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Recently in the Official Journal No.164, dated 14.09.2020, has been published the Decision of the Council of Ministers No.705, dated 09.09.2020 “*On the criteria for determining the remuneration of the temporary bankruptcy administrator, the rules for remuneration of the bankruptcy administrator, as well as the criteria and calculation of the custodian’s remuneration*”, (hereinafter referred to as “*DCM No.705*”).

The purpose of DCM No.705 is to determine the criteria and rules for the remuneration of the temporary bankruptcy administrator, the bankruptcy administrator, as well as the custodian.

*Some of the most important aspects of DCM No.705 are as follows:*

#### **DCM No.705**

In determining the amount of remuneration for the temporary bankruptcy administrator, the bankruptcy administrator, as well as the custodian, the court, in addition to special criteria, takes into account the complexity of the task, the work performed, the results achieved and the care shown by the temporary bankruptcy administrator, the bankruptcy administrator, as well as the custodian in the performance of duties.

#### **Criteria for determining the compensation of the temporary bankruptcy administrator**

The temporary bankruptcy administrator, appointed by the court before the commencement of the bankruptcy proceedings, is rewarded with an amount not exceeding 50 000 (*fifty thousand*) ALL for 30 (*thirty*) days.

In determining the amount of remuneration for the temporary bankruptcy administrator, the court takes into account the duration and complexity of the task, as well as the type of commercial activity exercised by the debtor.

In cases where the court appoints a temporary supervisory administrator, the amount of compensation to be imposed should not exceed 70% of the amount that would have been imposed if the court had appointed a temporary bankruptcy administrator.

In cases when the temporary bankruptcy administrator is appointed by the court to verify the cause of opening bankruptcy proceedings, according to the provisions of Law No.110/2016, "On bankruptcy", is rewarded with an amount not higher than 100 000 (*one hundred thousand*) ALL. In determining the amount of remuneration, the court takes into account the complexity and duration of the duty, as well as the type of commercial activity exercised by the debtor.

In cases where the temporary administrator does not perform the duty within the legal deadlines, the court may reduce the amount of remuneration.



#### Rules for determining the reward of the bankruptcy administrator

The bankruptcy administrator's remuneration consists of the payment of a percentage of the amount of the accumulated

assets (*bankruptcy measure at the end of the bankruptcy proceedings*), in accordance with the limits provided in DCM No.705, which vary from 12% to 0.6% of the accumulated assets.

In determining the percentage of the administrator's remuneration, in cases of liquidation decision, the court takes into account the amount of accumulated assets, the number of creditors, the type of business and the complexity of the task.

The remuneration of the bankruptcy administrator, in cases of the decision for reorganization, is determined by the court with a monthly amount, not less than 50 000 (*fifty thousand*) ALL, determined until the approval or not of the reorganization plan. In determining the amount of remuneration of the bankruptcy administrator, in cases of reorganization decision, the court takes into account the management of the business, the number of creditors, the type of business and the complexity of the task.

The remuneration, according to the above provisions will increase by 10%, calculated on the corresponding value according to above, in cases when:

- a) there are more than 200 creditors;
- b) there are more than 3 production units in different cities;
- c) the case presents special legal complexity, according to the assessment made by the court.

Bankruptcy administrators have the right to receive a success fee. The success fee of the bankruptcy administrators is added to the basic fee of the reward obtained from it and cannot be more than:

- a) 25% of the basic remuneration fee, when the administrator is given the task of business management after the approval of the reorganization plan;

b) 20% of the basic remuneration fee, if a reorganization plan is approved;

c) 15% of the basic remuneration fee, if the business, one or more business units representing more than half of the value of the bankruptcy amount, are sold or transferred as continuing operations.

By court decision, the bankruptcy administrator can be prepaid up to 20% of the total compensation amount due, before the final distribution against the bankruptcy creditors, in accordance with law No. 110/2016, "*On bankruptcy*".

In case of termination of the activity of the bankruptcy administrator, due to resignation or dismissal from duty, before the end of the bankruptcy procedure, he has the right to receive remuneration, in proportion to the work performed.

In case of reversal of the decision to open bankruptcy proceedings, the administrator has the right to receive remuneration for work performed up to that moment.



### Criteria and calculation of the guardian's remuneration

The remuneration of the guardian is determined by the court, referring to the income of the individual debtor in the bankruptcy procedure, his living expenses, as well as based on the duration of the duty of the guardian and its complexity. In any case, the guardian's remuneration may not be less than 20 000 (*twenty thousand*) ALL per month. In cases when the guardian is charged by the court with special duties, his reward cannot be more than 50 000 (*fifty thousand*) ALL.

### Entry into force

*DCM No.705 has entered into force after its publication in the Official Journal.*



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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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