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Citizenship in an emigrant nation-state: the case of Albania

Gëzim Krasniqi

Working Paper 2010/13



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University of Edinburgh, School of Law
The Europeanisation of Citizenship in the Successor States of the Former Yugoslavia
(CITSEE)

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This paper has been produced in close collaboration with the European Union Democracy Observatory on Citizenship (EUDO-Citizenship) and has been made available as a EUDO country report on www.eudo-citizenship.eu. The paper followed the EUDO structure for country reports presenting historical background, current citizenship regimes and recent debates on citizenship matters in the country under scrutiny. Other materials that complement this paper such as citizenship-related legislation, citizenship news, chronology, adopted international conventions and bibliography are also available on the EUDO website.

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Citizenship in an emigrant nation-state: the case of Albania¹

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Abstract

This paper explores the emergence and transformation of citizenship in Albania since the country's independence in 1912, with a particular focus on the developments in the aftermath of the fall of communism in 1991. It argues that only after the fall of communism, which was followed by massive waves of emigration, and the subsequent liberalisation and democratisation of the Albanian state did citizenship in its modern and liberal sense slowly start to enter the political agenda in Albania. The paper also provides a detailed account of the current citizenship legislation in Albania, which reflects the country's attempts to democratise and achieve EU membership.

Keywords:

Albania, citizenship, migration, democratisation, Europeanisation

Introduction

In Albanian legislation, *shtetas* and *shtetësi* ('citizen' and 'citizenship') are the legal terms used to describe the bond between the *shtet* (state) and an individual. These terms refer only to the legal bond between the state and a person, which establishes mutual rights and obligations, without reference to ethnicity. In the legal terminology in Albania, on the other hand, *kombësia* (nationality or ethnicity) is used to designate the national belonging of a person and refers only to ethno/linguistic affiliations and not to a legal tie. The term *komb* (nation) is used to describe a nation as a whole (in ethnic terms), regardless of the state of residence or citizenship.

The Albanian legislation on citizenship has changed relatively little over time. Since the country's independence in 1912, Albania has experienced three different citizenship eras, each of them corresponding to the different political regimes in place. Albania's first citizenship legislation originated from the inter-war period (the 1929 Civil Code of the Kingdom of Albania). After the Second World War and the

¹ Although Albania is not a 'CITSEE state', its links to Kosovo and other states in the region, as well as its status, as far as the EU is concerned as part of the 'Western Balkans' along with the other CITSEE states apart from Slovenia, means that it should be understood very much as part of the post-Yugoslavia future of this region, although it was never part of Yugoslavia and has a longer history as a state than any of the CITSEE states in their current forms.

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communist takeover, a new law on Albanian citizenship was enacted in 1946 followed by a decree in 1954. This decree was in force for almost half a century - until 1998 - when the most recent law on Albanian citizenship was adopted. The present citizenship legislation in Albania is of a high standard (in terms of being in compliance with the 1961 Convention on the Reduction of Statelessness and the 1997 European Convention on Nationality) and in general reflects the country's attempts to democratise and achieve high international standards of political and social inclusion. In addition, the Albanian citizenship legislation allows dual citizenship and lacks ethno-centric formulations and provisions, a fact that has been widely evaluated and appreciated by international organisations and seen with suspicion and a certain sense of disappointment by Albania's co-ethnics in the successor states of Yugoslavia.

However, despite the fact that the legislation is not ethno-centric, the Albanian state occasionally has extended some citizenship rights to its co-ethnics in the former Yugoslav states. The Albanian Ministry of Education has, for example, introduced a quota system for those Albanians from the neighbouring countries who want to study at public universities in Albania. In similar vein, the President of Albania (using his constitutional rights) has granted citizenship to a number of prominent academicians, artists and sportsmen from the ranks of Albania's co-ethnics in former Yugoslavia. However, in terms of the practical implementation of the law, there is a need for a more proactive approach on the part of the state. Failure to disseminate information about the procedures for acquisition and loss of citizenship along with problems with lack of transparency in decision-making process (especially with regard to cases when an application is refused) are matters that need to be addressed in the future. Likewise, elimination of the de facto statelessness of the Roma population and improvement of its political participation are issues that need to be dealt with immediately and comprehensively.

The introduction of pluralism in Albania in 1991, after almost fifty years of communism and extreme political isolation, and the subsequent massive wave of emigration to Italy and Greece have re-actualised political debates about citizenship in Albania. The most prominent and widely discussed issue is related to dual citizenship with Greece, a country that in 2006 made a unilateral move to extend dual citizenship only to a certain category of Albanian citizens, namely the Greek co-ethnics. However, a number of ethnic Albanians (mostly those of Orthodox faith) have profited from this opportunity thus raising concerns about the future political implications of the increase in numbers of Albanian citizens acquiring Greek citizenship. In 2010, Greece liberalised the criteria for admission into Greek citizenship, especially with regards to the second generation of emigrants (those who were born in Greece), something that certainly benefits the Albanian community in Greece which is more than 500,000 strong. And, bearing in mind that those same people are also entitled to Albanian citizenship, one might expect a high increase in the numbers of people with dual (Albanian and Greek) citizenship.

2 Historical background

2.1 Citizenship within the Ottoman Empire

As of the fifteenth century, Albania was part of the Ottoman Empire. Throughout this period, three different legal norms were put in place to regulate social, political and legal relations within the Empire: the *sharia* law, which was applied to the Muslim population, *laïc* laws, and capitulations (agreements between the Ottoman Empire and other European states) that dealt with the rights and privileges of the foreign diplomats and citizens present in the territory of the Empire (Gjika 2007: 199). Until the late nineteenth century it was the *millet* system that determined and regulated the relationship not between individuals but between different communities (primarily defined in terms of religion) and the state in the Ottoman Empire. During the *Tanzimat* (reforms) period (1839-1876), the Ottoman Government, in an attempt 'to supersede the ethnic and religious loyalties of the various minority groups' (Karpát 1972: 261), took several steps to introduce equal citizenship. The 1839 and 1856 Edicts, then the 1867 Ottoman Law on Nationality³ and 1876 Ottoman Fundamental Law (*Kanun-I Esasi*)⁴ – the first modern constitution of the Empire – recognised Ottoman citizenship for all inhabitants, regardless of their ethnicity and religion, thus almost completely abolishing the *millet* system. However, despite the secularism of the *Tanzimat* 'the Ottoman Empire remained at its core an Islamic polity as exemplified by the traditional phrase *din ve devlet*, the unity of religion and state' (Gawrych 2006: 18).

Nonetheless, it is important to note that Albanians belonged to three different faiths, Islam, Catholicism and Orthodox Christianity and not all of the religiously diverse Albanians enjoyed the same rights within the Empire. Muslims, who represented the majority of the population, were part of the mainstream population within the Empire and consequently enjoyed more rights, Orthodox Albanians were considered to be part of the Greek Orthodox *millet*, and Catholic Albanians were not recognised as a separate *millet*, thus being in a very peculiar position. Being in this specific position, and partially due to the mountainous terrain where most of them lived (the northern part of the present day Albania), the Catholic Albanians preserved some autonomy and adopted a system of customary law (known as the *kanun* – code) to regulate their relations and everyday life. This customary law (which took different names in different regions – *Kanuni i Lekë Dukagjinit*, *Kanuni i Skenderbeut*, *Kanuni i Lumes*, *Kanuni i Labërisë*, etc.) comprised a full legal system (Luarasi 2007: 232-238). The main customary law among Albanians is known as the *Kanuni i Lekë Dukagjinit* (The Code of Lekë Dukagjini). This was used in the region of

³ See Flournoy & Hudson (1929).

⁴ Art. 8 of this Constitution stipulates that 'All subjects of the empire are called Ottomans, without distinction whatever faith they profess; the status of an Ottoman is acquired and lost according to conditions specified by law'. See The Ottoman Constitution, 23 December 1876. <http://www.worldstatesmen.org/OttomanConstitution1876.htm>.

northern Albania and present day Kosovo and was collected and codified at the end of the nineteenth century by an Albanian Catholic priest by the name of Shtjefën Gjeçovi.⁵

2.2 Citizenship in independent Albania

Albania was the last country in the Balkans to declare independence from the Ottoman Empire. Albania's independence was declared in the course of the First Balkan War, after the collapse of the Ottoman Army and the occupation of most of the Albanian-inhabited regions by the Balkan armies. On 28 November 1912, a national assembly composed of Muslim and Christian delegates who came from all the Albanian regions in the Ottoman Empire (namely the four *Vilayets*) declared the independence of Albania and formed a provisional government (Jelavich 1983: 100).

This provisional government under the leadership of Ismail Qemali was not recognised internationally and Albania's future was to be decided by a conference of ambassadors held under the presidency of the British Foreign Secretary, Sir Edward Grey, which opened in London in December 1912. Finally, on 29 July 1913, the conference decided to recognise an independent Albanian state, which would be a neutral state under a Great-Powers' guarantee and continued discussions on the issue of state borders. Its form of government was to be a constitutional monarchy (the powers chose Prince Wilhelm von Wied, a German, as the head of the new state) and the conference established an International Control Commission composed of the representatives of the Great Powers, together with one Albanian to govern Albania.

However, in the final settlement the state was deprived of areas with large Albanian majorities, most significantly the Kosovo region (Jelavich 1983: 101), which was occupied and divided by the Kingdom of Serbia and the Kingdom of Montenegro. As a result, roughly half of the Albanian population was left outside of the borders of the new Albanian state (Puto 2009: 81). Albanian independence resulted from 'a confluence of foreign and domestic developments rather than from the design and will of Albanians themselves' (Gawrych 2006: 211). Due to the direct control from the six Great Powers of that time, in 1913 Albania gained a special international status, or, in other words, it became an 'internationalized territory' (Meir Ydit, quoted in Puto 2009: 68).

The issue of citizenship remained unresolved for some time in Albania. Though the Albanian provisional government approved the so-called Temporary Code of the Civil Administration in Albania (*Kanuni i përtashëm i administratës civile të Shqipërisë*) in late 1913, this did not contain any attributes of a state constitution (Puto 2009: 40; Omari 2007: 311) and did not touch upon the issue of citizenship. On 10 April 1914, the International Control Commission adopted a new Organic Statute of

⁵ For a detailed analysis of this customary law see Pupovci (1972: XVII-CX) and Luarasi (2007: 229-286). For an English version of the Code of Lekë Dukagjini see Gjeçovi (1989).

Albania,⁶ which is the first modern constitution of the Albanian state and the first document to determine Albanian citizenship.⁷ Four out of 216 articles of the Statute refer to the issue of citizenship. Art. 22 defined Albanian citizens as all the individuals who were born or settled in Albania before 28 November 1912 and who had Ottoman citizenship. Albania applied the principle of domicile (residence) combined with the previous imperial citizenship, in determining its initial body of citizens. Art. 23 of the statute prohibited dual citizenship only implicitly, for it allowed all those people who qualify for Albanian citizenship, within six months from the promulgation of the Statute, to opt for another citizenship, given that they emigrated. Art. 24, on the other hand, provided for the application of the principle of *ius sanguinis* in the cases concerning individuals of Albanian origin who reside abroad. They would be considered citizens of Albania had they wished to submit a request to the state authorities within a particular (undefined at the time) timeframe. Finally, art. 25 stipulated that all the Albanians from the territories annexed by the Balkan states (Serbia, Montenegro, Greece), who moved to Albania after 28 November 1912 would be considered citizens of Albania, with the exception of those who declared the opposite within six months after the promulgation of the Statute. Although there is no exact data, one can assume that tens of thousands of Albanians that migrated or were deported from the territories that were left outside Albania acquired Albanian citizenship based on this clause.

Faced with the outbreak of the First World War and deprived of foreign support, Prince Wied left the country in September 1914, after only six months on the throne, thus leaving Albania in a condition of political anarchy (Jelavich 1983: 103). Though Albania was a neutral state, in the course of the First World War several foreign armies occupied its territory.

2.3 Citizenship in the interwar period, 1920-1939

At the end of the First World War, Albania's fate as a state was to be determined yet again at an international conference – The Paris Peace Conference in 1919. In 1920 Albania was admitted to the League of Nations in spite of the protests of its neighbours and the 1913 borders were retained with some minor modifications. Although several constitutions were drafted between 1920 and 1928 (*Statuti i Lushnjës 1920*, *Statuti i Zgjeruar i Lushnjës 1922*, *Statuti Themeltar i Republikës Shqiptare 1925*, *Statuti Themeltar i Mbretnisë Shqiptare 1928*), which sanctioned rights and freedoms of citizens (Hysi & Brozi 2007: 329-358; Gjilani 2007: 359-403; Puto 2009: 313-322), the first proper law on citizenship in Albania was adopted only in 1929, which in fact was a chapter in the Civil Code of the Albanian Kingdom,⁸ adopted on 1 April 1929.

⁶ See *Statuti Organik i Shqipërisë*, reprinted in Puto (1987).

⁷ Strangely enough, art. 4 of the statute stated that all the treaties and agreements, including the regime of capitulations that provided for special rights and privileges for foreigners in the Ottoman Empire, between the Great Powers and the Ottoman Empire would still be valid in the territory of Albania.

⁸ *Kodi Civil 1929. Mbretëria Shqiptare, Ministria e Drejtësisë* (reprinted in 2010 by Papirus). For an English version of the text see Flournoy & Hudson (1929: 5-8).

This delay was conditioned by the developments related to the issue of borders, which were definitely determined only in July 1926 (Milo 1992: 374), as well as internal political turmoil that dominated Albanian politics until late 1920s.

The 1929 Code, which was based on the French and Italian civil codes, was considered to be a progressive step in the history of Albanian legislation and, by abolishing religious courts, introduced full equality between all the citizens for the first time in the Albanian history (Puto 2009: 470). Nonetheless, dual citizenship was not tolerated within the Civil Code. Citizenship could be acquired by birth (only for those children whose father was Albanian (art. 4.1), or when their parents were unknown or stateless (art. 4.3)), by naturalisation with a government's decision for (a) foreigners that served Albania for three years, (b) stayed in Albania for five years, (c) stayed in Albania for three years and performed an important service or were married to an Albanian woman, and (d) foreigners who are Albanian by race and language, who resided in Albania for one year and who had no intention of returning to their foreign land), or by royal decree for a man who has made an exceptional service to the Albanian Kingdom (art. 9). Apart from the prevalence of the male lineage in acquiring Albanian citizenship, the Civil Code distinguished between the Albanian and foreign female citizens. In the case of the former, an Albanian woman who married a foreigner could retain her Albanian citizenship provided that this was sanctioned by the marriage act (art. 15). In the case of the latter, however, a foreign woman married to an Albanian citizen was not allowed to have a different citizenship from her husband's (art. 14). Even after a divorce, a naturalised woman would keep her Albanian citizenship while she resided in Albania.

Apart from the domestic legislation, Albania also used international agreements to regulate the issue of citizenship. Thus, in 1926 it signed a Convention on Nationality with Greece which provided for the recognition of Greek citizenship for former Ottoman subjects who were born in Albania, but had acquired Greek citizenship prior to the establishment of the Albanian state in 1913 and gave the possibility of opting between Greek and Albanian citizenship to the residents of Western Thrace who had emigrated from Albania (Christopoulos 2009: 6-7).

After twenty years of direct, economic and political involvement in Albania, Italy invaded Albania in 1939. On 13 April the Italian Fascist Grand Council approved the union proclaimed by the Albanian constituent assembly a day earlier and a new constitution was adopted thus institutionalising the personal union between Albania and Italy and sealing the fate of Albanian independence (Fischer 1999: 38-39). This was followed by an agreement on 20 April 1939 concerning the rights of the respective citizens, by which Italian citizens in Albania and Albanians in Italy would enjoy all the civil and political rights which they enjoyed in their respective national territories (Sereni 1941: 315). After the fall of both Yugoslavia and Greece in 1941, Albania, under complete Italian domination, was given the control of the Kosovo region and western Macedonia (Jelavich 1983: 273) through a special royal decree (no. 264; Shatri 1997: 19). After the capitulation of Fascist Italy in 1943,

Albania, including the territories that were attached to it in 1941, regained independence under German control (Fischer 1999: 169-171). As a result, between 1941 and 1944, Albania's Civil Administration extended its authority in the new territories and Albanians from these regions exercised various citizenship rights of the Albanian state. This situation continued until the end of the Second World War.

2.4 Citizenship under communism, 1945-1991

As soon as the German forces left Albania in autumn 1944, the partisan soldiers of the Albanian National Liberation Movement, soon to be renamed the Democratic Front, were in complete charge of the government. After the elections of 1945, where only official Democratic Front candidates could run for office, a new national constituent assembly met early in 1946, and 'formally abolished the monarchy, proclaimed Albania to be a people's republic within its pre-war frontiers, and approved a new constitution along Stalinist lines, similar to the one in Yugoslavia'. (Fischer 1999: 253) However, before the proclamation of the new constitution, the new regime embarked in a brutal campaign of elimination (including physical removal) of those forces considered a danger to the construction of the new Stalinist state, which were initially identified only by the somewhat generic term 'war criminal' (Fischer 1999: 252). As soon as the provisional government was established in Tirana in November 1944, an undetermined number of people were executed and later in December 1944 and January 1945 a number of Special People's Tribunals were established (ibid.).

As Jelavich put it 'the most doctrinaire and rigid regime was...established in the smallest and poorest of the socialist states' (1983: 378). Due to economic hardship and need for foreign assistance, the Albanian regime led by Enver Hoxha switched between various allies, but made very few changes in its Stalinist doctrine. Thus, after aligning and then designing his country in turn with Yugoslavia (until late 1940s), the Soviet Union (until early 1960s), and finally China (until late 1970s), Hoxha embarked on a policy of self-reliance, almost completely cutting Albania off from the outside world (Biberaj 1999: 5). In this way, Albania was to become one of the most isolated countries on earth, with Hoxha's regime gaining the reputation of one of the most brutal regimes in Eastern Europe. In order to eliminate foreign influence in Albania, the government decided to outlaw religion⁹ altogether in 1967 and to close all houses of worship while introducing severe restrictions on Albanians wishing to travel abroad and limiting the number of foreign visitors to Albania (Biberaj 1999: 29). Therefore, in communist Albania, the right to have a passport became a privilege of the very few.

⁹ This was sanctioned with the 1976 Constitution of the Socialist People's Republic of Albania, thus making Albania the first atheist country in the world. Art. 76 clearly determines that 'The state recognises no religion whatever and supports atheist propaganda for the purpose of inculcating the scientific materialist world outlook in people'. See *Fletorja Zyrtare: Viti 1976, Nr 5, Faqe 75; Data e botimit: 30-12-1976*.

With regards to citizenship, Albania adopted a new law in late 1946.¹⁰ Like the 1929 Civil Code, the new law did not provide for dual citizenship (art. 2). However, it introduced gender equality of spouses (art. 8) and gender equality of parents in cases of the acquisition of citizenship of the child by origin and parents who decide about the naturalisation of the child for the first time in Albania (arts. 1-4). The law also provided for facilitated naturalisation for people of Albanian ethno-national origin. On the other hand, with regards to the modes of loss of citizenship, the law provided for five modes of losing citizenship: (a) by absence, (b) by removal, (c) by release, (d) by renunciation, and (e) based on international treaties. Loss of citizenship by absence and removal were both introduced and used as tools against the enemies of the regime. In the first case someone could lose his citizenship if he or she had not performed any duty to the Albanian state in last fifteen years of residence abroad (art. 13), whereas in the latter case Albanian citizenship could be removed from all those nationals (meaning ethnic belonging) of the states that were in war with Albania and had hostile attitude toward the Albanian state, naturalised citizens who acted against Albania's national interests and were subject to criminal penalties and Albanian citizens who were abroad and acted against national interests of Albania, or had acted in such a way during the war (art. 14).

The 1946 law contained some general, as well as transitional and final provisions. General provisions (art. 22) provided that persons of Albanian ethnic origin who were born and educated in Albania were considered Albanian citizens by presumption until it was proven that they have another citizenship, had asked for it, or had lost Albanian citizenship by release. On the other hand, art. 25 of the transitional and final provisions stipulated that all the cases of people who acquired Albanian citizenship (with the exception of women who acquired citizenship as a result of their marriage to Albanian citizens) between 7 April 1939 and 29 November 1944 would be re-examined by the Ministry of Interior. This is a clear indication that the new regime did not consider all the Albanians from Yugoslavia who could have become Albanian citizens during the Second World War, to be citizens of the socialist Albania ex officio. Nonetheless, all the Albanian co-ethnics who were residing in Albania after the war and were registered to vote in the elections of 2 December 1945 were considered to be Albanian citizens (art. 27).

In 1953, through a special decree,¹¹ the Albanian state decided to grant citizenship en masse to a group of tens of thousands of ethnic Albanians, known as Chams (*Çamët* in Albanian). These are Albanian Muslims of north-western Greece who were forced by the Greek National Army to leave Greece and go to Albania during the summer of 1944 and whose Greek citizenship was withdrawn in a legally contestable manner by a simple erasure from the municipality rolls (Christopoulos 2009: 17). This decision is unprecedented in the history of Albania and was not based

¹⁰ Ligje 377, 16 December 1946. *Mi shtetësinë shqiptare. Gazeta Zyrtare: Viti 1946, Nr 177, Faqe 1; Data e botimit: 27-12-1946.*

¹¹ Dekret nr. 1654, datë 19.4.1953, *mbi dhënien e shtetësisë çamëve që banojnë në Republikën e Shqipërisë.*

on a formal request by the Cham people, who would rather go back to Greece and reclaim their property and Greek citizenship.¹²

In 1954, a new Decree on Albanian Citizenship¹³ was approved. This decree, which contained only nine articles, legalised enhanced state control and arbitrariness in managing the citizenship issues. It granted extensive and discretionary power to the Presidency of the People's Assembly of the People's Socialist Republic of Albania in relation to acquisition (art. 3), release (art. 5) and removal (art. 8) of citizenship. The law does not describe conditions or procedures to be applied when deciding about acquisition, release or removal; a simple decree by the People's Assembly would suffice in this case. Moreover, art. 9 explicitly recognises statelessness; it states that all those people who reside in the territory of Albania and who cannot prove Albanian citizenship based on this decree or another citizenship, are considered stateless. Arts. 2 and 7 of this decree (dealing with citizens residing abroad) were further interpreted in another decree (no. 3231), adopted in 1961.¹⁴

2.5 Citizenship after the fall of communism, 1992-1998

After Enver Hoxha's death in 1985 and especially the fall of the Berlin Wall in 1989, Albania's communist regime was confronted with demands for democratic changes. In response to these pressures, Ramiz Alia, Hoxha's successor, introduced some measures, which for the first time permitted a degree of pluralism and a modicum of free enterprise, including the lifting of the ban on religion, and the legalising of political demonstrations and later political parties (de Waal 2005: 6-7). In June 1990, the government decreed¹⁵ that all citizens could be issued with passports to travel abroad. Although the new measures guaranteed freedom of movement for the first time in many years, the authorities were slow and highly selective in issuing passports (Biberaj 1999: 49). In the meantime, an exodus of people without parallel in any of the other former communist countries began in Albania in July 1990, when several thousand Albanians took refuge in foreign embassies in Tirana, and later in 1991 when boats almost submerged by dense crowds of Albanians, crossed the Adriatic to Italy and thousands of Albanians crossed into Greece (de Waal 2005: 6). According to the data provided by the Albanian government,¹⁶ almost one million Albanians (almost one third of the total population) have migrated abroad since 1991. More than half million went to Greece, 250,000 to Italy and the rest to other EU

¹² For more on the Cham issue see Vickers (2002 and 2007) and Nazarko (2007).

¹³ Dekret Nr 1874, datë 7.6.1954, *Për shtetësinë shqiptare*.

¹⁴ Dekret Nr. 3231, datë 20.3.1961, *Për interpretimin e neneve 2 dhe 7 të Dekretit Nr. 1874, date 7.6.1954 Për shtetësinë shqiptare*.

¹⁵ Dekret Nr. 7393, datë 12.6.1990, *Për lëshimin e pasaportave për jashtë shtetit dhe dhënien e vizave. Fletorja Zyrtare: Viti 1990, Nr 4, Faqe 107; Data e botimit: 19-06-1990*.

¹⁶ See *National Strategy on Migration*, drafted by the Government of Albania in cooperation with the International Organization for Migration in 2005.

countries and Northern America.¹⁷ This has turned Albania into a major emigrant country.

Albania was the last country in South Eastern Europe to detach itself from communism. It first held multi party elections in 1991 and then in 1992, when the Democratic Party (*Partia Demokratike* – PD) became the first non-communist party to win elections in Albania in almost fifty years. As regards key legal changes, in 1991 Albania adopted a new provisional constitution,¹⁸ which lacked separate chapters on human rights and the judiciary (added in April 1992 - the Chapter on the Organisation of the Judiciary and the Constitutional Court, and in March 1993 - the Charter on Fundamental Human Rights and Freedoms). The 1991 constitutional provisions referred to citizenship only in the chapter on President's competences, where art. 28, point 13, stipulates that the President of the Republic decides on requests for acquisition and loss of citizenship. In July 1992, dual citizenship was introduced for the first time in Albania through a short presidential decree,¹⁹ which amended the 1954 decree. However, this decree allows dual citizenship only for 'aliens of Albanian nationality or origin' (art.1, para. 1) who can acquire Albanian citizenship by request without renouncing their previous citizenship. This decree was promulgated (with some modifications) into a law in September 1992,²⁰ this time providing for multiple citizenship for the same category of people. At least three categories of people could benefit from this law: Albanians from Yugoslavia who wanted to acquire Albanian citizenship without losing their previous one; Albanians who had lost their Albanian citizenship during communism, or the post-1990 Albanian diaspora.

Another major legal document that dealt with the issue of citizenship was the Charter on Fundamental Human Rights and Freedoms,²¹ adopted in 1993 as an amendment to the 1991 constitutional provisions. Art. 24 of this Charter provides that Albanian citizenship cannot be revoked without the consent of the citizen and that the criteria for acquisition and loss of citizenship will be regulated by law. This Charter also sets out a long list fundamental rights and freedoms that were banned or were not respected under communism. However, because the constitutional setting in Albania remained incomplete for some seven years after the fall of communism - a fully-fledged constitution²² and a new law on citizenship had to wait

¹⁷ See also Mai (2008); Chiodi (2005).

¹⁸ Ligj Nr 7491, Datë 29-04-1991, Për dispozitat kryesore kushtetuese. *Fletorja Zyrtare: Viti 1991, Nr 4, Faqe 145; Data e botimit: 17-07-1991.*

¹⁹ Dekret Nr. 255, datë 17.7.1992 Për disa plotësime në Dekretin nr.1874, datë 7.6.1954, mbi shtetësinë shqiptare. *Fletorja Zyrtare: Viti 1992, Nr 6, Faqe 318; Data e botimit: 02-12-1992.*

²⁰ Ligj Nr. 7613, datë 28.9.1992, për miratimin me një ndryshim të dekretit nr.255, datë 17.7.1992 "për disa plotësime në dekretin nr.1874, datë 7.6.1954 'mbi shtetësinë shqiptare'". *Fletorja Zyrtare: Viti 1992, Nr 6, Faqe 319; Data e botimit: 02-12-1992; Fletorja Zyrtare: Viti 1992, Nr 6, Faqe 319; Data e botimit: 02-12-1992.*

²¹ *Fletorja Zyrtare: Viti 1993, Nr 3, Faqe 161; Data e botimit: 15-04-1993.*

²² In 1994, the Albanian government prepared a draft-constitution and in a referendum held in the autumn of the same year the population rejected the constitution on the well-founded grounds that it gave the president excessive decision-making powers (von Waal: 9). In addition, the draft contained two articles that were widely interpreted as limitations on democracy and not in conformity with international norms and standards, namely art. 6 (3), which prohibited the creation of political parties based on religion or ethnicity and art. 7 (4), which

until 1998 –between 1992 and 1997 Albanian citizenship seems to have been easily accessible.²³ In this period, according to the data provided by the Office of the President of Albania, some 2,530 persons acquired Albanian citizenship, with the majority of them being Albanians from former Yugoslavia, but also Albanians from diaspora (Sorraj 2007: 36-38). In 1992 alone, 1,107 persons acquired Albanian citizenship. On the other hand, between 1992 and 1997 only 668 people lost Albanian citizenship (Sorraj 2007: 41).

2.6 Citizenship in Albania since 1998

Albania's long lasting and exhausting path to democracy was further impeded in 1997, when a combination of political and economical crises (following the fall of the 'pyramid system' - a fraudulent investment scheme), caused an armed rebellion against the government that shook the country.²⁴ In the subsequent elections of that year, the Socialist Party (*Partia Socialiste* – PS) won the elections, thus marking the restoration of ex-communists in power. The new government initiated an ambitious plan of, using Adam Przeworski's phrase, 'devolution of power from a group of people to a set of rules' (cited in Taras 2003: 125). This included the need for citizenship legislation as well, which was a response to the fact that until 1998 Albania had known several massive waves of migration within the country and abroad. In the meantime, it faced the issue of Kosovar Albanian refugees who fled to Albania already in spring 1998. So, on 5 August 1998, Albania adopted its first post communist law on citizenship²⁵ and on 21 October 1998, the Albanian Parliament adopted the state's first post-communist constitution,²⁶ which was later approved on a popular referendum a month later. In a way, this completed the legal framework on Albanian citizenship.²⁷

The 1998 constitution touches upon the issue of citizenship in three instances. First, according to art. 19, everyone born with at least one parent who is Albanian citizen acquires Albanian citizenship automatically. The same article stipulates that Albanian citizenship can be lost only with the consent of the person. Second, art. 16.1

stipulated that heads of the large religious communities must be Albanian citizens born in Albania and permanently resident there for the past 20 years (in that case, Archbishop Anastasios Yannoulatos, a citizen of Greece who was named the temporary head of the Albanian Orthodox Church in 1992, would have been forced to resign and possibly leave). See Biberaj (1999: 162).

²³ It turned out that a number of individuals from the Middle East and the Gulf Region, who came to Albania as foreign investors and latter turned out to be linked to terrorist networks and organisations, including Al-Qaeda, were granted Albanian citizenship. See 'Berisha i dha nënshtetësinë krahut të djathtë të Bin Laden' [The right hand of Bin Laden granted citizenship by Berisha], *Gazeta Shqip*, 12 April 2007. <http://www.gazeta-shqip.com/artikull.php?id=16272>.

²⁴ Under a United Nations (UN) mandate, the European Union (EU) deployed an eight-nation force of 5,000 (known as Operation Alba) in Albania to distribute humanitarian aid and help the Albanian authorities restore order. See Pond (2006: 199).

²⁵ Ligj Nr 8389, Datë, 05-08-1998. *Fletorja Zyrtare: Viti 1998, Nr 21, Faqe 845; Data e botimit: 20-08-1998.*

²⁶ Ligj Nr 8417, Datë 21-10-1998. *Fletorja Zyrtare: Viti 1998, Nr 28, Faqe 1073; Data e botimit: 07-12-1998.*

²⁷ The 1998 law on citizenship was amended in 1999 in order to be harmonised with the constitution. See Ligj 8442, datë 21.01.1999, Për disa ndryshime në ligjin nr.8389, datë 5.8.1998, 'Për shtetësinë shqiptare.' *Fletorja Zyrtare: Viti 1999, Nr 3, Faqe 19; Data e botimit: 22-02-1999.*

states that citizens' fundamental rights and freedoms deriving from the constitution are equally applicable to aliens and stateless people, except in the cases when the constitution attaches specific rights to the Albanian citizenship. Art. 92 (c), stipulates that it is the competence of the President of the Republic, in accordance with the law, to decide on cases of acquisition and loss of citizenship.

On the other hand, the law on Albanian citizenship was harmonised with the recommendations of the European Convention on Nationality (1997),²⁸ whereas its structure and content was based on the French, Italian and Dutch models (Sorraj 2009: 369), as well as on the 1929 Civil Code.²⁹ Art. 1 of the law defines Albanian citizenship as 'a stable legal relationship, which is expressed on the interrelated rights and duties between the physical person and the Albanian state.' Art. 3 stipulates that an Albanian citizen can also be a citizen of another country, thus tolerating unconditional dual citizenship for the first time in the history of Albania's citizenship legislation. Another characteristic of this law is that it contains clauses that aim at eliminating and reducing statelessness. Art. 24 (provisional and final provisions) gives precedence to stateless people and enables them to re-acquire Albanian citizenship immediately. In addition, art. 14 enables all the persons who have renounced Albanian citizenship because they have been promised another citizenship, may re-acquire the Albanian citizenship in case they do not acquire the promised citizenship within a reasonable period of time. It is because of these clauses that the law (while it was still a draft) was praised by the United Nations High Commissioner for Refugees (UNHCR) and considered to be 'of a high standard and, in principle, achieves this goal of avoidance of statelessness' (1998). The measure was introduced in order to tackle the problem of Albanian emigrants who left Albania since 1991 and who had renounced their Albanian citizenship and could not acquire another citizenship. Although there is no exact number of people who fall within this category, the urgency with which they were treated and the inclusion of specific clauses in the law dealing with them, is an indication of the acuteness of the problem.

3. The current citizenship regime

3.1. Modes of acquisition of citizenship

According to the law, Albanian citizenship is acquired by birth, by naturalisation and by descent. Acquisition by birth is determined in arts. 7 and 8. Based on art. 7, everyone born of at least one parent with Albanian citizenship acquires Albanian citizenship automatically. In this case, both the principles of descent (*ius sanguinis*) and gender equality of parents are applied. A child born in Albania would acquire citizenship under the *ius soli* principle if the child born or found within the territory

²⁸ Albanian Government signed the European Convention on Nationality on 28 May 1999 and finally ratified it on 19 September 2002. Sorraj (2009: 268).

²⁹ Interview with one of the drafters of the law and former adviser to the President of Albania, 1998-2002. Tirana, 08.07.2010.

of the Republic of Albania is born from unknown parents and would consequently become stateless (art. 8, para. 1). However, if the child's parents become known before the child reaches the age of fourteen, and he or she holds foreign citizenship, Albanian citizenship can be relinquished at the request of his lawful parents, provided that the child does not become stateless as a consequence of this action (art. 8, para.2). The *ius soli* principle is also applied in case of a child born within the territory of the Republic of Albania from parents holding another citizenship who are lawful residents in the territory of the Republic of Albania, provided that both parents give their consent (art. 8, para. 3).

Acquisition of citizenship by naturalisation is determined in art. 9. Albanian citizenship legislation provides for regular, facilitated and exceptional naturalisation. In cases of regular naturalisation, a foreigner who has submitted an application for acquisition of Albanian citizenship by naturalisation shall acquire Albanian citizenship if he or she fulfils the following requirements: 1) has reached the age of 18; 2) has lawfully resided in the territory of the Republic of Albania for not less than five continuous years; 3) has a dwelling and sufficient income; 4) has never been sentenced in his state or in the Republic of Albania or in any third state for a criminal offence for which the law provides for a prison sentence of not less than three years (exemption from this rule is made only if it is proved that the sentence was given for political motives); 5) has at least an elementary knowledge of the Albanian language; and 6) his or her acceptance as an Albanian citizen does not affect the security and defence of the Republic of Albania. According to art. 11, para. 1, if both parents acquire Albanian citizenship by naturalisation, their children who have not reached the age of 18 and live with their parents become Albanian citizens at the request of the parents and with the consent of the child, if he or she is fourteen to eighteen years old. If only one of the parents acquires Albanian citizenship, however, his or her children under 18 years of age become Albanian citizens if that is requested by both parents or by one of the parents if the other parent is stateless and the child is resident in the Republic of Albania (art. 11, para. 2).

Facilitated naturalisation is applied in the case of spouses, individuals of Albanian origin and stateless people. In the case of naturalisation of spouses (art. 10), a foreigner married to an Albanian citizen for not less than three years can acquire Albanian citizenship by naturalisation even if he does not fulfil the requirements under points 2 (in this case, one year of legal and continuous residence is enough) and 5 of art. 9. Likewise, in the case of stateless people the requirements under points 1, 3, 4 and 5 of art. 9 are not taken into consideration. Finally, if a foreigner proves that he is of Albanian origin (it is not clear if it means ethnic origin or refers to people from diaspora) up to the second degree, be it even from one parent, in that case the time of residence in the Republic of Albania must be at least three years. All other requirements for the acquisition of Albanian citizenship provided for in art. 9 remain unchanged. Art. 14 of the Albanian citizenship law provides for facilitated naturalisation of the persons who have relinquished Albanian citizenship because of a promise to be granted another citizenship and do not acquire the promised

citizenship within a reasonable time. (These people can reacquire Albanian citizenship once they file an application). Undoubtedly, this clause aims at preventing cases of statelessness in the future.

Exceptional naturalisation is applied in cases when the Republic of Albania has a scientific, economic, cultural or national interest, provided that the foreigner has reached the age of 18 and his or her acceptance as an Albanian citizen does not affect the security and defence of the Republic of Albania (art. 9.7). In this case, it is the President of the Republic who, based on a proposal of a ministry or other state organ for exceptional merits and contribution to the state of Albania, grants citizenship to an alien. So far, based on this clause, many politicians, artists and sportsmen from Kosovo have acquired Albanian citizenship (Sorraj 2009: 371).

Acquisition of citizenship by adoption is defined in art. 12. If two parents who are Albanian citizens adopt a minor of another citizenship or who is stateless, the child acquires Albanian citizenship as well. An adopted minor also acquires Albanian citizenship in cases when one of the parents is Albanian and both parents, at the time of adoption reside in the territory of the Republic of Albania, as well as in any other case when the child may become stateless as a result of the adoption.

Regardless of the modes in which a person acquires Albanian citizenship, the decision granting Albanian citizenship may be revoked if it is proved that the alien or stateless person has intentionally supported his application for acquisition of Albanian citizenship on incorrect data or falsified documents.³⁰ If that is the case, Albanian citizenship is also revoked for children under 18 years of age who have acquired citizenship together with their parents, always taking into account the child's interest, as well as the principle that the child should not remain stateless.

All the data regarding statistics on cases of acquisition of citizenship is available on the official web page of the President of the Republic. However, information on refused applications is hard to find. In the period between 1991 until 2007 some 3,184 foreigners, mostly Albanians from former Yugoslavia, acquired Albanian citizenship (Sorraj 2007: 36-38).

³⁰ An interesting case is that of Stefan Naumov, the Bulgarian Ambassador to Albania (1992-1996), who was granted Albanian citizenship in 1997 by the office of the president of the time after relinquishing Bulgarian citizenship. Four years later, in 2001, the office of the newly elected President of the Republic of Albania revoked the grant of Albanian citizenship to the applicant on the basis that citizenship had been granted in response to an application based on forged documents. After this revocation of citizenship by the Albanian President, Naumov was taken to a police station and kept there for several hours, where he was verbally ordered to leave Albanian territory within three days pursuant to a deportation order which had been issued against him. Moreover, the authorities issued a press release on the applicant's deportation. The applicant lodged actions against the revocation of his citizenship and the deportation order with the District Court. Following proceedings, which involved several referrals and periods of inactivity, the president's decree revoking Albanian citizenship was declared null and void, as was the deportation order. Naumov then filed an application to the European Court of Human Rights (*Naumov vs. Albania*. European Court of Human Rights. Appeal no. 10513/03) to ask for compensation concerning the time spent in the police station and the damage made to his reputation. But his application was declared inadmissible by the court because the applicant had not exhausted all legal means in the domestic courts. (Sorraj 2007: 40, n. 62; see the report on Albania in Imeri 2006: 27).

3.2. Loss of Albanian Citizenship

Based on art. 15, Albanian citizenship is lost at the request of the person if he or she fulfils the following requirements: 1) has reached the age of 18; 2) does not become stateless as a result of the relinquishment of Albanian citizenship because he holds a foreign citizenship, will acquire a foreign citizenship or gives guarantees that he will acquire a foreign citizenship; 3) resides in a foreign state; 4) is not subject to criminal proceedings for criminal offences for which the Albanian legislation provided for a prison sentence of not less than five years; 5) does not have any legal obligations toward state authorities, and natural or legal persons. Citizenship of minors may be terminated if one of the parents has lost Albanian citizenship, provided that both parents give their consent (art. 16, para. 1). However, if one of the parents does not consent to the child losing Albanian citizenship, the child will still lose citizenship if it is judged to be in the interests of the child and if the child holds or will acquire another citizenship (art 16, para. 2). Art. 16, para. 3 determines that a minor loses Albanian citizenship if he is adopted by alien parents and acquires, in that case, a new citizenship. Notwithstanding these criteria and procedure, the decision for the recognition of the fact of relinquishment of Albanian citizenship can be revoked if it is proved that the former Albanian national has intentionally used incorrect data or falsified documents for the relinquishment of his citizenship (art. 15).

Between 1992 and 2007, almost 5,000 (4,949) persons lost their Albanian citizenship; in 2002 alone, 1,105 persons have lost their Albanian citizenship by release (Sorraj 2007: 33-34). This number is an indicator of the integration of the Albanian diaspora in various host countries in Europe. This trend will certainly increase in the future since more emigrants will be fulfilling residence criteria with regards to naturalisation.

3.3 Transitional and final provisions

The Albanian law on citizenship contains various transitional provisions. The main one deals with the people who have lost their Albanian citizenship before the adoption of the 1998 law and who are stateless. Art. 24 states that a person who has relinquished Albanian citizenship before the effective date of this law and does not hold another citizenship shall immediately reacquire the citizenship, at his or her request. This article was introduced in order to eliminate statelessness for a substantial number of Albanians who migrated abroad during the 1990s and lost their citizenship (upon their request) before they acquired another one. At that time Albanian legislation did not require a guarantee from a foreign state prior to release from citizenship (Imeri 2006: 27). Nonetheless, there have been some indications that some people from this category have faced many problems in their attempts to reacquire Albanian citizenship despite the fact that they have presented their requests to the President's Office (Imeri 2006: 28).

Art. 27 of the transitional provisions provides that the Albanian state, in accordance with the spirit of international conventions on the avoidance of cases of dual citizenship and statelessness, reserves the right to require that its citizens or applicants for Albanian citizenship choose only one citizenship. This clause reaffirms the primacy of international law over the domestic law in the field of legislation in Albania.

3.4 Procedure and jurisdiction

Art. 15 of the Law on Albanian Citizenship determines that the Ministry of Public Order (now Ministry of Interior), the Ministry of Finance, the Ministry of Justice, and the Ministry of Foreign Affairs are charged with jointly issuing secondary legislation for the implementation of the procedures contemplated in this law. The three main administrative instructions that determine procedures and criteria for acquisition and loss of citizenship are the Joint Instruction by Ministers of Public Order, Minister of Foreign Affairs, Minister of Justice and Minister of Finance of 1999,³¹ and the Instruction by the Minister of Public Order and Minister of Foreign Affairs 2001,³² which was modified in 2007.³³

Based on art. 17 of the law on Albanian citizenship, applications for the acquisition, reacquisition or relinquishment of Albanian citizenship, together with documents required by this law, are to be filed with the organs of the Ministry of Interior of the person's place of residence or, if the person resides abroad, with the diplomatic or consular missions of the Republic of Albania. If the required documents are incomplete, the competent organ shall return them to the applicant for completion within one month (art. 18). In Albania, applications are submitted to the Directorate of Police together with a fee of 5,000 Albanian Lekë (around 40 Euros), which submits them to the Ministry of Interior within two months. Within the Ministry of Interior, it is the Directorate for Refugees and Citizenship that deals with applications for citizenship. The law (art. 19) determines that the Ministry of Interior, within six months from the filing date of the individual's application, and in accordance with the requirements provided for in the law for the acquisition, reacquisition or loss of Albanian citizenship, shall decide whether to forward the application for acquiring, reacquiring or relinquishing citizenship to the President of the Republic. In any case, the complete individual file of the applicant shall accompany the request of the Ministry. The law also provides that the interested

³¹ *Udhëzim i përbashkët i Ministrisë të Rendit Publik (nr. 925, datë 03.03.1999), Ministrisë të Punëve të Jashtme (nr. 337/1, datë 08.03.1999), Ministrisë të Drejtësisë (nr.782/1, datë 25.03.1999), dhe Ministrisë të Financave (nr.583/3, datë 05.03.1999), 'Për procedurat që ndiqen për fitimin e shtetësisë shqiptare me natyralizim.'*

³² *Udhëzim i Ministrisë të Rendit Publik (Nr. 3583 datë 27.11.2001) dhe Ministrisë të Punëve të Jashtme (nr. 6252, datë 10.12.2001), 'Për procedurat dhe dokumentacionin për fitimin, rifitimin dhe heqjen dorë nga shtetësia shqiptare.'*

³³ *Ministria e Punëve të Jashtme dhe Ministria e Brendshme. Udhëzim për disa shtesa dhe ndryshime në udhëzimin e përbashkët të Ministrisë të Punëve të Jashtme dhe Ministrisë të Rendit Publik për procedurat dhe dokumentacionin për fitimin, rifitimin dhe heqjen dore nga shtetësia shqiptare, 2007.*

parties (i.e. applicants) must be notified of the Ministry of the Interior's decision and that they can file a suit with the Tirana District Court if they disagree with the decision.

Within President's Office, it is the Office for Citizenship and Directorate of Legal Coordination that examines an application and, in case it is considered complete (if the request is incomplete, however, the file shall be returned for completion to the Ministry of Interior within one month from the day it was received), it forwards it to the President of the Republic for approval by decree. The President of the Republic issues the respective decree within three months from the forwarding of the request by the Ministry of Interior. Once approved, the decree is delivered to the Ministry of Interior, the Civil Registry Directorate, and the Centre for Official Publications (Official Gazette). The president's decree enters into force immediately, is registered in the Citizenship Office Register and is published on the president's official web page at www.president.al. In addition, the relevant document is given to the person who has acquired Albanian citizenship, while a temporary identification document shall be given to a person who has lost Albanian citizenship. Finally, art. 23 of the law on citizenship determines that the person who acquires Albanian citizenship by naturalisation shall make an oath before an official of the Citizens' Registration Office to be faithful to the Albanian state and to respect the Constitution and the laws of the Republic of Albania. Albanian citizenship is deemed effectively acquired from the day of the oath.

Irrespective of these procedures, implementation of the legislation still remains problematic in Albania. Despite the fact that the Albanian law on citizenship prevents statelessness in principle, various NGOs have raised concerns about the registration of newborn children in state registering offices, especially in the case of marginalised communities, such as the Roma.³⁴ As a result, many children remain unregistered and consequently stateless, mainly because of the negligence by the state authorities (Imeri 2004: 29). Another identified problem with the national civil registry is that it is not updated regularly and there are cases when names of people who have lost their citizenship still exist in the state registers (Sorraj 2009: 374). Finally, more transparency is needed when it comes to the procedures regarding refusal to grant citizenship by the competent authority and publication of the data.

4 Current political debates

Due to Albania's unique history of late state consolidation in the 1920s and total isolation under communism, the concept of citizenship and its related issues have

³⁴ According to the UNDP in Albania, the problem of child registration in the national civil registry in the case of Roma is widespread. When a child is born abroad or outside health institutions, or when the mother declares a false identity, in which cases there is no birth certificate, a court procedure must be followed by entitled persons. Often these procedures are interrupted because entitled persons fail to show up in hearings (for both objective and subjective reasons) and the case is closed, or remains unresolved. Although the judge is, or should be aware that a child remains unregistered and/or without legal custody, no action is taken by the judge or the prosecutor. See Personal interview with a UNDP officer in Albania. Tirana, 09 July 2010.

rarely been central to the political debate. One issue has dominated political debates in Albania from 1991– state consolidation and transformation. This is because the building of new political institutions as well as the establishment of rules and procedures to promote development and eventual consolidation of democracy proved to be a difficult task in the case of Albania. Albania is a poignant example of a country that experienced political fragmentation, institutional weakness, legal confusion and official corruption in the aftermath of the fall of communism (Bugajski 2002: xlii). Likewise, despite a considerable progress, Albania's integration into the European political structures has been slow; it joined the Organization for Security and Cooperation in Europe (OSCE) in 1991, the Council of Europe in 1995 and signed the Stabilization and Association Agreement with the European Union (EU) in June 2006. In April 2008 Albania became a North Atlantic Treaty Organization (NATO) member and submitted its application for EU membership on 28 April 2009.

In the context of debates related to European integration, the issue of visa liberalisation and free movement takes a central place nonetheless. Albania, together with Bosnia and Herzegovina, could not profit from the proposal for visa-free regime for citizens of Macedonia, Montenegro and Serbia, endorsed by the Council of the European Union on 30 November 2009.³⁵ However, on 27 May 2010, the European Commission adopted a proposal to enable citizens of Albania and Bosnia and Herzegovina to travel with biometric passports to the Schengen countries without a visa (the proposal is conditional on both countries fulfilling three additional requirements).³⁶ On 8 October 2010, the European Parliament adopted a report which backs Commission's proposal to exempt citizens of Albania and Bosnia and Herzegovina from EU visa requirements by the end of this year.³⁷ The proposal to waive visa requirements still needs to be approved by the Council of Ministers by a qualified majority in November 2010.

Furthermore, Albania's relations with Greece, which encompass, among others, the status of Albanian minority and Albanian emigrants in Greece, as well as the status of Greek minority in Albania and its relations to Greece, has been constantly present in the political debates in Albania in the last twenty years. There is a significant Albanian community in Greece, which is composed of three main groups: Arvanites, who moved to Greece during the thirteenth and fourteenth centuries (who have been to a large extent assimilated although in many of their villages they have preserved their language, customs and traditions); Chams, most of whom were deported to Albania although some still live in north-western Greece; and recent Albanian emigrants who moved to Greece after the fall of communism in Albania (Bogdani & Loughlin 2007: 234-235). The Cham community (which is estimated to be around 200,000) in Albania, despite being granted Albanian citizenship in 1953, still perceive themselves as refugees and campaign for the return

³⁵ IP/09/1852. Brussels, 30 November 2009.

³⁶ IP/10/622. Brussels, 27 May 2010.

³⁷ http://www.europarl.europa.eu/news/public/focus_page/008-84709-274-10-40-901-20101001FCS84628-01-10-2010-2010/default_p001c004_en.htm

of their confiscated properties together with compensation and restoration of their Greek citizenship (Vickers 2007: 1). This issue has strained Greek-Albanian relations several times in the aftermath of the fall of communist regime in Albania.

The Cham issue is closely interlinked with that of the Greek minority in Albania and the large Albanian community of emigrants in Greece. As far as the Greek minority³⁸ in Albania is concerned, they constitute Albania's largest national minority,³⁹ concentrated mainly in southern part of the country, along the border with Greece. Though at present they are fully integrated into the political system and social life in Albania, in the early 1990s many controversies arose over their status. Thus, in 1992, following Albania's decision to ban ethnic or religious parties from standing in future elections, the main Greek organisation – the Democratic Union of the Greek Minority (OMONIA) – was not permitted to participate in the 1992 elections. Instead, the Greek community established the Union of Human Rights Party (*Partia Bashkimi për të Drejtat e Njeriut* – PBPNJ), which has been part of every Albanian government until 2009. Another contentious issue is that of the Orthodox Church of Albania, established in 1908 and recognised as Autocephalous by the Patriarchate in Istanbul in 1937. In 1993, an ethnic Greek, Anastasios Yannulatos, was appointed by the Patriarchate in Istanbul as Albania's archbishop. Fearing an eventual hellenisation of Albania's Orthodox Church, the Albanian authorities, citing the Albanian Orthodox Church constitution of 1929, demanded that the head of the Orthodox Church to be of Albanian origin or citizenship (Vickers 2010: 4). Though Yannulatos came to Albania on a provisional basis, until a suitable ethnic Albanian replacement could be found, he remains Albania's archbishop. However, the Albanian state still refuses to grant him citizenship.

In the Greek legal order, Greeks from Albania (which in Greece are referred to as Greeks from 'Northern Epirus') are regarded as *homogeneis*,⁴⁰ meaning individuals of Greek origin and of consciousness (Christopoulos 2009: 15). Since 1991, they would receive a 'Special Identity Card of Homogeneis' (*Eidiko Deltio Tautotitas*

³⁸ According to the 1981 census, the Greek minority in Albania numbered some 55,000 out of a total population of over three million. Following the collapse of communist regime, a substantial proportion of the Greek minority moved to Greece, and total numbers are now unclear and disputed. Greek sources claim that there are at least 200,000-250,000 Greeks living in Albania. Albanian authorities claim that this is a deliberate exaggeration that includes other categories of people, such as Orthodox Christian Albanians and the Vlach community. See Bugajski (2002: 681); Vickers (2010: 1); Christopoulos (2009: 18).

³⁹ Three minorities are officially recognised in Albania as national minorities: Greeks, Macedonians and Montenegrins. Roma and Vlachs/Aromanians are recognised as linguistic (sometimes called cultural) minorities. Both linguistic and national minorities are recognised under the Framework Convention for the Protection of National Minorities (FCNM), which entered in force in Albania in 2000. Egyptians, as they call themselves but are often considered to be part of the Roma people, are not recognised as either a national or a linguistic minority – although they would like their status to be acknowledged as such. Based on official statistics, Albania is one of the most homogenous countries in the region, but minority groups often question the official state data. In 2011, Albania will organise an overall census, which for the first time will enable everyone to declare (if they wish to do so) his or her religion and ethnicity. For more on Albania's minorities, see AHRG (2003) and the UNHCR report on Albania, available at: <http://www.unhcr.org/refworld/country,,,COUNTRYPROF,ALB,4562d8b62,4954cdfel1a,0.html>.

⁴⁰ This status was granted to Greeks from Albania based on Law 1975/1991, art. 17, and Common Ministerial Decision 4000/3/10-e/2002, Ministries of Interior, Foreign Affairs, Public Order, Labour and Defence. Tsitselikis (2006: 8).

Omogenous), which also provides for preferential treatment, in comparison to the rest of the Albanians by both the Greek nationals and the authorities; thus, Greeks from Albania managed almost immediately and unconditionally to receive permanent residential status in Greece, including access to work permit and special benefits for social security, health and education.⁴¹ However, the Greek state did not grant them Greek citizenship because it did not want them to leave their places of residence and because in that way they would have lost their Albanian citizenship, since until 1998 Albania did not tolerate dual citizenship. Only in 2006 were the *homogeneis* from Albania allowed by the government to acquire Greek citizenship and in 2007 they started acquiring it in small numbers (Tsitselikis 2006: 7-12). However, evidence shows that Greek authorities also provide the *homogeneis* identity card to a large number of Christian Orthodox Albanians as well as Vlachs who have migrated to Greece. Thus, according to reliable information from the Greek Ministry of Public Order, approximately 200,000 (which exceeds by far the number of Greeks in Albania), were granted the status of *homogeneis* (Christopoulos 2009: 17), and most probably will soon acquire Greek citizenship.⁴² As a result of economic pressures, many Vlachs and Albanians, including Muslim Albanians who convert to Orthodoxy, claim to be Greeks to get the status of *homogeneis* and later citizenship (Vickers 2010: 1).

On the other hand, the rest of the Albanian emigrants in Greece, which represent more than half of the total number of immigrants in Greece and amount to more than half a million, reside in Greece either as undocumented immigrants or documented *allogeneis* immigrants (who possess a 'white/green card'). Although it is hard to get an exact data on the number of Albanian emigrants who have acquired Greek citizenship in last twenty years, it is widely believed that the number is low. However, following this year's decision by the Greek government to undertake a comprehensive reform of Greek citizenship law⁴³ (which includes liberalisation of the criteria for naturalisation of aliens and granting of voting rights for legal residents),⁴⁴

⁴¹ See H. Athanasiades, K. Zafiroopoulos & N. Marantzidis, *The limits of political correctness: dual citizenship, governance and education in Greece*. Available at: http://www.antigone.gr/en/projects/files/project_deliverables/The_Limits_of_Political_Correctness_Dual_Citizenship_Governance_and_Education_in_Greece.doc.

⁴² According to the data provided by EUROSTAT, 9,996 Albanian citizens acquired Greek citizenship in 2008. See <http://eudo-citizenship.eu/citizenship-news/343-eurostat-acquisitions-of-citizenship-slightly-declining-in-the-eu>

⁴³ See D. Christopoulos, *Greece: comprehensive citizenship reform passed in parliament on 11 March*. 13 March 2010. Available at: <http://eudo-citizenship.eu/citizenship-news/260-greek-parliament-passed-comprehensive-citizenship-reform-on-11-march-read-a-summary-by-eudo-citizenship-expert-dimitris-christopoulos>.

⁴⁴ In addition to the comprehensive reform of Greek citizenship, the new Greek law provides (arts. 14-21) for voting rights and right to be elected for ethnic Greeks and legally residing migrants in municipal elections, starting from the forthcoming elections in October 2010. Legal residents in Greece (all the categories), can exercise their voting rights and right to be elected provided that they have resided in Greece for five years. These people will be included in special voting registers which will be drafted per municipality or electoral district. Undoubtedly, this affects many Albanian emigrants in Greece, thus putting them close to being on a par with political rights to EU citizens. Although the process of creation of the special voting register of aliens has been initiated, still there are no figures on the number of legal residents who applied to be included. An unofficial English version of the new law is available at: <http://www.athenspe.net/features/greeces-new-law-on-citizenship-and-voting-rights-of-migrants/>.

the number of Albanian immigrants that acquire Greek citizenship (thus becoming dual citizens) is expected to increase significantly.

Albania's large diaspora communities play a crucial role in the economic wellbeing of the country: they provide remittances that exceed \$500 million per year and make up some 15 per cent of country's GDP (Mai 2008: 4). Irrespective of this, their role in the political developments in Albania is marginal. Albania does not provide for voting rights for its emigrants; hence, no parliamentary seats are reserved for them.⁴⁵

Finally, Albania's domestic and foreign policy is also affected by the developments in Kosovo and in the former Yugoslav republics (Serbia, Macedonia and Montenegro), which have a significant Albanian community within their borders. In fact, since 1912, the predominantly Albanian-inhabited territories that were annexed to Yugoslavia have presented Tirana's policymakers with a unique national and foreign policy predicament (Biberaj 1999: 246). Although not a former member of the Yugoslav federation, because of the large numbers of Albanians that were living in the federation and since early 1990s in its successor states, in many respects, Albania today is part of the 'post-Yugoslav constellation'.⁴⁶ Albania still remains a prime point of reference (a kin-state) for Albanians living in the neighbouring countries, despite the fact that in the aftermath of Kosovo's independence Pristina is emerging as a major centre of power and reference in what is loosely defined as the 'new Albanian space' (Vickers 2009: 14) in the Balkans. Nonetheless, in terms of the citizenship policies, since 1991 Albania has granted preferential treatment to its ethnic kin from the former Yugoslavia⁴⁷ in forms of the reserved places for students from these regions to study in public universities⁴⁸ in Albania and other social and cultural benefits, without extending full citizenship rights. In mid 2010, a group of intellectuals from Kosovo and Macedonia have signed a petition requesting from the President of Albania to grant citizenship to all Albanians from the Balkans.⁴⁹ If that scenario becomes a reality, than some six million ethnic Albanians in the Balkans would have Albanian citizenship.

⁴⁵ Within the Ministry of Foreign Affairs of Albania there is a National Institute of Diaspora, which shall design, coordinate and supervise Albania's policy on diaspora. See www.mfa.gov.al

⁴⁶ Personal interview with the director of the Albanian Media Institute. Tirana, 19 October 2009.

⁴⁷ A case in point is the practice of Albania's border authorities to enable free entrance to Albania for all Albanians from Kosovo and South Serbia with Federal Republic of Yugoslavia (FRY) passports, despite the fact that Albania applied entry visas for citizens of the FRY.

⁴⁸ For example, in 2009, the Ministry of Education of Albania provided for a quota of 345 students from the Presevo Valley (South Serbia) to study at Tirana University. Similar quotas are provided each year for Albanian students from Kosovo, Montenegro and Macedonia. See *Tirana do të pranojë 345 studentë nga Presheva* [Tirana will admit 345 students from Presevo], 4 September 2009. <http://www.lajmpress.com/lajme/shqiperi/1056.html>.

⁴⁹ See *Kërkesë Topit: Shtetësi për të gjithë shqiptarët* [Request for Topi: citizenship for all Albanians], 31 July 2010. <http://www.gazetastart.com/lajme/Aktualitet/22225/>.

Conclusion

Until a few years ago, citizenship was not on the political or even the academic agenda in Albania. The reasons for this lie in the history of the development of the Albanian state and in its geopolitical context. In the first phase of the consolidation of the Albanian state, citizenship and its related issues were totally sidelined by other concerns related to the very existence of the state, its borders and the type of political regime. Hence, no citizenship law was enacted until 1929, some seventeen years after the declaration of independence of Albania. Under communism, citizenship lost most of the meaning usually attached to it due to the 'bunker' mentality of the Albanian communist leadership - in the late 1970s Albania withdrew completely from the international system and all organisations of which it was a member, with the exception of the UN – and the unparalleled direct state control of the society, economy and politics in Albania. In this period, citizenship (in practice) did not mean the right of a citizen to have rights; rather, it meant the state's unlimited and uncontrolled right to limit citizens' rights, including the rights to travel abroad and even migrate from one part of the country to another.

Only after the fall of communism in 1991 and the subsequent liberalisation and democratisation of the Albanian state did citizenship in its modern and liberal sense slowly start to enter the political agenda in Albania. Albania's opening to the world and the massive waves of migration to Greece, Italy, and the rest of the Europe introduced citizenship in the political agenda of Albania, thus raising awareness among its people on the rights, duties and legal implications of citizenship. However, Albania's rocky path to democracy, marked by state weakness and deep political polarisation, which ultimately led to the almost-total state collapse in 1997, prevented the country from reforming and reconstructing its legal constitutional order, including citizenship legislation. Thus, only in 1998 did Albania adopt both its first post-communist law on citizenship and later a constitution.

The present citizenship legislation in Albania reflects the country's attempts to democratise and achieve EU membership. Some of the main principles of the European Convention on Nationality, which it ratified in 2002, including the obligation to reduce and eliminate statelessness, are incorporated into the new citizenship law. In addition, for the first time in its history, the Albanian citizenship legislation allows dual citizenship. Certainly, this reflects the new reality created in Albania and the region after the fall of communism and increase of the migration flux. The 1998 law also lacks ethno-centric formulations and provisions and is gender-balanced when it comes to the naturalisation of spouses and children.

The fact that about half of the Albanian population in the Balkans has lived outside the borders of Albania since 1912 represents both a challenge and a national and foreign policy predicament for Albania. Even in the post-communist period, Albania's affirmative state nationalism, which was used as an instrument of domestic integration, has coexisted and competed with a 'defensive ethno-nationalism directed outwards with additional irredentist elements' (Schmidt-Neke 2009: 530).

However, despite the fact that various governments in Albania have shown tendencies to use the issue of Albanians in the neighbouring states for domestic political gains,⁵⁰ today, Albania's influence over Kosovo and other Albanian-inhabited regions in Macedonia, Montenegro and Serbia is 'much more symbolic than real' (Vickers 2009: 14). Albania has consistently affirmed its respect for the principle of inviolability of borders in the Balkans and recently has resisted claims from various NGOs and intellectuals from Kosovo and Macedonia to extend full Albanian citizenship rights to all the Albanians in the region. However, should the European Union grant Albania visa-free travel to the Schengen Zone before the end of 2010, the demand for Albanian passports would increase, particularly among Albanians in Kosovo.⁵¹ Many countries in the region, including Croatia, Bulgaria, Romania and Greece have already extended their citizenship to encompass their ethnic-kin in the neighbouring countries. It remains to be seen if Albania will follow a similar path.

⁵⁰ Cases in point include the appropriation by Albania's interwar king Ahmet Zogu of the title 'King of Albanians', Enver Hoxha's political stances on Kosovo, and Albania's first post-communist president (and present prime-minister) Sali Berisha's (symbolic) paternalist attitudes toward Albanians outside Albania. For a detailed account of the attitude of the Albanian state toward Albanians in the neighbouring countries and the so-called 'Great Albania' issue, see Kola (2003).

⁵¹ Kosovo, with a contested statehood, is yet to receive a roadmap for visa liberalisation with the EU. For more on citizenship in Kosovo see Krasniqi (2010).

Bibliography

AHRG (2003), *Minorities: the present and the future*. Report of the Albanian Human Rights Group on the situation of minorities in Albania. Tirana: Kanun.

Biberaj, E. (1999), *Albania in transition: the rocky road to democracy*. Boulder & Oxford: Westview Press.

Bogdani, M & J. Loughlin (2007), *Albania and the European Union: the tumultuous journey towards integration and accession*. London: I. B. Tauris.

Bugajski, J. (2002), *Political parties of Eastern Europe: a guide to politics in the post-communist era*. London & New York: The Center for Strategic and International Studies.

Chiodi, L. (ed.) (2005), *The borders of the polity: migration and security across the EU and the Balkans*. Ravenna: Longo Editore.

Christopoulos, D. (2009), *EUDO Citizenship Observatory country report on Greece*. Florence: Robert Schuman Centre for Advanced Studies in collaboration with Edinburgh University Law School.

De Waal, C. (2005), *Albania today: a portrait of post-communist turbulence*. London & New York: I.B. Tauris in association with the Centre for Albanian Studies, London.

Fischer, B. J. (1999), *Albania at war, 1939-1945: Central European Studies*. West Lafayette: Purdue University Press.

Flournoy, R. & M. Hudson (eds.) (1929), *A collection of nationality laws of various countries as contained in constitutions, statutes and treaties*. New York: Oxford University Press.

Gawrych, G. (2006), *The Crescent and the Eagle: Ottoman rule, Islam and the Albanians, 1874-1913*. London & New York, I.B. Tauris.

Gjeçov, Sh. (1989), *Kanuni i Lekë Dukagjinit* [The Code of Lekë Dukagjini], tr. with an Introduction by L. Fox. New York: Gjonlekaj Publishing Company.

Gjika, G. (2007), 'Institucionet osmane dhe pashallëqet feudale shqiptare.' In L. Omari & A. Luarasi (eds.), *Historia e shtetit dhe së drejtës në Shqipëri, 191-228*. Tirana: Luarasi University Press.

Gjilani, F. (2007), 'Shteti dhe e drejta gjatë regjimit të A. Zogut.' In L. Omari & A. Luarasi (eds.), *Historia e shtetit dhe së drejtës në Shqipëri*, 359-406. Tirana: Luarasi University Press.

Hysi, G & Z. Brozi (2007), 'Rimëkëmbja e shtetit kombëtar shqiptar dhe përpjekjet për demokratizimin e tij në vitet 1920-1924.' In L. Omari & A. Luarasi (eds.), *Historia e shtetit dhe së drejtës në Shqipëri*, 329-358. Tirana: Luarasi University Press.

Imeri, S. (ed.) (2006), *Rule of law in the in the countries of the Former SFR Yugoslavia and Albania: between theory and praxis*. Gostivar: Association for Democratic Initiatives.

Jelavich, B. (1983), *History of the Balkans, 2: Twentieth Century*. Cambridge: Cambridge University Press.

Karpat, K. (1972), 'The transformation of the Ottoman State, 1789-1908.' *International Journal of Middle East Studies* 3 (3): 243-281.

Kola, P. (2003), *The search for Greater Albania*. London: Hurts and Company.

Krasniqi, G. (2010), 'The challenge of building an independent citizenship regime in a partially recognised state: the case of Kosovo', *CITSEE Working Paper Series, 2010/04*.

Luarasi, A. (2007), 'E drejta zakonore shqiptare.' In L. Omari & A. Luarasi (eds.), *Historia e shtetit dhe së drejtës në Shqipëri*, 229-286. Tirana: Luarasi University Press.

Mai, N. (2008), 'Albanian migrations: demographic and other transformations', in J. Batt (ed.), *Is there an Albanian question?*, Chaillot Paper no.107, 61-72. Paris: Institute for Security Studies.

Milo, P. (1992), *Shqipëria dhe Jugosllavia 1918-1927*. Tirana: Enciklopedike.

Nazarko, M. (2007), *Lufta e fundit: Pronat e shqiptarëve ne Greqi*. Tirana: Universiteti European i Tiranës.

Omari, L. (2007), 'Shteti i pavarur shqiptar në vitet 1912-1914.' In L. Omari & A. Luarasi (eds.), *Historia e shtetit dhe së drejtës në Shqipëri*, 304-328. Tirana: Luarasi University Press.

Pond, E. (2006), *Endgame in the Balkans: regime change, European style*. Washington D. C.: Brookings Institution Press.

Pupovci, S. (1972), 'Parathënje', in *Kanuni i Lekë Dukagjinit*. Permbledhur dhe kodifikuar nga Shtjefen Gjecovi. XV-CX. Prishtinë: Enti i Teksteve dhe i Mjeteve Mësimore i Krahinës Autonome Socialiste të Kosovës.

Puto, A. (1987), *Çështja shqiptare në aktet ndërkombëtare të periudhës së imperializmit*. Vol. II. Tirana.

Puto, A. (2009), *Shqipëria politike 1912-1939*. Tirana: Toena.

Schmidt-Neke, M (2009), 'Albania: the unfinished state.' In E. Jahn (ed.), *Nationalism in late and post-communist Europe, 2: Nationalism in the Nation States*, 522-547. Munich: Nomos.

Sereni, A. P. (1941), 'Legal Status of Albania.' *The American Political Science Review*, 35 (2): 311-317.

Shatri, M. (1997), *Kosova në Luftën e Dytë Botërore (1941-1945)*. Prishtinë: Instituti i Historisë.

Sorraj, J. (2007), *Çështje të shtetësisë: vështrim historik, krahasues dhe perspektiva*. MA Thesis, Universiteti i Tiranës.

Sorraj, J. (2009), 'E drejta për shtetësinë si garanci për shtetasit shqiptar.' In Konferenca Shkencore Kombëtare. *Sfidat e shoqërisë shqiptare në procesin e integritit evropian*, 367-374. Tirana: Universiteti i Tiranës.

Tara, R. (2003), 'Executive leadership: presidents and governments.' In S. White, J. Batt & P. G. Lewis (eds.), *Developments in Central and East European Politics*, 115-132. New York: Palgrave Macmillan.

Tsitselikis, K. (2006), 'Citizenship in Greece: present challenges for future changes' [Updated version], D. Kalekin-Fishman & P. Pitkänen (eds.), *Multiple citizenship as a challenge to European nation-states*, 145-170. Rotterdam: Sense Publishers.

UNHCR (1998), *Analysis and Comments Draft Law on Citizenship of Albania*.

Vickers, M. (2002), *The Cham issue. Albanian national and property claims in Greece*. Swindon: Conflict Studies Research Centre.

Vickers, M. (2007), *The Cham issue: where to now?* Swindon: Conflict Studies Research Centre.

Vickers, M. (2008), 'The role of Albania in the Balkan region', in J. Batt (ed.), *Is there an Albanian question?* Chaillot Paper no. 107. 11-26. Paris: Institute for Security Studies.

Vickers, M. (2010), *The Greek minority in Albania: current tensions*. Shrivenham: Research and Assessment Branch, Defence Academy of the United Kingdom.



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