



UNOFFICIAL TRANSLATION

Decree-Law no. 10-J / 2020

Of March 26

Summary: Establishes exceptional credit protection measures for households, companies, private institutions of social solidarity and other entities of the social economy, as well as a special regime of personal guarantees of the State, within the scope of the COVID-19 disease pandemic.

The World Health Organization qualified, on March 11, 2020, the public health emergency caused by COVID-19 as an international pandemic, considering it as a public calamity.

The state of emergency in Portugal was also declared through the Decree of the President of the Republic no. 14-A / 2020, of 18 March, regulated by Decree no. 2-A / 2020, of 20 March, which approved a set of exceptional and extraordinary measures.

The consequences for the economy call for urgent actions in view of protecting Portuguese households, in terms of credit for permanent own housing, and national companies to ensure the strengthen of their treasury and liquidity, mitigating the effects of reduced economic activity. Individual entrepreneurs, as well as private social solidarity institutions, non-profit associations and other entities of the social economy are also covered by this protection regime.

The financial system has a special duty to participate in this joint effort due to its essential role of financing the economy. In this period of uncertainty and complexity, all agents, public and private, are called to guarantee the sustainability of our economy, the income of our citizens and of our companies.

Accordingly, it is approved a moratorium, until September 30, 2020, which provides for the prohibition of the revocation of contracted credit lines, the extension or suspension of credits until the end of this period. The continuity of financing to households and companies is guaranteed and any non-compliance resulting from the reduction of economic activity is prevented.

The present decree-law also establishes a regime of personal guarantees of the State to prevent situations of national economic emergency caused by exceptional and temporary circumstances.

Finally, when certain assumptions are verified, the provision of guarantees by mutual guarantee companies is facilitated.

Thus:

Under the terms of paragraph a) of nº 1 of article 198º of the Constitution, the Government decrees the following:



CHAPTER I

General provision

Article 1^o

Object and scope

1 - This Decree-Law establishes exceptional measures to support and protect households, companies, private institutions of social solidarity, non-profit associations and other entities of the social economy, due to the economic and financial impacts of the contraction of economic activity resulting from the COVID-19 disease pandemic.

2 - The measures to protect and support liquidity and treasury are intended to defer compliance with the beneficiaries' obligations towards the financial system, under the terms in this decree-law.

3 - For the purposes of this decree-law, the COVID-19 disease pandemic is formally recognized as an exceptional event with serious consequences for the economy, under the terms of Article 107^o of the Treaty on the Functioning of the European Union.

CHAPTER II

Extraordinary support measures for the liquidity of households, companies, private institutions of social solidarity, non-profit organizations and other entities of the social economy

SECTION I

Support measures and access conditions

Article 2^o

Beneficiary entities

1 - Companies that cumulatively fulfill the following conditions benefit from the measures provided for in this Decree-Law:

- a) Have their headquarters and exercise their economic activity in Portugal;
- b) Are classified as micro, small or medium-sized enterprises in accordance with Recommendation 2003/361 / EC of the European Commission, of 6 May 2003;
- c) Are not, on 18 March 2020, in arrears or default of cash benefits for more than 90 days with the institutions, or if they are, do not meet the materiality criterion set out in the Notice of Banco de Portugal No. 2/2019 and in Regulation (EU) 2018/1845 of the European Central Bank, of 21 November 2018, and are not in a situation of insolvency, or suspension or assignment of payments, or on that date are already in execution by any of the institutions;
- d) Have their situation regularized with the Tax and Customs Authority and Social Security, within the meaning, respectively, of the Code of Tax Procedure and



Proceedings and of the Code of Contributory Regimes of the Welfare System of Social Security, not relevant until the 30th of April 2020, for this purpose, the debts incurred in March 2020.

2 - The measures provided for in this Decree-Law also benefit:

a) Individuals, in relation to credit for permanent own housing that, at the date of publication of this decree-law, fulfill the conditions referred to in paragraphs c) and d) of the previous number, have residence in Portugal and are in a situation of prophylactic isolation or sickness or provide assistance to children or grandchildren, as established in Decree-Law no. 10-A / 2020, of March 13, in its current wording, or who have been placed in reduction of the normal period of work or in suspension of the employment contract, due to a business crisis, in a situation of unemployment registered at the Institute of Employment and Professional Training, IP, as well as workers eligible for extraordinary support to reduce the economic activity of self-employed workers, under the terms of article 26 of the aforementioned decree-law, and workers from entities whose establishment or activity has been the object of closure determined during the period of state of emergency, in accordance with Article 7 of Decree No. 2-A / 2020, of March 20; and

b) Individual entrepreneurs, as well as private social solidarity institutions, non-profit associations and other entities of the social economy, except those that meet the requirements set out in article 136 of the Mutual Associations Code, approved in annex to Decree-Law No. 59/2018, of 2 August, which, on the date of publication of this decree-law, fulfill the conditions referred to in paragraphs c) and d) of paragraph 1 and have their domicile or headquarters in Portugal.

3 - The other companies, regardless of their size, who, at the date of publication of the regime, fulfill the conditions referred to in paragraphs a), c) and d) of paragraph 1, also benefit from the measures provided for in this Decree-Law, excluding those in the financial sector.

4 - For the purposes of the preceding paragraph, it is considered that they are part of the financial sector the banks, other credit institutions, financial companies, payment institutions, electronic money institutions, financial intermediaries, investment companies, financial collective investment funds, pension funds, securitization funds, respective management companies, securitization companies, insurance and reinsurance companies and public bodies that manage public debt at national level, with a status equivalent, under the terms of the law, to that of credit institutions.

5 - Companies, individuals and other entities provided for in the preceding paragraphs are hereinafter referred to as “beneficiary entities”.

Article 3º

Covered Operations

1 - This chapter applies to credit operations granted by credit institutions, financial credit companies, investment companies, financial leasing companies, factoring companies and mutual guarantee companies, as well as by branches of credit



institutions and financial institutions operating in Portugal, hereinafter referred to as “institutions”, to the beneficiaries of this decree-law.

2 - This chapter does not apply to the following operations:

- a) Credit or financing for the purchase of securities or the acquisition of positions in other financial instruments, whether or not they are guaranteed by those instruments;
- b) Credit granted to beneficiaries of schemes, subsidies or benefits, namely tax, for establishing headquarters or residence in Portugal, including for investment activity, with the exception of the citizens covered by the Return Program;
- c) Credit granted to companies for individual use through credit cards of members of the management, supervisory bodies, workers or other employees.

Article 4º

Moratorium

1 - The beneficiary entities of the present decree-law benefit from the following measures of support regarding their credit exposures contracted with the institutions:

- a) Prohibition of total or partial revocation of credit lines contracted and loans granted, in the amounts contracted at the date of entry into force of this decree-law, during the period in which this measure is in force;
- b) Extension, for a period equal to the period of validity of this measure, of all credits with payment of capital at the end of the contract, in force on the date of entry into force of this decree-law, together, under the same terms, with all its associated elements, including interest, guarantees, namely provided through insurance or in securities;
- c) Suspension, related to credits with partial repayment of capital or with maturity installments of other cash benefits, during the period in which this measure is in force, of payment of capital, rents and interest with expected maturity until the end of this period, being the contractual plan for the payment of capital installments, rents, interest, commissions and other charges automatically extended for a period identical to that of the suspension, in order to ensure that there are no charges other than those that variability of the interest rate underlying contract, also being extended all elements associated with the contracts covered by the measure, including guarantees.

2 - The beneficiaries of the measures provided for in paragraphs b) and c) of the previous number may, at any time, request that only capital repayments, or part thereof, being suspended.

3 - Extension of the capital payment period, rents, interest, commissions and other charges referred to in paragraphs b) and c) of nº 1 does not give rise to any:

- a) Contractual breach;



- b) Activation of early maturity clauses;
- c) Suspension of interest due during the extension period, which will be capitalized in the loan amount with reference to the time when they are due at the rate of the current contract; and
- d) Ineffectiveness or termination of the guarantees granted by the entities benefiting from the measures or by third parties, namely the effectiveness and validity of insurance, sureties and / or guarantees.

4 - The application of the measure provided for in nº 1 to credits with financial collateral covers the debtor's obligations to replace maintenance margins, as well as the creditor's right to execute the stop loss clauses.

5 - Concerning loans granted on a financing basis, total or partial, or guarantees from third parties based in Portugal, the measures provided for in nº 1 apply automatically, without prior authorization from those entities, under the same conditions provided for in the initial legal transaction.

6 - The extension of guarantees, namely insurances, guarantees and / or sureties referred to in the previous numbers does not require any other formality, opinion, authorization or prior act of any other entity provided for in another law and are fully effective and opposable to third parties, the respective registration, when necessary, being promoted by the institutions, based on the provisions of the present decree-law, without the need to present any other document and with no need for successive treatment.

Article 5º

Access to Moratorium

1 - In order to access the measures provided for in the previous article, the beneficiary entities send to the lending institution, either physically or electronically, a declaration of adherence to the application of the moratorium, in the case of individuals and individual entrepreneurs, signed by the borrower and, in the case of companies and private social solidarity institutions, as well as non-profit associations and other social economy entities, signed by their legal representatives.

2 - The declaration is accompanied by documentation proving the regularity of the respective tax and contributory situation, under the terms of paragraph d) of nº 1 of article 2º.

3 - The institutions apply the protection measures provided for in the previous article within maximum of five working days after receiving the declaration and documents referred to in previous years, with effect from the date of submission of the declaration, unless the beneficiary entity does not fulfill the conditions set out in Article 2º.

4 - If they find that the beneficiary entity does not fulfill the conditions established in the Article 2º in order to benefit from the measures provided for in the previous article, the lending institutions inform the beneficiary entity of this act within a maximum period of three working days, by sending communications through the same means that was used by the beneficiary entity to send the declaration referred to in paragraph 1 of this article.



Article 6º

Protection of credit rights

In case of a declaration of insolvency or submission to a Special Revitalization Process or Extrajudicial System for the Recovery of Companies of the beneficiary entity, institutions may exercise all actions inherent to their rights, under the terms of the applicable legislation.

SECTION II

Inspection and sanctioning regime

Article 7º

Improper access to protection measure

Beneficiary entities that access the support measures by not completing the assumptions for that purpose, as well as the people who signed the required documentation for these purposes, are responsible for the damages that may occur for the false declarations, as well as the costs incurred with the application of the referred measures without prejudice of another type of responsibility generated by the behavior, namely criminal.

Article 8º

Supervision and sanctions

- 1 - Banco de Portugal is responsible for the supervision and oversight of moratorium access regimen provided for in the present decree-law.
- 2 - Non-compliance of the duties provided for in this decree-law or in the regulations adopted by Banco de Portugal by the institutions provided for in nº 1 of article 3º, for its execution, constitutes a punishable offense under the terms of article 210º of Legal Framework of Credit Institutions and Financial Companies, approved by Decree-Law nº 298/92, of December 31, in its current wording, being applicable to the calculation of the respective administrative offense the substantive and procedural regimen provided for in that Legal Framework.

Article 9º

Information report

The exposures covered by the moratorium are reported to the Central Credit Register.



Article 10^o

Regulations

1 - The member of the Government responsible for the financial area defines by ministerial ordinance the other general conditions applicable to any of the exceptional and temporary pandemic COVID-19 response measures provided for in this Decree-Law.

2 - Banco de Portugal increases, by regulation, the information duties of institutions concerning the operations covered by exceptional and temporary response measures to pandemic COVID-19 foreseen in the present decree-law.

CHAPTER III

Special regime of personal guarantees of the State

Article 11^o

Personal guarantees

1 - Personal guarantees can be provided by the State and by other public entities due to the national economic emergency caused by the pandemic COVID-19 disease within the maximum limits for granting personal guarantees provided for in the State Budget Law.

2 - The member of the Government responsible for the financial area may authorize the guarantees, under the preceding paragraph, namely to guarantee credit operations or other financial transactions, in any form, to ensure liquidity or any other purpose, to companies, private institutions of social solidarity, non-profit associations and other entities of the social economy or to any other entities headquartered in the European Union, including European institutions, instruments or mechanisms.

3 – To the provision of guarantees under the preceding paragraphs are applicable, on a subsidiary basis, the provisions of Law N^o 112/97, of 16 September, in its current wording, with the necessary adaptations except for the provisions which, in view of the exceptional and temporary circumstances, prove to be incompatible, namely articles 9^o, 13^o, 14^o, 16^o and 19^o, must be observed the procedure foreseen in the following article.

Article 12^o

Procedure for granting State guarantees in case of a national economic emergency

1 - The request for the granting of State guarantees is addressed to the member of the Government responsible for finance, through the Directorate-General for Treasury and Finance, accompanied by essential elements of the operation to be



guaranteed, namely the respective amount and term, without prejudice to additional elements that may be requested to assess the risk of the operation and the definition of the conditions of the guarantee to be granted.

2 - The request provided for in the preceding paragraph is subject to a favorable opinion by the Government member of the sector of activity of the benefited entity from the guarantee, which should incur on the framework of the operation within the scope of the Government's policy of responding to the national economic emergency due to the COVID-19 disease pandemic, the appreciation of the relevance of the beneficiary entity to the national economy, as well as the perspective of economic viability of the entity concerned and the express need for personal guarantee of State.

3 - Attached to the order for approval or authorization are published the specific elements of the operation, as well as the opinion referred to in the previous number, and any change follows the same procedure.

4 - The elements needed to monitor the operations covered by the guarantee and, as soon as they are aware of facts that make it impossible for them to fulfill their obligations on time are regularly sent to the Directorate-General of the Treasury, by the beneficiary entities or other entities to be defined in the order of the member of the Government responsible for the financial area.

5 - The member of the Government responsible for the financial area may define by ministerial ordinance the other terms and conditions related to the operations subject to guarantee and the procedure.

CHAPTER IV

Mutual guarantee concession

Article 13^o

Special mutual guarantee concession regimen

1 - Mutual guarantee companies may, into the context of exceptional and temporary measures of responses to the epidemiological situation of the new Coronavirus - COVID-19, grant guarantees to beneficiaries or other legal entities, natural or legal, that do not meet the quality of shareholder, provided that this issue is specifically authorized by members of the Government responsible for economics and financial areas, and if the financial products are identified as covered by these guarantees.

2 - To the guarantees provided under the terms of the previous number is applicable the Decree-Law n^o 211/98, July 16, in its current wording, being applicable the procedures provided for therein, with the due adaptations and paying attention to the context and purpose of the guarantees.

3 - The guarantees provided under the terms of the previous numbers include, for all purposes, the object of the Mutual Counter guarantee Fund, under the terms of Decree-Law n^o 229/98, of 22 July, in its current wording.



CHAPTER V

Final provision

Article 14^o

Entry into force and validity

This decree-law enters into force on the following day of its publication and remains into force until 30 September 2020.

Seen and approved by the Council of Ministers on March 26, 2020. - António Luís Santos da Costa - Mário José Gomes de Freitas Centeno.

Enacted on March 26, 2020.

Publish.

The President of the Republic, MARCELO REBELO DE SOUSA.

Countersigned on March 26, 2020.

The Prime Minister, António Luís Santos da Costa.

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