



COVID-19

Legal Insights no. 35

Decree-Law No. 20-G/2020, of May 14th

Decree-Law no. 20-G/2020, of May 14th, establishes a system of safety incentives for micro, small and medium sized enterprises, in the context of the COVID-19 disease.

On May 14th, 2020, Decree-Law no. 20-G/2020 was published in the Portuguese Official Gazette, establishing a system of safety incentives for micro, small and medium sized enterprises, in the context of the COVID-19 disease.

This Decree establishes an incentive system for purposes of the adjustment of the economic activity under the new context resulting from COVID-19, so that the already announced plan of non-confinement occurs in a safe way and gives confidence to citizens. This system aims to reduce the increased costs for the prompt re-establishment of the operating conditions of companies. These costs shall be supported, namely, the costs with acquisition of individual protection equipment for workers and users, of hygiene equipment, of disinfection contracts and the costs with the reorganization of workplaces and changes in the layout of establishments.

The referred Decree-Law creates the **ADAPTAR Program**, which has application in the territory of mainland Portugal, aims to support enterprises in their efforts to adapt and invest in their establishments, to adjust work organization methods and relationships with clients and suppliers to the new conditions in the context of COVID-19 disease pandemic, ensuring compliance with the established standards and with the recommendations of the competent authorities.

This support system is financed by European Funds, namely by Portugal 2020 and by other national funding sources, available at IAPMEI, I.P., and at Turismo de Portugal, I.P.

Within this scope, projects included in all economic activities are eligible, with the exception of the following:

- Fishing and aquaculture sector;
- Primary agricultural production and forestry sector;
- Processing and marketing sector for agricultural products listed in Annex I to the Treaty on the Functioning of the European Union and processing and marketing of forestry products;
- Projects that focus on the following activities foreseen in the Portuguese Classification of Economic Activities: i) financial and insurance (divisions 64 to 66); ii) defense (subclasses 25402 and 30400) and iii) lotteries and other gambling activities (division 92).

Support to micro-enterprises

The supports are granted as a non-refundable subsidy and the incentive rate to be granted is 80% of the expenses eligible under the terms of this law.

In order to be eligible, micro-enterprises (enterprises which have less than 10 employees and which annual turnover or annual total balance sheet does not exceed 2 million euros) shall:

- a) Be legally incorporated on 1 March 2020;
- b) Have organized accounting;
- c) Meet the necessary conditions to obtain micro-enterprise status;
- d) Have, or be able to assure, until the signature of the term of acceptance, the regularized tax and contributory situation.

On the other hand, in order for the respective projects to be eligible, they shall:

- a) Have the goal of making an investment of a value in eligible expenditure of not less than (euro) 500 and not more than (euro) 5.000, for the adaptation of the enterprise's activity to the context of COVID-19 disease, ensuring the safety of employees, clients and the relationship with suppliers, complying with the established rules and recommendations of the competent authorities;
- b) Have a maximum execution period of six months from the date of the notification of the favorable decision, with the deadline of 31 December 2020;
- c) Comply with the legal and regulatory provisions applicable to them.

Support to small and medium-sized enterprises (SME)

The supports are granted as a non-refundable subsidy and the incentive rate to be granted is 50% of the expenses eligible under the terms of this law.

In order to be eligible, SME (enterprises which have with less than 250 employees and which annual turnover does not exceed 50 million euros or which annual total balance sheet does not exceed 43 million euros and which holds the relevant Certification) shall:

- a) Be legally incorporated on 1 March 2020;
- b) Have organized accounting;

- c) Have its tax and contributions situation regularized, as well as have its situation regularized in terms of replacements, within the scope of financing from the European Structural and Investment Funds (ESIF);
- d) Have Electronic Certification, for the purpose of proving the status of SME;
- e) Not be a company undertaking difficulties, as defined in Article 2 of Commission Regulation (EU) no. 651/2014 of June 16, 2014;
- f) Declare that it is not an enterprise subject to an outstanding recovery order, following a previous Commission decision declaring an illegal support, incompatible with the internal market.

On the other hand, for the respective projects to be eligible they shall:

- a) Have the goal of making an investment of a value in eligible expenditure of not less than (euro) 5.000 and not more than (euro) 40.000, for the qualification of processes, organizations, products and services of SMEs, namely for the adaptation of their establishments, methods of work organization and relationship with customers and suppliers to the new conditions under the context of COVID-19 disease, ensuring compliance with the established rules and recommendations of the competent authorities;
- b) Not be started at the date of application;
- c) Have a maximum execution period of six months from the date of notification of the favorable decision, with the deadline of 31 December 2020;
- d) Comply with the legal and regulatory provisions applicable to them.

The Decree Law also defines, for both micro-enterprises and SMEs, the investment priorities, eligible and ineligible expenses of the beneficiary enterprises, the relevant payments and obligations, as well as the procedures for analysis, selection and decision of applications.

The **eligible expenditure** for micro-enterprises are set out in the Decree-Law as per follows:

- a) Acquisition of personal protection equipment needed for a maximum period of 6 months, to be used by employees and customers in spaces with public attendance;

- b) Acquisition and installation of hygiene equipment and automatic dispensing of disinfectants and respective consumables, for a maximum period of 6 months;
- c) Contracting of disinfection services for the facilities, for a maximum period of six months;
- d) Acquisition and installation of automatic payment devices, including those using contactless technology, as well as the costs of contracting the service, for a maximum period of six months;
- e) Initial costs associated with domiciliation of applications, initial subscription of electronic platforms, initial subscription of applications in "software as a service" regime, creation and initial publication of new electronic content and inclusion or listing in directories or search engines;
- f) Reorganization and adaptation of workplaces and space layout to the guidelines and good practices of the current COVID-19 disease context, namely, installation of automatic doors, installation of lighting solutions and sensor dispensers, settlement of contingency areas and other measures of hygiene, safety and physical distance;
- g) Physical isolation of production or sales or service spaces, namely, installation of partitions between equipment, production cells, desks, service stations or reception desks and acquisition and installation of other control and physical distancing devices;
- h) Costs with the acquisition and placement of information and guidance to employees and to the public, including vertical and horizontal signs, inside and outside the spaces;
- i) Costs with the intervention of certified accountants or statutory auditors in validating the expenditure of payment requests.

Regarding **small and medium-sized enterprises**, the **eligible expenditures**, in addition to those provided for in paragraphs c), e), f), h) and i) above, are the following:

- a) Acquisition and installation of hygiene equipment and automatic dispensing of disinfectants;
- b) Acquisition and installation of automatic payment devices, including those using contactless technology, and other physical monitoring and distance devices;

- c) Acquisition of specialized consultancy services for the redesign of the layout of the facilities and for the drafting of business contingency plans and best practice manuals and the acquisition of specialized consultancy services for the adaptation of the business model to the new challenges of the post-pandemic context of COVID-19 disease;

Ineligible expenditure for both micro-enterprises and small and medium-sized enterprises are as follows:

- a) Work of the enterprise for itself;
- b) Acquisition of goods in a state of use; and
- c) Recoverable value added tax, even if it has not been or will not actually be recovered by the beneficiary.

It should be noted that under the ADAPTAR Program, only one application per company is accepted. The support granted under this Decree-Law cannot be cumulated with other public aid for the same expenditure

Decree-Law no. 20-G/2020, of May 14th entered into force on May 15th, 2020.

To access the full text of the Decree-Law, please click [here](#).

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