

## CHAPTER 2: Free Movement of Workers

### 2.1 Chapter content

The European Union legislation in the field of free movement of workers provides that citizens of one Member State have the right to work in another Member State, enabling them the same working and social conditions as domestic workers. It should be noted that EU *acquis* goes well beyond the movement of economically active EU citizens (and their family members, irrespective of their nationality). In fact, since the early 1990s EU citizens benefit from free movement of persons, including, e.g. students and self-sufficient migrating EU citizens. The free movement of persons is based on the general principles deriving from the Treaty on the European Union and the Treaty on the Functioning of the European Union, relevant secondary legislation as well as on the jurisprudence of the Court of Justice of the European Union. These principles include the removal of barriers to the free movement of workers, abolition of residence and work permits, equal access to the labour market and the prohibition of discrimination. The *acquis* in this chapter provides that EU citizens have the right to move and to work in the other EU Member States, to reside there for that purpose together with their family (irrespective of nationality of the family members) and to be treated in the same way as national workers in terms of working conditions, and social and tax advantages. Furthermore, the *acquis* includes EU instruments on the coordination of different national social security systems (but not their harmonisation).

### 2.2 Chapter structure

- Access to the labour market;
- Coordination of the social insurance system.

### 2.3 Summary of SAA and EU *acquis* requirements

The Stabilization and Association Agreement contains numerous obligations stemming from the provisions of Articles 48 and 49 of the SAA in the area of labour market access for EU citizens in the Republic of Albania, workers' mobility, employment conditions, and professional training. Another ~~aspect of the free movement of workers is to~~ dimension is ~~promote~~ ion of the youth exchanges and the conclusion of bilateral agreements on employment and vocational training between the Republic of Albania and the European Union Member States. The Stabilization and Association Agreement provides that, in accordance with the applicable conditions and modalities, Albania and the Member States of the EU shall ensure that country nationals who are legally employed in their territory are not subject to discrimination based on nationality, as regards working conditions, remuneration or dismissal.

The obligation for Albania to proceed with the coordination of social security schemes stems from Articles 48 and 99 SAA. Articles 46, 47, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 70 SAA define the pillars of cooperation between Albania and the European Union in the field of access to the labour market for EU nationals. The treatment of workers, Albanian nationals and those

legally employed in the territory of a Member State are regulated by the SAA, Article 46 and 47.

#### 2.4 Current situation in Albania

~~In the~~ As per EC Report for 2020, ~~for in~~ -chapter 2 "On freedom of movement for workers", Albania has achieved some level of preparation. Progress has been made in this area, notably with the free movement of family members of EU citizens; concluding the new bilateral social security agreements and preparing to join the European Employment Network (EURES) upon accession.

##### *Access to the labour market*

EU citizens have the right to work in Albania without a work permit. This is made possible by the provisions of the ~~Aliens Act~~ Law on Foreigners and subsequent amendments (as amended), which provides that foreigners do not need a work permit or business registration certificate if they are nationals of an EU Member State or Schengen country and enter and reside legally in Albania. The eligibility of social security schemes and the recognition of occupational pensions are regulated by bilateral agreements. Immigrant admission policies do not impede the permanent residence of workers' families from EU countries.

The legislation of the Republic of Albania, in accordance with the obligations ~~of European integration within stemming from EU acquis in C~~ chapter 2, aims to create opportunities for equal and non-discriminatory access to the labour market, vocational training, movement of EU workers, as well as employment conditions, same as Albanian citizens.

Law no. 108/2013 "On foreigners", as amended (~~most recently, as well as by~~ Law no. 13/2020 "On some changes and additions to law 108/2013 "On foreigners"), ~~as amended~~, regarding the employment of citizens and their family members with the citizenship of a member country or not, have created the possibility of employment in the labour market in the country, without being limited by annual employment quotas, the obligation to obtain a work permit or certificate of registration in work.

A new law "On Aliens Foreigners", which had been proposed by the Council of Ministers, was adopted by the Albanian Parliament on 24 June 2021. However, on 3 August 2021, this law was sent back by the President of Albania for further review to the Parliament by the President on 3 August. The adoption of this law is important as it foresees the issuance of the "Single Permit" by the relevant national authorities to allow foreigners to legally reside in the territory of Albania for work purposes. The "Single Permit" is will valid for 5 years and citizens from the USA, EU, and Kosovo can benefit from it. In addition, the new law introduces the new category of "au pairing" for which the definition is in line with EU acquis.

Law No. 15/2019 "On employment promotion" defines the rules and the way of functioning of the public system of employment services, active and passive labour market programs, and the

bodies responsible for their management. According to this law, EU citizens who enter and stay regularly in the territory of the Republic of Albania for employment purposes, have the right to benefit from the services provided in the regional-/local structures (Article 4). The National Agency for Employment and Skills, established by the decision of the Council of Ministers No. 554, dated 31.4.2019 "On the establishment, organization and functioning of the National Agency for Employment and Skills", ensures the fulfilment of these rights.

Law no. 7961-/1995 "Labour Code of the Republic of Albania", as amended, applies to EU citizens and members of their families in the same way as ~~for to~~ Albanian citizens on issues related to their employment and employment, which are not covered by law 108/2013 on foreigners (Article 4). According to Article 9 of ~~this the~~ Code: "1. In exercising the right to employment and profession, any form of discrimination, provided in this Code and in the special legislation for protection from discrimination, is prohibited. 2. "Discrimination" means any discrimination, exclusion, restriction or preference based on sex, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, educational or social status, pregnancy, ~~parental responsibility~~, ~~parental responsibility~~, age, marital or marital status, ~~marital status~~, place of residence, health status, genetic predisposition, disability, living with HIV / AIDS, joining or belonging to a trade union, belonging to a particular group, or for any other cause, which has the purpose or consequence to impede or make impossible the exercise of the right to employment and profession, in the same manner as others .... "

Regarding the preparation to join EURES (European Employment Services Network), Albania has established ~~s~~ an integrated database for the employment service system. This will facilitate the exchange of information between the IT departments of the civil registry, the tax system, the compulsory health care ~~system~~system, and the economic assistance system.

Italian citizens, who make up the largest number of EU citizens in the Albanian labour market, are mainly employed in the following fields: medicine, services, marketing, trade, manufacturing, information, and telecommunications. Romanian citizens, who are the second largest group of EU citizens entering the Republic of Albania, are mainly employed in the field of trade, ~~and~~ services, and call centres.

*Coordination of the social security systems*

Several ~~There are~~ bilateral social security agreements have been negotiated in the past years. The table below provides an overview.

<u>Country</u>	<u>Early talks/Negotiations</u>	<u>Signing</u>	<u>Ratification by Albania</u>	<u>Entry into force</u>
<u>Belgium</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Czech Republic</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Germany</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Luxembourg</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Hungary</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Austria</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

<u>Romania</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>North Macedonia</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Turkey</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Canada</u>	<u>X</u>	<u>X</u>	<u>X</u>	
<u>Kosovo</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Switzerland</u>	<u>X</u>	<u>X</u>		
<u>Bulgaria</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Spain</u>	<u>X</u>			
<u>France</u>	<u>X</u>			
<u>Croatia</u>	<u>X</u>			
<u>Italy</u>	<u>X</u>			
<u>Montenegro</u>	<u>X</u>			

~~with Belgium, Czech Republic, Germany, Luxembourg, Hungary, Austria, Romania, Northern Macedonia, and Turkey. The negotiations with Switzerland and Canada are concluded. The agreement with Kosovo was ratified on April 2019. There have been exchanges to coordinate social security schemes with Bulgaria, Spain, France, and Croatia. A technical co-operation agreement has been drawn up to continue negotiations on a bilateral agreement on the coordination of social security schemes with Italy.~~

~~The following bilateral agreements “On social security” between Albania and the respective countries have been ratified and entered into force: the Republic of Turkey, the Republic of Northern Macedonia, the Grand Duchy of Luxembourg, Hungary, the Czech Republic, the Federal Republic of Germany, the Kingdom of Belgium, the Republic of Austria and Bulgaria.~~

~~Agreement with Republic of Kosovo, "On the certification of insurance periods for the realization of the right to a pension" was ratified by the Parliament with Law No. 20 dated on 12.04.2018 and has entered into force on 01.12.2018.~~

~~Bilateral agreements that are expected to enter into force:~~

~~Romania, ratified by the Albanian Parliament with Law No. 42 dated 14.04.2016;~~

~~Canada ratified by the Albanian Parliament with Law No. 58, dated 12.09.2019.~~

~~The Agreement with Swiss Confederation, was approved by DCM No. 533, dated 31.07.2019 "On the Approval in Principle of the Agreement between the Republic of Albania and the Swiss Confederation, for Social Protection".~~

## 2.5 Summary of key achievements

### *Access to the labour market*

~~With the DCM no. 659/2019 in~~ In October 2019 ~~were approved the~~ the “Employment Strategy and Skills” and ~~its the~~ Action Plan ~~were approved by DCM no. 659/2019.~~ The vision of the

Employment and Skills Strategy is: "Higher skills and better work for all women and men". The strategy revised the indicators until 2022, based on data confirmed by close cooperation with INSTAT. Furthermore, the Action Plan 2019-2022 and the indicators for its implementation, provides the details of the planned budget for each measure, ~~in cooperation and with the contribution of (including contributions of foreign donors)~~. Each measure ~~will be implemented by the~~ with support provided ~~in by~~ the SRC, as well as by the donor projects ~~that are being implemented, and by the approved projects that will be implemented.~~

Adoption of law 13/2020 "On some changes and additions to law 108/2013" On foreigners ", ~~as amended, was an important milestone, according to which~~ According to the new rules, family members of EU citizens of one of the EU countries, who do not have the citizenship of these countries who are third country nationals, enjoy ~~the~~ equal rights with Albanian citizens to be employed ~~in the labour market in the country,~~ without having to obtain a work permit or certificate of registration at work and without restrictions on quotas for their admission and employment.

The amendments were intended to bring it more fully in line with Articles 23 and 24 of Directive 2004/38 / EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and members of their families to move and staying freely within the territory of the Member States ~~by amending Regulation (EEC) No 1612/68/360 / EEC, 75/34 / EEC, 75/35 / EEC, 90/364 / EEC, 90/365 / EEC, and 93 / 96 / EEC.~~

~~Furthermore, Approval of~~ bylaws pursuant to law 15/2019 "On employment promotion" were approved.

Amendment of employment promotion programs and employment services was purp, is done through the approval of 4 (four) decisions of the Council of Ministers and 7 (seven) programs, including programs to promote the employment of unemployed persons due to COVID -19 .

#### *Coordination of the social security system*

~~Regarding the following countries, the status of agreements is presented as follows:~~

- ~~• **Agreement with Bulgaria** — negotiations was opened in Sofia, on 05.11-08.11.2019, for the drafting of a new agreement that would replace the old agreement with Bulgaria, (entered into force by decree no. 1578, dated 20.11.1952). **Due to the Covid 19 pandemic, no further rounds of negotiations have taken place.**~~
- ~~• **Agreement with Kosovo** — it was agreed to finalize a more comprehensive agreement for the coordination of social security schemes between our two countries in accordance with the standards of European legislation. The first round of negotiations agreement on this agreement took place in Tirana on September 17-18, 2020. It is expected that the second round of negotiation will be held in Pristina in the near future.~~
- ~~• **Agreement with Montenegro** — the Montenegrin side has expressed its interest in opening negotiations to agree on a bilateral agreement.~~

See table above.

In general, the legal framework is not yet fully in line with the EU *acquis*.

## 2.6 List of responsible ministries and institutions

- Ministry of Finance and Economy
- State Inspectorate of Labour and Social Services
- National Agency for Education, Vocational Training and Qualifications
- Institute of Statistics
- Institute of Social Security
- Ministry of Health and Social Protection / Compulsory Health Insurance Fund
- Financial Supervisory Authority
- Ministry of Internal Affairs
- Ministry of Interior / General Directorate of State Police
- National Employment Service
- National Employment and Skills Agency

## 2.7 Priorities

The main focus of the Albanian Government is:-

- To align Albanian legislation to the EU legislation on the free movement of workers and developing of an IT system to enable connection to EURES. ~~The~~ EU citizens will have access to the Albanian labour market and will be treated equally to Albanian citizens in terms of employment, conditions, remuneration, study, and vocational training.
- To implement the legislation in force in the field of foreigners, employment, vocational education, and training, as well as working conditions and employment relations, for EU citizens in ~~the Republic of~~ Albania, as well as to work on its continuous approximation with the EU acquis ~~communitaire~~ in the field of free movement of ~~employees~~workers.
- To approve ~~the~~ a new law on AliensForeigners, the Bill currently under review by the Albanian Parliament.
- To advance negotiations and conclude new bilateral agreements between Albania and EU Member States or potential EU Member States, on the coordination of social insurance systems.
- To develop a Roadmap for approximation of Albanian law with EU acquis in Chapter 2.