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## JUNE 2020 ISSUE

Muja Law brings you the Legal Bulletin. This publication is a collection of the most important legal and tax updates published by our office during June.

The purpose of this monthly issue is to help professionals and businesses have a clear understanding of the dynamics of Albanian legislation and easily navigate through recent legal changes frequently published by our legal office.



## DECISION OF THE COUNCIL OF MINISTERS, NO.415, DATED 27.05.2020

*ON THE APPROVAL OF THE AGREEMENT, BETWEEN THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA AND THE GOVERNMENT OF THE REPUBLIC OF TURKEY, FOR THE MUTUAL RECOGNITION AND EXCHANGE OF DRIVING LICENSES*

- In virtue of this Decision, the Contracting Parties *mutually recognize the exchange of driving licenses, issued by the competent authorities of the other Contracting Party*, in accordance with their domestic legislation in favor of the holders of driving licenses, who have been granted a residence permit or temporary residence permit in their territory.
- The Decision provides that the Contracting Parties shall also recognize, for purposes of circulation in their territories, the national driving licenses issued by the other Contracting Party within the period of their validity. The driving license issued by one of the authorities of the Contracting Parties ceases to be valid in the territory of the other Contracting Party, one year after the date of granting the residence permit or temporary residence to its holder in the territory of the other Contracting Party.
- If a holder of a driving license, issued by the authorities of the Contracting Parties, has been granted a temporary residence permit or residence permit in the territory of the other Contracting Party, they mutually convert their driving licenses without having to undergo mandatory theoretical and practical examinations.
- The competent authorities shall require a medical certificate, which certifies that a person has passed the examination of psychophysical qualities, required for the specific category.
- For the implementation of the above, the holders of the driving license must have the age provided by the relevant domestic legislation of the Contracting Parties for the issuance of the category for which is requires the exchange.
- *This Agreement shall enter into force on the date of receipt of the last notification in writing through diplomatic channels, confirming that the Contracting Parties have completed their internal legal procedures necessary for its entry into force.*



# DECISION OF THE COUNCIL OF MINISTERS, NO. 417, DATED 27.05.2020

## *ON THE ORGANIZATION AND FUNCTIONING PROCEDURES OF THE COMMISSION FOR REVIEW OF ADMINISTRATIVE MEASURES IN THE MINISTRY RESPONSIBLE FOR FOOD*



- This Decision provides that the Commission for the Review of Administrative Measures (hereinafter referred to as "*CRAM*") operates under the Ministry responsible for food. *CRAM* consists of 5 members.
- *CRAM* examines the complaints against administrative measures taken by inspectors of the institution responsible for the official control of food and food for animals, *with a total value of over 300,000 (three hundred thousand) ALL*.
- *CRAM* is assembled at least once a month, unless there are other requests. Meetings are held if 4 (four) members of *CRAM* are present. When this number is not reached, the meeting is postponed and held within 5 (five) days. *CRAM* shall review the complaints in the order in which they are filed.
- *CRAM* Secretariat notifies the complainant *at least 5 (five) days before the date of the meeting*, who may submit additional explanations or new evidence which become part of the submitted complaint.
- Decisions are taken by a simple majority of the votes of the members present at the meeting. If the votes in favor and against are the same, the vote of the *CRAM* chairman shall be decisive. Abstentions are not allowed. *CRAM* shall take decisions only on complaints which are included in the agenda of the meeting.
- For each meeting a written record is kept, which contains a summary of the whole process, including but not limited to, the date and place of the meeting, the agenda, the members of the present Commission, the participating subjects and their representatives, the views of the members and the voting of each, as also the provision of each decision. The minutes shall be kept by the secretariat and signed by all members, the chairman and the secretary.
- The complainant's legal representative or authorized representative may provide explanations prior to the decision. Failure from the legal representative of the complainant or the authorized representative to provide the authorization or the power of attorney does not cause the postponement of the examination.
- *After review, CRAM makes a decision without the presence of the complainant.*
- *CRAM*, after reviewing the complaint, decides:
  - a) leaving the measure, subject to complaint, in force and dismissing the complaint when it is unsupported or presented out of time;
  - b) the annulment or abrogation of the measure subject to complaint, fully accepting the complaint;
  - c) partial change of the object of the appealed measure, partially accepting the complaint;
  - ç) dismissal of the review of the complaint.
- The written Decision contains, but not limited to, the following:
  - a) the members of *CRAM*, the place and time of the decision making;





- b) the complainant;
- c) the appealed decision/measure;
- ç) the legal basis of the complaint and the object;
- d) issues related to jurisdiction, competence, deadline for complaint;
- dh) the explanatory part of the complaint;
- e) explanations on the decision-making of the body for which the complaint is submitted;
- ë) the reasoning of the decision;
- f) the legal basis for making the decision;
- g) the provision;
- gj) procedural costs;
- h) the deadline for the appeal and the competent court where the appeal is filed.

➤ CRAM examines and makes a decision on administrative appeals submitted to the National Food Authority, before the entry into force of this decision, for which there is no final decision. The Decision provides that the institution responsible for the official control of food and food for animals passes to the Commission the relevant complaints and files within 2 (two) days from the entry into force of this Decision.

➤ *This Decision has entered into force after publication in the Official Journal.*

## **INSTRUCTION NO. 20, DATED 01.06.2020 OF THE MINISTRY OF FINANCE AND ECONOMY**

### *ON BASIC AND TECHNICAL ELEMENTS, ISSUANCE AND EXCHANGE OF ELECTRONIC INVOICES AND ACCOMPANYING INVOICES*

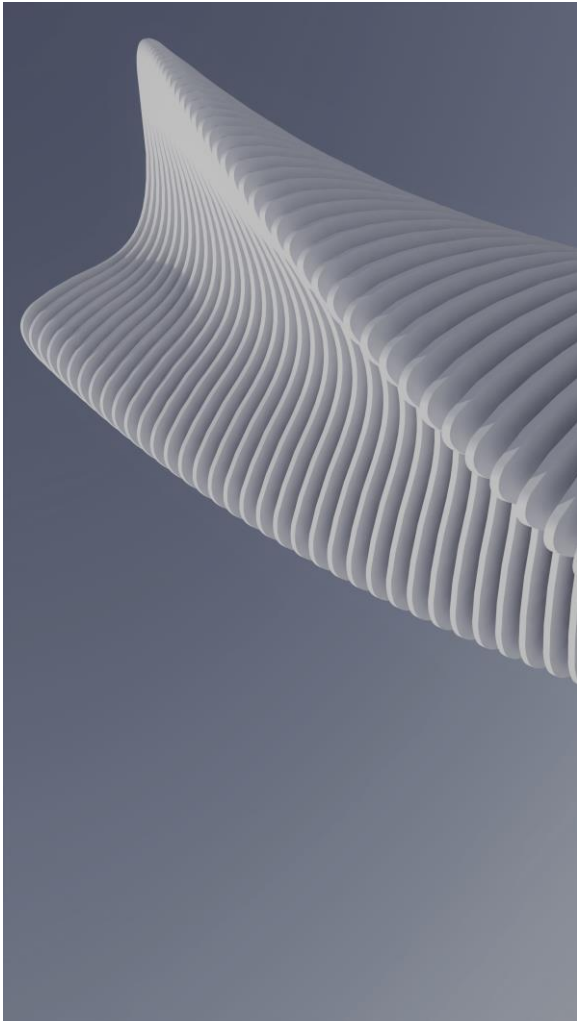
➤ The instruction defines the basic and technical elements of an electronic invoice and accompanying invoice, issuers and recipients of electronic invoices and accompanying invoices, the procedure of issuing and exchanging electronic invoices and accompanying documents, receiving and sending messages for electronic invoices that are unable to be issued and exchange of electronic invoices for cashless transactions and for transactions with public bodies.

➤ In order to exchange electronic invoices through the central invoice platform, the issuer and recipient of the electronic invoice must submit additional information electronically through the central invoice platform.

➤ The issuers and recipients of electronic invoices that are registered in the Tax Administration register as taxpayers who issue invoices, are automatically assigned to the same register as issuers and recipients of electronic invoices.

➤ The issuers and recipients of electronic invoices and the recipients of electronic invoices who have various business units to which electronic invoices will be linked, are obliged to submit additional information on these business units electronically through the central billing platform within 24 hours before the start





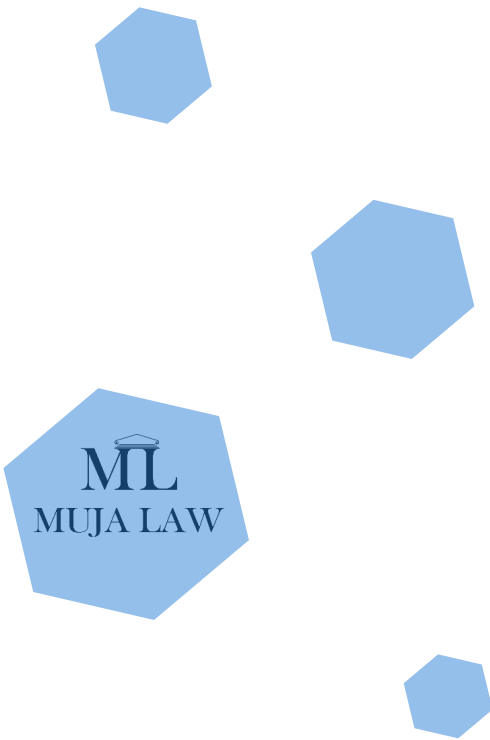
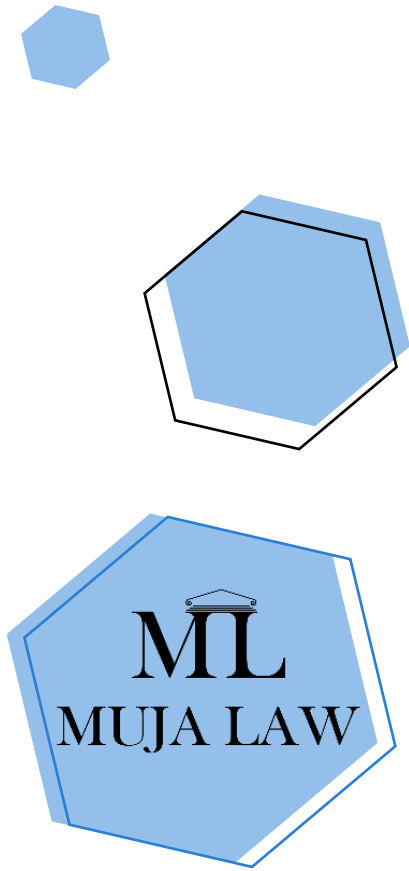
of issuance, receipt or exchange of electronic invoices through this platform, and keeping the data separately for each business unit.

- The recipient of the electronic invoice, in addition to the obligations of this instruction, must register in the Tax Administration register through the central platform of invoices as recipient of electronic invoices within 24 hours before receiving electronic invoices through this platform, in order to obtain an electronic invoice through the central invoice platform.
- The invoice fiscalization procedure and the simplified fiscalization procedure, which are carried out in accordance with the law and the bylaws issued in its implementation, precedes and is a requirement that must be met before exchanging an electronic invoice.
- *This instruction has entered into force after its publication in the Official Journal and begins to take effect according to the deadlines provided by law.*

## **INSTRUCTION NO.24, DATED 16.06.2020, OF THE MINISTRY OF FINANCE AND ECONOMY**

### *ON THE REGISTRATION OF ELECTRONIC INVOICE PAYMENTS*

- The Instruction defines the technical elements of the registration of electronic invoice payments, as defined by Law No. 87/2019, dated 18.12.2019, “*On the invoice and the circulation monitoring system*”, for cashless transactions between taxpayers and cashless transactions between taxpayers and public authorities.
- Banks, other non-bank financial institutions and other subjects that provide cashless payment services are obliged to register and inform the tax administration of any payment made during each business day, on behalf of their clients.
- The notification is made only for the payment of electronic invoices, issued in transactions between two taxpayers or between a taxpayer and a public authority.
- The notification is made by electronic means, through the internet connection with the tax administration information system, until the end of each working day and this data must have special information for each invoice paid and the amount paid.
- Once the payment is made, the bank or other non-bank financial institution has the following obligations:
  - a) the entry point of the bank or other non-bank financial institution (which may be the electronic equipment used or the information system used, which means the certified software solution used) prepares the information for payments and the message of the request XML and signs it electronically with the private electronic certificate key;
  - b) the entry point initiates a secure one-way communication, through which the tax administration server presents itself with the server certificate;



- c) after the successful communication is established, a call for fiscal service is made;
  - ç) the information system of the tax administration receives and processes the message of the request. If the request is successfully processed, this system prepares an XML response message, signs it electronically with the private key of the electronic certificate and sends it to the bank or other non-bank financial institution;
  - d) the entry point of the bank or other non-bank financial institution receives a reply message and verifies the electronic signature with the public key of the electronic certificate application;
  - dh) the bank or other non-bank financial institution maintains the message received in electronic form.
- If the payment is paid by the central bank (buyer and seller use different banks), the obligation to report the payment of the invoice is to the bank or other non-bank financial institution sending the payment and not to the bank or other non-bank financial institution that accepts it.
  - *This instruction has entered into force after its publication in the Official Journal.*

## DECISION OF THE COUNCIL OF MINISTERS, NO.479, DATED 17.06.2020

- *ON SOME AMENDMENTS TO THE DECISION NO.108, DATED 15.02.2017 OF THE COUNCIL OF MINISTERS "ON THE APPROVAL OF THE REGULATION FOR THE PROTECTION OF CHILDREN AT WORK"*
- Decision No.479 provides, among other amendments, the approval of the Appendix II "*Practical guide for labor inspectors for the identification and control of prohibited forms of child labor and the appropriate response to it*".
- The Guide sets out guidelines for labor inspectors to identify prohibited forms of child labor and the appropriate response to it.
- *Under this Guide, the term "child" means any person under the age of 18.*
- The Guide provides that "prohibited child labor" is considered any work performed by a child that is contrary to labor law and harms or endangers the health and mental, physical, social development of the child. This includes any compulsory work, as well as any work which does not allow or prevents the child from attending compulsory education.
- Dangerous jobs for employees under 18 years of age are considered:
  - a) underground work, underwater work, at dangerous heights or in confined spaces;
  - b) work with machinery, equipment and hazardous equipment or work involving manual maneuvering or heavy weight transport;
  - c) work that may expose children to hazardous substances, agents or processes or temperatures, noise levels or vibrations that harm their health;
  - d) working in particularly difficult conditions, such as working long hours or working at night;



- e) work on lifting and holding heavy weights;
- f) work at height;
- g) work on the maintenance of an unprotected moving machine;
- h) operation of machinery that is not fully maintained;
- i) exposure to highly toxic, toxic and harmful chemicals, including listed carcinogens;
- j) exposure to asbestos;
- k) exposure to harmful ionizing radiation;
- l) working with high-risk biological agents;
- m) operation of cranes, mechanical and automatic weight lifters;
- n) work that may result in contact with high voltage electricity, where there is a risk of electric shock;
- o) work in abnormal conditions of heat, cold, vibration and noise - work with cutting machines that operate with electricity.

➤ General works prohibited for children include:

- a) slaughterhouse work;
- b) mixing and application of pesticides and exposure during air spraying - production, maneuvering and storage of explosives and articles containing explosives;
- c) work involving exposure to lead components, such as: gas, dust or steam, including high-level paint work;
- d) work involving the production and maneuvering of molten metals;
- e) commercial diving and underwater work;
- f) deep sea fishing;
- g) loading/unloading of ships;
- h) mining and underground work;
- i) wood cutting machines that work with electricity;
- j) knocking down trees and subsequent cutting of them;
- k) working with dangerous and poisonous wildlife;
- l) working on demolishing buildings;
- m) dismantling of ships;
- n) work performed for collection, gathering, recycling of plastic, scrap, urban waste.

➤ *In virtue of the Guide, the average age of employment is 16 years, while night work is prohibited for all employees under the age of 18. The Guide provides that employees under the age of 18 are not allowed to work for more than 6 hours a day.*

➤ *Minors aged 15 to 16 can only work during school holidays, provided that they are employed for light work and that the Labor Inspectorate has issued a preliminary work authorization for the employer.*

➤ *In virtue of the Guide, at least once a year, juveniles between the ages of 1 and 16 should take a 4-week break from any school activity or work.*

➤ *This Guide and the Decision have entered into force upon its publication in the Official Journal.*

If you wish to know more on our publications, legal updates, tax updates, legal bulletins, or other articles, you may contact the following:

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**Muja Law** is a family-run law office where we work hard for the success of our clients and to provide excellence in legal service. Our roots go back to 2001 when our Managing Partner, Krenare Muja (Sheqeraku), opened her law practice office in Tirana, Albania. Krenare’s son Eno joined her in 2014, and the other son Adi entered the practice in 2019. What started in Tirana as a small, family-run law office has grown and flourished in the community for the last 20 years. The office consists of various respected and talented lawyers who possess outstanding educational and community service backgrounds and have a wealth of experience in representing a diverse client base in various areas of the law.

The office is full-service and advises clients on all areas of civil, commercial and administrative law. With significant industry expertise, we strive to provide our clients with practical business driven advice that is clear and straight to the point, constantly up to date, not only with the frequent legislative changes in Albania, but also the developments of international legal practice and domestic case law. The office delivers services to clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods. In our law office, we also like to help our clients with mediation services, as an alternative dispute resolution method to their problems.

While we have grown over the past 20 years and become recognized as one of Albania’s leading law offices, we are grounded in the essence of “who” we are and “where” we started. *We understand the importance of family, hard-work, and dedication.*

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