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SEPTEMBER 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 September.

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. 689, DATED 02.09.2020

“ON DETERMINING THE AREA WHERE THE GAME OF CHANCE, OF THE CATEGORY "CASINO", IN THE CITY OF TIRANA WILL BE ALLOWED”

Decision of the Council of Ministers No.689, dated 02.09.2020 (“*DCM No.689*”) provides the area of Tirana (*the capital of Albania*), where the game of chance, “*Casino*” category, shall be allowed to be placed and performed.

According to the map attached to DCM No.689, this activity shall be performed within the road restrictions, as follows: “*Barricades*” Street; “*Urani Pano*” Street; “*Dedë Gjon Luli*” Street; “*Ibrahim Rugova*” Street; “*Jean D'Ark*” Boulevard, “*George W. Bush*” Street.

Entry into force

DCM No.689 enters into force after its publication in the Official Journal.

DECISION OF THE COUNCIL OF MINISTERS NO.690, DATED 02.09.2020

“ON DETERMINING THE COMPETITION PROCEDURES, ADDITIONAL CRITERIA FOR APPLICANTS COMPETING TO OBTAIN A LICENSE FOR THE CATEGORY "CASINO", THE WINNER ANNOUNCEMENT PROCEDURE, AS WELL AS REVOCATION OR SUSPENSION CASES OF THIS LICENSE”

Decision of the Council of Ministers No.690, dated 02.09.2020 (“*DCM No.690*”) provides the competition procedures, additional criteria for applicants who compete to obtain a license for the “*Casino*” category and the procedure for the winner announcement, as well as cases of revocation or suspension of the license.

In virtue of DCM No.690, the game of chance, “*Casino*” category, is considered a special area for the development of games of chance, where players are offered the opportunity to play with games of chance tools, such as slot machines, video lotteries or electronic machines, with many players, as well as game tables called “live games”.

Supervision Authority

The Game of Chance Supervision Authority (“*Authority*”), is authorized to provide licenses for subjects involved in the “*Casino*” category.

The Authority will consider the licensee as the only point of contact regarding the issues related to the granted license.

In any case, the transfer of shares of the licensee in the “*Casino*” category needs the prior approval of the Authority.



Application for license

DCM No.690, provides that the competition for the licensing of "Casino" is announced by the Authority.

The announcement for the opening of the competition for licensing for the category of game of chance "Casino" is announced by the Authority, which has the obligation to publish the notice for competition in games of chance for the category "Casino", on its official website, in two newspapers, published in the Republic of Albania, in two consecutive issues, as well as in the Bulletin of Public Notices.

The notice must contain:

- a) place, date and time of documents' submission;
- b) the language of documents' submission;
- c) the manner of submitting documents;
- d) place, time and date of the review of documents.

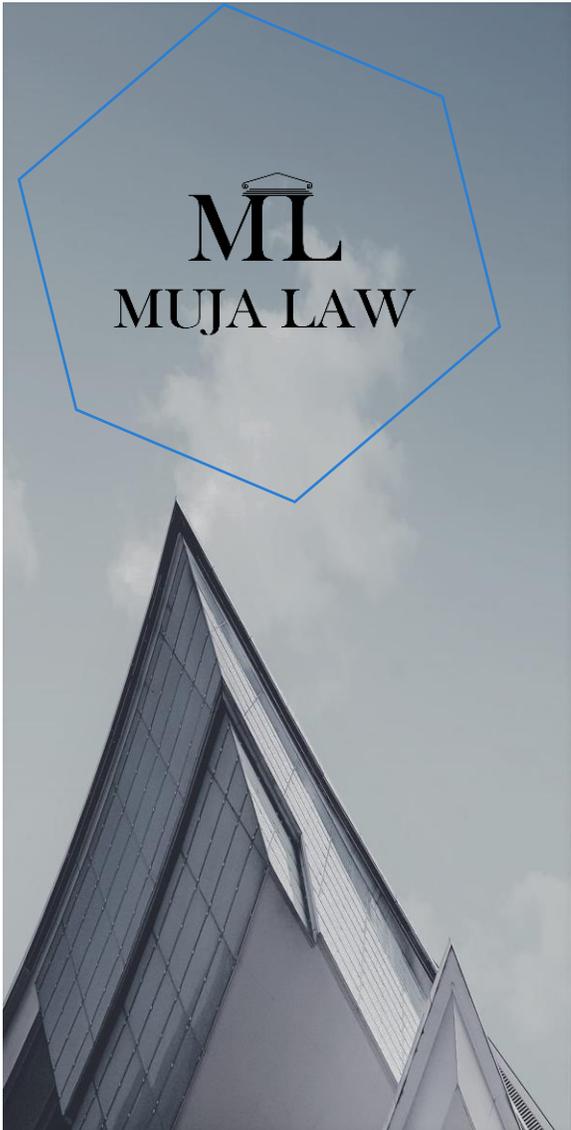
Terms, technical requirements and documentation for obtaining the "Casino" license

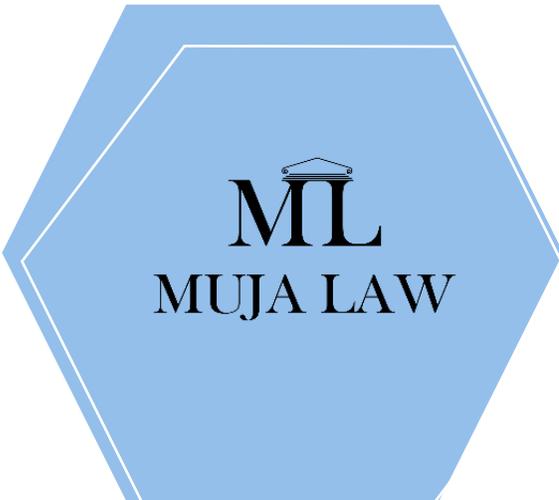
In virtue of DCM No.690 provisions, any legal subject or association of legal subjects, local or foreign, that seeks to obtain a license in the "Casino" category, must meet the minimum criteria, as follows:

- a) be a joint stock company, with seat in the territory of the Republic of Albania. The object of the company's activity must reflect the activity for games of chance, according to the type of game that the license is required for;
- b) the amount of capital must be not less than 1 200 000 000 (one billion two hundred million) ALL;
- c) declare the source of capital that will be invested for the exercise of activity in the field of "Casino";
- d) have experience in the field of games of chance;
- e) have the appropriate financial, administrative, organizational capacity and credibility of the applicant to successfully engage in such projects;
- f) submit the property guarantee, together with the application and conditions of guarantee sequestration;
- g) present the restrictions on share ownership changes for licensees;
- h) set up the server, in which it will provide complete information on every transaction that will be performed between the subject and the players, turnover and profit, as well as any data that will be required by the Authority regarding the development of this activity. The Authority will have real-time access to this server.

Furthermore, DCM No.690 provides that the applicant must submit documents for its organizational and administrative capacity, as follows:

- a) statement on the average workforce and the number of management staff;
- b) information on the technical means and equipment that is available, or that can be made available to the applicant, in order to fulfill the obligations deriving from the license;
- c) information and technical data on electronic devices used or to be used by the applicant, which must be in accordance with international standards, in order to provide the Authority real-time access to the back office system, for any transaction that will be performed between the subject and the players, the turnover and profit, as well as any data that will be required by the Authority.





Licensing procedure

The applicant can request clarifications on the conditions and technical requirements provided in the law on games of chance, bylaws in its implementation or this decision, by notifying the Authority in writing. The Authority reviews the request submitted by the applicant and responds within 5 (five) calendar days from the submission of the request.

The Authority shall notify the subject of any request that it may have or any additional documentation considered necessary. The Authority can call the applicant for more detailed information.

In virtue of DCM No.690, the Authority receives the file for review within 30 (thirty) days from the date of the documentation's submission. This term may not be extended more than 15 (fifteen) calendar days.

DCM No.690 provides that the Authority shall notify the applicant in writing on the acceptance or rejection of the application within the above time limit.

In case of refusal, the applicant has the right, within 30 (thirty) days from the date of notice or from the date of notification of the refusal notice, to file a complaint to the Minister responsible for finances, who must respond within 30 (thirty) days from the date of receipt of the complaint.

The decision of the minister is final from the administrative point of view.

In case of acceptance of the application, the Authority informs the subject about the approval of the license application and invites the applicant to:

- a) pay the fee, according to the provisions of the relevant instruction of the Minister of Finance, "*On the manner and deadlines for the payment of the licensing fee for each category of games of chance*";
- b) solidify the guarantee fund for the winner of games of chance, as well as the guarantee fund for the settlement of periodic obligations to state institutions, in virtue of the provisions of law no. 155/2015, "*On games of chance in the Republic of Albania*", as amended.

License suspension or removal

Failure to solidify the guarantee funds or non-payment of the fee constitutes a reason for the suspension and/or revocation of the license by the Authority.

The Authority and the Ministry of Finance and Economy are charged with implementing DCM No.690.

Entry into force

DCM No.690 enters into force after its publication in the Official Journal.



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”

Decision of the Council of Ministers No.705, dated 09.09.2020 (“*DCM No.705*”) provides that 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.



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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