

Measures adopted by the Romanian Government to reduce the negative effect of COVID-19 on the Romanian economy

March 23, 2020

Government Emergency Ordinance no. 29, adopted on 18 March 2020 and entered into force on 21 March 2020 (“GEO 29/2020”), regarding certain economic and fiscal measures aiming to reduce the impact of the pandemic caused by the infection with the novel Coronavirus COVID-19

Economic measures

1. Additional facilities granted by the State for SMEs’ investment loans and credit lines/working capital facilities

GEO 29/2020 amends GEO no.110/2017 regarding the program for supporting small and medium-sized enterprises - IMM INVEST ROMANIA (“GEO 110/2017”), as follows:

- (i) **Increase of the State’s guarantee percentage from 50% to 80% of the value of the financing** (excluding interest, commissions and bank charges) for one or more investment loans and/or one or more credit lines/working capital facilities, guaranteed by the State, through the Ministry of Public Finance.
- (ii) **Additional limit for the maximum value of the credit lines/working capital facilities guaranteed by the State**, i.e., average of working capital needs for the last 2 fiscal years, but not more than RON 5,000,000 (approx. EUR 1,032,000). The maximum of the investment loans and the aggregated loans covered by this facility remained RON 10,000,000 (approx. EUR 2,064,000).
- (iii) **State’s guarantee percentage of 90% of the value of the financing for one or more credit lines/ working capital facilities** (excluding interest, commissions and bank charges), in an amount equal to the average of working capital needs for the last 2 fiscal years, but not more than RON 500,000 (approx. EUR 103,000) for microenterprises and RON 1,000,000 (approx. EUR 206,000) for small enterprises.
- (iv) **State subsidies to cover 100% of the interest on investment loans and credit lines/ working capital facilities granted to SMEs after the entry into force of GEO 29/2020**, within a *de minimis* state aid scheme that will be adopted by law annually in connection with this program. The subsidy period shall last until 31 March 2021.
- (v) **The guarantee management fees¹ shall be paid from the budget of the Ministry of Public Finances**, as part of the *de minimis* state aid scheme related to this program. After the termination of the *de minimis* state aid scheme, the management fee shall be paid by the beneficiary of the program.

¹ The fees owed to the National Fund for Guaranteeing Credits for Small and Medium-Sized Enterprises for the activity of analysis, granting, monitoring and management of guarantees.

- (vi) **SMEs having outstanding tax or other debts owed to the State may now receive facilities granted under this program for credit lines/ working capital facilities**, if they undertake the obligation to pay such tax/fiscal debts from the loan/ working capital facility granted within the program.
- (vii) **The maximum duration for the credit lines/ working capital facilities eligible under this program has been extended from 24 months to 36 months**, with the possibility of extensions by an additional period of no more than 36 months.

2. Postponement of payments

During the state of emergency, SMEs which (i) have interrupted partially or entirely their activity following the decisions issued by the relevant public authorities during the state of emergency period, and (ii) hold an emergency state certificate issued by the Ministry of Economy, Energy and Business Environment, benefit from a postponement of the payments due for the electricity, natural gas, water, telephony and internet services, as well as the postponement of the payment of the rent for the immovable where their main and secondary headquarters are registered.

The same postponements of payments shall apply also to law offices, public notary offices, bailiff offices, family doctors' offices, dental clinics with up to 20 persons, national sport federations and sport clubs that hold a sport identity certificate, the activity of which is directly affected by the measures ordered by the public authorities for the prevention and control of the COVID-19 pandemic. The eligibility criteria for these beneficiaries are established by Government Decision.

3. Invocation of force majeure during the state of emergency period

In ongoing contracts concluded by SMEs, other than the ones mentioned under item 2 above, force majeure may be invoked against them only after the attempt, proven with documents and communications between parties, of renegotiation of the contract in order to adapt its clauses considering the exceptional conditions caused by the state of emergency.

GEO 29/2020 also establishes a relative presumption of force majeure for the unpredictable, absolutely unstoppable and inevitable circumstance which results from an action of the authorities for the application of measures imposed for the prevention and control of the pandemic which has affected the activity of SMEs, as confirmed by the state of emergency certificate. Such presumption may be rebutted by the interested party by any means of evidence. Nevertheless, according to the same GEO 29/2020, the measures taken by the authority according to the decree declaring the state of emergency shall not be considered unpredictable.

Although the authority's intention was to simplify the application of force majeure provisions for causes related to the COVID-19 pandemic, the application of the above mentioned contradictory provisions may be problematic in practice, such assessment being subject to a separate analysis that will follow. Nevertheless, the correct application of the relevant force majeure provisions must be assessed on a case-by-case basis.

4. Extension of deadline for submission of ultimate beneficial owner

The deadline for submission of the real ultimate beneficiary owner statement for companies and NGOs, according to Law 129/2019 for preventing and combating money laundering and terrorism financing, has been extended by 3 months after the cessation of the state of emergency period (initially the deadline was 21 July 2019). During the state of emergency period, the submission of this statement is suspended.

Fiscal measures

1. Extension of payment deadlines

The payment deadline for tax on buildings, land and means of transport has been postponed from 31 March 2020 to 30 June 2020.

Also, the reduction of up to 10 % granted by the local authorities for the advance payment of the full tax for 2020 is maintained if the payment is done by 30 June 2020.

2. Amendments regarding restructuring of tax obligations

The deadline for notifying to fiscal authorities of an intention to restructure fiscal obligations² has been extended to 31 July 2020 (initially the deadline was 31 October 2019).

Also, the request for restructuring fiscal obligations, together with the restructuring plan and the prudent private creditor test, can be submitted by 30 October 2020.

3. Interest and penalties during the state of emergency period and 30 days after termination

The fiscal obligations becoming due after the entry into force of GEO 29/2020 and unpaid until the expiry of a 30-day term after the cessation of the emergency state period shall not be accrued interest or delay penalties and shall not be considered overdue fiscal obligations, according to the Fiscal Procedure Code.

Also, the penalties stipulated for delays in performance of obligations arising from the contracts concluded by SMEs with public authorities are not due during the state of emergency period, if the relevant SME (i) has interrupted partially or entirely its activity following the decisions issued by the relevant public authorities during the state of emergency, and (ii) holds an emergency state certificate issued by the Ministry of Economy, Energy and Business Environment.

4. Suspension of enforcement measures

All enforcement measures involving garnishment/foreclosure for budgetary/tax receivables, except for the enforcement for budgetary receivables acknowledged by court decisions for criminal matters, are suspended. This suspension shall be applied by credit institutions and by third parties obliged to place a garnishment directly by operation of law, without any other formalities.

Government Emergency Ordinance no. 30, adopted on 18 March 2020 and entered into force on 21 March 2020 (“GEO 30/2020”), regarding certain social protection measures for reduction of the impact of the pandemic caused by the infection with the novel Coronavirus COVID-19.

The Romanian Government approved the first economic measures for protection of both employers and employees who are deeply affected by the pandemic caused by the spread of the novel Coronavirus COVID-19.

It was decided that the State will cover from the unemployment insurance budget the technical unemployment indemnity of 75% of the basic salary corresponding to the occupied job position, but not more than 75% of the average gross salary under the law of the public social insurance budget for 2020 (which is now of RON 5,429, the equivalent of approx. EUR 1,120, resulting in a maximum of RON 4,071.75, the equivalent of approx. EUR 840, borne by the State) for employers who meet one of the following alternative criteria:

- (i) the company has interrupted partially or entirely its activity following the decisions issued by the relevant public authorities during the state of emergency period, and holds an emergency state certificate issued by the Ministry of Economy, Energy and Business Environment;
- (ii) the company has reduced its activity as a consequence of the pandemic caused by the spread of the novel Coronavirus COVID-19, and does not have the financial capacity to pay all the salaries to its employees. The company may benefit from the payment of the technical unemployment indemnity only for 75% of its employees, based on a statement on own liability issued by the company confirming that it recorded a decrease of revenue for the previous month by at least 25% from the average revenue recorded during January and February 2020, and that it does not have the financial capacity to pay the salaries to all its employees.

² According to Government Ordinance 6/2019 regarding the adoption of certain fiscal facilities.

The technical unemployment indemnity is subject to taxation and payment of social contributions according to the Fiscal Code, except for the work insurance contribution.

Applications for the technical unemployment benefit should be submitted by email together with the list of employees who will benefit from technical unemployment indemnity, as well as the documents proving the award criteria, to the agencies for county employment in the territorial area where the companies are based.

Contact

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