

## THE GOVERNMENT OF ROMANIA

### EMERGENCY ORDINANCE

#### regarding some economic and fiscal-budgetary measures

**Art. I.** - Government Emergency Ordinance no. 110/2017 regarding the Program for the support of small and medium-sized enterprises - IMM INVEST ROMANIA, published in the Official Gazette of Romania, Part I, no. 1.029 of December 27, 2017, approved with amendments and completions by Law no. 209/2018, is amended and completed as follows:

1. In Article 1, paragraphs 3 and 31 are amended and shall have the following content:

(3) The program consists of granting state guarantees in favor of each beneficiary participating in the program for one of the following categories of credits, as follows:

a) one or more credits for investments and / or one or more credits / lines of credit for working capital, guaranteed by the state, to the Ministry of Public Finance, in a percentage of maximum 80% of the value of the financing, exclusively interest, commissions and bank charges related to secured credit. The maximum cumulative value of state-guaranteed financing that can be granted to a beneficiary within this facility is 10,000,000 lei. The maximum value of the credits / lines of credit for financing the working capital granted to a beneficiary may not exceed the average of the expenses related to the working capital of the last 2 fiscal years, within the limit of 5,000,000 lei. For investment loans, the maximum value of the financing is 10,000,000 lei. For SMEs that did not submit financial statements at the date of the request of the guaranteed credit, the maximum value of the financing for the inheritance / lines of credit for working capital will be calculated as double the average of the expenses related to the working capital from the monthly balances;

or

b) one or more guarantees for credits / lines of credit for financing working capital, exclusively interest, commissions and bank charges related to the state guaranteed credit in a maximum percentage of 90% granted to a micro-enterprise or small enterprise, with a maximum value of 500,000 lei for micro enterprises, respectively maximum 1,000,000 lei for small enterprises. The maximum value of each financing granted to a beneficiary may not exceed the average of the expenses related to the working capital of the last 2 fiscal years, within the thresholds stipulated before. For micro-enterprises or small enterprises that have not submitted financial statements at the date of the request of the secured loan, the maximum financing value for the credits / lines of credit for working capital will be calculated as double the average of the expenses related to working capital from the monthly balances.

(3<sup>1</sup>) For the credits provided in art. 1 paragraph (3) lit. a), the Ministry of Public Finance grants interest on loans / credit lines for financing working capital and investment credits at 100% of the budget of the Ministry of Public Finance - General Shares, from heading 55 «Other transfers», paragraph 55.01. 46 «Transfers to undertakings under state aid schemes». within a state aid scheme / *de minimis* associated with this program. "

2. In Article 1, after paragraph 3<sup>1</sup>, two paragraphs, paragraphs 3<sup>2</sup> and 3<sup>3</sup>, are inserted, with the following content:

3<sup>2</sup>) For the credits provided for in Article 1 paragraph (3) letter b), the Ministry of Public Finance grants interest on credits / credit lines for financing working capital and investment credits at 100% of the Ministry's budget Public Finance - General Actions, from heading 55 «Other transfers», paragraph 55.01.46 «Transfers to enterprises within the state aid schemes», within a state / de minimis aid scheme associated with this program.

3<sup>3</sup>) The interest subsidy period is from the moment of granting the credits / lines of credit contracted after the entry into force of these emergency ordinances and may last until March 31, 2021. The interest subsidy is approved annually by a normative act with the power of law for the first year and for the next 2 years only when the economic growth estimated by the National Commission for Strategy and Forecast for this period is below the level registered in 2020. The interest subsidy is realized in compliance with the provisions of the legislation in the field of state aid applicable. "

3. In Article 2, letter b) is repealed.

4. In Article 2, letters k) and l) shall be amended and shall have the following content:

k) *administration fee* - amount due to FNGCIMM for the remuneration of the activity of analysis, granting, monitoring and administration of guarantees, the level of which is established annually by the normative act with the power of law approving the state aid / de minimis scheme for the whole period of implementation of the state aid / de minimis schemes and is supported from the state budget, through the budget of the Ministry of Public Finance - General Actions within the state / de minimis aid scheme associated with this program. de minimis, the administration fee is due to the FNGCIMM by the beneficiary of the program;

l) *the guarantee percentage* - the part of the credit that is covered by the state guarantee from the value of the loan granted, the eligible loan, expressed in percentage value; the guarantee percentage is of maximum 80%, except for loans granted to micro and small enterprises in the amount of up to 500,000 lei, respectively 1,000,000 lei, for which the guarantee percentage is of maximum 90%;

5. In Article 3 (1), point h) shall be amended and shall have the following content:

"h) does not register outstanding fiscal obligations and other budgetary receivables administered by the central fiscal body, defined according to Article 1 point 31 of Law no. 207/2015 on the Fiscal Procedure Code, with subsequent amendments and completions. If such outstanding obligations register, the beneficiary undertakes to pay them from the credit / credit line for the working capital granted under the program. "

6. Article 5 shall be amended and shall have the following content:

"Article 5

(1) The mechanism for granting the guarantees provided in art. 1 paragraph (3) lit. a) is carried out in compliance with point 3.5 of the Commission Communication on the application of Articles 87 and 88 of the EC Treaty on State aid in the form of guarantees 2008 / C 155/02, published in the Official Journal of the European Union, series C, no. . 155 of June 20, 2008.

(2) The guarantees for the credits provided in art. 1 paragraph (3) lit. b) is granted in compliance with the legislation in the field of state aid.

(3) The state aid / de minimis scheme provided for in art. 1 paragraph (31) and (32) are implemented by the Ministry of Public Finance as a provider and administrator of this scheme, through FNGCIMM, in accordance with the attributions assigned to it by Government Decision no. 34/2009 on the organization and functioning of the Ministry of Public Finance, as subsequently amended and supplemented, and in accordance with the law on state aid. "

7. In Article 6, paragraph 2 is amended and shall have the following content:

(2) The maximum duration of financing is 120 months in the case of investment loans and 36 months in the case of credits / lines of credit for working capital. The credits / lines of credit for working capital can be extended by a maximum of 36 for months, following which, in the last year of extension, they will be reimbursed under the conditions established by the methodological norms for applying this emergency ordinance. "

8. Article 7 is repealed.

## Article II

(1) The payment of the rates and the interest related to the loans granted by the Ministry of Public Finance from revenues resulting from the privatization of the territorial administrative units / subdivisions may be postponed, at their request, for a period of three months from the date of entry into force of this emergency ordinance. For this period the Ministry of Public Finance does not calculate interest and late interest. This facility is not granted to loans which, at the date of entry into force of this emergency ordinance, record payment arrears.

(2) For the loans provided in par. (1) The Ministry of Public Finance extends the credit period by three months, by appropriately moving the maturity dates.

(3) The method of deferred payment shall be established by order of the Minister of Public Finance.

## Article III

(1) In the context of establishing the state of emergency in the territory of Romania, the approval of the operations granted by Eximbank - S.A. in the name and on the account of the state, which lead to a cumulative exposure on the same debtor or group of debtors of more than 50 million euros equivalent can be achieved through the following mechanism:

a) if Eximbank makes available to the economic operators funds from the loans granted on behalf and on the account of the state before being approved by the Government Memorandum, Eximbank sends to the Ministry of Public Finance to submit the analysis and approval of the Government the Memorandum approving these operations within 15 days from the grant of funds;

b) if the operation presented in letter. a) is not approved within the established term, Eximbank has the obligation to reconstitute the state funds, diminished by the amounts granted to the economic operators, from Eximbank's own sources.

(2) The provisions of para. (1) shall be applied by Eximbank for all operations performed since the declaration of the state of emergency.

## Article IV

(1) The Ministry of Public Finance may grant, at the request of the National Company UNIFARM - SA, a loan, from revenues resulting from privatization registered in the general current account of the State Treasury, within the limit of 1,150,000 thousand lei, for a period of 6 months from the moment of granting it, respectively the date of crediting the account provided in par. (5).

(2) The amount is provided by the Ministry of Public Finance from revenues resulting from privatization registered in the current account in foreign currency opened at the National Bank of Romania, by carrying out the currency exchange operation of the equivalent in euro of the amount of 1,150,000 thousand lei, determined on the basis of the course of the National Bank of Romania valid at the date of execution. The equivalent in lei of these amounts is recorded in the general current account of the State Treasury, available from revenues resulting from privatization.

(3) The amount provided in par. (1) will be used for the repayment of the first installment of the loan granted by Eximbank on behalf of the state and the difference will be used for the emergency purchase of sanitary equipment and equipment in the context of the coronavirus epidemic in Romania. The responsibility for using the loan amounts lies with the National Company UNIFARM - S.A.

(4) Within a maximum of 3 working days from the date of entry into force of this emergency ordinance, the Ministry of Public Finance enters into an agreement with the National Company UNIFARM - SA, which will specify the rights and obligations of the parties, as well as the terms and conditions for granting and carrying out the loan.

(5) After the signing of the agreement, the Ministry of Public Finance shall carry out the full transfer of the amount provided for in par.(1) within a maximum of 3 working days from the date of the request formulated in a separate account available with special affectation opened at the State Treasury on behalf of the National Company UNIFARM - S.A. This will take the necessary steps to open this account to the State Treasury.

(6) The loan provided in par. (1) is granted with an interest rate, which remains fixed for the entire duration of the loan, respectively ROBOR at 3 months, communicated by the National Bank of Romania, on the last working day of the month preceding the granting of the loan, respectively the signing of the loan agreement, plus a margin of 1.9% per year, and is reimbursed in full at the term provided in par. (1), with the possibility of early repayment, as the income is constituted.

(7) The interest represents income of the State Treasury budget and is calculated by applying the interest rate provided in par. (6) at the balance of the loan. The interest thus calculated is paid at the maturity of the loan provided in par. (1).

(8) For the non-payment of the loan and the related interests, a default interest shall be calculated, at the level of the interest provided in art. 174 para. (5) of Law no. 207/2015 regarding the Fiscal Procedure Code, with the subsequent modifications and completions, on the day of delay, until the date of the obligation being extinguished. The delay interest represents income from the State Treasury budget.

(9)The National Company UNIFARM - S.A. it returns the loan and the related interests, from its own revenues and amounts legally constituted, in the separate account opened at the

Central Operational Treasury, codified with its fiscal identification code. Within 3 working days of filling this account, the payment obligations will be extinguished in the following order: late interest, interest and capital rates.

(10) The claims arising from the management of the loan shall be pursued and executed under the conditions provided by the legal provisions regarding the execution of the tax receivables and shall be recovered according to the legislation in force regarding the collection of the tax claims by the central tax body competent in administering the tax claims of the borrower, based on the documents drawn up by the specialized directorate within the Ministry of Public Finance, by which the amounts to be recovered and which constitute enforceable titles are individualized at the due date. If the courts have ruled on these amounts, the forced execution is carried out according to the final court decision, which, according to the law, constitutes an enforceable title.

#### Article V

(1) In 2020, the term of March 31 inclusive, provided for in art. 462 paragraph (1), art. 467 para. (1) and at art. 472 para. (1) of Law no. 227/2015 regarding the Fiscal Code, with subsequent amendments and additions, is extended until June 30 inclusive.

(2) In 2020, the term of March 31 inclusive, provided for in art. 462 paragraph (2), art. 467 para. (2) and art. 472 para. (2) of Law no. 227/2015 regarding the Fiscal Code, with the subsequent amendments and completions, for granting the bonus established by the local council, is extended until June 30 inclusive.

#### Article VI

Government Ordinance no. 6/2019 regarding the establishment of fiscal facilities, published in the Official Gazette of Romania, Part I, no. 648 of August 5, 2019, as amended and supplemented, is amended as follows:

1. In Article 3, paragraph 1 is amended and shall have the following content:

"Article 3

(1) The debtor who wishes to restructure his budgetary obligations, according to this chapter, has the obligation to notify the competent fiscal body of his intention during the period August 8 - October 31, 2019, as well as between February 1 and July 31, 2020, under the sanction of the lapse of the right to benefit from the restructuring of the budgetary obligations, and it is addressed to an independent expert in order to draw up a restructuring plan and the test of the prudent private creditor. "

2. In Article 22, paragraph 1 is amended and shall have the following content:

"Article 22

(1) The restructuring request provided in art. 5 may be submitted until October 30, 2020, subject to the sanction of extinction of rights. "

#### Article VII

(1) For the fiscal obligations due from the date of entry into force of this emergency ordinance and unpaid until the termination, according to par. (4), of the measures provided for in this

article no interest and late penalties are due according to the Fiscal Procedure Code, approved by Law no. 207/2015, as subsequently amended and supplemented.

(2) By derogation from the provisions of art. 157 para. (1) lit. a) of Law no. 207/2015 regarding the Fiscal Procedure Code, with the subsequent amendments and completions, the fiscal obligations stipulated in par. (1) are not considered outstanding fiscal obligations.

(3) The measures of enforced execution by budgetary claims shall be suspended or not commenced, with the exception of the enforced executions which are applied for the recovery of the budgetary debts established by judicial decisions pronounced in criminal matters. The measures to suspend the forced execution by default on the following amounts representing income and money availability are applied, by law effect, by the credit institutions or third parties, without other formalities from the tax authorities.

(4) The fiscal measures provided in par. (1) - (3) shall cease within 30 days from the cessation of the state of emergency.

#### Article VIII

(1) By derogation from the provisions of art. 41 paragraph (8) of Law no. 227/2015 regarding the Fiscal Code, with the subsequent amendments and completions, the taxpayers applying the system of taxation and payment of the annual profit tax, with advance payments made quarterly, can make the quarterly advance payments for 2020, at the level resulting from the calculation of the tax per current years' quarterly profit. The calculation method is maintained for all quarters of fiscal year 2020.

(2) For the taxpayers referred to in art. 16 paragraph (5) of the Fiscal Code, the provisions of par. (1) is applicable for prepayments due for the remaining quarters of the modified year ending in 2020, as well as for the calculation of those related to the quarters of the modified fiscal year beginning in 2020 and included in the calendar year 2020.

#### Article IX

(1) By derogation from the provisions of art. 23 paragraph (1) and (2) of the Law on fiscal-budgetary responsibility no. 69/2010, republished, with the subsequent modifications and completions, and from the provisions of art. 6 paragraph (2) of Law no. 500/2002, regarding the public finances, with the subsequent modifications and completions, in 2020 budget corrections can be promoted in the first semester of the year.

(2) Starting with the date of entry into force of the present emergency ordinance, during the period of emergency established in the territory of Romania, by derogation from the provisions of art. 12 paragraph (1) lit. e) of the Law of fiscal-budgetary responsibility no. 69/2010, republished, with the subsequent modifications and completions, from the provisions of art. 44 paragraph (4), art. 47 paragraph (4) and (8) - (11) and art. 471 paragraph (2) of Law no. 500/2002 regarding the public finances, with the subsequent modifications and completions, as well as from the provisions of art. 49. para. (7) of Law no. 273/2006 regarding the local public finances, as subsequently amended and supplemented, the principal authorizing officers are authorized to carry out transfers of unused budgetary and commitment appropriations, as the case may be, in order to provide the necessary funds for the

implementation of measures to combat and prevent the spread. infection with the COVID-19 coronavirus, with compliance with the approved annual budgetary provisions.

(3) The Ministry of Public Finance is authorized to approve the quarterly distribution of budget credits and commitment credits as based on the communications transmitted by the main authorizing officers of the transfers made in par. (2) within 5 working days from the date of execution.

#### Article X

(1) During the state of emergency, small and medium-sized enterprises, as defined by Law no. 346/2004 on stimulating the setting up and development of small and medium-sized enterprises, with subsequent amendments and completions, which have interrupted their activity in whole or in part based on the decisions issued by the competent public authorities, according to the law, during the state of emergency declared, and who are holding the certificate of emergency situation issued by the Ministry of Economy, Energy and Business Environment, benefit from the deferred payment for utilities - electricity, natural gas, water, telephone and Internet services, as well as the deferred payment of the rent for the destination building of registered office and of secondary offices

(2) By derogation from other legal provisions, in the ongoing contracts, other than those provided in par. (1), concluded by the small or medium-sized enterprises provided in par. (1), the force majeure can be invoked against them only after an attempt has been made, proven by documents communicated between the parties by any means, including by electronic means, of renegotiation of the contract, in order to adapt their clauses taking into account the exceptional conditions generated by the state of emergency.

(3) It is presumed to constitute a case of force majeure, within the meaning of the present emergency ordinance, the unpredictable, absolutely invincible and inevitable circumstances referred to in art. 1.351 paragraph (2) of the Civil Code, which results from an action of the authorities in the application of the measures imposed by the prevention and control of the pandemic caused by the infection with the coronavirus COVID-19, which affected the activity of the small and medium-sized enterprise, an impact attested by the emergency situation certificate. The presumption may be overturned by the interested party by any means of evidence. The unpredictability is related to the time of the birth of the affected legal report. The measures taken by the authorities in accordance with the normative act establishing the state of emergency will not be unpredictable.

(4) The penalties stipulated for delays in the execution of the obligations arising from the contracts concluded with the public authorities by the small and medium-sized enterprises provided in par. (1) are not due for the duration of the state of emergency.

(5) The provisions of para. (1) are suitably applicable also for the following professions that perform services of public interest: the forms of exercise of the profession of notary public, the forms of exercise of the profession of lawyer and the forms of organization of the activity of the profession of judicial executor, whose activity is directly affected by the measures taken by the public authorities, for the prevention and control of the pandemic caused by the infection with the COVID-19 coronavirus. The criteria on the basis of which the beneficiaries of this measure are established are determined by Government decision.

(6) The members of the professions provided in par. (5) they are obliged, during the period of the establishment of the state of emergency, to take, with observing the rules of sanitary discipline and of the other measures of protection and prevention established by the competent authorities following the establishment of the state of emergency, the necessary measures to ensure the continuity of the activity . Failure to comply with this obligation constitutes a disciplinary offense that is sanctioned by the exclusion from the profession, under the conditions and the procedure established by the legislation in force, applicable to each profession.

(7) Employees of the forms of exercise of the professions mentioned in par. (5) which refuse to perform the service tasks assumed by the individual employment contract and for this reason it is not possible to ensure the optimal conditions of the activity, respectively the continuation of the activity in the forms of exercise of the mentioned professions will not have access to the benefits of social assistance or other facilities that will be provided during the emergency.

(8) The governing bodies of the professions provided in par. (5) will take the necessary measures to coordinate the activity of the members of the profession during the establishment of the state of emergency, they will verify the compliance with the obligations stipulated in par. (6) and will order the measures provided by the legislation in force.

(9) By the provisions of para. (1) benefit the offices of the family doctors and the dental offices in which up to 20 persons, in any form, carry out their activity and whose activity is directly affected by the measures ordered by the public authorities, for the prevention and control of the pandemic caused by the infection with coronavirus COVID-19. The criteria on the basis of which the beneficiaries of this measure are established are determined by Government decision.

(10) By the provisions of para. (1) benefit the national sports federations and sports clubs that hold a certificate of sports identity and whose activity is directly affected by the measures provided by the public authorities for the prevention and control of the pandemic caused by the infection with COVID-19 coronavirus. The criteria on the basis of which the beneficiaries of this measure are established are determined by Government decision.

#### Article XI

(1) The deadline for submitting the declaration regarding the real beneficiary, provided by art. 56 paragraph (4) and 62 para. (1) of Law no. 129/2019 for the prevention and combating of money laundering and terrorist financing, as well as for the modification and completion of some normative acts, is extended by 3 months from the date of cessation of the state of emergency established by Decree no. 195/2020 regarding the establishment of the state of emergency on the territory of Romania, and during the state of emergency the declaration is suspended.

(2) The deadline for submitting the declaration regarding the real beneficiary, provided by art. 344 para. (4) of the Government Ordinance no. 26/2000 regarding the associations and foundations, with the subsequent modifications and completions, and the term provided by art. 63 of Law no. 129/2019 for the prevention and combating of money laundering and



terrorist financing, as well as for the modification and completion of some normative acts, for the completion of the documents according to the requirements provided in art. 6, 7, 16 and 17 of the Government Ordinance no. 26/2000 regarding associations and foundations, approved with modifications and completions by Law no. 246/2005, with the subsequent modifications and completions, is extended by 3 months from the date of cessation of the state of emergency established by Decree no. 195/2020 regarding the establishment of the state of emergency in the territory of Romania, and during the state of emergency the declaration is suspended and the documents are completed.