreements in the penal area, which have been accepted by the government itself and supported by the standards and principles of penal international law and by the provisions of this Code (*Article 10 of the CPPRA*).

57. The CPPRA determines the subjects of penal proceedings which are: the Court, the Prosecution Office, the Defendant, the Advocate of the Defendant or designated Advocate, the Injured party, the Plaintiff and the civil Defendant.

58. The Court is the competent organ that gives justice and no one is charged guilty without its decision (*Article 11, point 2*). The levels of Courts that enforce justice in the RoA are determined by Article 12 of the CPPRA and are grouped as follows: Penal Courts of the first rank, Courts of Appeal and the Supreme Court.

---

<sup>12</sup> Persons of 14–18 years of age, that at the time of committing crime have full-up the age of being subjects of criminal actions for figures of crime or penal felonies. Specified as “person with limited abilities to act”, these persons should be assisted by adults, familiars or others in penal processes.

<sup>13</sup> Promulgated under the Decree of the President of the Republic, no. 1059, dated 05.04.1995 and entered into effect on 01.08.1995. This Code has been amended under laws approved over the years 1999, 2000, 2002 and 2004.

59. The functions of a Prosecutor are determined by Article 24 of the CPPRA. Complying with the rules laid down in this Code, he has these rights: (i) exercising penal prosecutions; (ii) following up with investigations; (iii) conducting controls in preliminary examinations; (iv) making up a charge, and (v) taking steps for execution of court decisions. Obligations of a Prosecutor for giving up a penal case, where there are reasons of partiality determined by law, are laid down in Article 26 of the CPPRA.

60. The Judicial Police is an investigating section under the authority of the District Prosecutor. Articles 30 and 33 stipulate the functions of this section, which include: (i) obligation to be informed about the criminal offence; (ii) preventing the occurrence of other events related to the criminal offence; (iii) carrying out investigations with regard to an offender, and also iv) collecting proofs and evidences for the penal proceedings.

61. Based on the definition provided for in Article 34 of the CPPRA, the Defendant is a person, who is notified by the charging organ that there exist sufficient evidences which consider him a perpetrator of the criminal offence. The Defendant bears such attribution until the final decision is given by the court convicting him as guilty or innocent, or ceasing the penal prosecution raised against him.

62. A defendant may be also a juvenile. Taking into account the peculiarity of this subject (limited capacities to act), the court is obliged to provide the juvenile with judicial/psychological assistance and to ensure the attendance of parents or his representatives at all level of the penal trial (Articles 35 and 53).

63. The advocate of the defendant (designated advocate), who cannot be more than two, are selected by the defendant and are declared as such before the proceeding organ (*Article 48*). Article 49 of this law explicitly specifies that “a Defendant that has not selected a protector or has remained without him is assisted by advocates designated by the proceeding organ, if he requires it”.

64. Complying fully with the European Convention on Human Rights<sup>14</sup> and with the Universal Declaration on Human Rights,<sup>15</sup> the Code of the Penal Procedures lays down, in certain provisions, basic principles for carrying out correct procedures with a penal prosecution. Considering them as expression of guarantees for the protection and respect of human rights and freedoms, these principles legitimate, among other things, the following: (i) presumption of innocence; (ii) the right not to be tried twice for the same penal offence; (iii) ensuring the dignity of defendants, etc.

(e) *Labour Code of the Republic of Albania*<sup>16</sup>

65. The scope of the Labour Code of the Republic of Albania (hereinafter referred to as LCRA) includes judicial standards that govern the relations between the employer and the employee, either public judicial persons, private judicial persons or physical persons. This Code has been drawn up based on Articles 81 and 83/1 of the Constitution and according to the proposal of the Council of Ministers.

66. The provisions that regulate such relations have been created in compliance with the principles of the Constitution of the RoA, the standards of the international law ratified by the Parliament (*Articles 1 and 2*).

67. Priorities of the standards of the right to work, which are determined in Article 11 of the Labour Code, are exercised by the following legal hierarchy: (i) the Constitution; (ii)

<sup>14</sup> Articles 1–3, 5–8, 10, 14/The European Convention on Human Rights.

<sup>15</sup> Articles 2, 5, 7–12/Universal Declaration on Human Rights.

<sup>16</sup> Approved under law no. 7961, dated 12.07.1995 and revised under laws approved in 1996 and 2003.

International Conventions ratified by the RoA; (iii) the Labour Code and other by-laws; (iv) Employment Collective Contract; (v) Internal rules and regulations of enterprises; (vi) Local and professional customs.

68. The implementation area of this Code includes two directions: spatial and by persons:

- “Spatial” direction is based on the principle that all types of contracts concluded between the employer and the employee are subject to the state legislation where the enterprise/workplace of the employee is located. In cases when the entireties of Employment Contract conditions are more closely connected with the law of another country, then the law of the latter is enforced. In any other circumstances, law predicts that the parties in agreement might choose the enforcement of a third law (*Article 3*).
- The direction “by persons” excludes, from execution scope of the law, employment practices of persons that are governed by special laws. However, “certain provisions of this Code are applied even for persons whose employment is regulated by special laws” (*Article 4 of the Labor Code*).

69. Article 3 of the LCRA doesn’t have any definition regarding the subjects. It refers to them under the terms “employer” and “employee”. Adhering to articles 16, 49 and 122 of the Constitution and complying with provisions laid down by the Universal Declaration on Human Rights; International Pact on Economic, Social and Cultural Rights; and also with the European Convention on Human Rights, the law is applicable for both, Albanian and foreign nationals.

70. The principles on which this law is established are in full compliance with international acts<sup>17</sup> mentioned in the foregoing paragraph. They constitute the guarantee for the protection of freedoms and rights of Albanian and foreign nationals with respect to employment relations. In order not to remain merely within the principles frames, certain provisions of the Code legitimate the following: (i) abolition of compulsory labour and all its other forms; (ii) prohibition of discrimination with regard to employment and profession; (iii) protection of the employee dignity and personality; (iv) special protection for juveniles and women in working relations; (v) equal remuneration for both genders.

71. Article 20 of this law recognizes the right to establish contractual employment relations for persons with full capacity to act and for persons with limited capacities to act (juveniles and persons of limited physical abilities).

72. The rights of the employee, defined by certain provisions of this Code, among other things, legitimate his rights for: (i) concluding or terminating employment contract; (ii) membership to trade unions and professional organizations; (iii) the right to strike; (iv) the right to claim to the court the implementation of the Contract of Employment; (v) the right to the security of personal information; (vi) the right to remedies; (vii) the right for salary compensation; (viii) the right to social assurances, etc.

73. Article 172 of the LCRA assigns the Court as the competent organ for solving individual or collective disputes emerged during the implementation of the Collective Contract of Employment.

---

<sup>17</sup> Universal Declaration of Human Rights (Articles 4, 7, 10 and 23) – European Convent for Human Rights (Articles 4, 6/1, 11/1 and 14) – Protocol 12 of European Convent for Human Rights (Article 1) – International Pact for Civil and Politic Rights (Article 8) – International Pact for Economic, Social and Culture Rights (Articles 6 and 7).

(f) *The Family Code of the Republic of Albania*<sup>18</sup>

74. The Family Code in the Republic of Albania (hereinafter referred to as FCRA) aims at the regulations of relations between subjects of the family law created through the institution of marriage, paternity, maternity, guardianship, adoption, etc. It has been drafted based on Articles 53, 54, 81 and 83/1 of the Constitution of the Republic of Albania.

75. The Family Code of RoA is applied based on Article 16 of the Constitution and brings about the same effects for both Albanian and foreign nationals.

76. Based on Article 16 of the Universal Declaration on Human Rights; on Articles 8 and 12 of the European Convention on Human Rights; on Articles 23 and 24 of the International Pact on Civil and Political Rights; on Articles 10 and 11/1 of the Pact on Economic, Social and Cultural Rights; on Article 1 of the Convention C/143 for Migrant Workers and in respect of Articles 53 and 54 of the Constitution, this Code secures special protection of the state for marriage, family and children.

77. Article 1 of the FCRA defines Marriage as a “legal cohabitation”, which should be established based on relations set up on moral and judicial equality of spouses, on love and mutual respect and understanding. Establishing such relations, the institute of “Marriage” is naturally connected with that of the “Family” and “Children”. Article 5 of the Code specifies explicitly that “any child, for the full and harmonic development of its personality, has the right to be brought up in the family surroundings and in the atmosphere of rejoicing, love and understanding”.

78. Article 7 of the Code recognizes the right to marry of men and women who have reached the age of 18 years.

79. For disagreements emerged within marriage, spouses have the right to bring the case before the court for its dissolution.

80. In the event of marriage dissolution, children born during such relations become parties of the court proceedings. They have the right to be asked and heard by the judge in compliance with their age and communication abilities (*Articles 2, 6*).

81. Parents have the right to care for the wellbeing, growth, education and schooling of children born within marriage or illegitimate ones. Courts and competent organs, in view of their decisions and parents activities, should have the primary concern for the highest care towards children (*Articles 2, 3*).

82. Children born outside marriage have equal rights and obligations to legitimate children (*Article 4*).

83. Certain provisions of the FCRA sanction, among other things, the following: (i) the right of children to the name and surname; (ii) obligatory contributions of spouse for children upbringing; (iii) the right of children to know their father and mother; (iv) the right to exercise parental responsibility; (v) the right to property management and children representation; (vi) the right to allow and carry out adoption procedures; (vii) the right to ask for infant guardianship.

<sup>18</sup> Approved under law no. 9062, dated 08.05.2003 and promulgated by the President Decree no. 3837, dated 17.06.2003 and entered into effect on 21.12.2003.

(g) *The Code of Administrative Procedures of the Republic of Albania*<sup>19</sup>

84. The Code of Administrative Procedures (hereinafter referred to as the CAPRA), worked out based on Articles 81 and 83/1 of the Constitution, governs the relations between organs of Public Administration and interested parties.

85. As defined by Article 3 of the CAPRA, the Organs of Public Administration comprise the following: (i) central government bodies; (ii) organs of public entities; (iii) local government organs, which perform administrative functions; (iv) organs of Armed Forces or any other structure whose employees enjoy the military status (as long as they are carrying out administrative functions).

86. According to Article 4 of this Code, an interested Party means “any physical and judicial person or public authority, whose legal rights and competences, either individual or common one, can be probably affected during administrative procedures”. While the legislator places no limitation to the term “Interested parties”, this law becomes applicable for both Albanian and foreign nationals.

87. The security of rights and fundamental freedoms to migratory communities constitutes one of the commitments of the Albanian state. Ratification and admission by the RoA of the Frame Agreement on Migration and Employment or the agreement for protection of human rights and freedoms, make them obligatorily applicable in all levels of Albanian public administration.

88. The activity of the organs of public administration, which is governed by this Code, should be based on the following principles: (i) legitimacy; (ii) protection of public interest and the rights of private persons; (iii) equality and proportionality; (iv) justice and impartiality; (v) cooperation of administration with private individuals; (vi) responsibility; (vii) decision making process; (viii) efficiency and debureaucratization; (ix) no payment for provided service; (x) internal and judicial control; (xi) security of state secrets, and (xii) confidentiality and the exercise of discreditable authority of public administration (*Articles 9–19 and 149*).

89. Based on the principles cited above, the rights of “Interested Parties” laid down in the provisions of the CAP include: (i) the right to information in case of an administrative conflict; (ii) the right to motion for the solution of an administrative conflict; (iii) the right to participation, representation at an administrative proceeding; (iv) the right to initiate an administrative process (*Articles 20, 36, 44, 51, 46, 52, 53, 54 and 137/1*).

(h) *The Customs Code of the Republic of Albania*<sup>20</sup>

90. The Customs Code of the Republic of Albania (hereinafter referred to as CsCRA), drafted based on Article 100 of the Constitution, comprises the entirety of rules and standards that governs the entry-exit regime of goods into and outside the Albanian territory. This Code refers to the subject of the Frame Convention under the term “persons”.

91. Complying with custom facilities specified in the Convention for emigrant workers, Article 354 of the CsCRA provides and allows the application of “Temporary Regime of total exclusion of custom duties and obligations” (*total exclusion of duties for importation*) for personal things and possessions of people.

---

<sup>19</sup> Approved under law no. 8485, dated 12.05.1999, of the Parliament of the RoA and promulgated by the Decree of the President of the Republic, no. 2387, dated 07.06.1999.

<sup>20</sup> Approved under the law no. 8449, dated 01.12.1998 and the Council of Ministers Decision (CMD) no. 2051 (1), dated 13.04.1999 “For the approval of enforcement provisions of the Customs Code”.



92. Article 477 of the CsC prescribes that “due to certain circumstances, at the moment when goods are put into free circulation in the customs territory of the RoA, they are excluded from import-export duties. Exclusion from import-export duties is applied either for goods declared in free circulation imported directly from other countries, or for goods declared for free circulation coming from another customs regime.

93. Goods that are excluded from import/export duties include:

(a) “Personal articles” – things for personal use of interested persons or their family needs (household articles, bicycles and motorcycles, cars and their trailers, caravans for camping, flying means for entertainment and private airplanes, household supplies that are used at home, domestic animals and horses for riding). Personal articles must be imported in quantities and of such types that are obviously perceived that are not imported for commercial purposes;

(b) “Household articles” – personal belongings, bedclothes for domestic use, furniture, and other equipment for personal use of interested persons or for meeting their household needs;

(c) “Alcoholic products” – products like beer, wine, aperitif containing wine or liquors, brandy, various liquors or other alcoholic drinks included in the nomenclature of commodities of this regime.

94. The condition for excluding imported personal articles from customs duties is their re-exportation at the time when the person that have imported them leaves the territory of the Albanian customs. These articles might remain under such regime for a period of up to 12 months.

95. Vehicles for personal use are completely excluded from customs duties when: (i) are imported by persons that reside outside the Albanian customs territory; (ii) are used for personal needs by these persons and (iii) are registered outside the territory of Albanian customs on the name of a person residing outside this territory.

96. Articles 498, 504, 506, 507, 508, 509 of the CsCRA provide the exclusion from customs duties of imported properties gained by heritage and allowances of inconsiderable amounts (they do not exceed the amount of 10.000 ALL).

(i) *Laws*

97. The law “*For encouraging employment*”<sup>21</sup> has been drafted based on Article 49 of the Constitution. It aims at “*the pursuance of general active policies in support of full, productive and free-chosen employment*”. The law recognizes the right of “*any person*” that is seeking employment or a new job to call on Regional or Local Employment Offices to ask for work or be trained for a job. Only with the permission of these agencies a person might call on other Employment Agencies within the country.

98. Regarding the exercise of the right to employment, Provision 3 of the law “*For encouraging employment*” provides equal treatment for both Albanian and foreign nationals. It also provides treatment in the same level for aliens coming from countries that haven’t signed yet such agreement with the RoA. Referring to point 4 of this Article, foreign nationals and aliens that marry Albanian nationals enjoy equal right with Albanian nationals, provided that they are residents in the Albanian territory.

<sup>21</sup> Approved under law no. 7995, dated 20.09.1995, revised under laws approved over the period 1999, 2002 and 2006.

99. The law “On migration of Albanian nationals for employment purposes”<sup>22</sup> has been drafted based on Articles 78 and 83/1 of the Constitution and proposed by the CoM. It governs the relations emerged in the field of migration of Albanian nationals for employment purposes or for vocational training and is aiming at the care, protection and preservation of national identity of Albanian nationals and also for maintaining and strengthening of relations with their native land while they are being employed outside Albania.

100. The law aims at: (i) the management of migratory processes; (ii) the protection of political, economical and social rights of emigrants; (iii) prevention of illegal migration and the trafficking of human beings; and also (iv) the increase of cooperation with social partners and legally accepted NPO, domestic or foreign ones, and with Private Employment Agencies.

101. The law “*For foreigners*”<sup>23</sup> is drafted based on Articles 78 and 83/1 of the Constitution and on the proposal of the CoM. It governs the regime of entry, residence, employment, treatment and exit of foreigners outside the Albanian territory. The law defines clearly the functions and competences of state authorities and of other public and private subjects, Albanian or foreign ones that are dealing with foreigners (*Article 1*).

102. Based on international acts and agreements ratified by the RoA, the law secures the protection of human rights and fundamental freedoms. Its enforcement is guided by the principles of reciprocity, non-discrimination and providing foreigners with no less favorable treatment than that provided for Albanian nationals (*Article 2*).

103. “A foreigner”, subject to this law, is any person with or without citizenship, who is not an Albanian national according to Albanian legislation. The entry of foreigners in the territory of Albania, among others even for employment purposes, is naturally connected with the terms “employee”, “self-employed worker”, “family members”, “infants”, “cross border employment”, “seasonal employment”, which are prescribed by law.

104. The law “On foreigners” defines the entry of foreigners in the territory of Albania according to a regime that includes three practices of entries: (i) without visas; (ii) with visas; and (iii) with boundary fines. This regime is valid also for family members of foreigners who will join them in the territory of Albania.

105. Foreigners, who wish to work in Albania, are provided with visas by the MFA. After entering the Albanian territory, according to domestic legislation in force, they have the right to be supplied with Residence Permit or conduct procedures for its renewal (*Article 22*). The Residence Permit is also provided for family members that will join a foreigner, resident in the territory of Albania. He should prove that is legally residing within the Albanian territory and is capable to secure the living of his family (*Articles 32, 33*).

106. Subject to the fact of legal stay in the Albanian territory, the law recognizes “the foreigner” the right to possession of documents (to prove his identity), the right to free movement within the Albanian territory; the right to organization and also the right to appeal administrative and judicial procedures (*Article 5*).

107. The law classifies Work Permits in accordance with economical activity decided to be performed by a foreigner. They are grouped into work permits of Type A (for economical activities as an employee) and of the Type B (for independent economical activity), which it is further divided into other subgroups (*Article 48*).

---

<sup>22</sup> Approved under the law no. 9668, dated 18.12.2006.

<sup>23</sup> Approved under the law no. 8492, dated 27.05.1999, revised under the law approved in 2008, no. 9959, dated 17.07.2008.

108. The law “*For the State Police*”<sup>24</sup> as compared to law nr. 8553, dated 25.11.1999. “For the State Police”, brings forth changes in the aspect of protection and security of human rights by the employees of the State Police during the performance of their institutional duties. Article 1 of this law defines that the mission of the State Police, under police service in the territory of Albania, is to ensure public security and order in compliance with law and to respect human rights and freedoms. This law aims also at determining the duties and responsibilities of employees of State Police for assuring professional and democratic police services. Based on Article 4, the responsibilities of the Police include: (i) the protection of human life, the security of personal property; (ii) prevention, discovery, investigation complying with penal law and with procedural criminal law, criminal offences and their offenders; (iii) supervision and control of the state boundaries of the RoA; (iv) the protection of individuals from eventual risks; (v) the performance of duties provided for by this law and by other laws and by-laws that specify the tasks for the State Police. Any employee of the Police has the attributes of the Judicial Police in compliance with the Code of Penal Procedures and the relevant laws for the organization and operation of the State Police.

109. The law “*For the Decree on the Moratorium for Motorized Sailing Means in the Republic of Albania*”<sup>25</sup> has been drafted based on Articles 78 and 83/1 of the Constitution and proposed by the CoM. Forecasted to be exercised over a period of 3 years, this law suspends all movements of Albania motorized sailing means in territorial and internal waters of the RoA and also the road transportation of sailing means. This moratorium is not enforced for motorized sailing means used by state and port organs, sailing means destined only for fishing and seagoing for the transport of goods and passengers.

110. Violations of this law, while do not constitute criminal offence, are considered administrative infringements and the infringer is penalized with a fine amounting from 800,000–1,000,000 ALL and the confiscation of the transport means.

111. The law “*For Work Inspection and the Labor State Inspectorate*”<sup>26</sup> is drafted based on Articles 78 and 83/1 of the Constitution and proposed by the CoM. It aims at “ensuring, under the Labor State Inspectorate, the enforcement of labor legislation by subjects governed by this law in compliance with procedures for carrying out work inspection”. This law applies for physical and judicial persons, natives of foreigners, public or private ones that are carrying out profitable or non-profitable economical activities within the territory of Albania.

112. The law “*On Value Added Tax*”<sup>27</sup> is made based on Articles 78, 83/1 of the Convention and proposed by the CoM. It controls the tax regime of “Value added tax” (VAT). This tax is charged on: (i) all taxable deliveries of goods and services supplied against payments by a taxable person in the Albanian territory; (ii) all imported goods to the RoA. Any judicial or physical person, an individual or any other person, is a taxable person while he is registered as such based on this law and also when he is not revoked yet.

113. The law “*For Work Inspection and the Labor State Inspectorate*”<sup>28</sup> is drafted based on Articles 78 and 83/1 of the Constitution and proposed by the CoM. It aims at ensuring, through the Labor State Inspectorate, the enforcement of labor legislation by subjects in compliance with procedures for carrying out work inspection. According to definitions

<sup>24</sup> Approved under law no. 9749, dated 04.06.2007.

<sup>25</sup> Approved under law no. 9509, dated 03.04.2006.

<sup>26</sup> Approved under law no. 9634, dated 30.10.2006.

<sup>27</sup> Approved under law no. 7928, dated 27.04.1995, revised under laws approved in 1996, 1997, 1999, 2000, 2001, 2002, 2003, 2004, 2007 and 2008.

<sup>28</sup> Approved under law no. 9634, dated 30.10.2006.

made by this law, the terms “Physical person”, “Judicial person” or “Subject” is any physical or judicial person as defined by the Civil Code.

114. The law “*On Health Insurance in the Republic of Albania*”<sup>29</sup> governs the financing of health care in the Republic of Albania. Article 4 of the law defines that compulsory health insurance covers all Albanian nationals with permanent residence in Albania and also the foreigners who are working and are insured in the RoA.

115. Health insurances cover the following: (i) a portion of the price of medicines through an open pharmaceutical system; (ii) expenditures for services provided by a general or family doctor, or a specialist, by nurses of primary health service covered all by insurances. Through health insurances there is disbursed a portion of the price of main medicines included in a list approved by the Council of Ministers.

116. The law “*On social insurance in the Republic of Albania*”<sup>30</sup> governs relations in the field of social insurances. Entire system of social insurances comprises the following: (i) compulsory insurance; (ii) additional insurance; (iii) voluntary insurance, and (iv) special public pensions. Social insurances necessarily protect all nationals economically active in Albania, in case of reduction of their incomes due to pregnancy, old age, invalidity and the loss of family supporter.

117. Social insurances provide also compulsory protection for all employed persons in case of lower incomes because of temporary work disability; caused by diseases, work accidents, professional diseases and unemployment. Social insurance provides protection for (i) Albanian nationals and persons without citizenship, former Albanian nationals residing abroad (in compliance with conventions, bilateral agreements and the Regulations of the Institute of Social Insurances; (ii) foreign nationals and persons without citizenship working in the territory of the Republic of Albania.

118. The law “*On national taxes*”<sup>31</sup> is made based on Articles 78, 83/1 and 155 of the Constitution and proposed by the CoM. It defines the types and levels of national taxes charged in the RoA, and also procedures for their calculation, payment and transfer to the State Budget or to local governmental units. The law defines as “Tax-payers” any individual, physical or judicial persons, nationals or foreigners, who is obliged to pay one of national taxes determined by this law. National taxes include: (i) taxes of port of entry; (ii) annual taxes for road vehicles; (iii) environment tax; (iv) tax of mineral rents; (v) tax of acts and stamps; (vi) tax for registration of gambling games, national lotteries, sport lotteries, etc.; (vii) tax on fishing.

119. The law forecasts even exceptions from the payment of annual taxes. A subject or a physical or judicial person is excluded from the payment of annual taxes for vehicles in his ownership if he declares within the month of January of the following year that he will not ride vehicles in his ownership during that calendar year. He should hand over to the General Directorate of the Road Transport Services the number-plate and the license of his vehicle. In addition, there are exclusions from the payment of taxes of acts and stamps for (i) official operations required by foreign state authorities based on reciprocity, and (ii) registration of births and deaths and other records in the register of Civil Status Office.

120. The law “*On the system of local taxes*”<sup>32</sup> is made based on Articles 78, 83/1, 113/1 – ”ç”, 155 and 157/3 of the Constitution and proposed by the CoM. It defines the rules and

---

<sup>29</sup> Approved under law no. 7870, dated 13.10.1994.

<sup>30</sup> Approved under law no. 7703, dated 11.05.1993, revised under laws approved in 1995, 1998, 2000, 2001, 2002, 2003, 2005 and 2006.

<sup>31</sup> Approved under law no. 9975, dated 28.07.2008.

<sup>32</sup> Approved under law no. 9632, dated 30.10.2006, revised under laws adopted in 2007.

ways for the exercise of the rights and responsibilities of local government organs for the charge of local taxes, their collection and administration. Local taxes include: (i) the local tax on small businesses; (ii) the tax on real properties, which includes taxes on buildings and on agricultural land; (iii) the tax on hotel stay; (iv) the tax on the effects on infrastructure from a new construction; (v) the tax for the transfer of ownership on real properties; (vi) the tax for the annual registration of vehicles; (vii) taxes for occupying public areas; (viii) taxes on advertising posters; (ix) temporary tax.

121. The law “*On accounting and financial statements*”<sup>33</sup> is made based on Articles 78 and 83/1 of the Constitution and proposed by the CoM. It defines the general rules and principles for preparing the standards of keeping accounts. The term “economic unit” in the law refers to physical and judicial persons, public and private one, with or without profitable purposes, which are carrying out activities and have permanent seats in the RoA.

122. The law “*On income tax*”<sup>34</sup> is made based on Articles 78, 83/1 and 155 of the Constitution and proposed by the CoM. It governs the relations with respect to the tax on personal incomes, tax on profits and tax on revenue sources. The term “Taxpayer” in the law refers to any person subject to tax charges in virtue of this law, who might be an individual, a physical person, or a judicial person.

123. With regard to this law, tax on personal incomes is levied on individual revenues. Resident individuals are subject to the tax on personal incomes during the fiscal period, on all income sources. Non-resident individuals like those that are resident, are subjected to this charge on all income sources achieved in the territory of Albania.

124. The law “*On fiscal procedures in the Republic of Albania*”<sup>35</sup> is made based on Articles 78, 83/1 and 155 of the Constitution and proposed by the CoM. The law governs the procedures for administrating fiscal obligations in the RoA. It is applied for: (i) taxpayers, fiscal administration, fiscal agents, agents who maintain taxes at sources, and also other persons determined by the fiscal legislation; (ii) persons who are responsible to pay, keep, declare and transfer to the State Budget contributions of social and health insurances; (iii) persons who pay contributions for social and health insurances with regard to collection and payment of contributions.

125. The law defines as “Taxpayers” any person/individual who is obliged by law to pay taxes, fees and contributions for social and health insurances. Because of the specific nature of economic activities, tax-payers are grouped as follows:

- A resident taxpayer is an individual that has a residence in the RoA (referred to Article 12 of the CCRA), has Albanian citizenship and who continuously or occasionally stays within the territory of Albania more than 183 days a year. To such category belongs also the judicial person registered as “Albanian judicial person” and has the seat in the territory of Albania for an effective management of his activities. The same status enjoys also a physical person, who, according to Albanian legislation, can be registered by the competent organ in such capacity.
- A non-resident taxpayer is a taxpayer who does not meet at least one of the criteria specified for the category of “resident taxpayers”. A non-resident taxpayer has the right to appoint his own fiscal representative for the payment of fiscal obligations.

<sup>33</sup> Approved under the law no. 9228, dated 29.4.2004, revised according to the laws adopted in 2006.

<sup>34</sup> Approved under law no. 8438, dated 28.12.1998, revised under laws adopted in 2000, 2001, 2002, 2003, 2004, 2007.

<sup>35</sup> Approved under law no. 9920, dated 19.05.2008.

126. The law “*On excises in the Republic of Albania*”<sup>36</sup> is made based on Articles 78/1, 81/1, 83/1 and 155 of the Constitution and proposed by the CoM. It governs the judicial relations dealing with evaluation of excises and procedures for their collection and administration of revenues by tax offices. Under the term “excise-payer” the law defines any subject whose economic activity consists of production, purchase, sale, importation, exportation, training/usage of any kind of goods.

127. The law “*On pre-university educational system*”<sup>37</sup> is made based on Article 16 of law no. 7491, dated 29.4.1991. “On major constitutional provisions” and proposed by the CM. Complying fully with the principles sanctioned by the domestic legislation in force and with international treaties and agreements ratified by the Albanian state, the law defines the criteria and the levels of preuniversity education in the RoA. It aims at the development and increase the education level respecting the legitimated rights of children and juveniles.

128. The Ministry of Education and Science is responsible for implementation of the state policy approved by the CoM. At the public educational institutions in the RoA lessons are given in Albanian language, save the cases prescribed differently by law.

129. The pre-university public education is of laical character and religious and ideological indoctrination is prohibited in public educational institutions. Children of 6 years of age in the RoA are registered in schools of compulsory education, which lasts not less than 9 years. Children are obliged to attend compulsory education up to the age of 16.

130. The system of public educational institutions includes full-time and part-time schools. The public educational system comprises the following:

- *Preschool public education* – is the first public educational level in the RoA (kindergartens). They are currently making efforts to change it in a compulsory education level.
- *Compulsory public education* – represents the basic unified and general education. It aims at the development of intellectual, creative, practical and physical capacities of students. Schools of compulsory public education include primary schools and secondary schools (lower cycle and higher cycle).
- *The secondary public education* – prepares students to follow up with university and other higher educational institutions or to exercise certain professions.
- *The special public education* – through the use of special forms and methods it aims at the development of capacities of persons that show physical, mental and emotional disabilities. All these measures are taken in compliance with their needs and requirements for a life of more dignity and honor.

131. The establishment of private educational institutions is allowed for all levels of pre-university education. Albanian and foreign nationals have the right to attend these institutions in compliance with the rules for student enrollments.

132. The law “*On higher education in the Republic of Albania*”<sup>38</sup> is made based on Articles 78 and 83/1 of the Constitution and proposed by the CoM. Complying with

---

<sup>36</sup> Approved under the law no. 8976, dated 12.12.2002, revised under laws approved in 2003, 2004, 2006, 2007 and 2008.

<sup>37</sup> Approved under the law no. 7952, dated 21.06.1995, revised under the law adopted in 1998.

<sup>38</sup> Approved under the law no. 9741, dated 21.05.2007 and revised under the law no. 9832 dated 12.11.2007.

European standards, the law defines the role of the state and its primary objectives in the mission that regulates the activity of higher educational institutions.

133. Higher education is public or private. The public higher education is laical. The state ensures the integrity and territory of institutions of higher education. Violation of integrity of higher educational institutions is penalized according to legal provisions.

134. Academy, as another category of higher education, provides higher professional education and creative activities in special fields of art, sports, public order and other vocational fields.

135. The studying forms determined by law for the higher educational institutions are: (i) full-time studies, (ii) part-time studies, and (iii) studies at distance. Application and implementation of any other form of study has to be approved by the MES.

136. Admittance to the first cycle of studies is made based on enrolment quotas approved by the CM for the public institutions of higher education. Every Albanian national that has successfully graduated secondary school has the right to apply for admittance to the first cycle of institutions of higher education.

137. In respect of bilateral/multilateral agreements signed by the Albanian state, public institutions of higher learning in the RoA determine quotas and criteria for admittance of foreign students to the first cycle of studies.

138. Everyone who has completed one of respective programs and meets academic standards of criteria for admittance to relevant institutions has the right to apply for enrollment in the second and the third cycles of studies.

139. Institutions of higher learning provide facilities for the transfer of students. The decision for the full or partial acknowledgement of credits collected by students for the purpose of continuing their studies is made by the educational structure that accepts the students. This is also valid for the recognition of certificates, degrees or foreign titles. The Ministry of Education and Science (MES) is the responsible institution in the RoA for the formal acknowledgement of diplomas/certificates granted by foreign institutions of higher learning.

140. Tariffs on studies include the tariffs for enrollment and schooling. Students of public institutions of higher learning are awarded scholarships to help them pay for their education, and also material incentives for their excellent achievements with their studies. These are covered by the State Budget and by legal donations. The criteria for winning a scholarship are determined by the CoM.

141. Education quality standards of universities in the RoA is audited through external evaluation processes of the quality and accreditation that are performed by the Public Agency for Accrediting Institution of higher education or other accrediting agencies, components of European Network for Assuring the Quality of Higher Education (ENQA). The CoM approves the rules and regulations for the establishment and operation of such agencies.

142. The law "*For vocational education and formation in the Republic of Albania*"<sup>39</sup> is made based on Articles 78, 81/1, 83/1 of the Constitution and proposed by the CoM. It aims at the support of the development of a common system of vocational education and formation in the RoA, which should match with social, economic and technological changes, with the needs of labor market. The law defines the basic principles, the structure, arrangement, management of vocational education and training in the RoA. Its enforcement

---

<sup>39</sup> Approved under the law no. 8872, dated 29.3.2002 and revised under laws adopted in 2008.

is based on the cooperation of state and governmental organizations with social partners and other actors in the area of vocational education and training.

143. The law “*On civil status office*”<sup>40</sup> is made based on Articles 78, 81/1 and 83/1 of the Constitution and proposed by the CoM. It governs the function of civil status services in the RoA and is applied for Albanian and foreign nationals and aliens. The civil status is the entirety of personal data that certify birth, existence, individuality of people and relations between them.

144. Article 4 of the law secures to foreign nationals and aliens, with permanent residence in the RoA, all the rights that are granted for Albanian nationals save the rights that are closely linked with Albanian citizenship and particularities for the ways of documentation. The civil status of foreign nationals, with permanent residence in Albanian territory, is specified in the documents of relevant state, while that of an alien is certified by the documents of the state where he was born and has come from.

145. Foreign nationals or aliens, who are temporary residents, visitors or are passing transit through Albania, have the right to identify and certify through the service of civil status office their judicial events occurred within the Albanian territory.

146. The components of civil status are: name, surname, identification number, date of birth, place of birth, residence, gender, relations with father and mother, death, declared ‘lost’, and other data determined by law. They constitute personal non-proprietary rights and save ‘gender’ they might be removed, deleted, alternated or transmitted to others in compliance with definitions provided for by law and the Family Code.

147. Albanian citizenship, as a component of civil status, is the only distinctive element from foreign nationals or aliens. Comprising elements in the documents of civil status service take priority over all similar elements of any other act, public or private one, and are obligatorily applied.

148. Identification number is a unique, unrepeatabe number that is given by civil status service to every Albanian nationals, to foreign nationals with permanent residence or to foreign nationals with certain economical relations and also to any alien. Identification number of foreign nationals or aliens is determined in the same way as for Albanian nationals.

149. Transfer of information from one office of civil status to another office is done on the request of the head of the family when he certifies that is changing his residence for a period at least one year.

150. A person/family can join another family, save by marriage, when he/it has the consent of all adult members, by making a declaration before the registrar of the civil status office.

151. Any head of a family is obliged to transfer the civil status of his family not later than 45 days from the date he moves to the new residence. Foreign nationals and aliens, with permanent residence in the RoA, based on law no. 9959, dated 17.07.2008, “For foreigners” shall inform the responsible organ for any action, for joining another family or for the transfer of the civil status.

152. Birth, date of birth, gender, father, mother and death can be duly certified as judicial facts by official persons or private one being a witness to an event.

---

<sup>40</sup> Approved under the law no. 8950, dated 10.10.2002.



153. The following are certified as judicial facts presumed by law or derived from the actions of a person itself: ability to act, relations to father, mother and the family.

154. The judicial fact of marriage occurs and is certified by a document, which indicates the will of the parties in the presence of the registrar, of a special procurator, two witnesses and when it is composed complying with the provisions of this law.

155. The acts of the civil status, which are the base for making or adding records in the books of the civil status office include: (i) certificate of birth; (ii) certificate of marriage; (iii) certificate of death, and (iv) other basic documents, official or private one.

156. The fundamental register of the civil status office is the summarized document for all components of the civil status, arranged for each family by addresses. Foreign nationals and aliens when are permanently residing in the territory of Albania, are recorded in a separate fundamental register. National register of the Civil Status Office is a unique state document where particular components of the civil status for every national are recorded.

157. Births, marriages and deaths of foreign nationals or aliens are recorded in separate books, which are kept by the chief-registrar in the place of registration or of marriage.

158. Acts of births, marriages and deaths recorded abroad for Albanian nationals and also for foreign nationals or aliens with permanent residence in the RoA are transmitted through diplomatic way to the relevant office of the civil status in Albania not later than 3 months following the date of their issue.

159. Based on this law, any person has the right to request from the office of civil status to change his name or surname. This provision does not apply for persons that, at the time they submit their request for alternations, there is an allegation or a criminal proceeding against them.

160. The marriage act, when both spouse or one of them is an Albanian national, is made at one of the offices or at diplomatic or consular representative offices where they have been registered in the fundamental register.

161. Foreign nationals or aliens, with temporary residence in Albania or transit passengers, may marry each other at an office of civil status according to their wishes, when: (i) risk of death is certified by a medical report; (ii) one of them or both are imprisoned in the RoA.; (iii) they cannot marry in their country/ they cannot go there for objective reasons.

162. The act of death certifies legally the death of a person. It contains: (i) the identity of the registrar and of declarant; (ii) the identity of the dead person or the confirmation of the special procurator of the Municipality/Commune; (iii) the identity of the doctor/expert who has delivered the medical report; (iv) location, time and cause of death according to the medical report; (v) the number and date on the letter of the Prosecution Office that has authorized the undertaking of actions for cases prescribed by this law.

163. Services by the civil status offices, at any event, are provided against payments made by declarants or requesters based on fees approved by the CoM.

(j) *Normative acts – decisions of the Council of Ministers (DCM)*

164. The DCM no. 69, dated 11.02.1998, “On the program for encouraging employment of unemployed jobseekers”, (*made in pursuit of the law no. 7995, dated 20.09.199, “For encouraging employment”*) – determines the rules for involving unemployed job-seekers in the program for encouraging employment. This program is implemented by the National Employment Service (NES).

165. The DCM no. 70, dated 11.02.1999, "For identification of unemployed job-seekers" (*taken in pursuit of the law no. 7961, dated 12.07.1995, "For the Labor Code in the Republic of Albania" and the law no. 7995, dated 20.9.1995 "For encouraging employment"*) – defines the practices that responsible organizations, the National Employment Service (NES) and the Public Service Institute (PSI) should follow for identification of unemployed job-seekers.

166. The DCM no. 73, dated 11.02.1999, "On the program for encouraging employment through formation in work" – defines the criteria for involvement of job-seekers in the programs for encouraging employment through formation in work. The NES is responsible for the implementation of this program.

167. The DCM no. 74, dated 11.02.1999, "On the program for encouraging employment through the support of institutional formation" (*taken in pursuit of the law no. 7995, dated 20.9.1995 "For encouraging employment"*) – lays down the criteria for involvement of trainees in this program under the status of "unemployed job-seekers". The NES is responsible for the implementation of this program.

168. The DCM no. 632, dated 18.09.2003, "For programming encouragement of employment of unemployed female job-seekers" (*taken pursuant to Articles 4 and 8 of the law no. 7995, dated 20.9.1995, "For encouraging employment"*) – defines the principles for involvement in the program of unemployed female job-seekers. The Ministry of Labor, Social Affairs and Equal Opportunities (MLSAEO) is responsible for carrying out this program.

169. The DCM no. 708, dated 18.09.2003, "For the ways of granting licenses and the function of Private Employment Agencies", made in compliance with Article 19 of the law no. 7961, dated 12.7.1995, "*Labor Code of the Republic of Albania*" – determines the legal procedures of licensing and the operation of Private Employment Agencies in the RoA.

170. The DCM no. 675, dated 25.09.2003, "On definition of procedures for establishing, restructuring and closing public organizations of vocational formation under the authority of the Ministry of LSAEO" (*taken pursuant to point "a", Article 23 of the law no. 8872, dated 29. 3. 2002, "On education and vocational formation in the Republic of Albania"*) – regulates the legal framework for establishing, arranging and closing public organizations, people vocational formation in support of general government policies and for the benefit of freely chosen employment and also vocational consultancy/guidance.

171. The DCM, dated 28.12.2005, "For information of contributors and beneficiaries from the compulsory scheme of social insurances" (*taken pursuant to Article 62/1, of the law no. 7703, dated 11.5.1993, "On social insurances in the Republic of Albania", revised*) – defines the obligations carried on by the ISI for provision of information to contributors and to beneficiaries of social insurance.

172. The DCM no. 539, dated 09.08.2006, "For maritime motor-driven means allowed for sailing according to the Moratorium "On maritime motor-driven means in the Republic of Albania", (*drawn in compliance with Articles 1 and 3 of the law no. 9509, dated 03.04.2006, "For the promulgation of the Moratorium for maritime motor-driven means in the Republic of Albania"*), – defines the types of motor-driven means that are allowed to sail in territorial and internal waters of the RoA.

173. The DCM no. 337, dated 01.04.2009, "For an amendment to the DCM 'For the approval of the National Action Plan of the National Migration Strategy, revised'" – assigns the Ministry of Labor, Social Affairs and Equal Opportunities to establish a Technical Commission, within the Monitorial-Coordination System, for encouraging further enforcement of measures of National Migration Strategy (NIS) and the National Action Plan of the NIS.

174. The DCM no. 348, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits”, “For Cross-border workers”.

175. The DCM no. 349, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits”, “For seasonal workers”.

176. The DCM no. 350, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits”, “For A/SH – Voluntary services”.

177. The DCM no. 351, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits” “For B/VP – Independent economic activities, as self-employed workers”.

178. The DCM no. 352, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits”, “For A/AF – Members of the family”.

179. The DCM no. 356, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits”, “For A/TN – Transferees within the enterprise”.

180. The DCM no. 357, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits”, “For Continuous Work Permits of the Type D”.

181. The DCM no. 358, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits”, “For A/FP – Vocational Education”.

182. The DCM no. 359, dated 06.03.2009, “On definition of criteria, documentations and procedures for the issue, refusal, renewal and termination of Work Permits”, “For employees A/P”.

183. The DCM no. 360, dated 6.3.2009, “On documentations and procedures for excluding from the obligation of provision with Work Permits”.

### **3. Administrative framework – institutions, their by-laws and strategies**

#### *(a) Institutions*

184. The management of migratory flows, the increase of the care towards emigrants and their families and also creation of facilities for legal migration, all are indications of the efforts made by the RoA to combat illegal migration.

185. The Albanian state manages the process of migration of Albanian and foreign nationals assessing it as a choice of an individual and respecting the free movement of nationals.

186. The proper guidance of this process couldn't have been applied and achieved without the establishment of an organizational structure, which has got its objectives and has its responsible organs assigned for carrying out these objectives.

187. This genuine policy-making structure, represented by the Inter-ministerial Migration Committee (IMC), exercises its capacity as a consulting organ of the Council of Ministers. This Committee discusses preliminarily policies, certain projects and also important issues of executive activities connected with the management of migration occurrences. It aims at

the encouragement of migratory policies and decision-making in higher political and ministerial levels.

188. The Inter-ministerial Migration Committee is headed by the Deputy Premier of the Republic of Albania and comprises the following members: 1) The Minister of Foreign Affairs; 2) The Minister of Interior; 3) The Minister of Finance; 4) The Minister of Justice; 5) The Minister of Labor, Social Affairs and Equal Opportunities; 6) The Minister of Education and Science; 7) The Minister of Local Government and Decentralization; 8) The Minister of Culture, Tourism, Youth and Sports; 9) The Minister of European Integration.

189. Authorities responsible for labor migration in the RoA are the following:

- *The Ministry of Labor, Social Affairs and Equal Opportunities (MLSAEO)* is the responsible national authority that works out policies and proposes amendments to legislation in the field of migration for employment purposes.
- Its *Employment Policy Directorate* develops employment policies and vocational formation programs for emigrants, Albanian or foreign nationals.
- The *National Employment Service*, an organization under the authority of the MLSAEO, through its sector of migration and work relations, implements state policies in migration area. This sector supports the sectors of the Local Regional Employment Offices (registration of emigrants, windows for emigrants).
- *The Ministry of Foreign Affairs (MFA)* protects the rights and interests of Albanian emigrants through its diplomatic and consular representations in destination countries. It collects and disseminates information about labor legislation and social insurances for the protection of the rights of emigrant workers and also it drafts and defines programs of collaboration with Albanian migratory committees.
- *The Ministry of Interior (MoI)* exercises the control of borders for securing a regular migration process of Albanian and foreign nationals.
- *The Ministry of Education and Science (MES)* cooperates with responsible authorities of host countries for establishment of educational and cultural Albanian centers in respective countries, for creation of facilities for the education of the children of emigrants. Carrying out common programs with domestic/foreign institutions, this Ministry ensures the integration in the domestic educational systems of the children of foreign immigrants, who live and work in the RoA.
- *The Institute of Social Insurances (ISI)*, which is under the authority of the Ministry of Finance, negotiates with its homologues in host countries for drafting and signing agreements on social insurances.
- *The Institute of Statistics (INSTAT)* collects and distributes information on studies which help with the creation of a clearer picture of migration phenomenon.

(b) *By-laws*

190. The Common Guidance of the Ministry of Labor and Social Affairs (no. 122/1, dated 21.02.2004) and of the Ministry of Finances, (no. 77/2, dated 12.02.2004) provides several amendments and modifications related to the enforcement of Guidance no. 1, dated 05.02.200,1 “On criteria and procedures of subsidization for encouragement of employment”.

191. The Common Guidance of the Ministry of Finance and the Ministry of Interior no. 655/1, dated 06.02.2007, “On definition of uniformity of reporting and procedural standards of the local fiscal system”, delivered in support of Article 102/4 of the Constitution and

Articles 4, 12/2-d, 3/5 and 15/1, 2, 3 of the law no. 9632, dated 30.10.2006, “On local fiscal system”.

192. The guidance of the minister of finances, no. 24, dated 02.09.2008, “on fiscal procedures in the republic of Albania”, issued in support of article 102/4 of the constitution and pursuant to article 10/1 of the law no. 9920, dated 19.05.2008, “on fiscal procedures in the republic of Albania”.

193. The order of the Minister of Finances, no. 65, dated 05.05.2008, “On announcement and compulsory enforcement of international standards on accounting and financial reporting, translated into Albanian language”, delivered in support of article no. 4 of the law 9228, dated 29.4.2004, “On accounting and financial statements”, revised by law no. 9477, dated 9.2.2006.

194. The Guidance of the Minister of Finances no. 26, dated 04.09.2008, “On National Taxes”, adhering to enforcement of Article 102/4 of the Constitution and the law no. 9975, dated 28.07.2008, “On National Taxes”.

195. The Guidance of the Minister of Finances no. 30, dated 17.10.2008, “On determining service fees for the movement of foreign vehicles”, delivered based on Article 102/4 of the Constitution and Article 11 of the law no. 9975, dated 28.7.2008, “On National Taxes”.

196. The Guidance of the Minister of Finances no. 1, dated 11.01.2008, “On income tax”, issued in support of Article 102, point 4 of the Constitution and a pursuant to enforcement of law no. 8438, dated 28.12.1998, “On income tax”, revised.

(c) *Strategies*

197. Synthesis form of the goals specified in the objectives of migratory policies developed by the Albanian state intend to include:

- Labor market, giving priority to vocational formation, to selective nature of current emigration and, at the same time, paying attention to artificial aggravations that this market might incur by the movement of the most qualified people
- Economic and social integration of emigrant laborers in host countries and cooperation with governments and societies of these countries
- Our country’s development, maintaining the primary aim at the binomial: Migration-Development

The development of strategies that oversee the process of migration

198. The National Migration Strategy and the National Action Plan for Migration (NAPM) – is a product of the work of the Albanian government, which approved this documents by its Decision dated 11/19/2004. The program for the development of this strategy was achieved under the technical assistance of the IOM Office in Tirana and it was funded by the Program CARDS 2001 of EC.

199. Notwithstanding the time of its development, this strategy is in full compliance with commitments undertaken by the RoA with regard to the Frame Convention.

200. The strategy deals with occurrences of Albanian migration overall its scope. The development of migratory movements, the demography of migration, its effect on our country’s economy and on labor market, and also the foreign policy of Albania, are the main topics that carry over a detailed analysis of migration situation of our country.

201. This document displays clearly the attitude of the Albanian Government to a delicate matter like migration. For its specifics and importance, it must be pointed out that, despite

the alteration of political forces in the RoA, the approach of the Albanian Government towards this problem has been unchangeable. The support and guarantees provided by the Albanian government for the management and direction to the right way of the migration process, this document obviously determines and specifies the governmental structures considering migration as a prioritized element in the government program of the country.

202. In addition, the development of global and European policies by the RoA and identification of the needs for development, are two elements which are discussed in this document under the topic of “Policies of EU for Albania”.

203. The second part of this document is concentrated on the guidance for migration policies which is to be accomplished in various directions. The first direction is “The combat against illegal migration”, which is represented through an analysis specifying the causes of migration and forecasting theoretically confrontation with the problem of immigrant deportation to their countries of origin.

204. The support for Albanian emigrants, improvement of the image of emigrants abroad, the protection of their rights, improvement of Albanian diplomatic and consular services in host countries, leading emigrants to invest their allowances in various business activities, registration of emigrants, information about migration opportunities, the policy on visas, etc are some of the issues that are discussed under the topic of “Migration and the Development of Albania”, which is the second direction. The third direction is the improvement in Albania of the regulatory and legal framework on migration, while the fourth direction specifies the needs for establishing appropriate institutional structures for the management of migration policies.

205. The implementation of this strategy was associated with the National Plan on Migration, which was approved on 6th May 2005 and its implementation will last until 2010. This action plan includes 66 measures undertaken within the framework for the implementation of the National Strategy on Migration. The plan also determines responsible organizations for the implementation of these measures, the scope of activities, implementation schedules, human resources, indicators of achievements and financing budget.

206. The National Strategy for Integral Management of Borders and the Action Plan were worked out and approved in 2006. It is a product of the inter-institutional cooperation of the Police for Borders and Migration in the Ministry of Interior, the Customs Service of Albania in the Ministry of Finance (MF) and the Veterinary and Phyto-Sanitary Services in the Ministry of Agriculture, Food and Consumer Protection (MAFCP).

207. This strategy was drawn up with the support and assistance of the MIK CARDS Regional Program, Police Assistance Mission (PAMECA) in Albania, the Customs and Fiscal Assistance Office – Albania (EU-CAFAO-Albania) and the International Criminal Investigation and Training Assistance Program (ICITAP).

208. The strategy aims at creating open borders, but controlled and secured. Coordination and cooperation between all authorities and agencies involved in the security of borders and facilities of trade, intends to establish effective and efficient systems for integral management of Albanian borders.

209. The institutional structure, responsible for the implementation of this strategy, comprises three institutions: MoI, MoF and MAFCP. Other structures, under the authority of these three institutions, which are established at boundary points include the following:

- The structure of Police for Borders and Migration in the MoI
- The structure of the Albanian Customs Service in the MoF
- The structure of Phyto-Sanitary Service in the MAFCP

- The structure of Veterinary Service in the MAFCP

210. Action Plan of National Strategy for Integral Management of Borders as referred to the Frame Convention, describes the cooperation between the above-mentioned structures, which are directly related to migratory movement of Albanian and foreign nationals.

#### 4. International agreements

211. The Republic of Albania has had and continues to have a permanent commitment with respect to continuous improvement of standards relating to the protection and respect of human rights and fundamental freedoms, which component is also the rights of immigrant workers. This fact has been also demonstrated by the membership of our country to several international organizations such as International Labor Organization (ILO), International Organization for Migration (IOM), and also other agencies like the United Nations Organization, the European Council, OSCE, etc. and ratification and adherence to a series of international conventions for human rights.

##### (a) *International multilateral agreements*

212. Within the framework of the United Nations, the Republic of Albania is a party in these instruments for human rights:

- The Universal Declaration of Human Rights (adhered to in 1955)
- The International Convention on Civil and Political Rights-ICCPR, (adhered to on 4th October 1991)
- The First Optional Protocol to the International Convention on Civil and Political Rights (ratified on 4th October 2007)
- The Second Optional Protocol to the International Convention on Civil and Political Rights for abolition of the death penalty (ratified on 17th October 2007)
- The International Convention on Economical, Social and Cultural Rights-ICESCR (adhered to on 4th October 1991)
- The International Convention on Exclusion of all forms of Racial Discrimination-ICERD, (adhered to on 11th May 1994)
- The Convention for Exclusion of all forms of Woman Discrimination-CEDAW (adhered to on 11th May 1994)
- The Optional Protocol to the Convention for Exclusion of all forms of Woman Discrimination (adhered to on 23rd June 2003)
- The Convention of the UNO "For the status of aliens" – ratified in April 2003
- The Convention of the UNO "For the reduction of aliens" – ratified in April 2003
- The Convention on the Rights of Children – CRC (ratified on 27th February 1992 and entered into force in March 1992)
- The Optional Protocol to the Convention on the Rights of Children, the sale of children, prostitution of children and children pornography (adhered to on 5th February 2008)
- The Convention for the Protection of the Rights of Immigrant workers and members of their families of the UNO in 1990 (adhered to on 5th June 2007)
- The Convention of the ILO, "On Private Employment Agencies" – ratified in 1998
- The Recommendation no. 188 of the Convention on Private Employment Agencies

- The Convention no. 97 of the ILO, “Migration for employment, revised, 1949” – ratified by the law no. 9320 dated 25.11.2004
- The Recommendation no. 86 of the Convention no. 97-ILO, “Migration for employment, revised, 1949”
- The Convention no. 143-ILO “Additional Provisions for Migrant Workers” (entered into force on 01.08.2007)
- The Recommendation no. 151 of the Convention no. 143-ILO, “Additional Provisions for Migrant Workers”
- The Convention no. 102 of the ILO “For Social Insurances (Minimum Standards)” – ratified by the law no. 9442 dated 16.11.2005
- The Convention no. 168 of the ILO “For encouraging employment and protection from unemployment, 1988” – ratified by law no. 9547, dated 01.06.2006
- The Convention of the ILO “For the documents of seamen identification, revised, 2003 (C185)” – ratified by law no. 9732, dated 14.05.2007
- The Convention of the ILO “For workers with family burdens” – ratified by the law no. 9773, dated 12.07.2007
- The Convention no. 147 of the ILO, “For Minimum Standards of Commercial Vessels, 1976” and also the Protocol of 1996 to the Convention “For Commercial Transport” – ratified by the law no. 9809, dated 27.09.2007
- The International Convention on the Protection of all persons going missing forcibly (adhered to on 8th November 2007)
- The Convention of the UNESCO “For Preservation of Cultural Heritage, non-material, Paris 2003”, ratified by the law no. 9490, dated 13.03.2006

213. Within the framework of the Organization for Security and Cooperation in Europe (OSCE), there are signed all its documents such as:

- The Final Act of Helsinki Conference, 1975
- The Declaration of Copenhagen, 1990
- The Charter of Paris for a New Europe, 1990
- The Document of Moscow Conference, 1991

214. Within the framework of the Council of Europe, there are ratified and signed a significant number of important documents:

- The European Convention “For the Protection of Human Rights and Fundamental Freedoms” signed by the Republic of Albania on 13.07.1995, ratified on 31.07.1996 and entered into force on 10.1996)
- Protocols no. 1, 2, 3, 4, 5, 7, 8 to the European Convention “For the Protection of Human Rights and Fundamental Freedoms”, (entered into force on 2.10.1996)
- Protocol no. 6 to this Convention “For the Abolition of the Death Penalty” (entered into force on 1.10.2000)
- Protocol no. 11 to the Convention (entered into force on 11.1998)
- Protocol no. 12 to the Convention (entered into force in 2005)
- Protocol no. 13 to the Convention “For the Abolition of the Death Penalty in all circumstances” (entered into force on 1.06.2007)



- Protocol no. 14 to the Convention (ratified on 3.02.2006)
- European Social Charter, Revised (signed on 21.09.1998, ratified on 14.11.2002, entered into force on 01.01.2003)
- The Convention on Citizenship (signed on 07.05.1999, ratified on 11.2.2004 and entered into force on 01.06.2004)
- The European Convention “For the Participation of Foreigners in the Public Life in Local level” (signed on 9.6.2004, ratified on 19.7.2005, entered into force on 01.11.2005)
- The European Convention for the legal status of immigrant employees (entered into force on 01.08.2007)

(b) *Bilateral inter-State agreements*

- The Agreement between the Government of the Republic of Albania and the Government of the German Federal Republic “For the expansion of language and vocational knowledge”, entered into force in 1991
- The Agreement “On Seasonal Employment of Workers” between the Republic of Greece and the Republic of Albania, entered into force in 1996
- The Agreement between the Republic of Italy and the Government of the Republic of Albania “On Seasonal Employment”, entered into force on 17.11.1997
- The Protocol on “Organizational Procedures for Employment in Italy of Albanian Seasonal Workers”, made on 18.11.1997
- The Agreement with Italy “On Employment”, signed on 2nd December 2008, which is not effective yet

**B. Complete information about the characteristics and the nature of migratory movements (immigration, transit and emigration) from Albania<sup>41</sup>**

**1. The history of Albanian migration**

215. A glance at Albanian migration.

- Albanians constitute one of the largest group of emigrants from third countries in EU
- About 1 million emigrants from an overall population of 3.4 million inhabitants
- 22–25% of overall population
- 35% of active population
- The Albanian migration fluxes are 5–6 times greater than those from developing countries, in proportion with the active population

216. Confrontation of Albania with the phenomenon of migration is very early. Phases of its development have passed through different historical periods.

---

<sup>41</sup> The following information is taken from the web site of the Ministry of Labor, Social Affairs and Equal Opportunities.

217. The first great wave of massive migration began early in 15-18 centuries. Due to the occupation of the country by ottoman invaders this movement of emigrants didn't stop even during the 19-20 centuries (*second wave*), which began again with a massive emigration of population in '90 (*third wave*). Migratory movements of Albanian nationals made during 19-20 centuries constitute the so-called "*Albanian modern migration*".

218. The Albanian modern migration comprises three periods including: (i) migratory fluxes before the year 1944, (ii) The Albanian Diaspora created by migration of population over a period between 1945 and 1990, and (iii) considerable migratory fluxes after 1990.

219. The migratory fluxes of Albanians before the year 1944 had the destination mainly the American continent. States such as USA and those of Latin America were the first countries to receive the first Albanian immigrants during that period. The motive that pushed these "classic immigrants" to move towards the American continent was the need for physical/monetary incomes necessary for securing the livelihood of their families in Albania.

220. The going to *kurbet*, a synonym with the present term of "migration", was achieved through family or friendly relations. The governments of those times, because not only of political developments, but also the lack of arrangements in economic and social areas, haven't recorded any evidences with accurate figures and data for the sizes of these migratory fluxes. However, in small sizes, these fluxes were characterized by the economic motives and by the voluntary individual movement of "immigrant labors" of the time.

221. Migrations, which continued after 1945, in most cases had political character. Establishment of communist regime in Albania created dissatisfactions among individuals of medium and high strata of population of the period before liberation. Confiscation of their properties, their personal and family persecution by the communist regime made these strata consider the movement from the country the only solution. The Albanian government opposed and counteracted strongly against these movements with all advisory and punitive means. It adopted drastic political and legal measures and one of them was that the Penal Code of that time prescribed "the movement from the country" as a criminal offence.

222. Although in small sizes, this kind of "illegal migration" of the time was achieved by surrendering to another country and requesting political asylum. The routes for leaving the country were land, sea and river borders of the Albanian territory. Because of difficult conditions for crossing the border (long routes by walking, maritime miles by swimming) such individual initiatives failed very often causing fatalities for the lives of these individuals and their families.

223. The third phase of Albanian migrations begins after the year 1990.

## **2. The causes of Albanian migration after 1990**

224. The fall of the communist regime and the establishment of an open system to the world in 1990, urged the Albanians to seek and hope for the prosperity and happiness transmitted by the radio and television propaganda of the West.

225. Political changes from the monist system to the pluralist system were associated with the alteration of the economic and administrative superstructure creating an unemployed army and "free labor forces" in cities and villages.

226. Transition period and numerous economic difficulties following the collapse of "pyramid schemes", insecurity of life and of public order, were continuous incentives for many nationals to leave and seek for a better fate especially in Italy and Greece.

227. Another reason that gave rise to leave Albania legally or illegally was the attempt of the families of emigrants to join them in host countries.

228. It is obviously aware that problems of Albanian migration were carried on to neighboring countries, members of the EU. Uncontrolled movements of immigrants have been for a long time a great concern for both, our country and western and southeastern neighbors, Italy and Greece. Presently, the time for guarding seacoast line and land borders with police barriers and dividing walls has remained behind. Albania today is one step towards its accession to EU. Its achievements prove that it is already a deserved partner with its regional relations and a candidate evaluated positively by international alliances.

### 3. The phases of Albanian migrations after 1990

229. Migratory fluxes over the time period between 1990 and 1992 were entirely uncontrolled. They were connected just with the moment of the collapse of the communist regime in Albania, which brought forth political, social and economical destabilization of the country. At that time, approximately 300 thousands Albanian nationals left the native land with every means and through every route. The “illegal crossing of borders” (without visas and identification documents), of land, sea and river borders, was made on foot and swimming through state boundary or using occasional national and international means of road and sea transportation.

- In July 1990 – more than 5,000 people entered the embassies of Italy, Germany and France for the purpose of leaving the country. By the end of 1990, more than 20,000 Albanian nationals left the country towards Greece using land routes, where they requested political asylum.
- In March 1991 – a great number of Albanian nationals rushed into the Durrës Seaport, the biggest seaport in the country. Taking under control several vessels of the Commercial Maritime Fleet forced them to sail and land on the seaports of Southern Italy. A similar situation was repeated a few months later, in August, when about 18,000 people, after taking control of several vessels disembarked on the Italian seacoasts.

230. Although migration flows decreased over the period from 1992 to 1996, nationals continued to leave the country. That period was relatively characterized of political stability and social-economic progress. The official figures of that time speak for an increase of the DGP by 9% a year during 1993–1996 (*as compared with 1990*). In agriculture, land titles were transferred from collective to private ownership. Allowances of emigrants sent to Albania over the period 1993–1995 increased to about 25% of the GDP, something which influenced the improvement of living standards for Albanian families. Such process, associated further with the strengthening of border controls and application of “milder” policies by some countries, reduced in some way the volume of migratory fluxes.

- According to an estimation of the PNUD made by the end of 1996, the number of Albanian nationals living permanently outside Albania reached approximately to 350,000 nationals. Referring to the figures by the end of 1993, the increase of these fluxes was considered restraining (about 50,000 people).

231. Migratory fluxes over the years 1996-97 were inflicted by the bankruptcy of pyramid schemes and the political and social turmoil broken up all over the country. These schemes, arranged illegally, emerged as an alternative to the undeveloped banking sector. Their deceptive and vertiginous increase of interests became aware in 1996, when they offered such interests which amounted from 15% to 100% of three-month period deposits. This increasing crisis affected about one third of overall population of the country. Consequently, migratory fluxes revived and they got the features of “involuntary migrations” and even of “forceful migrations” at that time.

232. Combination of social and economic factors such as: unemployment, insecurity, poverty, general economic problems, forced thousands of people to leave the country

within few months. During the period from December '96 to April '97, about 30,000 emigrants moved to Italy, while 40 thousands to Greece (most of them were deported a bit later). In this period, the presence of the international community through multinational protection forces headed by Italy played an important role for the reduction of migratory flows. However, by the mid of 1997, when, fortunately, the most extreme alarm of the crisis had passed, altogether 16,798 Albanian nationals had crossed the waters of the Adriatic Sea towards Italy.

233. Finally, at the beginning of 1998, there was a considerable improvement of political, economical and social conditions of the country. Over the time period between 1997 and 2000, the economy experienced satisfactory recovery with the increase of the GDP by 7.5%. Also, in the year period from 1997 to 2000, there was a fall of inflation and reduction of state deficit from 12.7% to 9.2% of GDP. These improvements, along with favorable policies applied by both neighboring countries, Italy and Greece, gave rise to the increase of legal migratory fluxes and the decrease the flows of illegal migrations.

- According to evaluations of the PNUD, during the time period between 1990 and 1997, the majority of Albanian emigrants were illegal. By the end of 1997, there were numbered 150 Albanian nationals in Italy, of which, only 82 thousands nationals were registered. In 1998-1999, for the first time for Albanian migration in the last decade, the proportion between legal and illegal emigrants was balanced.
- Of about 200 thousands Albanians living in Italy, 130 thousands were regular residents. The application by the Italian Government of a special program for the legalization of aliens (in 1999) there were numbered 30 thousands Albanian immigrants who managed to get in Italy the status of regular residence.
- A similar process was distinguished in Greece. In 1997, a deep disproportion was marked between Albanian illegal and legal immigrants (350 thousands against 10 thousands respectively). Within the years 1997-1999, the Greek government applied a scheme for the legalization of illegal immigrants residing in its territory. From 372 thousands foreign immigrants that applied for provision of temporary residence permits, 65% of them were Albanian nationals.

#### **4. Statistics of migration after 1990**

234. Migratory fluxes of Albanian nationals at that time comprised mainly the following:

- Individuals who migrated in search of a better job and life
- Individuals who migrated for political motives and constituted the first contingents of Albanian refugees and asylum-seekers
- Individuals who migrated for reasons of family, ethnic or religious relations with areas beyond the borders of their country, especially in Greece and rarely in Italy
- Individuals who migrated for educational purposes and were precursors of student migratory fluxes
- Individuals who migrated from their own country just in response of tempting factors and lures of life in the West, having no clear migratory project
- Children who joined their emigrant parents and emigrated mainly for employment causes
- Unaccompanied children

235. The Migration Study Center in Tirana delivered a report in 2005 obtained from interviews conducted with various individuals relating to their inclinations for countries they wished to migrate to. Some figures are displayed below.

Table 1  
Priority countries for emigration

Priorities	Years		
	1992	1995	2005
1.	Italy	USA	USA
2.	Germany	Italy	Canada
3.	USA	Germany	Italy
4.	Switzerland	Australia	Great Britain
5.	Australia	Switzerland	Germany
6.	France	France	France
7.	Greece	Great Britain	Switzerland
8.	Great Britain	Greece	Greece
9.	Canada	Scandinavian countries	Scandinavian countries
10.	Scandinavian countries	Others	Others

Table 2  
Countries of destination and the number of Albanian immigrants 2001–2006

No.	States	Years					Information sources
		2001	2002	2003	2005	2006	
1.	Great Britain				50 000		MLSAEO (AL)
2.	Greece			434 810			Report "Migr. Strategies" (CE)
3.	Germany		11 630				Statis. Fed. Office. (GR)
4.	Italy					348 813	INSTAT (AL); Z.I.S (IT)
5.	Canada	14 935					Rr.Përgj.Pop. (AL)
6.	USA				131 661		Rr.Përgj.Pop. (AL)

236. Changes in the structure of migratory fluxes:

- Increasing number of trained emigrants.
- Increasing number of students that are selecting and are able to complete their studies abroad.
- Feminization of Albanian migration, which is achieved not only by passive migrations (family reunion) but also by independent female migrations, almost has balanced the proportion male-female emigrants. However, such undertaking remains still a male activity, which puts forth the task for encouragement of female migrations.

5. Features of Albanian migration over years

- *The age factor*: the first generation of emigrants is presently reaching pension age and the second generation is completing schooling or the periphery of labor market.
- *The geographic dispersal*: the bulk of Albanian migratory communities is settled in Greece (more than 50%), which is followed by another neighboring country, Italy. Other communities are settled in United Kingdom, France, Germany, USA, etc.

- *Settlements under the influence of the opinion of the host country*: it was a feature revealed in the first decade of Albanian migration. Practically, in his daily life, an emigrant has to face out prejudices, occurrences of victimization and incrimination, which very often occurred based on perceptions and not on facts. This public opinion was mainly a negative product of certain medium, especially of local ones.
- “*Ethnic ghettos*”, where Albanian immigrants are settled, do not affect at all their integration in the economic and social life of the country of their employment. This feature has affected only a little the community of Albanian migration, but it does not appear to be its actual tendency.
- *Human capital*: The greatest numbers of Albanian emigrants have still a lower level of vocational formation and education. Very qualified emigrants and of distinguished talents are employed in sectors that do not suit to their abilities and to jobs that have previously done in the country of origin. Currently, not only due to their bulk presence, especially in two countries, Greece and Italy, Albanian immigrants contribute significantly to the system of social care.
- *The management of migratory process of the Albanian migrations*: it was a new experience for Albania, which found it unprepared for the management of migratory outflow occurred after '90. In addition, two host countries, Greece and Italy, were also unprepared to receive massive influxes, which were mostly illegal.
- *The proportion active migration/passive migration*: The family migration was increasingly becoming larger. It was advantageous and conditioned on cultural, geographic and linguistic close relations and also on the lower costs for migration to the neighboring countries. This process was associated with higher numbers of children migration, accompanied or unaccompanied one. Step by step the Albanian migration pursued the general tendency of its feminization, which was conditioned and favored by the relative facilities for female employment in certain sectors such as services, house work, etc. However, according to a tendency of migration all over the world, the level of unemployment among immigrants is very high as compared with native people.
- *Long-term or short-term migration?*: it was really a “puzzle”, which varied in accordance with employment opportunities offered by migratory policies applied by the neighbouring countries. The geographic vicinity with these countries, where the greatest number of the Albanian migration is settled, in several cases, has supported periodical deportation of immigrants. However, policies applied, from time to time, by our neighbours for the regulation of the indecent situation of Albanian immigrants, and also the maintenance to some extent of the level of revenues accrued from the work of immigrants, demonstrate that the proportion of long-term migration and short-term migration is respectively 60/40%.
- *The synergy between economic/vocational activities of host countries and also in Albania*: Despite its patterns (*for survival and consume*), which have been characteristics of the 1990s, the Albanian migration has been employed as a factor of economic, social, cultural and political development.

237. In support of the National Migration Strategy (NMS) special attention is being paid more and more to the voluntary return of emigrants, which is also supported by adoption of required integrating policies and programs. In addition, from the first stage of its development, migration of people has been associated with concrete actions for making use of their allowances and their virtual capacities as financial sources and developing factors of the community.

## 6. Regimes of employment policies outside Albania

238. The main regimes of employment policies abroad differ subject to the field of social policy, to organizations that apply this policy, to the role of the market for determining that “where?”, in “what conditions?” the labor forces will be employed and “how?” is migration organized for employment purposes. Traditionally, the regime of employment policies abroad is classified into four systems of categories, which are identified based on the role played by the state and on the labor market in the process of employment abroad (emigration).

239. *The liberal system (Laissez-faire)* – it is applied in countries with higher influxes of immigrant workers from other countries. There, the management of the “received labor forces” is conducted based on the demands of the internal labor market. In such case, the state doesn’t define any exclusive regulatory framework for the process of recruiting “cheap labor forces” coming from abroad.

240. *The system based on rules* – it is a typical case of the system based on migration rules for employment motives. The state of the country of origin of immigrant laborers adopts laws and by-laws for conducting the recruitment of nationals to be employed abroad. This legal framework includes predetermined recruitment practices and forecasts, case by case, penalties for their violators. Employment of labor forces is entirely dependent on market, however, the state intends to influence on it by playing the role of a “legal representative” of the domestic labor market.

241. *The system managed by the state* – where the state regulates not merely employment abroad, but also it establishes public institutions for recruiting and mediating workers abroad. The essential difference between this system and the system based on rules is the inclusion of the state in the planning and encouraging an active policy for employment abroad. Such policy doesn’t start and end with recruitments. It starts with interferences in the labor markets for the increase and administration of the capacities of individual abilities in the market, inducing domestic agencies to offer employment services in host countries and it continues with the establishment of employment standards and the protection of the rights of the employees.

242. *The state monopoly system* – it is a category where the state takes alone and entirely the responsibility for organization of migrations for employment purposes. In such policy regimes, there is no space for the activities of private mediators in recruitment and sending nationals to foreign countries. The state, through its specialized instruments, like state enterprise, acts as the sole contractor to provide services to its nationals. Foreign employers, who want to employ workers, should enter into negotiations with the state enterprise, which might act either the role of a service contractor, or the role of a bidder of labor forces.

243. Regarding the fact that what system is presently applied in the RoA, it might be stated that, at least as a regime of policies for employment abroad, our country is far from the two extreme points, i.e. liberal regime and state monopoly. Policies followed by the Albanian governments, so far, have aimed at the adoption of the system of state management. For the complexity itself and the lack of experience for such process, in spite of clear targets, this commitment requires its necessary time. However, we are making further good steps towards the establishment and operation of this system.

## C. The actual situation relating to the practical enforcement of the Convention by the Republic of Albania

### 1. Migration

244. At the present stage, we are confronting the problem of collection of statistical information about migration, which is not regular and periodic. This occurs due to a number of different factors related to organization and operation of public bodies that are dealing with migration. Contemporary interpretation and processing of this information is another stage which needs to put together institutional common efforts for making use of required human resources and inputs from major ministries.

245. Recognizing such a challenge, the respective organizations are taking the first steps for keeping required registers not only by the Migratory Policy Directorate, but also in Local Regional Migratory Employment Offices (LREMO). These efforts will not only remain on undertaking relevant measures for registration of emigrants, but also on conducting required operations with the registers of Civil Status Offices. Application of the monitoring/coordinating systems of the National Migration Strategy (NMS) and the National Plan for Enforcement of the National Employment Strategy (NPENES) under the leading role of the Directorate of Migratory Policy, Return and Reintegration (DMPRR) has resulted to be quite positive in fulfilling the tasks of the organizations of the line involved in the migratory process.

246. Main causes for migration of Albanian nationals.

- Higher salaries
- Supporting the family financially
- Better working conditions
- Better living conditions
- Better educational conditions for themselves and for their family members

Table 3  
Statistics in 2007 for the destination countries and the number of Albanian emigrants

<i>No.</i>	<i>States</i>	<i>Number of emigrants</i>	<i>Information sources</i>
1.	Greece	600 000	NMS, 2004
2.	Italy	401 900	Publication Caritas Immigrazione 2008
3.	USA	150 000	MLSAEO
4.	Great Britain	50 000	“
5.	Germany	15 000	“
6.	Canada	11 500	“
7.	Belgium	5 000	“
8.	Turkey	5 000	“
9.	France	2 000	“
10.	Austria	2 000	“
11.	Switzerland	1 500	“
12.	Low Countries	1 000	“
<b>Total</b>		<b>1 244 000</b>	



*Albanian migration to Italy*

247. In Italy, Albanians comprise the second community, as compared to the number of national foreigners residing there, approximately 420,000 Albanian nationals. There is equilibrium in the proportion of males/females within Albanian community and this has been affected by reunion of families. The greatest number of Albanian emigrants comprises the age-group from 18 to 40 years and two thirds of them are married.

248. Employment in Italy is regulated according to the influxes of foreign nationals from countries non-members of EU, but with preferential quotas for the Albanian nationals. Based on the figures provided by the Italian Ministry of Interior, during the time period between 2005 and 2007, about 41.221 applications for employment have been submitted to the Unique Counters of Immigration.

249. The returning process of Albanian emigrants, who stay there irregularly, is characterized by a curve of outflows, which in recent years has become gradually lower. Implementation of this process has been supported also by foreign projects, which objectives have been the support for Albanian nationals return voluntarily and even help them with the establishment of micro-enterprises and with their employment. Over the period 2005–2007, under the assistance of the project “Welcome again”, there are numbered 500 Albanian emigrants returned from Italy.

250. Information made available by the MLSAEO and those received from other sources such as: Caritas/Migrantes “Albanesi in Italia 2008”, shown in tables 4 and 5, as well as figure 1, speaks for the category of employed people and their sectors of employment.

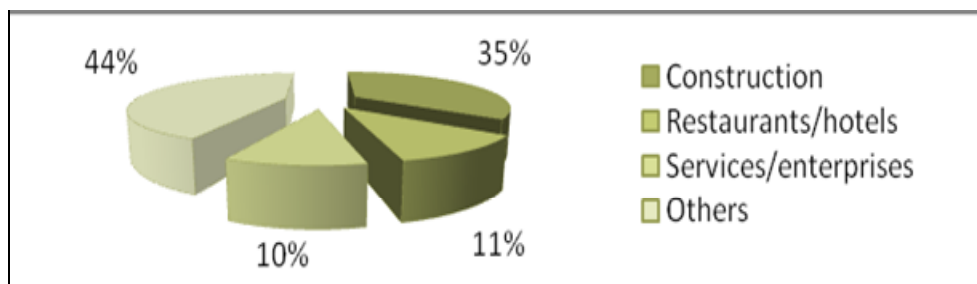
Table 4  
**Categories of employed people**

<i>No.</i>	<i>Category of employed people</i>	<i>Number of persons</i>
1.	Employed	216 000
2.	Self-employed	15 000
3.	Infants	115 000
4.	Others/families/waiting for a job	74 000
<b>Total</b>		<b>420 000</b>

Table 5  
**Employment by sector**

<i>No.</i>	<i>Employment sectors</i>	<i>% of employed people by sectors</i>	<i>Total %</i>
1.	Industry	52.9	
2.	Services	37.6	
3.	Agriculture	7.8	
4.	Fishing	1.7	
<b>Total</b>			<b>100</b>

Figure I  
Classification of services



*Albanian migration to Greece*

251. From the general registration of population made by INSTAT in 2001, it resulted that the number of Albanian emigrants in Greece marked 443,550 people. Statistics of the Center for Economic and Social Studies (CESS), which refer to data received from the Ministry of Labor and Social Affairs in Greece at that period, shows that Albanian migration in Greece amounts to 507.000 emigrants.

252. According to Greek scholars of CESS, Charalambos Kasimis and Chryssa Kassimi, July 2004[8], Albanians are distinguished in all sectors of activity, where foreign population is employed. Also, according to these scholars, a great number of Albanian emigrants, employed informally in sectors of agriculture and small businesses, do not benefit from the rights of employees.

253. This situation doesn't allow employees under irregular situations to enter into syndicates, although, as a community, they try to protect their labor rights.

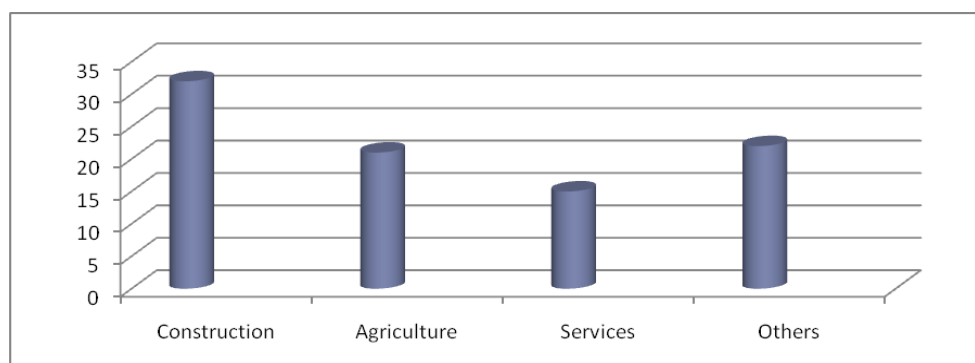
254. Females, who comprise 41% of the Albanian migratory community, according to the General Registration of Population – 2001, declare that they are employed in the rubric of "various categories". This category includes jobs in agricultural and tourism sectors, but mostly in house works (house cleaning and maintenance).

255. In the regulatory framework for governing the residence status, in June 2003 and October 2004, 80% of Albanians declared employment as the primary motive of their migration to Greece. Other declared family reunion, studies, business and marriage.

256. Based on the data provided by the Statistical Bureau of Greece – 2005, the migratory population in Greece is very young: 21,3% belongs to the age group from 1 to 14 years old; 36,5% of the age of 15–29 years; 28,8% of the age group from 30–44 years and 13,4% above the age of 45 years.

257. The emigrant contingent of Albanian nationals capable to work in Greece is employed in the sectors of construction, agriculture, services or and other sectors (figure II).

Figure II  
Employment sectors



## 2. Immigration<sup>42</sup>

*Foreign nationals supplied with work permits for the period January–December 2006*

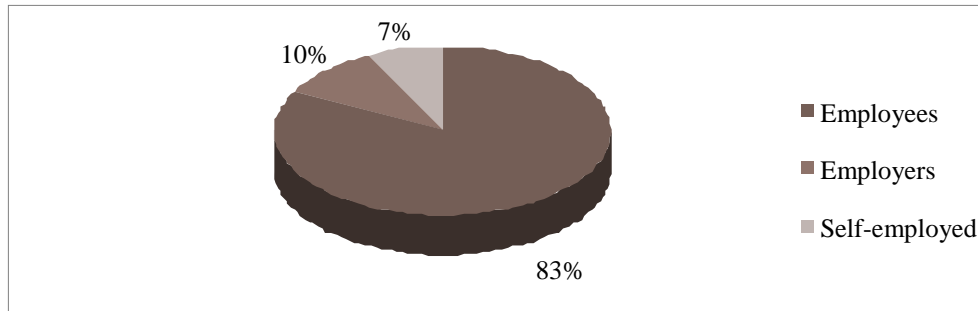
258. Based on the law “For Foreigners” (1999, 2008) and on other by-laws issued for its enforcement, the Directorate of Migratory Policy, Return and Reintegration (DMPPR), in cooperation with the Local Regional Employment Offices (LREO), during the period January–December 2006, have provide 857 foreign nationals with Work Permits, which are shown in the following figures and tables.

Table 6  
Foreign nationals supplied with work permits in 2006 by country of origin

States		No. of foreigners	States		No. of foreigners	States		No. of foreigners
Index A	England	5	Index B, C, F, H	Bulgaria	10	Index G, I	Greece	85
	Arabia	1		Czech Republic	3		Germany	13
	Arabia	1		Czech Republic	3		Germany	13
	Argentina	1		Egypt	15		Georgia	2
	Australia	4		Philippine	1		Italy	73
	Austria	1		France	12		India	11
Index K, M	Canada	2	Index R, S, T	Hungary	2	Index P, U, S	Iran	5
	Kenya	1		Brazil	1		Poland	1
	China	387		Russia	2		Ukraine	1
	Croatia	1		Serbia	8		Uruguay	1
	Korea	2		Syria	2		USA	16
	Kosovo	7		Slovenia	2		Switzerland	4
	Malaysia	7		Slovakia	3			
	Macedonia	19		Thailand	1			
		Tanzania	1					
		Turkey	363					

<sup>42</sup> The following information is obtained from the web site of the MoI.

Figure III  
**Provision of foreigners with work permits 2006**



259. Figures reported for that year, relating to the provision of foreigners with work permits, speak for:

- (i) 673 employees, 82 employers and 58 self-employed;
- (ii) 501 foreign nationals have applied for work permits for the first time;
- (iii) 312 foreign national have renewed their work permits;
- (iv) 44 work permits have been terminated by National Employment Service because of suspension of employment relations.

Figure IV  
**Proportion male/female of persons supplied with work permits**

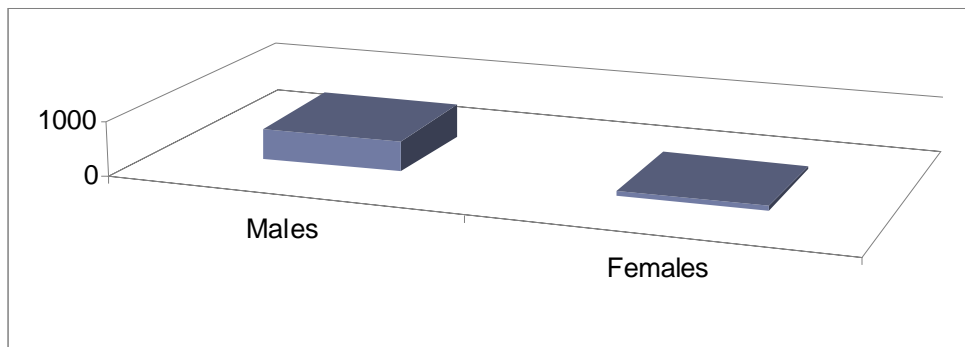
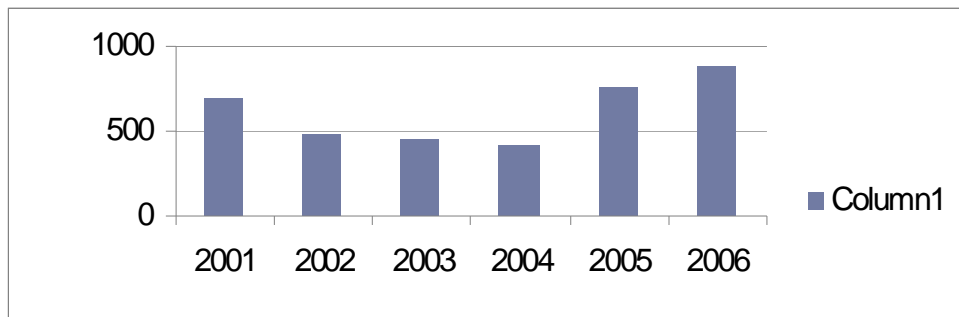


Figure V  
**Entries of foreign nationals for the first time**



260. From the analytic evaluation of above figures, it results that influxes of foreign nationals coming for employment motives in the RoA are as follows:

Table 7  
**Employment by service sector**

<i>No.</i>	<i>Sectors of activities</i>	<i>No. of foreigners</i>
1.	Education	128
2.	Construction	90
3.	Commerce	180
4.	Banking	26
5.	Media/transmission	23
6.	Service	67
7.	Health	11
8.	Medicine	26
9.	Production	130
10.	Security system	2
11.	Publishing house	3
12.	Transport	21
13.	Restaurants	7
14.	Gamble games	99
<b>Total</b>		<b>813</b>

- Comparing the total number of work permits delivered in the previous years, an increasing tendency of foreigners' interest to come and work and live in Albania is evidenced
- Foreign nationals show greater interests in investments, mainly in production sector, gamble games, trade, construction, education, services, confections, banking system, media transmissions, health, etc.
- The majority of foreign nationals that are carrying out different activities are mainly settled in the districts of Tirana, Elbasani, Korça, Durrësi, Vlora, Kruja, Fieri, etc.
- Foreign nationals working in Albania are primarily of Turkish, Greek, Italian, Rumanian, Macedonian, American, Egyptian, etc. citizenship
- There is an increasing tendency of foreigners for the renewal of their work permits due to the strengthening of expecting role by the Public Service Institute
- There is a considerable increase in the number of foreign nationals having the status of the employer

Table 8  
**Information on employment of foreign nationals by city**

<i>Cities</i>	<i>No.</i>
Vlora	28
Durres	30
Kruja	27
Lezha	7
Fier	21
Korça	42
Gjirokastër	10
Shkoder	7
Elbasan	78
Peshkopi	1
Tirane	388
Toral	639

261. Referring to the above figures, it must be highlighted the fact that the number of work permits delivered by the MLSAEO do not show the real number of foreign influxes that are economically active. It indicates only that portion of foreign labor forces that is subject to the exercise of controlled and regular economic activity.

*Nationals supplied with work permits over the period January–December 2007*

262. The National Employment Service supplied work permits to 897 foreign nationals that have worked in Albania during the period of January-December 2007, of which, 771 nationals belong to the status of the “Employee”, 89 nationals to the “Employer” status and 37 national of the “Self-employed” status. There are actually 1184 foreign nationals that are excluded from the obligation of getting work permits because they hold already their work permits.

Figure VI  
**Provision of foreign nationals with work permits in 2007**

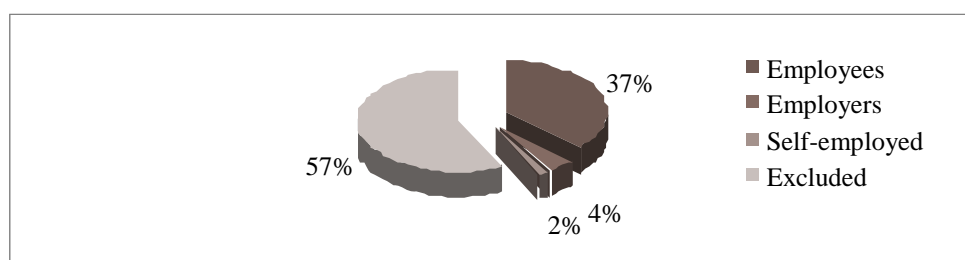


Table 9  
**Provision of foreigners with work permits according to employment categories**

No.	Employment categories of immigrants	Types of work permits											
		B1	B2	B3	C	D1	D2	D3	E	G1	G2	G3	H
1.	Employee	454	172	59	86								
2.	Self-employed					23	7	4	3				
3.	Employer									40	23	4	22
<b>Total</b>													<b>897</b>

263. Gender indicators of immigrant labourers are shown in the following chart.

Figure VII  
**Gender indicators of immigrant labourers**

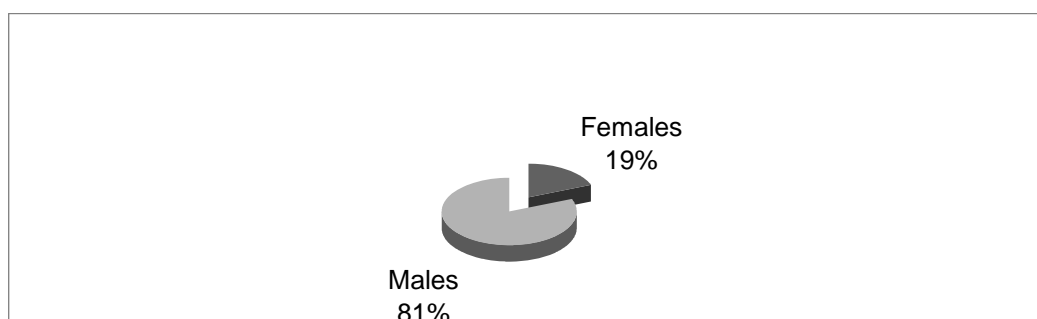
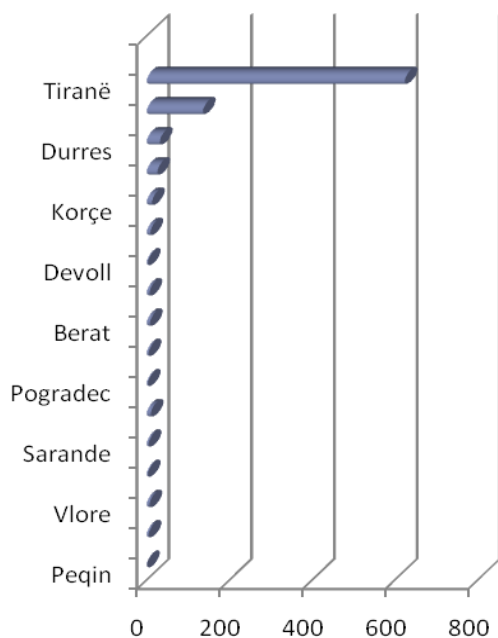


Figure VIII  
**Settlements of foreign nationals**



264. Settlements of foreign national are mainly concentrated in the following districts in 2007: Tirana, Elbasani, Durrresi, Fushe-Kruja, etc. (figure VIII).

265. Foreign nationals that have worked at that time have been of Turkish, Chinese, Italian, Greece, Macedonian, Kosovo, English, Bulgarian, etc. citizenship, etc. (table 10).

266. A tendency is noticed there for an increasing interest of foreigners to be supplied and to renew their work permits. Also, there is a considerable increase of the number of foreign nationals having the status of the "Employer", especially Chinese and Turkish nationals.

Table 10

**Foreign nationals working in Albania and their countries of origin (2007)**

	<i>States</i>	<i>No. of foreigners</i>	<i>States</i>	<i>No. of foreigners</i>	<i>States</i>	<i>No. of foreigners</i>		
<i>Index A</i>	South Africa	2	<i>Index B</i>	Belgium	1	<i>I Index E, F</i>	Egypt	20
	Austria	19		Brazil	1		Philippine	6
	African Countries	2		Bulgaria	11		France	14
				Great Britain	50			
<i>Index G, GJ</i>	Greece	37	<i>Index H, I, J</i>	Holland	3	<i>Index K, L</i>	Canada	2
	Germany	12		Hong Kong	1		Kenya	1
				India	9		China	979
				Iran	4		Kosovo	10
				Ireland	1		Croatia	6
				Italy	57		Lebanon	2
				Israel	1		Libya	1
				Jordan	4			
<i>Index M, N</i>	Montenegro	4	<i>Index P</i>	Pakistan	2	<i>Index T, U, VI</i>	Thailand	2
	Macedonia	27		Serbia	3		Turkey	717
	Moldavia	1		Syria	1		Ukraine	1
	Nigeria	4		Slovenia	3		Vietnam	1
	Norway	1		Sweden	3		Switzerland	5

*Foreign nationals supplied with residence permits, for January–December 2008*

267. Statistics of 2008 relating to provision of foreign nationals with work permits speak for:

- (i) 959 employees, 117 employers and 59 self-employed;
- (ii) 578 foreign nationals have applied for the first time;
- (iii) 464 foreign nationals have renewed work permits;
- (iv) 732 foreign national have been excluded from the obligation of providing work permissions.



Table 11  
**Numbers of foreign nationals working in Albania and their countries of origin**

	<i>States</i>	<i>No. of foreigners</i>	<i>States</i>	<i>No. of foreigners</i>	<i>States</i>	<i>No. of foreigners</i>		
<i>Index A</i>	Austria	7	<i>Index B</i>	Great Britain	17	<i>Index E, F</i>	Egypt	10
				Brazil	2		Philippine	13
				Bulgaria	25		France	2
<i>Index G, GJ</i>	Greece	82	<i>Index H, I, J</i>	Holland	2	<i>Index K</i>	Canada	2
	Germany	9		India	3		China	375
				Iran	6		Kosovo	35
				Italia	91		Croatia	10
				Israeli	3			
				Jordan	12			
<i>Index L, M, N</i>	Malaysia	1	<i>Index P, Q, R, S</i>	Pakistan	1	<i>Index S, SH</i>	Tanzania	2
	Montenegro	2		Romania	3		Teheran	1
	Macedonia	42		Serbia	5		Tunisia	1
	Morocco	1		Syria	6		Turkey	352
	Moldavia	1		Slovenia	1		USA	7
						Ukraine	3	

#### **D. Information about the steps undertaken by Albania for the publicity and promotion of the Convention**

268. One of the steps taken by the Albanian state for the publicity and promotion of the Convention “On the protection of the rights of all immigrant laborers and members of their families” is its publication in the Official Gazette no. 47/2007. Publication of this Convention is made by the Official Publication Center, a state agency under the authority of the Ministry of Justice.

269. *The Ministry of Labor, Social Affairs and Equal Opportunities (MLSAEO)* – The most useful methods for provision of information in the event of admission, employment and accomplishment of profitable activities in Albania have been the publication of specific Manuals such as: “Regular employment in Italy” and “Regular employment in Greece”, which are published already, while the publication of “Regular employment in Great Britain” is expected. At the same time, a similar Manual for Albanian emigrants who want to work and live in Canada is under way. These Manuals provide details of practical character related to the types of employment, the rights and obligations in host countries, etc.

270. In addition, there are numerous advertisements made by this Ministry in TV and daily press. It is also worth mentioning preparation of leaflets and brochures on certain themes about migration including the return of emigrants to their countries of origin.

271. Following this initiation, the MLSAEO, in its web page in internet <http://www.mpcs.gov.al>, has developed a special rubric under the heading of “Migration”. From this page, Albanian and foreign nationals can get required information relating to domestic and international legislation on Migration applicable in the RoA. Also, through a mini-rubric “Emigrants ask”, Albanian emigrants or any other interested person can be

informed about such issues like employment in Italy and Greece, the provision of residence permits in host countries (Italy, Germany), validity of employment documentation, etc.

272. With regard to immigrants, a Manual is under preparation in cooperation with the Ministry of Interior under the provisional title: “To come, to live and to work in the Republic of Albania”.

273. Information for abroad is transmitted through diplomatic and consular representatives of the RoA. Cooperation with the structures of the line include those in the Ministry of Justice and the MFA respectively, i.e. the Directorate of Border and Migration and the Consular Directorate. In the local level, the Local Regional Employment Office (LREO) is also involved in transmission of such information.

## **Part II**

### **Information with regard to each article of the Convention**

#### **A. General principles**

##### **Article 1 (1)**

##### **Non-discrimination**

274. Article 18/1 of the Constitution of the RoA stipulates that “all are equal before law”. Based on this principle, the following paragraph of this Article secures without discrimination the rights and freedoms of emigrant laborers and members of their families on no ground such as gender, race, religion, entity, language; political, religious and philosophical beliefs; economic, educational and social situation or parental origin. In any other circumstances, restriction in the exercise of the rights and freedoms due to above-mentioned ground is deemed to be closely connected with the aims of the actions of the subject in the Frame Convention, and undoubtedly with the object of illegitimate actions, whether these are prescribed as such by law.

275. With the law no. 9547, dated 01.06.2006, “For the ratification of the Convention no. 168 of the International Labor Organization, “For encouraging employment and protection from unemployment, 1988), the RoA, as a Party State, a member in the Frame Convention, has taken all required steps for the coordination of protection systems against unemployment and employment policy, ensuring equal treatment for all persons without discrimination because of race, gender, belief, political opinion, nationality, citizenship, social or ethnic origin, disability or age.

276. With the law no. 9773, dated 12.07.2007, the RoA has ratified the Convention of the International Labor Organization “For workers with family responsibilities, C 156, 1981”. Introducing provisions of this Convention impose the Albanian Government the responsibility to ensure effective equality of abilities and treatment of workers, men and women. Such equality enables the persons with family responsibility, who are employed, or wish to be employed, the exercise of the rights for accomplishing such a thing without being discriminated and without any conflict, between profession and family responsibilities. Also, this provision defines that the term “discrimination” means the discrimination at work and profession, as it has been defined by Articles 1 and 5 of the Convention on Discrimination of the year 1958 (*Employment and Profession*).

277. The law no. 8960, dated 24.10.2002, “For the ratification of the European Social Charter, revised”, specifies that all persons with family responsibility that are employed or wish to be employed have the right to do it without being discriminated and without any conflicts between their family responsibilities and employment. The rights laid down in this Charter should be ensured and enjoyed without discrimination on any grounds such as race,

color, gender, language, religious beliefs, political thought and others, national origin or social origin, health, association with a national minority, birth or other status.

278. The law no. 8291, dated 25.02.1998, "Police Ethic Code", states that police shall act fairly and impartially during the accomplishment of the tasks determined by law, requiring from individuals the same respect for law, despite their political, religious beliefs, race, social and public position, nationality or citizenship, or other economic conditions, and also determines prohibition of any torture or other acts that violates their dignity and personality (*Article 3*).

279. Article 3 of the law "For pre-university education" specifies that "nationals of the RoA enjoy equal rights for their education at all educational stages defined by this law regardless of social status, nationality, language, gender, religious, race, political beliefs, health or economical level".

280. Article 5/3 of the law "For the sport" specifies explicitly that "discrimination in sportive activities because of such reasons like political and religious beliefs, race, entity, language, economical and social situation is prohibited".

281. Article 9 of the law no. 9125, dated 29.07.2003, "For some amendments and modifications to the law no. 7961, dated 12.07.1995, "The Labor Code of the Republic of Albania", revised, prescribes the term of discrimination in work relations. It obviously lays down that "*it is prohibited any kind of discrimination in the field of employment and profession. With discrimination is meant any differentiation, exclusion or preferences based on race, color, gender, age, religion, political opinion, nationality, social origin, family relations, mental and physical defect, which violate the rights of an individual to be equally treated and employed*".

282. "Non-discrimination" constitutes one of the general principles of the C.C.P. Article 9 of this Code ensures immigrant workers and members of their families equality and proportionality in relations with Albanian public administration. With respect to this, no one shall be privileged or discriminated because of gender, race, religion, entity, language, political, religious and ideological beliefs, economical, educational, social situation, parental origin. Any restriction by the public administration should be in compliance with limitations prescribed by law and only when they are necessary in the interest of public safety or for the protection of the rights and freedoms of others, however, they should proportionally respect the rights and freedoms of the individual.

283. Article 3/2 of the law "For encouraging employment" specifies that immigrant workers and aliens enjoy the same rights like Albanian nationals with regard to employment in the territory of Albania. This category includes all immigrant workers and members of their families, with no regard whether these nationals are or are not from countries that RoA has signed Employment Agreements. Foreign nationals and aliens that marry Albanian nationals enjoy the same rights like Albanian nationals, provided that they are residents in the RoA.

284. The law "For migration of Albanian nationals for employment purposes", Article 5/4 (Chapter II – The rights of Albanian emigrant workers), ensures without discrimination the right of Albanian nationals, who wish to migrate outside the country. This paragraph explicitly specifies that: "Any Albanian national enjoy the right to opportunities and equal treatment to emigrate without distinction of race, color, gender, entity, religious belief, political opinion or social origin".

285. Regulatory framework of the RoA and exactly Article 2 of the law 9959, dated 17.07.2008, "For foreigners", predicts equal treatments for the entry, stay and accommodation of all immigrant laborers and the members of their families. The standards for the treatment of these subjects are obviously stated "in compliance with human rights

and fundamental freedoms and international agreements ratified by the RoA, and treatment not less favorable than Albanian nationals”.

#### **Article 7**

##### **Respecting the rights of immigrant workers**

286. Article 16 of the Constitution of the RoA ensures immigrant laborers and members of their families the right to exercise their fundamental freedoms and human rights. Their rights are equivalent to the rights and freedoms enjoyed by Albanian nationals except the cases determined by the Constitution and are specifically connected with Albanian citizenship.

287. Based on Article 3 of CCRA, immigrant laborers and members of their families, apart from exclusions prescribed by law, enjoy the same rights and obligations recognized for Albanian nationals.

288. Article 1 of the Code of Civil Procedures (CCPRA) ensures the solution of civil disputes and other disagreements prescribed by separate laws, application of compulsory rules, equally and the same for all immigrant laborers and their families. Solutions of civil disputes relating to the respect for the rights of immigrant laborers, who are living and working in the Albanian territory, are part of the jurisdiction of Albanian law-courts (Article 37 of CCPRA).

289. Article 253 of the Penal Code (PCRA) guarantees the equality of nationals before law. When persons acting in official capacities, in government functions or public services, “exercise discrimination on any ground such as origin, sex, health, religious and political beliefs, trade union activities or because of entity, nationality, race, religion, and who give unjust privileges or refuse certain rights or benefits provided for by law, are punished with fines or with imprisonment up to five years”.

#### **Article 83**

##### **Right to an effective remedy**

290. Based on Article 43 of the Constitution, every immigrant worker or his family enjoys the right to appeal to a higher court the decision of a lower court. He also has the right to rehabilitation and/or compensation in compliance with law if he is injured due to an unlawful act, action or inaction of state organs. Article 44 of the Constitution ensures that “Anyone has the right to rehabilitation and/or compensation in compliance with law if he is injured due to an unlawful act, action or inaction of the state organs”.

291. According to Article 608 of the CCRA (*Responsibility for inflicting harm*), when a person inflicts harm on another person or his property, unlawfully and guiltily, he is obliged to compensate inflicted damage. This Article recognizes the right to compensation if they have been injured according to conditions specified above.

292. In Article 30 of the CCPRA, rehabilitation and compensation of the parties is connected with the publication of the final decision of the court. According to this Article, every immigrant laborer or his family has the right to request from the court publication in media of its decision. When this notification is not delivered in time, as decided by the court, immigrant laborers or members of his family have the right to request publication of the decision with the expenditures of the party who has failed in a lawsuit.

293. Article 9 of the CCPRA stipulates restoration of the right. Pursuant to this Code, every immigrant worker/his family members, who are brought before the court in contravention with law or are condemned unjustly, shall get back all rights and be compensated for inflicted damage.

294. The LCRA, for disputes between the employer and the employee, with regard to application of the conditions of the Employment Contract, assigns the court, as a competent organ, for the solution of the case. Based on Article 170 of this Code, violation of the rights of the immigrant worker/his family member, laid down in the Contract of Employment, is penalized by the court with the payment of the damage and/or charged with a fine.

295. According to Article 5/5 of the law "For foreigners", every immigrant laborer/his family member with lawful residence in the RoA, enjoys the right to appeal any administrative or judicial proceeding, as well the right to compensation, as prescribed by Albanian legislation. In case of refusal or termination of the work permit, the immigrant laborer is informed in writing. Within 15 days from the date of notification for the refusal or termination of the work permit, he might complain in writing to the minister of the MLSAEO, who decides within 15 days from the date of the receipt of the complaint. The immigrant laborer has the right to appeal the decision of the Minister to the court of the jurisdiction where he is registered or resides within 15 days from the date of the receipt in writing the decision of the Minister.

296. Also, according to Article 71 of the law, the immigrant worker /his family member enjoys the right to appeal in case he has got an order by the Albanian authorities to leave the country. Within 30 days from the date of the delivery of such expulsion order, the claim to the expulsion order is forwarded to the central authority, the Dectorate of Border and Migration (DBM), which will solve the issue within 5 days. After the decision is taken, based on point 1 of this Article, the immigrant laborer can appeal to the court of the first level within 10 days from the date of the receipt of the reply of the central authority, the DBM. The court will solve the matter within 30 days from the date of the appeal. The order for the expulsion of the foreigner, immigrant laborer/his family member is executed within 60 days from the date of the receipt of the notification for the delivery of expulsion order.

297. Article 74 of the law stipulates that the foreigner, immigrant worker or his family member, has the right, within 5 days, to appeal the order for the forced expulsion to the highest police administration, which will solve the matter within 5 days.

298. The foreigner, immigrant laborer or his family member has the right to appeal to the court of the first level the order for his enforced expulsion within 5 days from the date of the receipt the reply from the highest police authorities. The court should solve the issue within 10 days. Until the court of the first level has taken its decision, the foreigner is kept in official custody ready for prompt deportation.

299. The complaint for the expulsion order is specified in Article 74 of this law. Based on it, the foreigner, immigrant laborer/his family member, has the right to bring the case to the court of the first level within 15 days from the date of the receipt of order in writing for his expulsion. The decision of the court of the first level can be appealed to the relevant court of appeal within 5 days, and the latter will review the case with priority.

300. Article 81 of the law "The complaint against the order for holding somebody in official custody", specifies that the foreigner, immigrant laborer/his family member, has the right to complain such an act to the court of the first level within 10 days from the date of the receipt of notification in writing for holding him in custody or extending the duration of his detention. The court of the first level reviews the lawfulness of foreigner's detention and decides either to keep him in the official custody or release him. The appeal against the court decision is made within 10 days after the date of decision publication and the court of appeal reviews it with priority within a period of 10 days.

301. Article 86/2 prescribes the complaint against "Enforced stay in a certain territory". A foreigner, immigrant laborer/his family member, has the right to bring to the court of the first level his complaint against the order for the stay in a certain territory complying with legal provisions of the order for his detention.

302. Every order is delivered associated with information relating to the rights of immigrant laborers to complain against any order, adding there relevant Articles of law that secure them such rights.

303. Article 90 of the law recognizes the right of the immigrant laborer and his family member to claim compensation with respect to his detention/keeping him in a certain territory. Such compensation is obtained when, for his detention or for keeping him in a certain territory, there is a court decision declaring these acts null and void.

304. The law no. 9809, dated 27.09.2007, "For the ratification of the Convention no. 147 of the International Labor Organization (ILO)", "For minimum standards of commercial vessels, 1976" and also the Protocol of 1996 to the Convention "For Commercial Transportation", the RoA, as a member state, shall be resolved to take steps to adopt laws and regulations for vessels registered in its territory in order to ensure social security standards including the standards of authority, working hours and the time of stay for the purpose of securing life in the vessel avoiding any kind of differentiation, exclusion or preferences made on the ground of race, color, gender, religion, political beliefs, national or social origin, which affect annulment or the lack of abilities or equal treatment in employment or profession.

#### *Statistics*

- *The Directorate of Migration Policy, Return and Reintegration at the MLSAEO reports that there has been no case of refusal of application for provision of immigrant laborers/their family members with Work Permits save postponement of the time scheduled for processing and completion of documentation required by law*
- *The competent authorities of the MI report that during the time period from June 2007 to December 2008 there have been issued 60 Orders for expulsion of immigrant laborers and members of their families and there is no case of reversion of these decisions*

#### **Article 84**

##### **Duty to implement the Convention**

305. In the framework of the protection of human rights and freedoms without any form of discrimination, by the law no. 9703, dated 02.04.2007, "For adherence of the Republic of Albania to the International Convention 'For the protection of the rights of all immigrant laborers and members of their families'", the Albanian state is resolved to enforce this Convention during the whole immigration process and for all immigrant laborers and members of their families regardless of gender, race, color, language, religion or belief, political opinions and others, national and ethnic or social origin, nationality, age, economic status, property, civil status, birth or other status.

306. Albania has harmonized in its legislation immigration issues with obligations laid down by international Conventions. This is prescribed by the law no. 9959, dated 17.07.2008, "For foreigners" as well as by other by-laws issued pursuant to it.

## **B. Section III of the Convention: Human rights of immigrant workers and of members of their families**

#### **Article 8**

##### **The right to leave any country, including one's own and to return**

307. The right to free movement within the Albanian territory and to go freely abroad is a constitutional right, which is ensured for every immigrant laborers and members of his

family.<sup>43</sup> The movement abroad for employment of migratory laborers and their families, Albanians and foreigners, are subjected to visas regimes applied by the RoA and host countries. Actually, the RoA applies the visa regime, independent from European and regional groups. According to this visa regime, provision of foreigners with entry visas is accomplished based on categories of foreign countries determined by law.

308. Article 5 of the law “For the migration of Albanian nationals for employment motives”, in compliance with general principles of international acts applied obligatorily by the Albanian state, recognizes the right of any Albanian nationals, emigrant laborer, to migrate from the territory of the RoA. Restrictions to this right are specified in paragraph 2 of this Article and are placed with regard to events which threaten: (i) national security, (ii) health and public moral, (iii) the rights and freedoms of others, and (iv) when there is a final court decision.

309. The right stipulated in Article 8 of the Convention Frame is ensured and is fully prescribed by Article 5/3 of the law “For foreigners”. Based on this provision, any immigrant laborer and every member of his family residing lawfully in the RoA enjoys the right to move freely within the Albanian territory and to choose the place of employment without any restriction. Restrictions placed on the exercise of this right, prescribed by law, are connected with conditions established by contractual relations for the employment of immigrant laborers.<sup>44</sup>

310. Apart from being a guarantee for the rights and fundamental freedoms of foreigners, this law determines also the obligations imposed on immigrant laborers and on their family members for respecting the constitutional order of the RoA and legislation in force.<sup>45</sup>

311. In the law “For foreigners” there is no legal barrier relating to the movement of an immigrant worker from any country, including his own, and his return. For such cases, restrictions are define in Article 8 of the law and are related to “Undesirable persons”. Based on this provision, whether the actions of an immigrant laborer or of members of his family threaten: (i) important interests of the state, (ii) constitutional and judicial order, (iii) national security and public order, then he becomes a subject of a justified Order of the Minister of Interior declaring him “undesirable person”. This status is valid for a period not less than 10 years from the date of its announcement, and during this period, the foreigner, subject to the Convention Frame, is refused the entry/stay in the RoA.

#### **Articles 9 and 10**

##### **The right to life, prohibition of torture, prohibition of inhuman and degrading treatment**

312. “The life of every person is protected by law”. This is a constitutional right that is sanctioned under Article 8 of the Constitution.

313. Article 25 of the Constitution specifies explicitly that “No one shall be subjected to torture, punishment or to inhuman, cruel and degrading treatment”. The contents of provision on torture in the Constitution refer directly to Article 3 of the European Convention on Human Rights.

314. Article 6 of the International Pact for the civil and political rights ensures the life of any person and determines explicitly that “No one can be deprived of his right to life”. Pursuant to it, Article 7 of the Pact lays down strongly that no one shall be subjected to torture, and to inhuman, cruel, or degrading treatment and punishment. Complying with this

<sup>43</sup> Article 38/The Constitution of the RoA.

<sup>44</sup> Article 43 of the law “For foreigners”.

<sup>45</sup> Article 6/1 of the law “For foreigners”.

provision, the Albanian state protects the life of immigrant laborers and of their families and also ensures prohibition of the exercise on them of torturous, inhuman and degrading treatment.

315. Sections 1, 2, 3, 4 and 5 of Chapter II of the Penal Procedure specify the criminal acts and offences that threaten the life of a person. These criminal offences include: (i) crimes against life conducted consciously or by default; (ii) criminal offences against health performed consciously or by default. Depending on the extent of infliction of criminal offences, for crimes against the life of a person, the penal law provides for the sentence varying from 7 years imprisonment to life imprisonment. For criminal offences against the health of a person, performed consciously or by default, sentences set forth in the Penal Code begin with fines and end with imprisonment up to 20 years.

316. The Code of the Penal Procedures, including its modifications, defines explicitly that no one shall be subjected to torture, punishment or to degrading treatment and that prisoners are humanly treated and are entitled to moral rehabilitation (*Article 5*).

317. Based on Article 118 of the “Police Ethic Code”, the use of force on persons means carrying actions by physical force, by other means or by fire-arms. A police officer shall use his force to accomplish a lawful goal if need be and when all other ways and means are ineffective or impossible. A police officer shall use the minimum level of force needed in compliance with the principles of proportionality and selects the required level of force through gradual facilities, which, among other things, include conviction through talking, physical pressure, knocking means, paralyzing chemical substances, electric shocks, police dog, fire-arms. A police officer shall use his fire-arm subject to conditions specified in the relevant legislation that governs the rules for the use of fire-arms (*Article 119*).

#### *Statistics*

*The Ministry of Interior reports that there has been no case of the use of torture, cruel treatment or punishment, inhuman or degrading treatment against the immigrant laborers or members of their families. Also, the competent organs have had no case, no denunciation made by the latter with regard to physical persons or public administration under the cause of “Life threats or inhuman treatment”.*

### **Article 11**

#### **Prohibition of slavery and forced labour**

318. Article 26 of the Constitution sets forth that “No one shall be required to perform forced labor except in pursuance of a court decision, in accomplishment of compulsory military service, or any service exacted in time of war, in case of an emergency or of natural calamity threatening the life and health of the people.”

319. The Labor Code, in its Article 8, specifies the prohibition of forced labor of any kind. It defines as forced or compulsory labor any kind of labor/service required to be performed by a person against his will and by threatening him with any punishment.

320. The types of forced labor prescribed by the Labor Code include: (i) constrictive measures/sanctions against persons that have or express opinions in contravention of political, economic, and social regime in power; (ii) methods of mobilization/utilization of labor forces for the purpose of economic development, (iii) measures related to discipline in work; (iv) punishment for attending strikes; (v) discriminating measures of racial, social, national or religious character.

321. Having regard to the objective of Article 11 of the Frame Convention, the Labor Code excludes from the term “forced labor” any work/services required to be performed by immigrants or their families in compliance with the law “For Armed Forces in the Republic of Albania”, or in pursuance of a court decision, in events of natural calamities or other



circumstances threatening the life and well-being of the whole population of a part of a community.

322. Article 63 of the Penal Code sets forth the institution of “Labor in public interest”, which means the accomplishment of a work by a convicted person, an immigrant worker/his family member, with his acceptance and with no remuneration, in the favor of public interest or of an association determined under a law court decision for a period of time from forty hours until two hundred and forty hours”. The law court decision should specify the number of working hours, the kind of work, work site, working hours in a week and the obligation of the convict to maintain contacts with the proof of service. The duration of the work in public interest shall not exceed eight hours a day.

### **Articles 12, 13 and 26**

#### **Freedom of thought and expression; freedom of thought, conscience and religion; right to join a trade union**

323. Based on Article 22 of the Constitution, immigrant laborers and members of their families enjoy the right to freedom of expression of their thoughts. They can exercise this right individually or collectively, privately or publicly. The forms of exercise of such right, prescribed in the paragraphs of this Article, include the freedom of press, radio and television. Preliminary censorship of mass media, necessary to express opinions, is prohibited by the Constitution.

324. Notwithstanding the Albanian state has no official religion, it stands impartial with regard to such issues like beliefs and conscience and secure their expression in the public life. Freedom of conscience and religion is secured by Article 24 of the Constitution. Every subject of the Frame Convention has the right to choose, to change and to manifest, privately or publicly, his beliefs and religion. Also, he shall not be forced to join a religious community or to make public his religion or his beliefs.

325. The Penal Code, under special provisions specified in its Section X, protects the freedom of religion of individuals. Article 131 of this Code stipulates that the prohibition of activities of religious organizations and creation of barriers for carrying out freely their activities is penalized with a fine or imprisonment up to three years. Similar sentences are predicted for persons that with their actions have destroyed/damaged voluntarily objects of worship and have destroyed entirely or partially their values.

326. Freedom of expression of religious beliefs is ensured by Article 133 of the Penal Code. Based on this provision, prohibition or creation of barriers to persons that attend religious activities is sentences with fines or imprisonment up to one year.

327. Article 261 of the Penal Code specifies that “actions carried out to hinder nationals to exercise their freedom of expression, of assembly or manifestations constitutes penal offences and are sentenced with fines or imprisonment up to six months. When actions are associated with physical violence they are punished with fines or up to three years imprisonment”.

328. The Labor Code of the RoA, making no distinctions, recognizes the right to freedom of assembly and to association of all workers establishing employment relations. Article 49/2 of the Constitution ensures the right to social work protection of immigrant laborers and members of their families. The Albanian states recognizes these subjects the right to join freely trade unions, as forms that will protect their economic, cultural interests, etc. Also, Article 10 of the Labor Code sets forth that freedom of association is protected by law. According to this Article, no one has the right to condition the employment of an immigrant worker or his family member with the fact of being or not a member of trade union. In addition, the right of immigrant laborers and their family members cannot be

violate by the fact whether these subjects are or are not associated with a trade union organization in compliance with legislation in force.

329. Professional organizations of employees, as subjects to the Frame Convention, are social and independent organizations, which are established by voluntary associations with the aim at the protection of the rights and economic, social and professional interests of their membership. Organizations of employees and employers have the right to form federations and confederations and to join them. Every organization, federation or confederation has the right to join international organizations of employees and of employers.

330. In this line, Article 5/4 of the law “For foreigners”, in pursuance of laws governing Albanian nationals activities, recognizes the foreigners, immigrant workers and their family members, the right to association (in organizations and trade unions) only after they have received the Permit for residing in the territory of Albania.

#### *Statistics*

*Notwithstanding their rights, immigrant laborers haven't established, so far, their own trade unions; there is no evidence of immigrant laborers adhering to any organization of employees.*

#### **Articles 14 and 15**

##### **Prohibition of arbitrary or unlawful interference with privacy, home, correspondence and other communications; prohibition of arbitrary deprivation of property**

331. The Constitution of the RoA in its Article 35 lays down that “no one is obliged, save cases determined by law, to make public information related to his person”. The collection and the use of information about a person, an immigrant laborer, is made to the person's own consent.

332. In this context, Articles 121 and 122 of the Penal Code sanction penalties for unlawful interferences in the private life and disclosure of private and confidential information. In such circumstances, the placement of devices that are used for overhearing/registration of words or figures, eavesdropping and transmitting words, fixation, registration/transmission of images and their preservation for publicity or their publication which disclose aspects of private life in relation to subjects of the Frame Convention, without their content, is penalized with fines or up to two years imprisonment.

333. Similarly, publication of a secret from the private life of an immigrant worker or of his family members, by a person because of his authority or capacity while he is not allowed to do it without being authorized, is penalized with fines or with imprisonment up to one year.

334. Insults and slanders, as forms of communication or unlawful attack against the reputation and dignity of a person, are specified as penal offences by the Penal Code. Publicly made insult, harming several persons more than once, is penalized with a fine or imprisonment up to one year. Slanders, specified in Article 120 of the penal law as an intentional distribution of evidences or any other false information, which violates the honor and dignity of immigrant laborers and his family members, is punished with fines or with up to one year imprisonment. When such offence is repeated more than once then it is penalized with fines or up to two years imprisonment.

335. Article 250 of the Penal Code sets forth that “The performance of arbitrary acts or delivery of arbitrary orders by persons of state or public administration while they are carrying out their duties, which violates the freedom of nationals, are punished with payment of fines or imprisonment up to seven years.

336. Freedom and confidentiality of correspondence or any type of other communication means are secured under Article 36 of the Constitution. Complying with this constitutional right, Article 125 of the Penal Code stipulates that the elimination, non-submission, the opening and reading of letters and any kind of other communication, or interruption/eavesdropping of telephone calls and any other communication means, is punished with fines or imprisonment up to two years.

337. When the court has reliable reasons to assume that in post or telegraph offices there are valuable letters, envelopes, parcels, telegrams and other objects of correspondence sent by the defendant or forwarded to him, it decides for their seizure. Seized objects which are not included in confiscatory correspondence are turned back to the immigrant laborer or his family member.

338. Article 37 of the Constitution ensures the inviolability of the house. The house and its equivalent premises shall be searched and controlled only in cases and the way prescribed by law. Immigrant laborers and members of their families are not subjected to individual control save in cases when they are parties in a penal proceeding and when they enter or exit Albanian territory. Article 202 of the Code of Penal Procedures specifies that when there are well-grounded reasons to presume that someone hides physical proofs of a criminal offence or objects that belong to a criminal offence and they are situated in a certain place, the court decides for the search of the house. The Code also specifies that the search of the house or another closed premise next to it cannot be performed without prior submission of the court decision to the person that is going to be searched. Law determines the time for the search of the house which can be conducted neither before seven o'clock nor after twenty o'clock, except in emergencies.

339. Article 254 of the Penal Code ensures the inviolability of the house. According to it, entry into the house of the officer of state administration or other persons of public service in their capacities for carrying out their tasks without the consent of the person living there is penalized with fines or with imprisonment up to five years.

340. The property title is a constitutional right prescribed in Article 41 of the Constitution of the RoA. This right, along with other freedoms and rights protected by law, cannot be limited without a regular legal proceeding. An immigrant laborer or a member of his family can be entitled to a property only under a judicial act such as (i) donation, (ii) inheritance, (iii) purchase and (iv) any other form specified by the Civil Code. For public interests, the law predicts expropriation of the immigrant laborer or the member of his family, however, against regular and fair remedies.

341. The Penal Code of the RoA sets forth that the voluntary destruction or damage of a property, when material consequences are not small, is penalized with fines or with imprisonment up to three years.

#### *Statistics*

*In privatization of state owned objects, pursuant to law no. 9235, dated 29.07.2004, "For restitution and compensation of properties", revised, ownership acts of the Agency for Restitution and Compensation of Properties, as an institution for recognition and restitution of properties for the owners of the ground plots, as expropriated subjects, are taken into account. Based on the decisions of the Commission for Property Compensation and Restitution, owners and their inheritors enjoy the right of pre-purchase of these objects according to relevant deeds of inheritability.*

**Articles 16 (paras. 1–4), 17 and 24****Right to liberty and security of person; safeguards against arbitrary arrest and detention; recognition as a person before the law**

342. Complying with Article 16/1 of the Frame Convention, the Constitution of the RoA ensures the security of person. Based on this provision, no immigrant laborer or his family member can be deprived of his liberty save in the following cases: (i) after conviction by a competent law court; (ii) non-compliance with the lawful order of a court or any other obligation prescribed by law; (iii) when there are reasonable suspicions of having committed an offence; (iv) non-compliance with supervision of a minor for educational purposes or for bringing him before a competent legal authority; (v) when a person is a carrier of infectious diseases, and (vi) unauthorized entry into the country's state border, and also in cases of deportation and extradition (*Article 27 of the Constitution*).

343. Further, Article 28 of the Constitution specifies that a detained person has the right to be informed promptly, in a language which he understands, about the causes of such detention and accusation against him. He should be brought before a judge within 48 hours, who decides for his detention or his release. Within 48 hours from the moment of receipt of documentation for review, the detained person has the right to claim the decision of the judge and also is entitled to trial within a reasonable time or may be conditionally released by possession guarantees.

344. Paragraph 1 in Article 18 of the Constitution sanctions that “All are equal before law.”

345. Article 5 of the CPPRA lays down that no one is deprived of his liberty save in accordance with cases and procedures prescribed by law. No one is subjected to torture and to degrading treatment and punishment. Detained persons are entitled to human treatment and moral rehabilitation. Preparation of defense is prescribed in Article 6 the CPP, according to which the defendant has the right to defend himself or to require legal assistance from an advocate. When he has not sufficient means to pay for the legal assistance, the defense is given free.

346. Non-provision of legal assistance without reasonable causes from the person that by law or under his duty has to provide it, and when because of it health is heavily destroyed, threatening the life or causing death, is deemed to be a criminal offence and is penalized with fines or with imprisonment up to two years (*Article 99 of PCRA*).

347. Threats made to the person harmed by a criminal offence in order not to allow him to denounce, to complain or to withdraw his denouncement/complain, constitutes a criminal offence and it is punished with payment of fines or up to two years imprisonment (*Article 311 of PC*). Threats or other violent acts made to a person for provision of false information or evidences, expertise or translation, or to refuse to carry out their tasks before penal prosecution organs, are penalized with fines or imprisonment up to three years (*Article 312/a*).

348. Article 2 of the CPPRA ensures the respect with the procedural standards, which are obligatory for the subjects dealing with penal prosecution, state organs, judicial persons and nationals.

349. Article 33 of the PCRA stipulates that rules of the way of suffering a punishment, the rights and obligations of the convicts are prescribed by law. Minors are kept in separate prisons from adults. Women also are imprisoned in special institutions separately from men.

350. For juveniles, who, at the time of performing a criminal offence, haven't reached the age of 18 years, the sentence with imprisonment shall not be more than a half of the punishment provided by law for that criminal offence (*Article 51 of PCRA*).

*Statistics*

*In detention centers at Police Stations or at Regional Directorates for Border and Migration there are foreseen to establish special premises for accommodation of women and minors.*

**Articles 16 (paras. 5–9), 18 and 19****Right to procedural guarantees**

351. Everyone shall be presumed innocent until proved guilty by the final decision of the law court (*Article 30 of the Constitution*). Article 31 of the Constitution specifies that everyone charged with a criminal offence has the following rights:

- To be informed promptly and in detail of the accusation made against him and to enable him inform his family
- To have adequate time and facilities for the preparation of his defense
- To have the free assistance of an interpreter if he cannot understand or speak Albanian language
- To defend himself in person or through legal assistance of his own choice, to communicate freely and privately with him, and also if he has not sufficient means to pay for the legal assistance, to be given it free
- To examine and ask witnesses against him and to obtain attendance and examination of witnesses, experts and other persons on his behalf, who might clarify the facts

352. The Constitution ensures all immigrant laborers and members of their families the right to be no witness against themselves or against the family or to confess their guiltiness. No one shall be declared guilty based on evidences that are collected unlawfully.

353. Article 34 of the Constitution lays down that no one shall be punished more than once for the same criminal offence, nor tried again, except the reopening of the case for trial by a higher court of justice in accordance with procedures provided for by law.

354. The Penal Code of the RoA, Article 3, “Effective time of the penal law” specifies that “No one shall be punished for an offence, which, according to law, did not constitute a criminal offence at the time it was committed. The new law which doesn’t punish the criminal offence has retroactive effect. If a person is convicted, his sentence cannot be executed and if it is executed, it shall be suspended. If the law at the time the criminal offence was committed is different from the later adopted law, the applicable law shall be that which provisions are more advantageous for the person that has committed the criminal offence.”

355. The CPPRA, in its Article 5 “Restrictions to the liberty of person”, ensures that:

- (i) The liberty of person can be limited with security measures only for cases and according to the way provided for by law;
- (ii) No one shall be subjected to torture or to degrading treatment and punishment;
- (iii) Prisoners are assured human treatment and moral rehabilitation.

356. Article 6 of the CPPRA specifies that:

- (i) The defendant has the right to defend himself in person or through legal assistance. If he has not sufficient means, the legal assistance is given free;
- (ii) The advocate assists the defendant to secure procedural rights and to protect his legal interests.

357. Article 7 of the CPPRA, “Prohibition of double trial for the same criminal offence”, ensures that “No one can be tried again for the same criminal offence for which he has already been finally convicted, save the cases when the competent court has decided for the retrial of the case.”

358. Article 8 of the CPPRA determines that Albanian language is used in all the trial sessions. However, immigrant workers and members of their families, who do not know Albanian, shall use their own language with the assistance of an interpreter; they have the right to speak and to be informed for the proofs and acts and for the development of proceedings. Also, all procedural acts are translated into the same language and are submitted according to their requests. Violation of these rules makes the act invalid (*Article 98*).

359. Based on Article 9 of the CPPRA, immigrant laborers and members of their families who have been unlawfully prosecuted or convicted unjustly, their rights shall be restored and they are awarded compensation resulted from such conviction.

360. The CPPRA specifies the cases for which the decisions and orders of the court will be appealed and also the means of appeal. Orders of the court can be claimed only through the appeal of the court decision. Means of appeal include: the Court of Appeal, Reversal to the Supreme Court and the Request for review. The right to appeal is entitled only to the party recognized explicitly by law. When law makes no difference between the parties, this right is entitled to both.

361. According to Article 409 of the CPPRA, the injured defendant can file a claim, personally or through his representative, not only for penal effects but also for civil one. He can withdraw the claim made by his representative. The claim of the defendant against his conviction or for his innocence can also affect that part of the decision that determines the obligation for restitution of the property, compensation of the damage and the payment of procedural expenditures.

362. Article 423 of the CPPRA, “Controversial Appeal”, the law of penal prosecution specifies that:

- (i) The party which has not appealed within the time limit can file Controversial Appeal within five days from date of the receipt of notification about the appeal of the other party;
- (ii) Controversial appeal of the Prosecutor has no effect for the non-appellant co-defendant who has filed no appeal;
- (iii) Controversial appeal shall lose its power in case of refusal of the review of other party’s appeal or in case of a disclaimer.

363. Article 79/4 of the law “For foreigners” specifies that “Foreigners are notified in the language they understand, they have the right to get legal protection by choosing themselves their advocates and the right to contact with their relatives.

#### **Article 20**

#### **Prohibition of imprisonment, deprivation of authorization of residence and/or work permit and expulsion merely on the ground of failure to fulfill a contractual obligation**

364. Article 27/3 of the Constitution of the RoA stipulates that “No one is deprived of his liberty merely on the ground of inability to fulfill a contractual obligation.”

365. Article 25/b of the law “For foreigners” stipulates the refusal of the delivery or the renewal of the work permit to foreigners who are not able to certify that they can meet all conditions required for their residence in compliance with requirements provided for by

law. In the legislation for foreigners there is an obligation that the provision of the residence permit is conditioned with the prior delivery of the work permission.

*Statistics*

*There is no case of refusal or revocation of residence permit for foreign nationals because of inability to fulfill a contractual work obligation.*

**Articles 21, 22 and 23**

**Protection against confiscation and/or destruction of ID and other documents; protection against collective expulsion; the right to recourse to consular or diplomatic protection**

366. Article 5/2 of the law “For foreigners”, in the heading “The rights of foreigners”, specifies that “no foreigner is deprived of his right to be provided with documents that certify his identity”.

367. Article 89 of the law no. 9959, dated 17.07.2008, “Sequestration of travelling documents or of tickets” lays down that “if a foreigner is subject to an expulsion order or deportation, the local organs of the DBM can sequester the travelling ticket, or when financial coverage cannot be assured by another way, the necessary amount required for the purchase of the ticket and the travelling document to ensure the coverage of travelling costs. Sequestration procedures are approved by an Order of the Minister of Interior.

368. The local DBM will seize the documents of a foreigner until the decision, from an administrative procedure, takes its final effect or until the payment of the fine or until the deadline determined by the court or by the Prosecution office.

369. During the time of the seizure of the travelling documents, the foreigner is provided with a document, which has the capacity of an identification document. The format of such documentation is approved by an Order of the Minister of Interior.

370. Article 91 of the law “For foreigners” defines the following tasks for the DBM:

- (i) Observance of the enforcement by foreigners of the regulations determined under this law;
- (ii) Carrying out searches and inspections in private premises where foreigners are residing if there are well-grounded suspicions;
- (iii) Checking on the travelling document, residence permit or identification document, etc.

371. There is no provision in the Albanian legislation which allows collective expulsion of foreign nationals. Each case of foreign nationals is reviewed according to required procedures. Article 39 of the Constitution ensures that no Albanian national is expelled from the territory of the state. Extradition can be allowed only when it has been explicitly stipulated in international agreement where the RoA is a party and only by a court decision. The Constitution of the Republic of Albania prohibits collective expulsion of aliens. Individual expulsion of foreigners is allowed subject to conditions provided for by law.

372. “Notification of diplomatic representative” is set forth in Article 84 of the law “For foreigners”. Upon the request of a foreigner, or when it has been defined under a bilateral agreement, the MFA notifies promptly the diplomatic or consular representative of the country of the foreigner in the RoA about the detention of the foreigner and the duration of his detention.

**Articles 25, 27 and 28****Principle of equality of treatment in respect of: remuneration and other conditions of work and terms of employment; social security; and right to receive urgent medical care**

373. Article 115 of the Labor Code ensures equal remuneration between both genders for work of equal value. Differences in salaries based on objective criteria despite the genders, such as quality and volume of work, professional qualification and seniority in work, are not considered degrading conditions.

374. Pursuant to Article 32 of the Labor Code, the employer should respect and protect the personality of the employee in their work relations and prevent any reaction which can injure his dignity.

375. The employer is forbidden to make actions which constitute sexual harassments to employees and he shall not allow other employees to act in such a way. The term sexual harassment means any disturbance which can obviously harm the psychological state of the employee because of sex.

376. For prevention of accidents and professional diseases the employer should determine clearly the rules of technical security in work. He has to pay the difference between the damage and remunerations which the employee receives from the social insurances, when the accident or the professional disease is caused because of a great fault of the employer. Also, in the event when the employer has not registered the employee in social insurance, he should afford all expenditures made by the employee as a result of the accident or the professional work and also all damages occurred due to his non-registration (*Articles 39, 40 of the Labor Code*).

377. The employer is obliged to take care of the hygiene of the workplace. After being consulted with the employees, he should undertake the necessary protective measures against special risks that can be caused from toxic substances and agents, vehicles, transportation of heavy loads, air pollution, noises and vibrations as well several risks in some fields of economy such as construction, civil engineering, mines and chemical industry. The employer should set up clear and visible signals and marks in every workplace which can endanger the life and health of employees.

378. The normal working time will not exceed 8 hours a day. The working time of employees under the age of 18 years is not more than 6 hours a day. Daily rest is at least 11 hours in succession within a day and if necessary two days in succession. Frequency and duration of the daily rest is defined in the collective employment contract or in each individual contract, within the limits determined by the Decision of the Council of Ministers.

379. For each working hour accomplished from 19,00 to 22,00 o'clock an extra-payment of not less than 20% is given and for each working hour performed between 22,00 and 6,00 o'clock an additional payment of at least 50% is provided (*Article 84 of the Labor Code*). The normal working time in a week shall not exceed 40 hours.

380. Weekly holiday, which is at least 36 hours, (of which 24 hours in succession), includes Sunday. Sunday is not payable. The work performed during weekly holidays or official festivals is compensated with an extra payment of at least 25%, or with a holiday equal to the working hours accomplished plus an additional rest at least 25% of the working time performed, and this holiday is spent a week preceding or following the accomplished work.

381. Duration of annual payable holidays is defined in the collective or individual employment contract. Annual holidays include at least 4 calendar weeks and are spent during ongoing working year. When the employee has not completed a year in his job, the



duration of annual holidays is determined in proportion with the duration of working relations.

382. The salary of the employee shall not be lower than the minimum salary determined by the Decision of the Council of Ministers (DCM) amounting to 17.000 ALL. This salary is determined based on economic factors, on requirements of economic development, incomes accrued from social insurances, etc.

383. Article 55 of the Constitution ensures all nationals the right to equal benefits from the state for their medical care. Everyone has the right to health insurance in compliance with procedures provided for by law.

384. The compulsory health insurance includes all Albanian nationals with permanent residence in Albania, and also foreign nationals employed and insured in Albania. The compulsory health insurance is a non-profitable system which covers: (i) a portion of the prices of medicaments which are found in the network of drug-stores, and (ii) expenditures for the service provided by general or family doctors, specialists, nurses of primary health service for all the insured persons. Employers have their shares in such contributions along with the contributions paid by employees themselves.

385. Contributions for health insurance are paid by: (i) employees and their employers; (ii) other persons economically active; and (iii) the state (*Article 9 of the law "For health insurance"*).

386. Based on Article 10 of this law, contributions of health insurance for employed immigrant workers, Albanians and foreigners, are calculated in percentage (3,4% of gross salary). For employed workers and the employers, contributions are fixed and are estimated amounting to 7% of the minimum salary. Contributions are paid every month. The term of disbursement is no later than by the end of the coming month. The Institute of Insurances and Health Care is responsible for the collections of contributions of health insurance. This institution doesn't cover the prices of artificial teeth and optical glasses and no other expenditures save those prescribed by law and determined under the decision of the CoM.

387. The Constitution of the RoA, in Article 52, lays down that "Everyone has the right to social insurances for the old age or for disabled people in accordance with a system determined by law. Everyone who loses his job for reasons independent of his will and has no other means for his living, has the right to assistance according to conditions prescribed by law."

388. The compulsory social insurance, determined by Article 2 of the law "For social insurances in the RoA", is an unprofitable contribution, which protects employed persons and persons economically active relating to: (i) temporary work disability because of illness; (ii) pregnancy; (iii) old age, invalidity and the death of the supporter of the family; (iv) work accidents and professional diseases, and (v) unemployment. Disbursed contributions ensure cash payment for the compensation of income decrease to such amount that can at least afford a minimum living standard, which are determined by the Council of Ministers.

389. The person insured in a compulsory way, while for some time and for reasonable causes cannot be necessarily ensured, has the right to continue his insurance according to the voluntary system.

390. Article 7 of the law "For social insurances" secures protection for:

- (i) Albanian nationals and persons without citizenship, former Albanian nationals, who live abroad, in compliance with conventions, bilateral agreements and the rules and regulations of the Institute of Social Insurances;
- (ii) Foreign nationals and aliens who are working in the RoA.

391. The period of coverage under social insurances starts on the day when a person has legally begun an economic activity and it ends on the date when such activity finishes legally. The period of coverage under voluntary social insurance begins on the date specified in the insurance contract and it ends on the date of the termination of such contract.

392. Employed persons and their employers are obliged to pay contributions for illness, pregnancy and old age pension to amounts dependant on their gross salary. The employer is obliged to pay contributions for accidents in work and professional illness and for unemployment. Persons economically active are obliged to pay monthly contributions for pregnancy and for pensions to amounts of basic levels. Persons self-employed in agriculture have the obligation to pay contributions for pregnancy and for old age pension.

393. Compulsory contributions of social insurance that are disbursed to the funds of health security, pregnancy and pension amount to 17,5% of the gross amounts of payrolls for employers and 9,5% of the total payment of the employed person, employees.

394. Contributions paid by employed persons are allocated to three sections which manage the funds of social insurances:

- The section for health insurance, 0.8 % of the payroll amount
- The section for pregnancy, 2.3 % of the payroll amount
- The section for pension insurance, 23.9 % of payroll amount

Apart from these, the employer shall pay:

- For the section of insurances from accidents and professional illness, 0,5% of the payroll amount
- For the section of securities for unemployment, 2% of the payroll amounts

The term of their payment is no later than the last day of the third month, within each quarter of a calendar year.

#### **Articles 29, 30 and 31**

#### **Right of a child of a migrant worker to a name; registration of birth and nationality; access to education on the basis of equality of treatment; respect for the cultural identity of migrant worker and members of their families**

395. Articles 53 and 54 of the Constitution of the RoA ensure special protection of the family, marriage and children. Children born outside marriage enjoy equal rights with children born by marriage.

396. Article 52 of the Family Code (FC) ensures the right to give a forename and surname to a child. The child bears the common surname of parents. When parents have different surnames, all children bear only one surname decided by parents in agreement with each other. When no agreement is reached, the children bear the surname of their father.

397. The child born outside marriage bears the surname of the parent, whose maternity and paternity is determined first. When maternity and paternity are determined at the same time, parents decide in agreement the surname of the child. In case of disagreement, the child bears the surname of his father (*Article 171 of the FC*).

398. Based on the law no. 8950, dated 10.10.2002, "For the Civil Status", revised, every Albanian or foreign national, for each natural event relating to birth, death or marriage, has the right to carry out required actions with the office of the civil status which is located in the territory where the event has occurred. It means that in case of such event, every

interested person has the right to appear before the office of the civil status with relevant documentations and carry out the required actions and procedures.

399. The interested person declares his case before the registrar and in the event of keeping the birth act he determines/gives a name to his child. For children born outside the territory of the RoA, from Albanian nationals with permanent residence in Albania, the registration of the child birth is made at the Albanian diplomatic or consular representation office in the country where the event occurred. When that is impossible, registration can be done in the registration office of that country.

400. Along with the declaration that is to be made by the interested person, our legislation determines also administrative measures, which obligate public and private subjects that has the right to birth confirmation to inform periodically offices of civil status about births occurred within their jurisdiction.

401. The right to citizenship is a constitutional right, which is specified in Article 19 of the Constitution. Based on this provision “Everyone brought forth in life, having even one parent of Albanian citizenship, obtain by itself the Albanian citizenship. Albanian citizenship can also be obtained according to other conditions provided for by law. No Albanian national can lose Albanian citizenship, except its riddance.

402. The law “On Albanian citizenship” of the year 1998 defines that Albanian citizenship can be obtained by (i) birth, (ii) naturalization and (iii) adoption.

403. A child can obtain Albanian citizenship at birth when:

- Both parents are Albanian nationals at his birth
- One of the parents is an Albanian national at the moment of his birth and the child is born in the Albanian territory (Exceptions are made when both parents decide the child will obtain the citizenship of the other parent)
- The child is born outside the territory of the RoA and one of the parents is an Albanian national, while the other parent is of unknown citizenship or without citizenship
- The child is born outside the territory of the RoA and one of the parents is an Albanian national, while the other parent has another citizenship, but both parent agree the child will obtain the Albanian citizenship

404. A child, born or found within the territory of the RoA, will obtain the Albanian citizenship if he is born by unknown parents. If the parents of the child are made known before the child reaches the age of 14 years and they have foreign citizenship, the Albanian citizenship can be removed upon the request of the parents recognized legally, provided that the child will not remain without citizenship as a result of such action. A child born within the territory of the RoA, by parents of another citizenship, who are lawful residents in the territory of Albania, can get Albanian citizenship with the consent of both parents.

405. A foreigner, who has applied for the provision of Albanian citizenship by naturalization, can obtain it if he meets the conditions provided for by law. Any foreigner, married with an Albanian national for a period not less than 3 years, can obtain Albanian citizenship by naturalization whether he proves that he has lived lawfully and continuously within the territory of the RoA at least one year.

406. When both parents of Albanian citizenship will adopt a child of another citizenship or without citizenship, the child will obtain the Albanian citizenship.

407. The right to education is a constitutional right. Article 57 of the Constitution lays down that:

- Everyone has the right to education
- Compulsory school education is determined by law
- The general secondary public education is opened to all
- The secondary vocational education and university might be conditioned only on capacity criteria
- Compulsory education and also general secondary education are free in public schools
- Pupils and students can study also in non-public schools of all levels, which are established and operate in compliance with law
- Autonomy of institutions of higher learning and academic freedom is guaranteed by law

408. The law “On Pre-university Educational System” recognizes the right to education in the public educational institutions in the RoA of the persons of Albanian nationality, who live outside the Albanian territory, and also foreign nationals (Article 11).

409. Article 8/3 of the Constitution lays down that the RoA secures assistance to Albanian nationals who live and work abroad to maintain and develop the relations with national cultural heritage. Similarly, Article 59 of the Constitution stipulates that “the state, within its constitutional means and competences and for the fulfillment of private initiatives and responsibilities, aims, among other things, at the protection of national cultural heritage with special attention to Albanian language”.

410. Albanian legislation contains such provisions that do not hinder the efforts made by emigrants to promote their native country and carry out touristic activities, exhibitions and fairs for the purpose of promoting the tourism of their country in the country where they are living and working. In addition, in bilateral agreements for cooperation, the parties support and encourage cooperation for promotion of their respective countries and their cultural, natural and tourism advantages establishing thus the basis for an efficient and increasing communication.

411. The MCTYS, in cooperation with the office of IOM in Tirana, have embraced a special initiative, which was finalized with the organization of a Cultural Forum of Emigrants. In accordance with the action-plan of this Forum, a series of activities have been organized, such as:

- Publication of a brochure “Be aware of your rights”, which will be handed over to the groups of emigrants in regular activities
- Organization of a competition with essays about the rights of emigrants
- The opening of two exhibitions: (a) a photographic exhibition and (b) an exhibition with handicrafts products under the theme “Open doors – emigrants are communicating through art and culture”, (organized on 18th of last December in the eve of the International Day of Emigrants)
- Organization of a sportive activity “Start” – integration of emigrants through sports

**Articles 32 and 33****Right to transfer in the state of origin their earnings, savings and personal belongings; right to be informed on the rights arising from the Convention and dissemination of information<sup>46</sup>**

412. In the case of Albania, like many other developing countries, only a portion of emigrants' allowances are transferred through legal channels of bank systems. The international specialized agencies, which are actually operating in the financial market in Albania, are Western Union and Money Gram. The sole national agency operating in the market of monetary transfers from abroad is the Post Office of Albania, a shareholding company.

413. Information issued by the Bank of Albania shows that the tendency of cash transfer through legal channels, as compared to overall transfers, is increasing. This increase through legal channels demonstrates, on one side, the level of mainly medium term and long term legalization and integration of Albanian immigrants in host countries and, on the other side, it also shows that Albanian people are becoming more familiar with the bank system.

414. Transfer of allowances and revenues through unofficial channels has some advantages while it also carries several risks for the emigrant himself and for the stability of domestic currency market, which can be easily threatened by speculative activities of private "intermediates" when they concentrate great capitals in their hands.

415. The National Strategy for Migration (NSM) considers the implementation of coherent and complete policies for the management of emigrants allowances a major and immediate task. These measures include also the motivation of emigrants for the transfer of their savings to Albania informing them about investment opportunities in the RoA through media, banks, internet, publication of brochures, provision of facilities and encouraging emigrants to invest in different and certain sectors of our country's economy.

416. Measures specified in the National Strategy for Migration (NSM) aim at:

- Improvement and expansion of bank services for emigrants, who are in host countries and their relatives who live in their country of origin (mainly in cities and rural areas), for instance, through intermediation of "corresponding banking institutions"
- Encouraging the banks in host countries, through the assistance of associations of Albanian immigrants, to determine "ad hoc" products, especially for the immigrants
- Establishment of funds for local development to support investments financed by emigrants' allowances
- Assistance for the institutions of micro-credit and micro-finance for implementation of policies aiming at the channelization of emigrants allowances through agreements with financial institutions of host countries
- Encouraging associations of emigrants for inducing local development through voluntary collection of donations from their members for funding various projects in their cities or villages

---

<sup>46</sup> These data are obtained from the official web page of the MLSAEO.

417. The amounts of individual or family savings of emigrants depend on the duration of their stay in host countries, the kind of work performed and the time period of their employment, salary level, and expenditures of daily life and on the amounts of allowances that they send to their native country every year.

418. With regard to Albanian emigrants, apart from the transfer of their allowances, they also accumulate their savings in the banks of host countries. Mainly in Greece and Italy, the savings of Albanian immigrants are estimated to considerable amounts in EUR. In 1992, or two years following massive migration, Albanian immigrants in Greece had deposited in Greek banks about 89 millions USD. Based on an interview conducted with long-term legal emigrants, their average annual savings amount to 5 thousands EUR. Most of them (68,6%) have deposited their savings in the banks of host countries.

### **C. Section IV of the Convention: Other rights of migrant workers and their families who are documented or in a regular situation**

#### **Article 37**

##### **Right to be informed before departure of conditions of admission to the State of employment and their remunerated activity**

419. Article 23/1 of the Constitution ensures the right to information of the emigrant laborers.

420. Article 3 of the law “On migration of Albanian nationals for employment motives” stipulates, among other things, that “the state responsible authorities shall create appropriate legal and administrative facilities for the management of migration through periodical, public or individual information about legal conditions and alternation made in the legislation of host countries with regard to employment and vocational formation”.

421. Also, Article 8 of this law specifies that responsible public authorities or private employment agencies should ensure Albanian nationals, who wish to migrate, including returned emigrants, the right to information and free consultancy in the field of vocational formation, intermediating services for employment, social assistance, housing, education, etc.

#### **Articles 38 and 39**

##### **Right to be temporarily absent without effect upon authorization to stay or work; right to liberty of movement and to choose the residence in the territory of the State employment**

422. Immigrant workers and members of their families shall be informed about the entry regime, the residence and treatment of foreigners in the territory of the RoA through the official web site of the MFA, MI, MLSAEO, certain links between Albanian central institutions and official web pages of diplomatic and consular posts of the RoA abroad. This information can be also received through phone contacts with the competent authorities at the Consular Directorate in the MFA, the Directorate of Migration Policy, Repatriation and Reintegration and also from Albanian embassies and consular office accredited abroad.

423. The entries, transit pass and exits of foreigners in and out of the Albanian territory are prescribed by Article 7 of the law “For foreigners”. Based on this provision, immigrant laborers or members of their families have the right to entry, to pass transit and to exit from and out of the territory of the RoA only when they possess: (i) a passport with validity at least 3 months before its expiry date; (ii) border documentation issued in pursuance of an international agreement for the small cross border movements; (iii) entry visas associated

with documents that certify the motive of the delivery of entry visas; (iv) residence permit delivered by the Albanian competent authorities. In addition, no immigrant worker shall be a subject of an expulsion order, enforced expulsion, repatriation, the deprivation of entry in the territory of the RoA, or be considered as “undesirable” person by Albanian authorities. The entry of this individual in the Albanian territory shall not constitute a threat for national security and public safety or a threat for international relations of the RoA with other countries.

424. An immigrant worker or members of his family that require to enter the Albanian territory shall be given visas by the MFA through diplomatic or consular offices of the RoA abroad by stamping the visas on the travelling document to allow their entry in Albania.

Table 12

**Types of visas issued by the MFA**

<i>No.</i>	<i>Types of visas</i>	<i>Purpose</i>	<i>Type</i>	<i>Number of entries</i>	<i>Duration of stay</i>
1.	With validity up to 5 years	Transit	A	1	Transit (airport area)
		Transit, stay	B	2+	Transit + stay (5 days)
		Stay	C	1	Stay 90 days
2.	Long-term (1 year)	Stay	D	1+	180 days

425. Complying with Article 38 of the Constitution, Article 5/3 of the law “For foreigners” ensures immigrant laborers and their family members, who are freely staying in Albanian territory, the right to free movement within the territory of RoA and the freedom to choose the workplace without any restriction, save cases specified by law.

426. Procedures for granting the residence permit specify that immigrant laborers and their family members, who wish to stay more than 90 days in the RoA shall receive the residence permit from the Directorate for Border and Migration. Application for residence permit will be submitted to the Regional Directorates for Border and Migration, where a certain subject has settled his temporary residence.

427. Immigrant laborers are provided with work permits by the Local Regional Employment Office (LREO), which delivers such permissions taking into account the development and needs of labor market in the RoA. This authority, before the approval of the application of an immigrant worker seeking a job, should evaluate whether such work post can be obtained by: (i) an Albanian unemployed job-seeker; (ii) by foreigners, family members of Albanian nationals; (iii) family members of immigrant workers, who reside and work in the RoA; (iv) nationals from the EU member countries or from countries with which the RoA have signed bilateral and multilateral agreements; (v) job-seekers who enjoy the priority in domestic labor market; (vi) foreigners with regular residents in the RoA, who have practiced and are practicing continuously lawful activities in Albanian territories.

428. The types of work permits for economic activities of foreigners in the territory of the RoA are specified in Article 48 of the law “For foreigners” shown in table 11.

Table 13

**Types of work permit**

<i>No.</i>	<i>Types of permissions</i>	<i>Activity</i>	<i>Beneficiaries</i>
1.	A	Economic	Employees
2.	B (B/VP, B/I)	Economic independent	Self-employed, investors
3.	C	Special	Personnel of cross border transport, students, representatives of international organizations
4.	D	Economic	Foreigners with continuous work permits

429. Cases provided for by law that limits the right to the delivery of work permits are connected with the refusal of the delivery/renewal of residence permit and declaring work permissions invalid.

430. Based on Article 25 of the law “For foreigners”, immigrant workers and members of their families are refused the delivery/renewal of residence permits when: (i) they haven’t handed over residence permits on schedule and without any reason; (ii) they do not certify/meet conditions for residence permits provided for by law; (iii) they are suffering from diseases, which threaten public health; (iv) there are causes for their expulsion; (v) they have become subjects to expulsion/prohibition of residence; (vi) dissolution of marriage, which have provided them with residence permits and family union; (vii) they have failed with or have changed the purpose of residence.

431. The work permit of an immigrant worker/his family member becomes invalid, despite the expiry date of its validity, when (i) its validity cannot be renewed for any kind of reason; (ii) the expiry date of the passport or of the document of identification cannot be postponed; (iii) the immigrant worker lives outside the Albanian territory for a period of more than 6 months in succession, excluding the events of force majeure for such absence; (iv) the immigrant worker doesn’t begin his activity within 3 months from the date of the delivery of work permit (*Article 47 of the law “For foreigners”*).

**Articles 40, 41 and 42****Right to form associations and trade unions; right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State; procedure and institutions taking care of the needs of migrant workers and possible enjoyment of political rights in the State of employment**

432. Article 46 of the Constitution of the RoA secures the right of immigrant workers and of members of their families to form and join associations and trade unions. Their aims and activities shall not be in conflict with constitutional provisions.

433. Article 10 of the Labor Code ensures the right to form and join trade unions by immigrant workers and members of their families under the same conditions like Albanian nationals. Institution of “Strike”, as a form of collective organization, is defined in Article 197 of this Code. Trade unions are entitled to exercise the right to strikes for the solution of their economic and social requirements in accordance with rules and regulation determined under this Code. Participation in strikes is voluntary. No one is forced to participate in a strike against his wish and will, and other actions including pressure, threat or discrimination towards employees, because of participation or non-participation in strikes, are forbidden by law.

434. The law “For migration of Albanian nationals for employment motives” (*Article 7*), ensures the right to representation of Albanian emigrants and members of their families. They have the right, through their representatives elected by their organizations/



associations, to contact and cooperate with central or local government organs of the Albanian state as well as with Albanian diplomatic and consular representative offices in host countries, for expressing and protecting their interests in compliance with legal provisions in force.

435. Participation in political affairs of the Albanian state is a constitutional right ensured to Albanian emigrant workers and to members of their families by Article 45 of the Constitution. According to this provision, every emigrant worker or members of his family that have reached the age of eighteen (even on the date of election) has the right of electing or being elected. Nationals of mental disability, declared as such by a final court decision, are excluded from the exercise of the right to election. The vote is individual, equal and confidential.

436. The law “For migration of Albanian nationals for employment motives”, in Article 6, ensures the right to active participation in the political life of the country of Albanian emigrant workers and of members of their families. The responsible state authorities have the task to create all necessary facilities for the Albanian emigrants to exercise their right to vote. The exercise of the right to vote by these subjects is made in respect of legal provisions of the Election Code of the RoA and legislation of host countries.

437. The Directorate for Employment Relations is the responsible structure in the Ministry of LSAEO, which is dealing with the activities of trade unions.

#### **Articles 43, 54 and 55**

#### **Principle of equal treatment with nationals of the State of employment in relation to the issues indicated; equality of treatment as a protection against dismissal, unemployment; equality of treatment in the exercise of remunerated activity**

438. The Constitution of the RoA ensures that “human rights and fundamental freedoms as well as obligations defined for Albanian nationals are equally valid for foreign nationals”.

439. The protection of human rights and fundamental freedoms of all Albanian emigrant laborers and members of their families doesn’t constitute a duty for Albania any longer. The ratification of the Frame Convention is already a commitment of the Albanian state as a State Party to the Frame Convention for ensuring the rights of this social-economic stratum. Regular employment of foreign nationals brings forth also those rights enjoyed by Albanian nationals employed in such jobs. Adherence to employment conditions, security and hygiene in workplaces are subject to inspections carried out by inspectors of the Public Health Institute (PHI). The salary for an accomplished work is the same for equal work. Also, the Labor Code obligates employers to respect the provisions of such Code without any discrimination with regard to dismissal from work, preliminary notification and the right to appeal, etc.

440. Vocational formation is a category of economic activities that is offered to immigrant workers in the territory of Albania (Article 54). These subjects are provided with work permits for vocational formation, “A/FP”, under the same time validity like activities of professional formation. They should demonstrate that such formation is closely linked with the improvement of their skills and qualification.

441. There are actually no real steps undertaken by Albanian competent organs for this category of foreigners. However, legislation that governs the activities of vocational formation system in our country has no legal barriers for free attendance of vocational formation courses. This category doesn’t benefit any facility or assistance for the attendance of above mentioned courses such as reduced costs or free of charge.

442. Courses of vocational formation, which are organized in public centers for vocational training, provide professional knowledge on such sectors like: auto service, duralumin repair, plumbing, electro-mechanics, repair of sun heating panel, repair of household electrical appliances, repair of conditioners, heating and ventilation systems, welding, hydro-sanitary wares, electrician, constructor, etc.

443. With respect to payments for unemployment, referring to the Decision no. 223, dated 19.04.2006, "For payments of unemployment", in order to benefit such payment, this contingent is treated under the same conditions that are to be fulfilled by Albanian employees, which are specified in point one of this decision:

- To have contributed for social insurances over a period at least 12 months, for each beneficiary
- To have been registered as unemployed job-seekers at the relevant employment office
- To have submitted the written application and to fill in relevant documentations within 60 days from the date of enjoying this right

444. Regarding the payments for unemployment, Article 64 of the law "For foreigners", point 2, specifies that unemployment doesn't constitute sufficient reason for the termination of work permit, provided that (i) the time of unemployment doesn't exceed three months over the time period of 12 months, and when the holder of a residence permit has exercised lawful activities as an employee or self-employed person in the RoA for not less than three years, and (ii) six months within a period of 12 months, and when the holder of a residence permit has exercised lawful activities as an employee or self-employed person in the RoA for more than three years.

445. Financial difficulties are not regarded as sufficient reasons for the termination of work permit of a self-employed person, except the case when the holder of such permit is not able to afford living costs.

#### *Statistics*

*The Ministry of Interior reports that there has been no denouncement against officials of responsible agencies for prolongation of procedures for provision of immigrant workers with residence permits.*

*The current Albanian legislation doesn't specify the inclusion of immigrant laborers in the schemes of social services.*

#### **Articles 44 and 50**

##### **Protection of the unity of the families of migrant workers and reunifications of migrant workers; consequences of death or dissolution of marriage**

446. The Constitution of the RoA ensures special protection for the family (Article 53).

447. Articles 32, 33 and 34 of the law "For foreigners" secure the protection of the family unity and natural community of immigrant laborers. Based on such provisions, every immigrant laborer who resides regularly in the territory of Albania can send an application to the local office of DBM requiring the arrival of his family members and reunion of the family.

448. For this, the immigrant worker must certify that: (i) he has lawfully entered and resided within the Albanian territory for a period of one year; (ii) he can regularly secure his living with his incomes in the RoA; (iii) he regularly pays contributions for health insurances for the coverage of the health care services; (iv) he can secure appropriate

premises and living conditions for his family, and also (v) he should submit required documentations specified by the decision of the Council of Ministers.

449. The resident permit for the reunion of the family is provided for a period not longer than the resident permit granted to an immigrant laborer, who has applied for the family reunion. In case of refusal of the permission for the reunion of the family, he has the right to complain to the Minister within 15 days from the date he has received the written notification.

450. Albanian legislation recognizes and ensures the reunion of a family, which has derived only from the marriage of immigrant workers. In case of marriage dissolution or in case of spouse death after the entry in the RoA, the residence permit of a foreigner is not extended, except the cases when (i) children of Albanian citizenship are born from this marriage and the spouse is the legal protector, or when (ii) he has been provided with temporary residence permit with validity of two years before marriage dissolution (*Article 33 of the law "For foreigners"*).

451. When a child is born in the RoA, the immigrant worker in regular situation informs, within 30 days, the local DBM for his birth certificate, and a temporary residence permit is issued for the child.

452. All family members of a foreigner enjoy the same rights and obligations derived from this law like the foreigner himself. Adult members of the family of a foreigner, who have entered Albania for the effect of family reunion, have the right to apply individually for their residence permits if they wish to stay in Albania at least 5 years. Minors, who have entered Albania for the purpose of family reunion, apply for residence permits independently of other family members when they have reached the adult age.

453. An immigrant worker, the spouse of an Albanian national, is provided with residence permit with validity time of not more than one year, for the first time, without being obliged to submit his work permit. Later, this residence permit is renewed for a two years period and it is legally valid even for juveniles under the age of 18 years, who is not married and for whom the foreigner is his legal protector.

454. If the marriage with an Albanian national is disclosed to have been made to avoid obligations of this law, then the immigrant worker is not provided with resident permit, or when he has got it, the residence permit is terminated. In such circumstances the marriage is considered as a fictive act because spouses cannot establish a common life and they are not familiar with personal particularities of each other.

455. Article 55 "For foreigners" stipulates the provision of family members of an immigrant laborer with annual work permit of the type "A/AF". This permission is issued on condition that this member of the family has lived with the foreigner lawfully and continuously at least for three years.

456. The Council of Ministers, on the proposal of the Minister of Labor, Social Affairs and Equal Opportunities; the Minister of Interior; the Minister of Foreign Affairs; the Minister of Integration; the Minister of Education and Science and of the Minister of Tourism, Culture, Youth and Sports, regulates all issues related to required documentations for the procedures of obtaining the status of a long-term resident, as well as relevant issues regarding cancellation or the loss of such status, ensuring the rights derived from it, determining the right to freedom of movement and special conditions for the protection against expulsion (*Article 62 of the law "For foreigners"*).

457. Regulations of employment and the protection of constitutional rights shall ensure immigrant laborers and members of their families their integration in the civil life of the country of their employment.

458. For this purpose, efforts are being made for working out a Decision of the Council of Ministers (DCM), in the format of a national program for the overall integration of long-term residents in the RoA including labor market and social, cultural and language integration.

*Statistics*

*The Ministry of Interior (MI) reports that there has been faced no problem with the process of family reunion of immigrant laborers. The same treatment is guaranteed to all immigrant laborers and members of their families from all states.*

*The MI and the Ministry of LSAEO reports that they haven't received any applications from the families of the dead immigrant laborers for the provision of work permits.*

**Articles 45 and 53**

**Enjoyment of equality of treatment for members of the families of migrant workers in the indicated aspects and measures taken to guarantee integration of children of migrant workers in the local school system; right to freely choose a remunerated activity for members of a migrant worker's family**

459. Integration of emigrants/immigrants is a process which is closely connected with their education. In this view, the Ministry of Education and Science (MES) has taken legal and administrative steps for creating appropriate conditions for the education of the children of immigrant and emigrant laborers.

460. The MES has decided to include into the Albanian educational system the compulsory study of two foreign languages at schools, where the second language will be applied according to students' choice. In this way, it intends to allow the students to reach level B2 according to "The Common Frame of European Language References: teaching, learning and evaluation."

461. The issue of maintaining national identity and Albanian language, as its fundamental component, is of special importance. Several efforts have been made recent years relating to the support of initiatives for the study of Albanian language by the children of Albanian immigrant laborers. Massive migration, apart from other things, has highlighted the indispensability of education in Albanian language of the new generation of Albanian immigrants.

462. Currently, the situation for the study of the Albanian language appears to be different from one country to another. It is dependent on historical conditions, on legislation and financial means as well as on other objective and subjective factors.

463. Generally, there is a tradition for the teaching of the Albanian language, which is actually established on more orderly basis in such countries like Germany, Switzerland, in some Nordic countries, where there are great numbers of immigrants from Kosovo, Macedonia and other lands. The study of the Albanian language in these countries is achieved through classes of additional lessons, always under the material support of host countries.

464. The children of immigrants who come to work or return to Albania are recognized necessarily the right to education and apply to local educational authorities. As in cases when they have or have not a diploma/certificate, (they undergo a test before a commission), they are registered at schools, in the class corresponding with his/her level of knowledge obtained in the country they are coming from.

465. Article 13 in normative provisions of Pre-university Education specifies the way of registration and the equivalency of school documentations of the country they are coming

from, either for compulsory education or for the secondary schools, for Albanian pupils (aliens or foreigners) coming from abroad.

466. The Ministry of Education and Science (MES), under the Orders of the Minister of Education and Science no. 10, dated 28.02.2008, and no. 100, dated 11.03.2008, envisages the establishment of a special Commission for the equivalency of school documentations of Albanian nationals that have graduated secondary schools abroad and wish to continue their studies in the universities of Albania. Generally, all legal acts (Guidances, Orders, etc.) delivered by the MES specify also the steps to be taken for the treatment of the children of emigrants and for the recognition of their diplomas or certificates.

467. Regarding the creation of facilities for the education of the children of Albanian immigrant laborers, the MES is actually insisting to sign bilateral agreements in the field of education, or the review of existing agreements with those countries where there are considerable numbers of immigrants requiring the inclusion of additional classes for the teaching of Albanian language.

468. "The Agreement between the Government of the Republic of Albania and the Government of the Republic of Greece for the cooperation in the fields of Education, Science and Culture", signed by the parties on 4 November 1998, is the only agreement signed by the Albanian state in such area. It also lays down the recognition of the right to education of immigrant children, exchange of pedagogical staff, expertise and textbooks for 9-years schools, etc. It mainly has in view the publication of ABC-Book, Language-Reading books, but also textbooks of History, Geography or Albanian Folklore. Required funds have been allocated for its completion in the coming years.

469. Within the framework of measures taken for this segment of Albanian society, the MES has worked out a platform for additional classes of Albanian language study by the children of immigrant laborers living abroad and also by children of Albanian Diaspora.

470. In addition, the MES has also prepared a package of TV teaching materials for the education of children abroad. The right for the transmission of this cable educational package is awarded, under agreements, to two national TV in Albania: Top Channel and Alsat.

471. Presently, good efforts are being made with authorities and Albanian associations in countries where there are Albanian immigrants for encouraging the enlightenment and maintenance of national identity through the study of Albanian language and culture. Therefore, the MES has offered free of charge textbooks of Albanian language to enable the organization of teaching courses of Albanian language in Italy, Greece, where there are the greatest communities of Albanian immigrants after '90.

472. In these two states, there are different experiences for the study and maintenance of Albanian culture and language as a mother tongue. In Greece, children learn the Albanian language in courses organized and conducted by Albanian teachers thanks to dedication of their parents and Albanian associations operating there, etc. Lessons are given in hired rooms and houses which have been adapted and furnished as schools. Whereas, in some regions of Italy, where concentration of Albanians is bigger, Albanian teachers have been appointed and are paid by respective communes. Albanian children can choose Albanian language at school as an optional subject.

473. Article 5/3 of the law "For foreigners" ensures every foreigner, who legally resides in the territory of Albania, and also their family members, the right to freedom of movement within Albanian territory and to choose freely the workplace without any limitations.

474. Article 33 of this law (General rules for foreign families) specifies that “All family members of a foreigner enjoy, like the foreigner himself, equal rights and obligations derived under this law.”

475. “Family members of a foreigner” constitute one of preferable categories determined by Article 40 in the law “For foreigners”, which, necessarily should be reviewed and evaluate before completion of free workplaces.

#### **Articles 51 and 52**

#### **Right to seek alternative employment in the case of determination of the remunerated activity for migrant workers not authorized to freely choose their remunerated activity; conditions and restrictions for migrant workers who can freely choose their remunerated activity**

476. The employment system in the RoA, having no quotas, is based on demand and supply of the labor market. Thus, when an employee finishes a certain job and finds another employer who is ready to hire him, he can apply for the new job renewing also his work permit. After the review of his application, employment service authorities approve eventually his new employment. Articles 40, 41, 42 of the law “For foreigners” specify the conditions on which foreigners are supplied with work permits, which are: (i) the needs of labor market for employees; (ii) the needs of labor market for self-employed persons, and (iii) priorities for the issue of work permits.

477. The needs of labor market for employees are identified after the testing of a free work place and assessment of the fact whether these jobs will be occupied by: (i) Albanian unemployed jobseekers; (ii) foreigners, family members of Albanian nationals; (iii) family members of foreigners with regular residence in the RoA; (iv) nationals from member countries of EU or from countries with which Albania has signed bilateral/multilateral agreements; (v) foreigners, who enjoy the priority of involvement into the Albanian labor market under the provisions of this law; (vi) foreigners with lawful residence in the Albanian territory, who have performed or are performing legal and continuous activities in the territory of the RoA for more than two years within the period of five preceding years.

478. The work permit to a foreigner as self-employed person is issued taking into account the development and the needs of the labor market in Albania, after assessment of economic benefits that can be obtained from the activity of the self-employed person.

479. The work permit shall be issued to a foreigner taking into account the priorities that are created while the foreigner: (i) is the spouse of an Albanian national, is holding a residence permit for one year and as long as the spouse continues to be a spouse in accordance with Albanian legislation in force; (ii) is employed within the frame of an international agreement or intergovernmental agreements, besides cases when agreements specify it otherwise; (iii) has Albanian nationality, despite his/her citizenship; (iv) has finished a vocational secondary school, public or private one in the RoA, (v) has come for vocational formation, or (vi) has the status of a transferor within an enterprise.

480. The criteria for being entitled to the right to begin an individual profitable activity are the same with those enjoyed by an Albanian national. The application for the opening of an activity is submitted not only in case of a legal residence in the RoA, but also in diplomatic and consular representative offices in the country of origin or in the countries of continuous residence.

**Articles 46, 47 and 48****Exemptions from import and export duties and taxes in respect of particular belongings; right to transfer earnings and savings from the State of employment to the State of origin or to any other State; imposition of taxes and avoidance of double taxation principle**

481. The Customs Code of the RoA excludes immigrant laborers and members of their families from the obligation of payment of customs duties for their imported personal belongings.

482. Article 25 of the law “For migration of Albanian nationals for employment motives” stipulates the exclusion from the payment of travel taxes and airport fees of persons who have obtained the status of an emigrant, save the cases when it is determined otherwise.

483. The Albanian legislation framework related to financial obligations that a profitable activity is subjected to, creates the same effects either to domestic activities or to foreign one. The law doesn't lay down fiscal facilities for profitable activities managed by immigrant laborers.

*Statistics*

*During the period from June 2007 to November 2008, there have been 1124 cases of exclusion of custom duties for personal things imported to Albania by emigrants with a total weight of 3.083 tonnes and a value of 91.270.000 ALL.*

**Articles 49, 56****Authorization of residence and authorization to engage in a remunerated activity; general prohibition and conditions of expulsion**

484. Authorizations of residence and work permits for special profitable activities are dependant on the categories of employees/independent economic activity, immigrant laborer or his family member.

485. The residence permit contains all motives for granting a visa. The central state authority responsible for the treatment of foreigners approves residence permits, while the regional/local state authority responsible for the treatment of foreigners shall provide foreigner with work permits.

486. Residence permits are granted for the following periods:

- (i) 3 months, 6 months or 1 year, this can be renewed not more than 5 times in succession;
- (ii) 2 years, this can be renewed not more than once;
- (iii) Permanent residence when a foreigner has lawfully resided in Albania for 5 years in succession and has established stable links and activities in the country.

487. Authorization for engagement in profit-making activities (work permits) is in accord with employment motives.

488. Work permits for seasonal laborers of the type “A/PS” – are given to seasonal immigrant laborers. The validity of this permit lasts up to six months within a calendar year. It is granted for regions, employers, professions and work contracts for a certain period of time with the condition that the employee is not residing continuously in the RoA and that he will return to the country of origin upon the completion of the work contract. Demands for seasonal work are governed by bilateral agreements between the RoA and other countries.

489. Work permits for laborers transferred within an enterprise/company of the type “A/TN” – are given to immigrant laborers transferred within an enterprise/company and who are assessed as “main staff” or “specialists”. Initial validity of work permits for workers transferred within an enterprise/company is equal to the duration required for carrying out a certain work, up to a maximum term of five years. In the absence of bilateral or multilateral agreements, a foreigner supplied with work permit of the type “A/TN” is subjected to domestic legislation on social protection.

490. Work permits for cross-border employment of the type “A/NK” – are given to emigrants for cross border employment on the condition that he will return to his permanent residence every day or at least once a week, maintaining thus the residence in the country of origin. In the absence of bilateral or multilateral agreements, a foreigner supplied with work permit of the type “A/NK” is subjected to domestic legislation on social protection.

491. Work permits for employees of the type “A/P” – are given to immigrant laborers according to the following categories:

- (a) With expiry time of one year, for initial work permits;
- (b) Renewed, twice in succession, duration two years, if there is no change in conditions based on which the previous initial work permit has been granted;
- (c) Continuous, following the expiry date of the second permit, duration two years, if there is no change in conditions based on which the previous initial work permit has been granted.

492. Work permits for members of the family of the type “A/AF” – are given to each family member of immigrant laborers with regular residence in the RoA, who is supplied with work permit for a year. This work permit is delivered on condition that the member of the family should have lived with the foreigner lawfully and without interruption at least for three years.

493. Work permit for self-employed persons of the type “B/VP” – is granted to an immigrant laborer carrying out independent economic activity as a self-employed worker. This permit is limited in time, space and profession.

494. Article 39/3 of the Constitution of the RoA prohibit collective expulsion of foreigners (immigrant laborers and members of their families). Individual expulsion of foreigners is allowed according to conditions determined by law.

495. Complying fully with constitutions provisions, which prohibit the collective expulsion of foreign nationals, the law “For foreigners” ensures that an immigrant laborer or a member of his family shall be expelled/deported from the Albanian territory only when he is subject to an expulsion order or deportation (*Articles 70 and 73*).

496. “Detention in closed centers” and “Detention within a certain territory” are specified by law as administrative measures. They are adopted and executed by the responsible state authority, in regional or local level, for the treatment of foreigners, against whom an expulsion order or deportation is provided for.

497. The foreigner shall stay in the detention center until legal procedures are carried out, which will enable his expulsion from the Albanian territory to the place of destination. He will be informed in a language which he understands, in the presence of his advocate chosen by him or mainly, and he will be allowed to contact his relatives as well.

498. The local Directorate for Border and Migration (DBM) decides for imposing restrictions on a foreigner’s personal freedoms ordering him to stay in a certain territory in case when (i) his return, refusal of entry or deportation cannot be ordered or executed



because of an obligation undertaken by our country within the framework of an international agreement, or (ii) he has got a residence permit for humanitarian motives.

**D. Section V of the Convention: Provisions applicable to particular categories of migrant workers and members of their families**

**The State party shall indicate the provisions or measures adopted for particular categories of migrants indicated in Articles 57 to 63 of the Convention, if any**

499. Currently, the Albanian state has not introduced any special measure, which will regulate the situation of immigrant laborers, who are staying in irregular situation within Albanian territory.

**E. Section VI: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families**

**Article 65**

**Establishment of appropriate services to deal with questions concerning international migration of workers and members of their families**

500. Policies adopted in the field of migration show clearly the managerial role undertaken by the Albanian state for the direction of migration occurrences. Implementation of policies and strategies developed in this direction include also the cooperation of central institutions, those of the line, in horizontal level and cooperation of central institutions with those countries of dependency in vertical level (GDNES).

501. Exchange of information, consultancy and collaboration with competent authorities of other countries is another level of cooperation, to which the Albanian state has dedicated special attention. Being a party in the migration process, the Albanian responsible authorities through continuous contacts with homologous authorities in host countries have developed and exchange necessary information about the characteristics of their domestic labor markets and general professional profiles of candidates for immigrant laborers.

502. In the field of information, before their leaving, emigrants are supplied with brochure, leaflets, manuals which discuss questions about migration policies adopted by host countries, laws on regular migration, etc. Efforts are presently being made for contacting directly the employers' organizations in host countries offering them potential migratory work forces from Albania.

503. Within this framework, the law "For migration of Albanian nationals for employment motives", article 27, sets forth the collaboration with host countries. Based on this article, the competent state authorities, for the integration of emigrants who have returned to RoA, exchange with host countries information relating to the following: (i) opportunities and conditions for employment in Albania; (ii) financial support provided for economic integration; (iii) maintaining the rights of social insurance benefited abroad; (iv) steps that are to be taken for facilitation of housing problem; (v) equivalency of professional qualification obtained abroad and the organization of tests for their formal recognition; (vi) equivalency of educational qualification gained abroad for the children of emigrant workers to be registered in the required school levels.

504. The responsible state authorities will publish this information using all possible forms and means in written or electronic format. They cooperate with respective authorities in host countries for exchanging information related to employment conditions, social insurances, participation in free syndicates, and other issues related to migratory process.

505. Cooperation with respective authorities of host countries for issues relating to social protection, benefits in case of illness, pregnancy, accidents in work, professional diseases, unemployment, social and death assistance, is also a task of responsible state authorities in the country. Collaborating with respective authorities in host countries, they coordinate the work for development of curricula of vocational formation for Albanian nationals, who want to migrate, and for getting familiar with professional qualifications applied in host countries.

506. The responsible state authorities will cooperate with respective authorities of host countries for creation of legal and administrative facilities for mutual recognition of diplomas, certificates and other necessary qualifications in order to facilitate and accelerate their integration in these countries.

507. With the law no. 9564, dated 19.06.2006, "For the ratification of the Convention no. 143 "For the immigrant laborers (additional provisions), 1975, of the International Labor Organization, done in Geneva, the Albanian state, in the framework of respecting human rights and fundamental freedoms to all immigrant laborers, shall take all necessary and proper steps for achievement of efficient cooperation with other countries, members to this Convention, in order to identify the number of immigrant laborers with irregular status in Albanian territory.

#### **Article 66**

##### **Authorized operations and bodies for the recruitment of workers for employment in another State**

508. In the framework of agreements for interstate cooperation, the process of recruiting workers in another country is managed by the public employment service.

509. However, the RoA has ratified the Convention of ILO, no. 181-1997 "On Private Employment Agencies". Based on this and on the management of migratory occurrences, the Albanian state recognizes and accepts participation of the private sector in recruitment of work forces on partnership basis.

510. In the Republic of Albania this activity is also governed by the Decision of the Council of Ministers (DCM) no. 708, dated 16.10.2003, "On procedures for licensing and operation of Private Employment Agencies".

511. There are three special Articles in the law "For migration of Albanian nationals for employment motives", which regulate the activities of Private Employment Agencies (PEA) (*Articles 37, 38, and 39*).

512. The state recognizes and supports the activities of the PEA, which, for the purpose of this law, have to do with: (i) services for information, consultancy and also assessment of applications for mediating employment; (ii) seeking for jobs; (iii) services related to intervention through employers and job-searchers outside the Albanian territory without being a party of employment relations that might be derived from this intermediation; (iv) the training of job-seekers for making them suitable to physical or judicial subjects in host countries; (v) cooperation and coordination of activities with authorities of relevant countries for provision of necessary information and for conducting formation and directive courses; (vi) exchange of information between them and responsible state authorities for the number of persons registered in "The Book of Immigrants"; (vii) determining a certain quota for the employment of Albanian nationals, whether host countries make available to the Ministry of LSAEO special quotas for the employment of Albanian nationals. The Minister of LSAEO, after the evaluation of the activities of the PEA, determines the quotas for the selected agencies.

513. Conditions for the selection of agencies and determining respective quotas are approved under the Order of the Minister of Labor, Social Affairs and Equal Opportunities.

514. Private employment agencies always take care of Albanian nationals who have been employed outside the territory of the RoA through their intermediation paying attention to implementation of contract conditions, to their non-discrimination and the respect for their rights and freedoms. At the end of each six months period, every private employment agency sends to the MLSAEO information about Albanian nationals whom it has intermediate for their employment abroad and any other information required about their activity in foreign countries. These agencies promptly inform the responsible state authorities when they notice or are informed that legal provisions or international acts are not being respected in host countries.

515. Based on the Decision of the Council of Ministers (DCM) no. 708, dated 16.10.2003, "On procedures for licensing and operation of Private Employment Agencies(PEA)", mediatory activities for employment are exercised only by the PEA, which are licensed after the fulfillment of requirements determined under foreign legal acts. These agencies provide the following services: (i) assessment of requests and applications for employment mediation, (ii) seeking for new jobs, (iii) intermediation for determining the conditions and employment relations between job-seekers and the employers. The MLSAEO is the competent organ which grants the licenses for Private Employment Agencies.

516. There are presently in Albania 8 registered Private Employment Agencies, which are located in the cities of Tirana, Durrës and Elbasan.

#### **Article 67**

#### **Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and cultural reintegration**

517. Return of emigrants, especially voluntary return, is a priority of the migratory policy of the Albanian state. Such returns are accomplished in cooperation with host countries and under the support of common projects with the International Organization for Migration (IOM). It starts with the identification of the persons that wish to return, provision of institutional information for employment opportunities in the RoA and information about other realities.

518. The law "For migration of Albanian nationals for employment motives" no. 9985, dated 18.12.2006, lays down that responsible state authorities, through the development of special programs, encourage the voluntary return of emigrants, qualified or unqualified, for benefiting new professional and cultural capacities. For the implementation of such programs they act in cooperation with domestic businesses, domestic and foreign NPO and different donors and other interested subjects in host countries. Encouragement and support for the integration of emigrants in the economic, social and political life of the country consists in creation of fiscal facilities and application of programs for the development of businesses, employment and vocational formation through work (*Article 22*).

519. For this purpose, arrangements are being made for drawing up a Decision of the Council of Ministers, which will determine the steps to be taken for their reintegration. Such steps and measures will include social and cultural reintegration supported also by the best world practices.

**Article 68****Measures aimed at the prevention and elimination of illegal or clandestine movements and employment of migrant workers in an irregular situation**

520. Preventive form of clandestine or illegal movements of emigrant laborers and their families is the prohibition of distribution of false or misleading information. Apart from the information highlighted by daily press and other means of mass communication about the risks of such movements and of irregular employment, the law “For migration of Albanian nationals for employment motives” contains a special Article which discusses the question of false information.

521. Based on this Article, the responsible state authorities forbid the publicity and use of false information by any subjects, which activity, according to provisions of Labor Code, constitutes a criminal offence. The PEA and any other domestic or foreign subject interested in employment matters, vocational formation through work, seasonal employment or cross border employment outside the territory of the RoA should get an official approval from the MLSAEO before the publicity of relevant offers (*Article 19*).

522. In this field, the RoA has and applies a National Strategy and Enforcement Plan against Trafficking and Smuggling of Human Beings.

523. In addition, the RoA has adopted and enforced the Memorandum on prohibition of inflatable dinghies for a period of three years which limited the use and movement of seagoing motor means. As it is known, Albania has had a very bad experience in the past regarding clandestine and illegal migration through international waters.

524. With regard to measures taken for prevention of clandestine and illegal movement of emigrant labourers the law “For foreigners”, under its special provisions, sets forth penalties for all foreigners who enter, stay or move irregularly in the territory of Albania.

525. Stipulated in Article 91 of this law, among other things, the DBM has the following tasks: (i) observance of the exercise by foreigners of the rules determined under this law, (ii) conducting searches in the private premises of foreigners in case of any suspicion, (iii) verification of travelling documents, residence permits or identification documents, (iv) accompanying foreigners to the police station if they have no identification document and other permissions provided for by law, (v) transporting the foreigners to the state border point, for whom there is an order to leave the country, expulsion or deportation, (vi) accompanying illegal foreigners and arranging their return to the country of origin, (vii) taking required measures for bringing a detained foreigner before the court, (viii) taking security measures for the detained foreigner to appear before judicial authorities, (ix) accompanying the foreigner to diplomatic or consular representative office for obtaining travelling documents and taking him back to detention center.

526. Article 92 stipulates also the obligation of a foreigner to inform the DBM within 30 days about his settlement or residence in the Albanian territory.

527. Article 95 assigns to travelling agencies the duty to verify, before departure, whether foreigners travelling towards Albania have valid travelling documents and visas and if required, they shall submit the complete list of its staff and travelers. Travelling agencies bear the responsibility for the return of foreigners to the country of origin or to the country that has the obligation to accept them, based on the agreement of admittance if foreigners are refused the entry because of the lack of required documentation for entering the RoA.

528. Public services, local organizations and administration, companies of public interest and institutions of social insurance are obliged to offer no service to foreign nationals who have not regular travelling documents and permits recognized by this law, or have no visas or fail to certify that they have entered and reside lawfully within the territory of the

country. Hospitals and health centers are excluded from the foregoing obligations if foreign nationals need medical service (*Article 96*).

529. Article 97 stipulates that, while making a notarial declaration, where a foreign national is a party and is present and declares his accommodation/residence in the RoA, the Notary Public is obliged to verify if he is a regular residence in the territory of Albania. However, it excludes cases of authorizations delivered by advocates for appearance before a law court.

530. The law forbids the rent of real properties to foreign nationals, who have no valid documents recognized by this law or have no entry visas or valid residence permits (*Article 98*).

531. Sanctions for non-compliance with this law are laid down in Article 104 of this law. According to this Article, violation of provisions of this law by foreigners and Albanian nationals, being either a transporter, or a lessor, an employer, or a parent or legal tutor (in case of fictive marriages) is punished with fines from 10.000 ALL up to 400.000 ALL.

#### **Article 69**

##### **Measures taken to ensure that migrant workers in a irregular situation do not persist in this condition within the territory of a State party and circumstances to take into account in case of regularization procedures**

532. The Labor Code sets forth administrative penalties for irregular employment, either Albanian nationals or foreign ones. Continuous inspections carried out by the State Employment Institute (SII) have shown that irregular employment of foreigners is not a characteristic feature.

533. Article 170/a of the Labor Code(LC) stipulates that employment without registration by competent organs or without regular security of the employee constitutes an administrative infringement and is penalized with a fine (up to 10.000 ALL) or with one year imprisonment.

#### **Article 70**

##### **Measures taken to ensure that living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness safety, health and principles of human dignity**

534. Regular employment brings forth a series of rights such as equal salary for the same job, equal conditions for work security and hygiene, the right to transfer allowances to the country of origin on equal conditions as Albanian nationals. Considering it not perfect, the State Employment Institute, during its activities, pays great attention to the protection of these rights assuming that immigrants are the most vulnerable group and can be easily exploited.

#### *Statistics*

*The General Directorate for Migration reports that no abusive situation has been noticed so far.*

#### **Article 71**

##### **Repatriation of the bodies of deceased migrant works or members of their families and compensation matters relating to the death**

535. The return to the country of origin of the corpse of a dead immigrant or of a member of his family is made voluntarily by the members of the family of the immigrant laborer. The competent organs in the country assist the family of the dead immigrant by creating facilities for provision of documents for the transfer of the corpse to the country of origin.

536. The only material compensation for the dead employee provided for by Albanian legislation is that one specified in Article 157/2 of the Labor Code. Based on this provision, the employer shall pay the employee, the dead immigrant laborer, the following: (i) the salary of a month starting from the date of death, (ii) the salaries of two months when employment relations have lasted more than three years and when the employee has left his spouse, minor children or in their absence, other persons as are provided for by the Family Code.

---