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2021 ISSUE

Muja Law brings you the [Annual Legal Bulletin](#). This publication is a collection of the most important legal and tax updates published by our office during the year 2021.

The purpose of this annual 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.

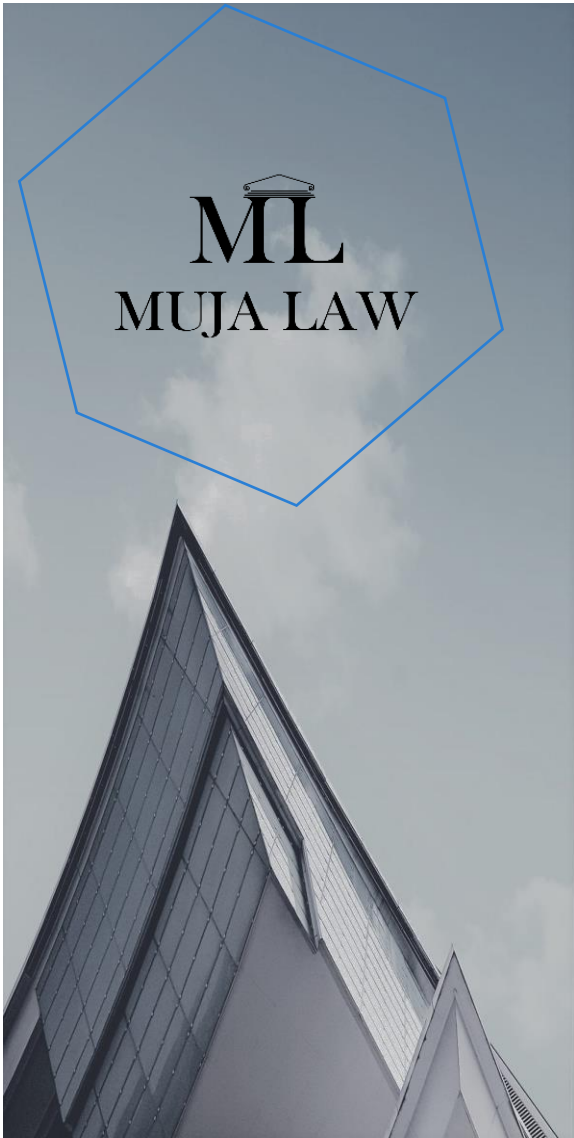


GUIDE OF THE COMMISSIONER FOR THE RIGHT TO INFORMATION AND PROTECTION OF PERSONAL DATA IN ALBANIA

ON PERSONAL DATA PROCESSING DURING TELEWORK (HEREINAFTER REFERRED TO AS “THE GUIDE”)



- The Guide provides that respect for human dignity, privacy and protection of personal data must be guaranteed in any data processing for employment purposes, to allow the free development of the employee's personality, as well as to create opportunities for the development of individual and social relations in workplace.
- Due to the situation caused by the spread of the COVID-19 virus, employers (*controllers*), in order to continue their activity, have seen as an alternative the use of telework as an efficient way in such situations. Consequently, there is a need to orient controllers and data subjects on issues of guaranteeing standards of storage, processing and security of personal data.
- The Guide provides that teleworking is a form of work organization, which does not take place in the employer's workplace, but in other work environments using information and communication technology tools. The rights of the employer formalized in the employment contract and specific legislation, must be exercised in compliance with the right to privacy and personal data.
- In virtue of the Guide, the employer must justify the implementation of the measures, which must be proportionate to the intended objective. The processing of personal data by the employer must be carried out in accordance with the principles and criteria set out in the law on personal data protection.
- Employers during the monitoring must respect the principle of data adequacy according to the law on personal data protection, which provides that: "*Personal data can be collected only if it is necessary to achieve a specific purpose and not to exceed this purpose*". To prove this, they will need to assess in advance whether the collection of employees' personal data is proportionate to the purpose. In this view, it should be assessed by the employer whether there is another less intrusive way of privacy in which the same results can be achieved.
- The employer must also ensure that it informs in a particularly clear and complete manner about the categories of personal data that may be collected through information technology tools, according to the law on personal data protection.
- Information should be provided in the fullest possible way, in an accessible and up-to-date format. In any case, such information must be provided before an employee can perform the relevant activity or action and be made immediately available through the information systems commonly used by the employee.
- Regarding the monitoring of employees, the Guide provides that each employer (controller) must consider in advance some legal criteria before starting the process of personal data processing. According to the law on personal data protection, any processing of personal data must have a specific, clear and lawful purpose. A legitimate purpose for employee monitoring may be, for example, maintaining the security of personal data when employees work remotely,



ensuring compliance with legal obligations or ensuring that an employee is performing his or her obligations under an employment contract. Once the legitimate purpose of the processing has been clearly identified, the employer must ensure that any personal data collected for that purpose is processed only as necessary for that specific purpose, in accordance with the principle of purpose restriction. [The key to this procedure will be to ensure that the monitoring proposed by the employer is within the reasonable expectations of the employees.](#)

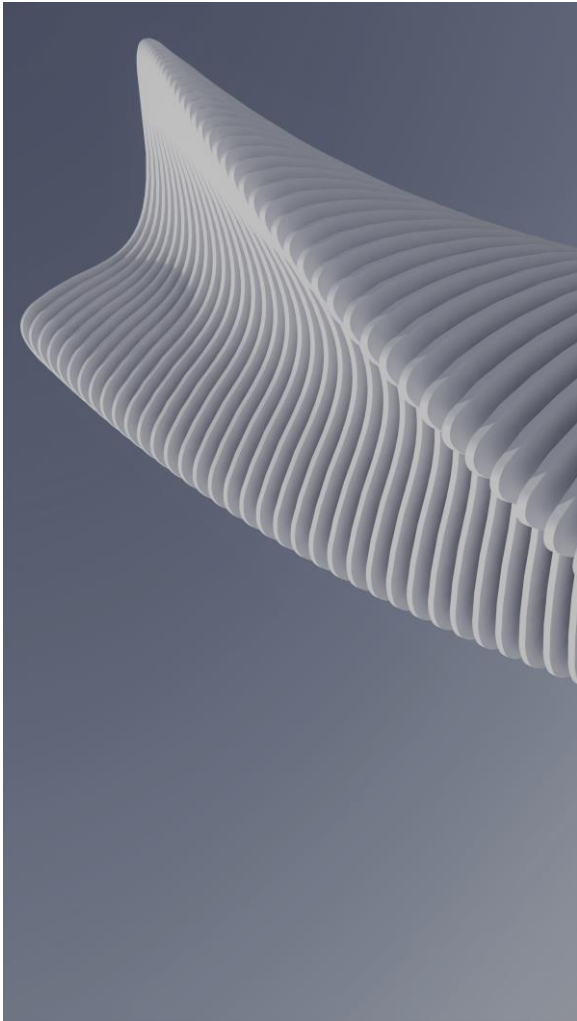
- It is recommended that employers consult with employee representatives, in accordance with specific legislation or the collective agreement signed with the latter's unions (*if any*), before applying any monitoring system, including cameras. This principle is followed even in cases when changes are foreseen in the process or the way of monitoring the employees.
- Referring to the provisions of the law on personal data protection, regarding the supervision of employees during the telework process, it is not possible for employers to rely only on consent as the legal basis on which they process their personal data, due to the imbalance of power in relations between employers and employees, which makes it difficult to prove that consent was given freely. According to the provisions of law on personal data protection "[Consent of data subjects](#)" is "[any written statement, given expressly with full and free will and being fully aware of the reason why the data will be processed, which means that the data subject agrees to have his data processed](#)".
- The legal processing criteria will, however, depend on the specific situation and may be, when the processing of personal data through monitoring is necessary for the performance of the employment contract, or is necessary for the observance of a legal obligation to which the employer is subject, or it is necessary for the purposes of the legitimate interests of the employer ([when this is not violated by the fundamental rights and freedoms of the employees](#)). So, it should be applied one of the legal processing criteria set out in law on personal data protection.
- To ensure that potential risks to privacy are minimized through employee monitoring, the Guide provides that a data protection impact assessment should be conducted in advance, in cases where processing "[is likely to result in a high risk to rights and individual freedoms](#)". Employee monitoring reaches this limit, especially when there is systematic monitoring, when new technologies are used that have an impact on privacy, or an assessment is being conducted based on monitoring their performance.
- Employees, in the capacity of personal data subjects, can exercise the rights they enjoy under the legislation on personal data protection even during telework, such as the right of access, the right to request blocking, correction or deletion, the right not to be subject to automatic decision-making, the right to object and the right to appeal.
- Exceptions to the rights mentioned above can be allowed if provided by the law on personal data protection and other specific legal acts that regulate the employment relationship ([this also depends on the field of employment](#)), or are a necessary measure in a democratic society, to protect the interests of national security, public safety, foreign policy, economic and financial interests of the state, the prevention and prosecution of criminal offenses, the protection of the data subject or the rights and freedoms of others.



- Employers must continue to protect the rights of their employees, ensuring that any request made by the latter is handled properly and efficiently by the persons in charge, such as the Contact Person for the Protection of Personal Data.
- Regarding personal data protection, the Guide provides that employers must provide specific training for their employees. Also, they have the obligation to update their internal guidelines/regulations, in terms of access and processing of personal data within the employment relationship in the new conditions of work organization.
- Employers should be engaged in informing employees about the use of data processing mechanisms within telework (*such as video conferencing, etc.*) and measures to ensure the security of personal data.
- Employers should also in any case inform employees about new ways of monitoring and processing personal data, as well as provide practical guidance on the use of electronic devices in a proper and safe manner. Employers may instruct employees on how and when video conferencing will be permitted, specifying the limitation of their systematic recordings and the sharing of such recordings with unauthorized third parties. Employers must provide understandable and accurate information to employees about the mechanisms (*settings*) that such devices provide, to ensure data security.
- The situation created by COVID-19, brought as a need the widespread use of telework. This situation can potentially lead to possible deviation from standard work processes and difficulty in securing automated tools during teleworking, so there is a higher possibility of personal data breaches due to human error.
- Applying for the first time or increasing the use of telecommunication tools may raise the issue of taking additional measures related to data security.
- In this context, the Guide provides that employers should draft rules regarding data security in the framework of telework, which must be respected, in accordance with the provisions of the law on personal data protection, as well as draft an information document within telework, in order to make it available to employees for those to be recognized and put into practice.
- As part of these measures, the employer must make available to employees a list of communication equipment/tools or group work, to be suitable for distance work. They must guarantee the confidentiality of personal data and information transmitted and accessed by employees, e.g., the use of a VPN to avoid direct exposure to online services.
- Some practical measures that can be taken to keep personal data safe and confidential while working outside the office are:

Regarding equipment:

- *Ensure that every device has the necessary updates, such as operating system updates (such as iOS or Android) and software and antivirus updates;*
- *Securing the computer, laptop or device in a safe location;*
- *Taking care not to lose devices such as USB, phones, laptops or tablets;*
- *Locking the device if there is a need to leave it unattended for any reason;*
- *Ensuring that equipment is turned off, locked or stored carefully when not in use;*



- *Using effective device access controls (such as multi-factor authentication and strong passwords) and where necessary, encryption to restrict access to the device and reduce the risk of a device being stolen or moved;*
- *When a device is lost steps should be taken immediately to ensure remote memory erasure, where possible.*

Regarding Emails:

- *Following the same policies applied in the institution or company, regarding the use of e-mail;*
- *Using work email accounts, instead of personal ones. If personal e-mail is to be used make sure that the content and information or attached documents are encrypted;*
- *Before sending an e-mail, making sure they are being sent to the correct recipients, especially for emails that contain large amounts of personal data or sensitive data.*

Regarding Cloud and network access:

- *Where possible, using only the institution's trusted networks or Cloud services, and in accordance with organizational rules and procedures relating to cloud or network access, data access and dissemination;*
- *If one is not working in the cloud or without network access, making sure that any processed data is stored appropriately and securely.*

- The Guide provides that the above measures should be taken in the framework of the implementation of Instruction no. 47, dated 14.09.2018, "*On determining the rules for maintaining the security of personal data processed by large processing entities*" and Instruction no. 48, dated 14.09.2018, "*On the certification of management systems of information security, personal data and their protection*", approved by the Office of the Commissioner.
- Employees, while teleworking, often use their personal devices (computer, laptop, smart phone) for professional purposes and rely on VPN connections to remotely access companies' IT systems, which can lead to increased risk for employers.
- As for the above, the Guide provides that the employer must implement appropriate safety measures and may need to update safety policies and other internal documentation to address specific issues such as work from home and BYOD. The use of personal computer devices in a professional context is known by the acronym "BYOD", which is an abbreviation of the English expression "Bring Your Own Device". BYOD itself is not "personal data processing", but a special technical tool on which processing is based.
- The use of personal equipment depends on the choice of the employer, who may simultaneously authorize this with certain conditions, or prohibit it altogether.
- Employers should inform employees of the existence of these risks (*such as computer hackers sending fake emails, known as phishing emails or spam*), because the loss, destruction or unauthorized access to personal data, regardless of whether it is accidental or unintentional, is considered a violation of personal data by law.



The following are some practical measures that can be applied in this case:

- Isolating parts of personal equipment that are likely to be used in a professional setting;
- Controlling access remotely through a set of user authentication measures (*if possible, via an electronic certificate, SIM card, etc.*);
- Applying information traffic coding measures (*VPN, HTTPS, etc.*);
- Requiring compliance with basic security measures such as locking the device with a password in accordance with good practice and using an updated antivirus;
- To make users aware of the potential risks, formally separating responsibilities for each and to specify the preventive measures to be implemented in a binding document.

- ❖ There is a tendency of public and private employers (in the quality of controllers) to monitor employees within the employment relationship, using different mechanisms, ways and means. A very common way of monitoring is through cameras.
- ❖ The principle of adequacy of personal data, provided in law on personal data protection, means the fact that controllers (*public or private*) must collect and process personal data in accordance with the purpose of processing and not exceed this goal.
- ❖ Similarly, the employer should assess whether it is proportionate to collect data in relation to the timing and frequency of employee leave to monitor their work from home, what data is needed to ensure the security of the employer's information systems. (*e.g., activating the device camera, recording mouse movements, screen shots*), etc.
- ❖ Monitoring the employee for the purpose of supervising the work, through the video surveillance system (CCTV), is in principle prohibited. Cameras cannot be used to monitor an employee in the workplace. Placing cameras in the employees' working environments, office or home in order to monitor or evaluate performance is in principle contrary to the provisions of law on personal data protection and the bylaws, namely Instruction no. 11, dated 08.09.2011, of the Commissioner on "Processing of personal data of employees in the private sector", as amended.
- ❖ Meanwhile, the use of CCTV (working device camera) in order to communicate with the employer during telework is in the latter's assessment. It is in the competence of the employer (controller) to determine the purpose and the ways of data processing, in function of his activity, respecting the provisions of the legislation on personal data protection.
- ❖ Some video conferencing platforms allow event managers to analyze the attention of their participants in real time while others allow recording of meetings. Such recordings may include participants' voice, messaging communications, faces, private home environment (captured via webcam) as well as the screen shared by the speakers. Some other websites enable automatic transcripts.
- ❖ Monitoring the employee for the purpose of supervising the work, through the video surveillance system (CCTV), is in principle prohibited. Cameras cannot be used to monitor an employee in the workplace. Placing cameras in the employees' working environments, office or home in order to monitor or evaluate performance is in principle contrary to the provisions of law on personal data protection and the bylaws, namely Instruction no. 11, dated 08.09.2011, of the Commissioner on "Processing of personal data of employees in the private sector", as amended.
- ❖ Telework can violate the right to respect for privacy, especially of other persons present in the apartment. For this reason, an employee may in principle refuse

to transmit his images during a video conference, stating the reasons relating to his particular situation. Only in very special circumstances, which are for the employer to define and justify, can face-to-face video conferencing become necessary.

- ❖ Also, the employer may not use a permanent supervision device. If the employer has the right to control the activity of his employees, he cannot place them under permanent supervision, except in exceptional cases, which must be duly justified in relation to the nature of the duty of the employee.
- ❖ It is important to note that personal data protection, during teleworking, applies not only to electronically processed personal data, but also to manually processed (hard copy) personal data.
- ❖ The Guide provides that during teleworking, the use of papers or documents must be accompanied by the undertaking of specific measures by the employer to guarantee their security and confidentiality. Specific documents that may be taken out of the workplace should be kept to ensure that they are not lost or accessed by unauthorized persons. Where possible, the employer should keep written records of which documents were obtained at home.

NORMATIVE ACT OF THE COUNCIL OF MINISTERS IN ALBANIA, DATED 25.03.2021, ON SOME AMENDMENTS TO LAW NO.112/2020, "ON THE REGISTER OF BENEFICIARY OWNERS", (HEREINAFTER REFERRED TO AS "THE NORMATIVE ACT")

- ❖ The Normative Act provides that the "address of permanent residence" is replaced with the "address of residence".
- ❖ As for the above, in virtue of article 4.3.2.1 of the Law No.112, the data to be provided from the reporting subject, local or foreign, is not anymore, the address of permanent residence, but the address of residence. While, on the other hand, the Normative Act provides that for stateless persons or refugees, it is necessary to provide also the *address of residence* as an obligatory information.
- ❖ Furthermore, the Normative Act provides that the registration by the reporting subjects of the data of the beneficiary owners in the Register of the Beneficiary Owners must be done *within 90 days*

from the date of the factual change, in case of the registration of changes of the data of the beneficiary owners of the reporting subjects.

- ❖ The Normative Act at the time further specified that the existing reporting subjects must register the data required by Law No.112 for their beneficial owners *within 30.06.2021*.

The Normative Act provides that it has entered into force immediately and was published in the Official Journal.

LAW NO.44/2021, DATED 23.03.2021

ON SOME AMENDMENTS TO LAW NO. 8116, DATED 29.3.1996, "CODE OF CIVIL PROCEDURE OF THE REPUBLIC OF ALBANIA", (HEREINAFTER REFERRED TO AS "LAW NO.44/2021")

- ❖ Law No.44/2021 amends the Code of Civil Procedure of the Republic of Albania in various aspects, some of which related to the examination process of lawsuits with a small value in the Court of Appeal and in the district courts.
- ❖ Law No.44/2021 provides that the Court of Appeal examines with a single judge the appeals against the decisions of district courts for lawsuits with a value *up to twenty times the national minimum salary*, deriving from the contractual relationship, the special appeals against the decisions of district courts to reject the request for issuance of the execution order, the special appeals against the decision of the district courts that have reviewed the opposition of the actions of the bailiff, as well as other cases provided in the Code of Civil Procedure.
- ❖ Furthermore, the new amendments provide that lawsuit with a value *up to twenty times the national minimum salary*, deriving from contractual relations, are examined by the district courts with a short trial.
- ❖ Law No.44/2021 provides that if the value of the lawsuit is *less than twenty times the national minimum salary and the value of the counterclaim exceeds twenty times the national minimum salary*, the trial shall be conducted in accordance with the general provisions for ordinary trial.

Law No.44/2021 has entered into force 15 days after its publication in the Official Journal.



LAW NO.79/2021, DATED 24.06.2021

“ON FOREIGNERS”

Recently in Albania has been approved the Law No.79/2021 "On foreigners", dated 24.06.2021 (hereinafter referred to as the "Law"), which repeals the law No.108/2013, "On foreigners". The Law has been published in the Official Journal No. 162, dated 18.10.2021.

The Law is aligned with the legislation of the European Union and aims to regulate the regime of entry, stay, employment and exit of foreigners in/from the Republic of Albania.

The Law aims to improve the necessary mechanisms for issuing electronic visas online and also aims to solve the problems encountered during the previous law's implementation.

Additionally, the Law aims to reduce unnecessary obstacles for the employment of foreign nationals in the territory of the Republic of Albania. In this regard, the Law meets some of the shortcomings of the previous legislation for foreigners, by integrating the provision of a unique permit, which guarantees a single application procedure for foreigners, who intend to work and stay in the territory of Republic of Albania and also clarifies the deadlines and procedures for obtaining such permit.

The Law defines the functions and competencies of state authorities and other entities, public and private, Albanian or foreign, which in accordance with the principle of best interests of the child, the principle of the right to family life, the principle of non-return, the principle of fair and transparent procedures and the principle of non-discrimination carry out activities in the Republic of Albania, which deal with foreigners seeking to enter, entering, staying and leaving the Republic of Albania.

The visa application from a foreigner is made **no more than 90 days before the planned date of arrival in the Republic of Albania**, at the diplomatic and/or consular missions of the Republic of Albania abroad through the electronic visa system or, in cases of bilateral or multilateral agreements with other countries, in the respective representative missions of these countries.

A visa can be issued if the foreigner's travel document:

1. is valid for at least three months after the scheduled date of departure from Albania or, in the case of multiple entries, after the last scheduled date of departure from Albania;
2. contains at least two blank pages;
3. has been issued within the last decade.

Type "A" visa is a transit visa at the airport, which entitles the holder to enter and stay in the area of international traffic of the airport until the departure of the flight to the country of destination. The validity of this visa is given in accordance with the time and ticket reservations for the trip(s) in which the applicant anticipates transit.

This visa can be issued with multiple entries and exits and with a maximum validity of up to six months.

Type "C" visa is a visa issued in the form of a stamp visa or printed in electronic format, which entitles its holder to enter and stay in the Republic of Albania for **up to 90 days within 180 days**, starting from the date of first entry. This visa can be issued

with one, two or more entries. The validity period may not exceed 5 years.

Type "D" visa is a visa issued in the form of a stamp visa or printed in electronic form, for foreign nationals intending to stay in the Republic of Albania for more than 90 days within 180 days, and when it is necessary to obtain a residence permit.

This type of visa is also issued with a validity of one year, residence time 90 days, but not for more than 180 days, calculated from the day of first entry, with one, two or more entrances and exits, which entitles the holder to apply to obtain a residence permit upon entry into the Republic of Albania.

The foreigner can stay in the Republic of Albania for a short period, for a temporary period, as well as permanently.

The stay for a short period may not exceed 90 days for 180 days, based on the visa issued or entry without a visa, unless otherwise provided in this law or in agreements recognized by the Republic of Albania.

Residence for a temporary and permanent period can be realized only through the provision of a residence permit.

The authority responsible for the border and migration provides one of the following types of residence permits for foreigners who seek to stay in the Republic of Albania for a period of more than 90 days in 180 days and who meet the conditions set out in this law:

1. residence permit type "A", which gives the holder the right to stay only in the Republic of Albania within the time limit for which it is issued;
2. residence permit or unique type "B", renewable permit, which is issued for a fixed term and entitles the holder to enter, stay and leave the Republic of Albania within the deadlines specified therein;
3. residence permit or a unique type "C" permit, which is issued for a permanent term and entitles the holder to enter, stay and leave the Republic of Albania;
4. unique residence permit "Blue card AL", renewable, which is issued for a period determined only for highly qualified employees and gives the holder the right to enter, stay and leave the Republic of Albania within the deadlines defined in it;
5. residence permit "Blue Card AL-C", which is issued for a permanent term only for highly qualified employees and gives the holder the right to enter, stay and leave in/from the Republic of Albania.

The residence permit, unless otherwise provided in this law or by international agreements ratified by the Republic of Albania, is issued with a term:

1. 3 months, 6 months or 1 year, where the 1-year permit can be renewed no more than 5 times in a row;
2. 2 years, which can be renewed not more than once;
3. 5 years, according to the provisions of this law;

4. permanent, in case the foreigner has had a legal residence for 5 consecutive years in Albania and has stable connections or activities in the country.



In virtue of the Law, the residence permits issued, are as follows:

1. residence permit for reasons of family reunification;
2. residence permit for study motives (student and pupil);
3. residence permit for the trainee free of charge;
4. residence permit for au pairs;
5. residence permit for youth exchanges;
6. residence permit for scientific research;
7. residence permit for job search or entrepreneurship for researchers and students;
8. residence permit for humanitarian cases;
9. residence permit for victims of trafficking of human beings;
10. residence permit for stateless persons;
11. unique residence permits for work reasons, such as:
 - a) unique permit as an employee;
 - b) unique permit for seasonal employment;
 - c) unique permit to transfer within the enterprise;
 - d) unique permit as a cross-border worker;
 - e) unique permit for vocational training;
 - f) unique permits for athletes;
 - g) unique permit for voluntary service;
 - h) unique permits for highly qualified employees;
 - i) unique permits for self-employed persons;
 - j) unique permits for digital mobile employees;
 - k) unique permits for investors;
 - l) unique permit for contracting services;
 - m) unique permits for specific categories.
 - n) residence permit for the crew of sailing vessels;

- o) residence permit for the use of owned immovable property;
- p) residence permit for retirees.

Residence permit for job search or entrepreneurship for researchers and students

After the completion of research or studies, foreign researchers and students have the opportunity to stay in the territory of the Republic of Albania on the basis of a residence permit, for a period of at least nine months, in order to look for work or develop a business.

In order for students to benefit from the application of this provision, they must have a level of education that must not be higher than level 7 of the European Qualifications Framework.

The Border and Migration Authority may request from researchers a confirmation from the research organization of the completion of the research activity or for students, proof that they hold a higher education diploma, certificate or other proof of official qualifications.



Residence permits au pairs

In order to obtain an au pairs residence permit, a foreigner must:

1. provide an agreement between him and the host family, which defines the rights and obligations as an au pair, including the specifications regarding the monetary value he will take with him, the appropriate arrangements that allow the au pair to participate in the courses and maximum hours of family homework;
2. be between the ages of 18 and 30 years;
3. provide evidence that the host family or the intermediary organization for au pairs, to the extent provided by national legislation, accepts responsibility for the foreign national throughout the stay in the territory of the Republic of

Albania, in particular in relation to living expenses, accommodation and risks from accidents;

4. has never had criminal records;
5. has never been under psychotherapeutic and psychological treatment in the past.

The foreigner, who applies to be accepted as an au pair, also needs to provide evidence regarding:

1. knowledge of the Albanian language; or
2. completion of secondary, higher education/professional qualifications or meets the conditions to practice a regulated profession, as required by the applicable national legislation.

The members of the host family must be of different nationalities from the foreigner who applies to be accepted for the purpose of au pairs and have not had any family connection with the foreign citizen.

Residence permit for stateless persons

A stateless person may obtain a temporary residence permit provided that he or she meets the criteria set in this law, has stayed in Albania for 1 year before submitting the application, and if he/she intends to continue his/her stay in the Republic of Albania.

A stateless person may stay in the Republic of Albania based on a travel document for a stateless person or temporary residence permit.

The request to certify whether the applicant is a stateless person is submitted to the responsible authority in the ministry responsible for public order and security.

This request cannot be submitted by a foreign citizen:

1. who has submitted a request for international protection in the Republic of Albania;
2. who has been recognized as a refugee in the Republic of Albania;
3. who has been granted asylum, supplementary protection or supplementary protection in accordance with the law on asylum.

Unique permit

A foreigner may be employed in the Republic of Albania by obtaining a unique permit, unless otherwise provided in this law, by international agreements recognized by the Republic of Albania or a unilateral position expressed by a decision of the Council of Ministers.

Preliminary actions for opening a business or service activity are not considered as work. The request for a unique residence permit for a foreigner can be made by the foreigner himself, with legal residence in the Republic of Albania.

The review of the application and the issuance of the unique residence permit, when the criteria required by the legislation in force are met, are made from 4 to 12 weeks from the day of application. At the time of application, a certificate of acceptance of the application is given.

The employer cannot employ a foreigner who stays illegally in the Republic of Albania.

When the employer employs a foreigner, he/she must notify the local authority responsible for the border and migration *within 8 days from the beginning of the foreigner's work.*

Unique residence permit for digital mobile employees (Freelancer)

The authority responsible for border and migration provides the foreigner with a “unique residence permit for mobile workers” for a period of up to 1 year, for the first time, in cases when the foreign citizen is legally resident in the Republic of Albania and:

1. proves with a valid employment contract with the employer abroad or service contract with the contractor or client abroad that he will work without a concrete headquarter for specific jobs, which allow work with information technology tools;
2. proves that he has sufficient income to support himself and the dependents during his stay in the Republic of Albania;
3. has evidence of accommodation and an address in the Republic of Albania;
4. has a health insurance policy valid for at least 1 year;
5. possesses a criminal certificate/proof from his country of origin, detailing whether or not he has a criminal record.

Temporary residence permit for use of owned immovable property

A temporary residence permit for the use and disposition of immovable property in the Republic of Albania may be issued to a foreign citizen according to this law and who proves the ownership of such immovable property, in accordance with the legislation in force, for which he is the owner during the time of the residence permit.

The authority responsible for border and migration provides the foreigner with a “residence permit for the use of owned immovable property” for a period of up to 1 year for the first time and renewable every year if the foreigner continues to meet the criteria set out in law.

The permit can be issued also to a foreign citizen, who is a co-owner of 1/2 of the immovable property.

Residence permit for retirees

Foreign citizens, who are retired in their country, can apply for a residence permit for retirees at the authority responsible for border and migration in the Republic of Albania.

The authority responsible for border and migration provides the foreigner with a “residence permit for retirees” with a term of up to 1 year for the first time in cases when the foreign citizen is legally resident in the Republic of Albania and:

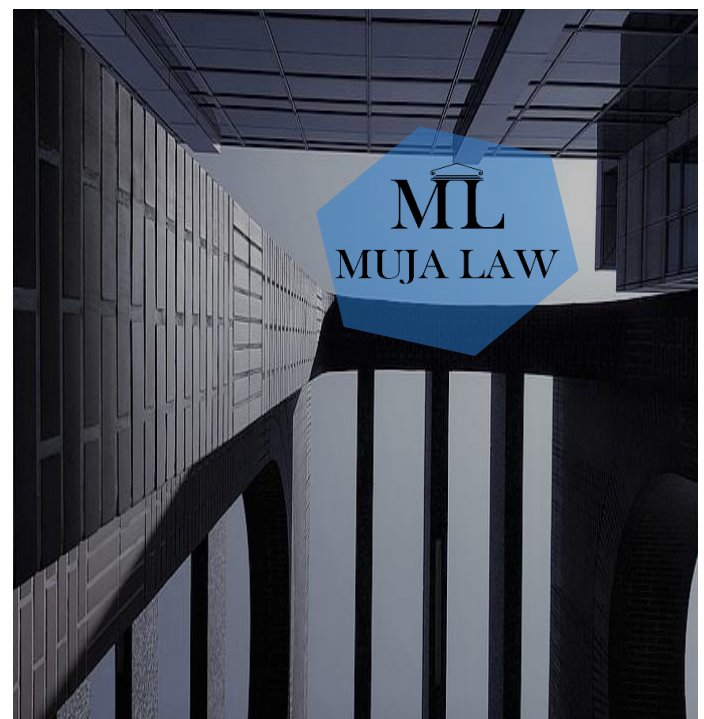
1. proves that he is entitled to annual income from the pension up to the amount of 1 200 000 ALL through documents issued by the country of origin and legalized by a notary public;
2. proves that he has sufficient income to support himself and the dependents during his stay in the Republic of Albania;
3. certifies through documents issued by a bank in the Republic of Albania that he/she has a valid bank account, in which regular transfers of his/her pension will be made;
4. has evidence of accommodation and an address in the Republic of Albania;
5. has a health insurance policy valid for at least 1 year;
6. possesses a criminal certificate/proof from his country of origin, detailing whether or not he has a criminal record.

The residence permit for the retired foreign citizen can be renewed every year if the foreigner continues to meet the criteria mentioned above.

The holder of a residence permit granted on the basis of a pension abroad may request family reunification in the Republic of Albania for his/her spouse or non-retired partner.

The residence permit for retirees does not give the foreigner the right to carry out any kind of economic or professional activity in the Republic of Albania.

The Law has entered into force 15 days after its publication in the Official Journal.



LAW NO.163/2020, DATED 23.12.2020

ON SOME AMENDMENTS TO LAW NO.8438, DATED 28.12.1998 "ON INCOME TAX", AS AMENDED", (HEREINAFTER REFERRED TO AS "LAW NO.163")

Law No.163 provides that the following amendments are made to Law No.8438, dated 29.12.1998 "On income tax", as amended:

Law No.163 provides that the following terms have the following meanings:

"Merger by absorption" means any transfer from a legal person of all its business activities (*transferring person*) to a company (*acquiring company*) in exchange for the issuing or transfer of shares representing the capital of the acquiring company;

"Transfer of a branch of activity" is any operation through which a company (*transfer company*) transfers without dissolving one or more branches of its activity to another company (*absorbing company*), in exchange for the issuing or transfer of shares representing the capital of the acquiring company.

A "branch of activity" means all the assets and liabilities of a sector of a company, which from an organizational point of view, constitute an independent economic activity and also include the transfer of all assets and liabilities of a company.

"Exchange of shares" is any operation through which a company (*acquiring company*) acquires a participation in the capital of another company (*acquired company*), in exchange for the issuing or transfer to the shareholder or partner of the purchased company, in exchange for their shares, of shares representing the capital of the acquired company and if applicable, a cash payment, given that the acquiring company acquires a majority of the voting rights in the company purchased with this operation.

"Merger/union" is any operation through which:

- i. one or more companies (*transfer companies*), which are dissolved without going through the liquidation process, transfer all their assets and liabilities to another existing company (*absorbing company*), in exchange for the issuing or transfer to the shareholder or partner of shares representing the capital of the acquiring company and if applicable, a cash payment; or
- ii. two or more companies (*transfer companies*), which are dissolved without going through the liquidation process, transfer all their assets and liabilities to a company they form (*absorbing company*), in exchange for the issuing or transfer to the shareholder or partner of shares representing the capital of the acquiring company and if applicable, a cash payment; or
- iii. a company (*transferring company*), which dissolves without going through the liquidation process, transfers all its assets and liabilities to the company (*absorbing company*) and holds all the shares that represent its capital.

"Separation" is any operation through which:

- i. a company (*transfer company*), which dissolves without going through liquidation, transfers all assets and liabilities to two or more existing or new companies (*host company*), in exchange for the issuing of proportional shares or transfer to the shareholder or its partner shares representing the capital of the host company and if applicable, a cash payment; or
- ii. a company (*transfer company*) transfers one or more branches of activity to a company it forms (*host company*) in exchange for the issuing or transfer to the shareholder or partner of shares representing the capital of the receiving company and if applicable, a payment in cash.

"Payment in cash" is a cash payment made by an absorbing or purchasing company, except for the issue or transfer of shares, which do not exceed a total of 10% of the nominal value of the shares or transferred in exchange the relevant license from the Bank of Albania.

Valuation of shares' exchange

In virtue of Law No.163, shares or quotas received in connection with a merger by absorption or transfer of a branch or branches are valued at the market value of the transferred assets and liabilities of the business.

With a written request from both companies, the purchaser and the purchased, addressed to the tax administration, the shares received in connection with an exchange of shares, a merger or a separation, are valued at the initial purchase price of shares that have been transferred.



Any cash-settled payment received in connection with the exchange of shares, a merger or a division, is recognized as a taxable capital gain up to an amount equal to the difference between the market price of the shares received and the purchase price of the shares or transferred quotas.

In virtue of Law No.163, these provisions apply only in relation to the shareholders or partners in the acquired company, if the shareholders or partners are resident in Albania.

[Applicable rules on business assets and liabilities in reorganizations](#)

Capital gain realized from the transfer of business assets and liabilities in connection with a merger by absorption, a transfer of a branch or branches of activity, a merger or a division, may be deferred until the sale of these assets and liabilities from the absorbing company.

This tax deferral is done at the request of both the transferring and the absorbing companies in the tax administration, where the absorbing company agrees to continue the valuation of the transferred assets and liabilities received at their carrying amount immediately before transfer to occur.

In accordance with the depreciation calculations, the acquiring company will continue as if the assets and liabilities assumed are still owned by the transferring company.

These provisions apply to the transactions provided above, only if the transferring company and the absorbing company are both residents in Albania.

These provisions shall not apply if the transferring company does not hold shares received in the acquiring company for at least 3 calendar years without interruption following the year in which the transfer takes place, unless the transferring company demonstrates that the disposal of such shares is not being done with the predominant goal of reducing or avoiding the payment of profit tax in Albania.

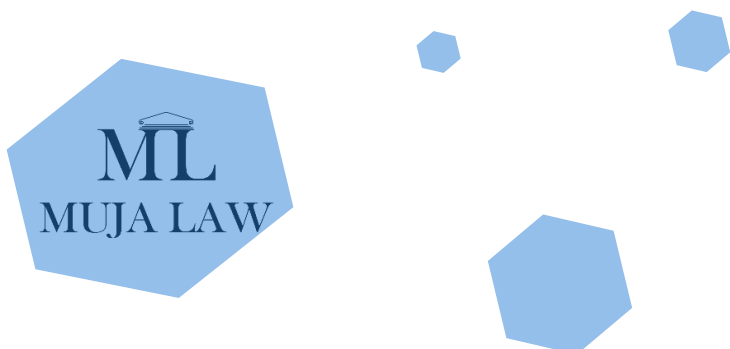
This law has entered into force 15 days after its publication in the Official Journal.

DECISION OF THE BANK OF ALBANIA NO.4, DATED 13.01.2021

“ON THE SUSPENSION OF PROFIT DISTRIBUTION BY BANKS”, (HEREINAFTER REFERRED TO AS “*DECISION NO.4*”)

In virtue of Decision No.4, the Supervisory Council of the Bank of Albania decided to suspend until December 31, 2021, the distribution by banks of the profit of 2020 and the profit that would have been realized during 2021.

Decision No.4 has entered into force immediately and is published in the Official Journal.



ORDER NO. 374, DATED 30.08.2021

ON THE ENTRY OF PERSONS IN THE REPUBLIC OF ALBANIA FROM ALL BORDER POINTS (HEREINAFTER REFERRED TO AS “*THE ORDER*”)

In virtue of the Order all persons entering the Republic of Albania, from all border points, starting from 06.09.2021, must provide one of the following documents:

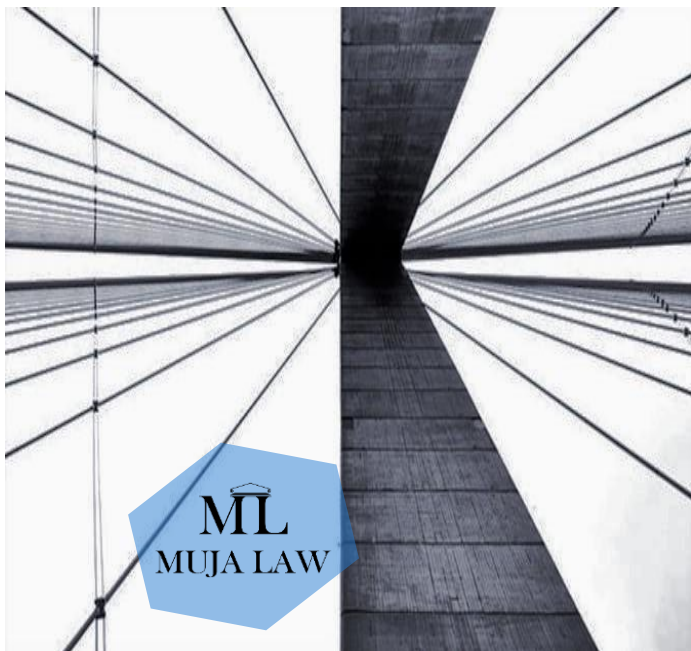
- a) the [vaccination certificate](#) certifying the complete vaccination, in digital or printed form, or a similar document issued by the competent local health authorities declaring the completion of the vaccination;
- b) [PCR test](#), performed within 72 hours before departure or rapid antigenic test within 48 hours of entry into the border;
- c) [a document issued by the health authorities of the country](#), proving the cure of Sars-Cov-2 infection, valid for up to 6 months after recovery.

The above required documents must be submitted also by [persons in transit in the Republic of Albania](#).

Exception from the above is made for children up to 6 years old.

Residents in the Republic of Albania, including those persons with temporary or permanent residence permits and who do not have any of the documents mentioned above, must sign [a declaration at the border point and self-isolate for a 10-day period](#), informing health authorities to perform testing at the end of the isolation period.

The Order entered into force immediately



ORDER NO. 413, DATED 24.09.2021 AND ORDER NO. 413/1, DATED 27.09.2021

ON MEASURES TO PREVENT COVID-19 INFECTION, FOR STAFF OF EDUCATIONAL INSTITUTIONS AND STUDENTS (HEREINAFTER REFERRED TO AS “*THE ORDERS*”)

The Orders provide that the staff of educational institutions and students must deposit at the work center and students at the offices designated by the respective Higher Education Institutions, the [COVID-19 Vaccination Certificate from e-Albania or vaccination card](#).

For employees of educational institutions who do not provide the COVID-19 Vaccination Certificate or the vaccination card, it will be required to [submit, every week, the PCR test](#), performed according to the procedure for performing tests for administrative effects, to verify that they are not carriers of Sars-Cov-2 infection, starting from 27.09.2021.

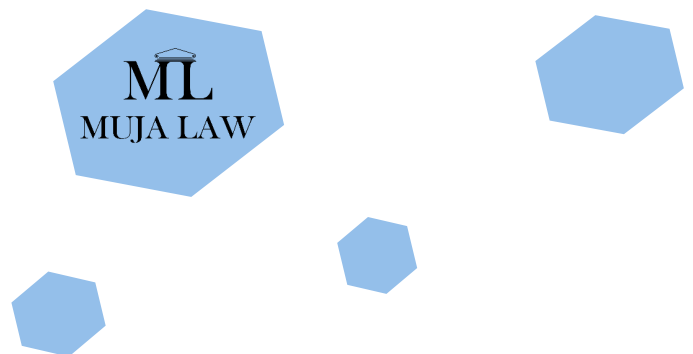
Students must provide the COVID-19 vaccination certificate or vaccination card to enter higher education institutions, [starting from 11.10.2021](#).

In virtue of the Orders, educational institutions should identify the staff of the educational institution and students who have submitted the COVID-19 Vaccination Certificate or the vaccination card and report to the Institute of Public Health monthly information on the performed identification.

Exemption from the rules defined in these Orders is made only for cases that have a [medical indication specified in a medical document for non-application of the vaccine](#).

The Health Care Services Operator, the State Health Inspectorate, the Institute of Public Health are in charge of cooperating with the institutions of higher education, for the implementation of this Orders.

The Order entered into force immediately.



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 intermediary 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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