

Rescheduling the Payment of tax Liabilities. A Case Study on Companies From Galati County

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In the context of the global COVID crisis, state governments, companies and the population have fully felt the effects of the blockade imposed by the crisis. In order to overcome the difficulties generated by the taxpayers due to the temporary lack of cash, as well as to prevent the accumulation of new debts, in order to ensure a better collection by the state of tax arrears (debts), competent tax authorities, for tax obligations administered by the National Agency for Fiscal Administration, may grant, at the request of the taxpayer, facilities in the form of payment rescheduling for a period of up to 5 years.

1. Introduction

This type of facility was introduced in 2011, by Emergency Ordinance no. 29/2011 on the regulation of granting payment instalments. Currently, the facility is regulated by Law no. 207/2015 on the Fiscal Procedure Code - CHAPTER IV payment facilities and by the Order of the President of the National Agency for Fiscal Administration no. 90/2016 of January 14th, 2016 for the approval of the content of the request for granting the payment rescheduling and the supporting documents attached to it, as well as of the Procedure for the application of the payment rescheduling by the central fiscal body.

The payment rescheduling is an arrangement for the payment in instalments of the outstanding tax obligations of debtors in difficulty generated by the temporary lack of cash (ANAF, 2018).

The main advantages of payment rescheduling are:

- suspension of enforcement for amounts that are subject to payment rescheduling of tax obligations;
- postponement of payment of the delay penalties included in the tax attestation certificate in order to cancel;
- non-calculation and non-indebtedness of late payment penalties for payment staggered payments, except for the situation regarding the late payment of the instalment rate and the main obligations;
- the possibility of participating in auction sales due to the fact that tax obligations staggered by payment are not considered outstanding tax obligations.

The reasons for which the normative acts regarding this facility were adopted, their importance and necessity in carrying out the company's activities refer to the need to streamline the economic-financial activities of economic operators, which, although economically viable, have difficulties in paying fiscal obligations due to lack of liquidity.

In recent years, i.e. since 2007, with the accession to the European Union, it has become a priority to increase the performance of budget revenue collection, in which an important role is played by coercive measures for non-compliance with fiscal obligations, to create the premises for economic recovery by reducing the tax burden on the taxpayer in the sense of regulating the legal framework regarding the calculation of tax receivables accessories so as to achieve a decrease in the level of late payment penalties due for late payment of tax obligations but also a motivation to comply with the payment of these obligations.

Increasing the deadlines within which a taxpayer has the obligation to pay the amounts that are a condition for maintaining the validity of the payment schedule, is a measure that supports the business environment as it would lead to increased liquidity available to them, given that by introducing the possibility granting the payment rescheduling during its validity period and for the fiscal obligations established following the fiscal inspection, the accumulation of new debts is prevented.

The effects of this fiscal facility are reflected in voluntary compliance, an increase in the volume of revenues to the general consolidated budget and a reduction in arrears. By applying the measures provided in the draft normative act, the state behaves like a prudent private creditor that pursues in the field of state aids the full recovery of the outstanding fiscal obligations (MFP, 2013).

On December 31st, 2018, at the level of National Agency for Fiscal Administration (ANAF) the number of legal entities that were not in insolvency / reorganization / bankruptcy / dissolution and were not beneficiaries of a payment rescheduling was approximately 250,000 people, and the debts of these debtors amounted to 29,657 million RON to the budget consolidated.

Regarding the revenues from forced execution, related to 2018, respectively by bank seizure, seizure from third parties, capitalization of movable and immovable property, they have only a share of 1.55% of the total revenues collected by ANAF (Figure 1).

Figure 1 The share of forced execution receipts of the total outstanding obligations

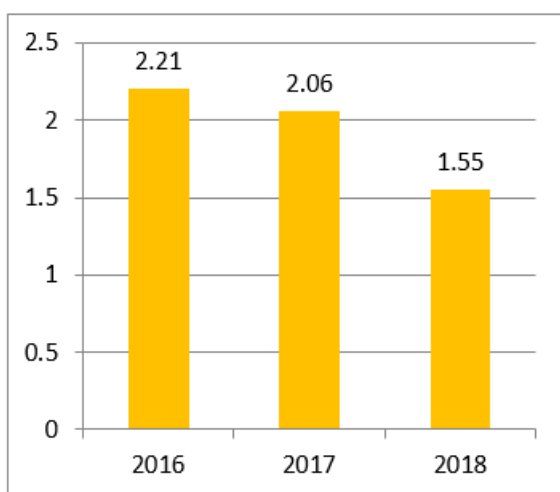
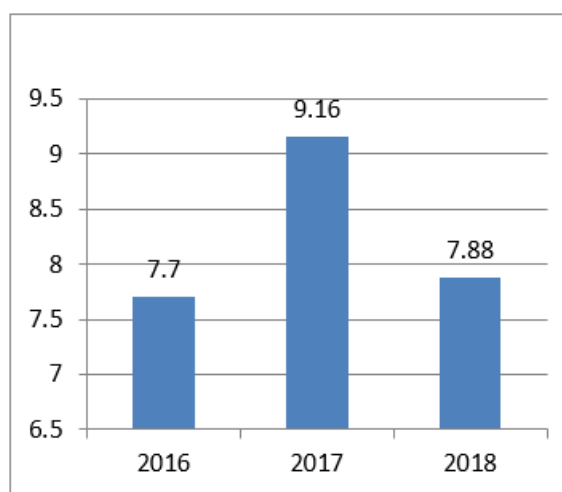


Figure 2 The share of receipts by forced execution in relation to collected revenues



Statistical data show that this extremely low level of receivables from enforcement of outstanding receivables in relation to the total revenue collected by ANAF is approximately constant in the last 3 years (Figure 2).

2. Presentation of the companies and indicators analysed for the decision to be staggered (rescheduled)

Appeared as a salvation in the context of the financial crisis 2007-2008, the measure of rescheduling the payment of tax obligations, established by Government Ordinance no. 29/2011 and currently regulated by Law no. 207/2015 on the Fiscal Procedure Code, has an accessible practical application, but conditioned by the profile of companies with financial difficulties, their assets and resources for business recovery. The condition of demonstrating

the financial difficulties and the future ability to pay³ (during the staggered periods) are conditions for granting the payment staggering of the tax obligations.

The studied companies have the following fields of activity (Table 1):

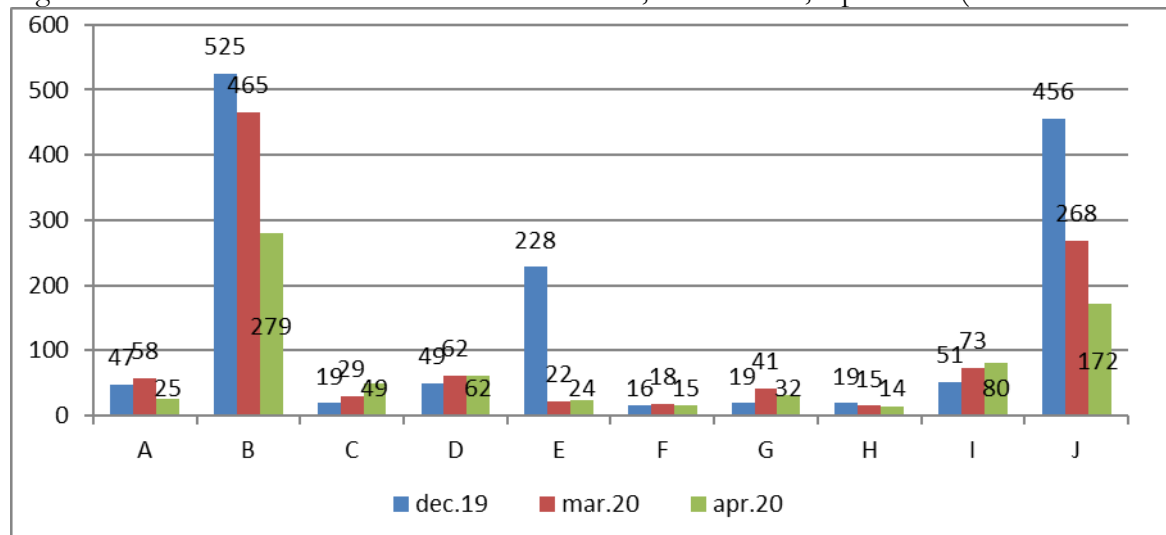
Table 1. Field of activity of studied companies

Field of activity	Company
Real estate agency	Company G
Reproduction of computer records	Company C
Retail trade of petroleum products	Company B
Trade in cars and light vehicles	Company J
Retail trade of food, beverages and tobacco	Company A, Company D, Company E, Company F, Company H, Company I

2.1. Sales analysis in December 2019, March 2020, April 2020

We analysed the volume of revenues in December 2019, March and April 2020 and found that they decreased in some companies, but for others the crisis had beneficial effects in terms of sales volume, according to the balance sheets (Figure 3).

Figure 3. Evolution of revenues in December 2019, March 2020, April 2020 (thousands RON)



Source: Information processed by the author from the balance sheets

The study conducted below refers to companies that have continued their activity in the restrictive conditions imposed by the economic blockade, but which have opted for obtaining a staggered payment of tax obligations accumulated up to the present date. In order to qualify for the granting of rescheduling in accordance with the legislation in force, taxpayers must be in difficulty caused by the total lack of cash and have the financial capacity to pay during the payment rescheduling period. Other mandatory conditions are that they are not in insolvency proceedings or in dissolution.

2.2. The studied indicators

The indicators studied to determine whether a company falls within the required conditions for granting rescheduling, are:

- Cash deficit / surplus
- Negative equity
- Financial debt calculated as a ratio:

$$\frac{\text{Total Debts (Budgetary Debts + Short and Medium Debts)}}{\text{Turnover}} \times 100$$

- Global liquidity as a ratio: $\frac{\text{Current Assets}}{\text{Under 1 Year Debts}}$
- Solvency $\frac{\text{Total Assets}}{\text{Total Debts}}$

Other information requested is:

- Statement of balances in bank and cash accounts for the last closed month.

3. Analysis of financial indicators for companies from Galati County

The financial analysis of a company requesting the payment rescheduling of main and ancillary tax liabilities requires the study of certain financial indicators (indicative) from which to result both the difficulty generated by the temporary lack of financial difficulties in which it is at the time of application and to demonstrate financial capacity payment period. It is also checked whether all tax returns have been submitted according to the tax vector, in order to record in the tax records, all the main payment obligations, but also if there are amounts to be reimbursed / refunded from the budget in order to offset some of these obligations. (Reimbursements / refunds can only be made if there are no obligations to the state and social insurance budgets).

3.1 Cash deficit / surplus

Cash flows designate all cash inflows and outflows and cash equivalents. Liquidity refers to cash and demand deposits. Liquidity equivalents are short-term financial investments with a very high degree of liquidity, which can be easily converted into cash and whose risk of change in value is insignificant.

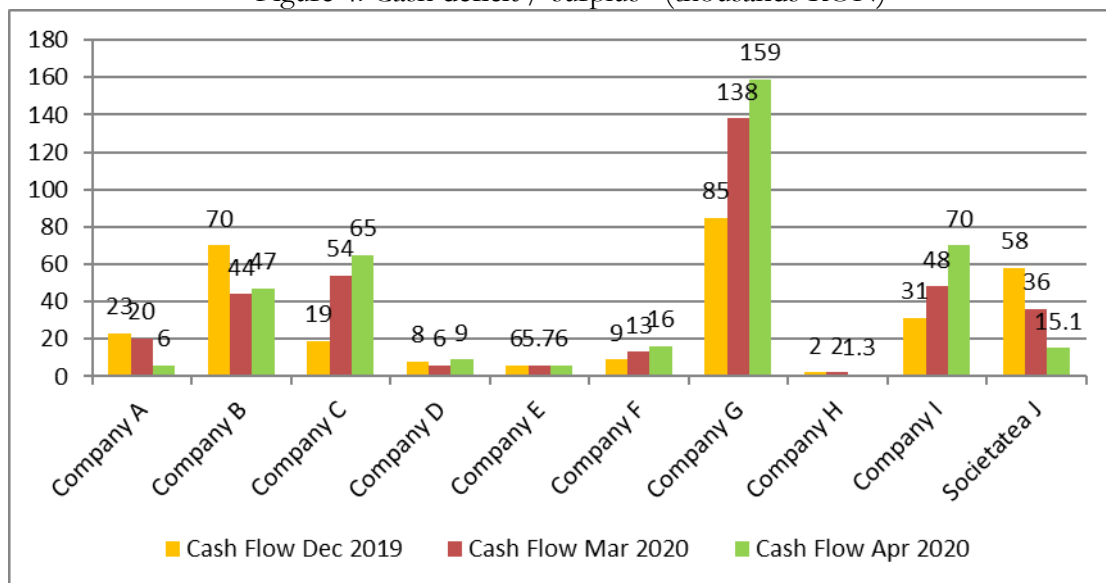
The global net cash flow, i.e. the global cash surplus or deficit, resulting during a year, is established as the difference between the receipts and payments generated by the entire activity of the enterprise and comes from: operating operations, investment and financing operations (Lezeu and Zapodeanu, 2005).

In the case of the analysed companies, to which we specified the field of activity and studied their balance sheets, we concluded that they do not generate cash flows from investment activities or from financial activities, the results highlighted below being from the operating activity.

Positive net cash is the most eloquent illustration of the efficiency of the enterprise, the clearest expression of the achievement of the financial balance of the enterprise. The existence of a positive net cash flow signals a monetary surplus, found in the liabilities of the balance sheet in the form of net profit, and a negative cash reflects a financial imbalance, a financing deficit that must be covered based on new operating debts - discount or cash loans (Bărbuță-Mișu, 2009).

Cash deficit / surplus are presented in Figure 4 based on data from companies' balance sheets.

Figure 4. Cash deficit / surplus (thousands RON)



Source: Information processed by the author from the balance sheets

From the interpretation of the data in the chart, we found that out of the 10 companies, only 4 registered decreases during the financial blockade, company E, retail, constantly maintained its liquidity level, and companies A, H, B and J registered increases. If in the companies that registered decreases in liquidity the evolution is easy to interpret, due to the blocking of their activity, Company A and H being restaurants, Company B - a gas station, and Company J - car dealer, it is still interesting to follow what are the causes of positive evolution of cash surplus in the case of other companies, especially of Company G which is a real estate agency.

Company G recorded an increase in cash surplus by 46.5% in April 2020 compared to December 2019, and revenues increased by 40.6% in the same period. The explanation is the completion of the conclusion of contracts, online, with customers who wanted to buy or sell real estate, who received 50% of the commission, but at the same time increased requests for apartment rentals for people who were in isolation, which generated commission income.

Company C deals with the sale of computer software and provides advice on their use and it is easy to understand why the cash surplus increased by 70.76% in April 2020 compared to December 2019, and revenues by 61%. The proportion with which the income increased is lower than that of the cash surplus as the expenses were lower, due to the fact that they worked with the goods from the stock, and the expenses with the salaries were lower, the employees working from home for fewer hours.

Company E constantly maintained its liquidity level due to the lack of activity in March and April, i.e. it kept the liquidity related to December, when it had both revenues and expenses - and in March-April.

Companies D, F and I maintained their upward trend, registering increases by 11%, 44% and 55.71% in April 2020 compared to December 2019 of the cash surplus by continuing the activities through home deliveries, keeping the stores open in carrying out the retail trade of food, beverages and tobacco and reducing supplier costs.

3.2. Positive or negative equity

The capital presented a cost whose impact was found in the degree of development of the company. In order to create the gross domestic product (GDP), capital is needed, capital

which represents a cost, and this cost is characterized by an impact on the development process of the enterprise.

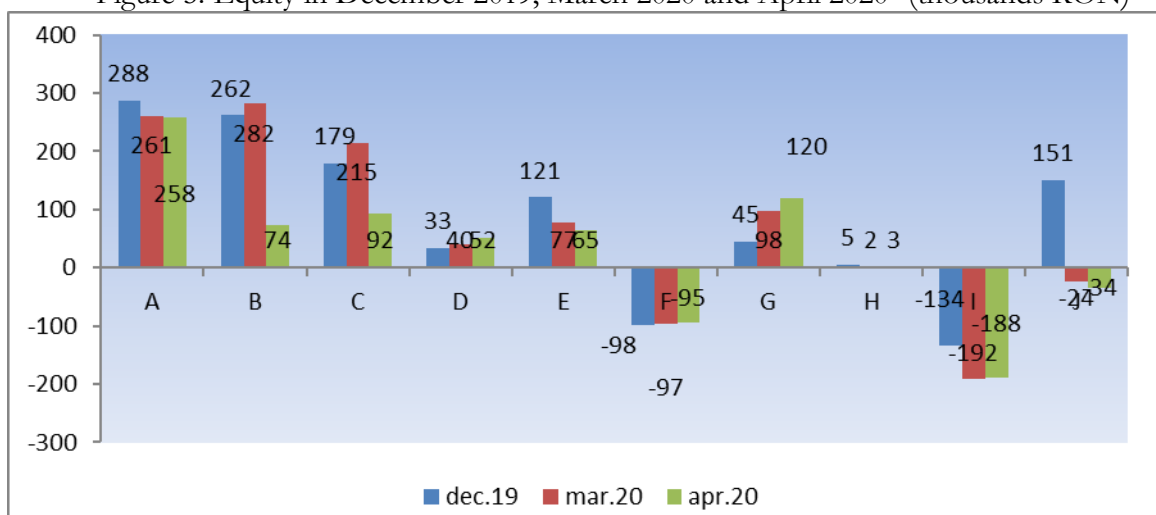
The financial structure of domestic and foreign equity and borrowed capital results in tax savings as the borrowing rate increases. Newer theories in finance (signal and agent) argue that indebtedness is exciting for the company's performance and leads to an increase in its value (Bărbuță-Mișu, 2009).

A simple description of the notion of net assets would be: the gross amount that the shareholders of a company could receive if their company is liquidated, amount that will result after the payment of all debts, on the one hand, respectively the collection of all amounts resulting from capitalization company assets, on the other hand.

Companies with negative net assets - the term “negative equity” is also used - may have problems because, in the event of liquidation, shareholders should, in theory, bring money from home so that they can pay off all the company's debts.

The statement of net assets is an important indication of the financial support commitment that the shareholder proves to its own company. The higher the equity, the better, but up to a certain level of the ROE (net return on invested capital).

Figure 5. Equity in December 2019, March 2020 and April 2020 (thousands RON)



Source: Information processed by the author from the balance sheets

Company J has negative equity in March and April. The decrease in assets is registered in the months affected by the COVID crisis and does not reflect the state of the company but only represents a temporary aspect. At Companies F and I, however, the trend is maintained from 2019, account 117 -Referred result- having a debit balance (balance due). This reflects the fact that companies have a high degree of indebtedness and the ability to pay of these companies is called into question, not falling within the criteria for granting rescheduling. Company F has a constant level of revenues, and the level of negative equity is also constant, the decrease being 1% and 3% in March and April compared to December.

Company I, although the increase of revenues by 30.13% in March and by 36.25% in April compared to December, the decrease of equity means the increase of debts from an insufficient management of resources and the inadequate application of the fiscal facilities granted by government during this period (technical unemployment, postponement of payments of utilities).

Equity follows the trend of the other indicators, with the exceptions mentioned, in the sense that where there have been decreases in income, there is also a decrease in equity.

By referring to the definition $\text{Equity} = \text{Assets} - \text{Debts}$ (Dan, 2019), it is easy to understand that increasing debt and decreasing income leads to a decrease in capital. Thus, company A registered a decrease of this indicator by 10.4% in April compared to December and by 9.37% in March compared to December.

Company B recorded a decrease of 71.75% in April and an increase in March of 7.09%, due to the fact that the blockade was introduced starting March 16th, and revenues even if they decreased, and debts were decreasing. Company C had a capital increase of 16.74% in March and a decrease of 57% in April-December, which amid a 61% increase in revenues for the period, reflects an increase in expenses.

Company D had a positive evolution of this indicator registering the increase by 17.5% in March and by 63% in April compared to December. Company E recorded decreases in both months by 36% and 46% respectively compared to December, while company G increased by 36.25% in March and by 62.5% in April compared to December. In company H, the decrease was 60% in March and 40% in April compared to December.

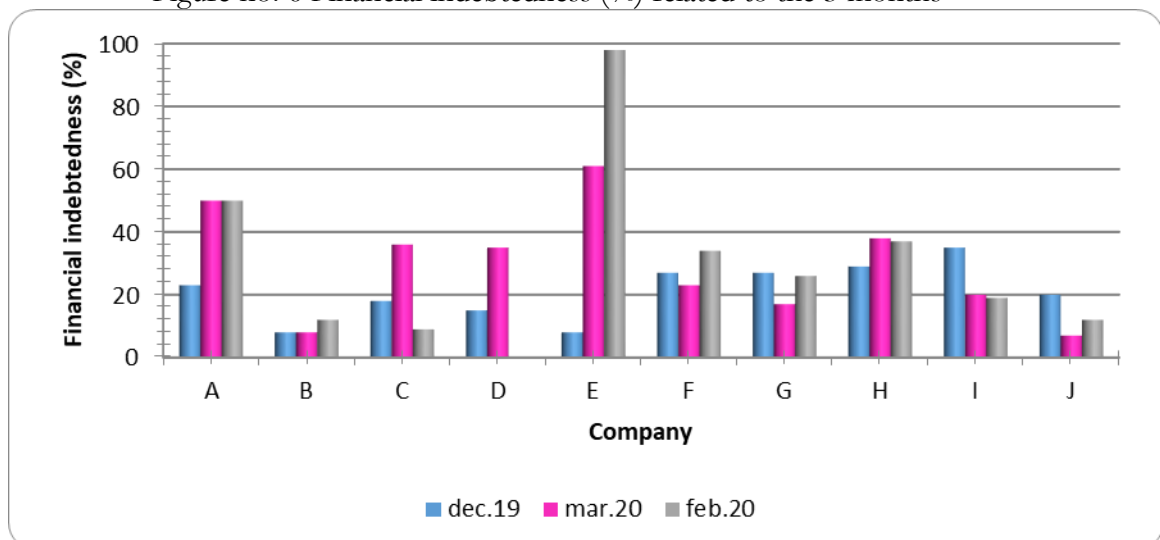
3.3. Financial indebtedness

The financial situation of a company is also reflected in its **degree of indebtedness**. It is determined that the ratio between total debt and total assets or the degree of indebtedness expresses the ratio between debt and equity, being considered good when the rate is up to 60% for general indebtedness.

$$\frac{\text{Total Debts}(\text{Budgetary Debts} + \text{Short and Medium Debts})}{\text{Turnover}} \times 100$$

At the same time, by analysing the rates of return, liquidity, degree of indebtedness, the situation of indebtedness is characterized in relation to the resources of the maintenance, as well as the sources of financing resulting from its own activity. These sources are in fact financial results of the company, from which it can repay its debts (Bărbuță-Mișu, 2009).

Figure no. 6 Financial indebtedness (%) related to the 3 months



Source: Information processed by the author from the balance sheets

Due to technical unemployment, for companies that did not have bank loans, the amount due to the state budget and social insurance was zero. This is why in April some

companies have zero financial debt. This is also explained by the fact that the maturity of the payment of the profit tax or on micro-enterprises, was 25.03.2020, maturity deferred to the payment by the Emergency Ordinance no. 48/2020, in force from April 9, 2020 - until 25.06.2020, and then this term was again postponed until 25.10.2020 by Emergency Ordinance no. 99/2020 in force from June 25.

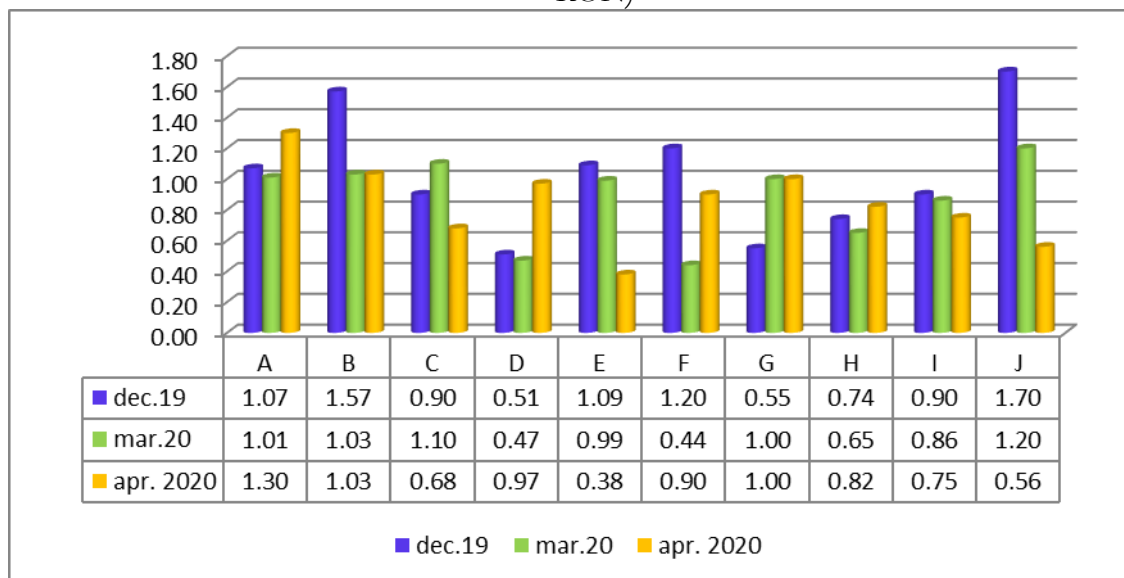
However, on 21.03.2020, Ordinance no. 69/2020 which regulated the fact that during the emergency period – i.e. 16.03.2020-15.04.2020 -15.05.2020, + 30 days from the expiration of the term, no ancillary obligations are calculated for the main obligations that expire during this period. I am not convinced that this measure was well understood, as I have encountered situations in which taxpayers considered that for all the remaining outstanding obligations these accessories will not be charged.

This aspect is the object of Ordinance no. 69/2020 in force from 14.05.2020 by which the accessories of the obligations until 31.03.2020 can be cancelled, provided that all the debts related to the main declarations, until the moment of payment + the accessories related to the main obligations for 2020, are paid.

3.4. Global liquidity

A company's ability to pay off its immediate debts is assessed using the **liquidity index**. It is determined as the ratio between the cumulative amount of cash in the account and inventories and the level of short-term debt. If the index is higher than 1, the company is considered to have a good liquidity control, and an index higher than 1.5 indicates that the company has no problem in paying its due debts (Conso, 2020). Liquidity or cash ratios measure the company's ability to pay, i.e. its short-term solvency. At any given time, the first concern of the financial manager is liquidity: will the company be able to meet its obligations that have a maturity in the near future? In this respect, the analysis of the rates resulting from the comparison of all potential liquidities with potential due amounts is a quick and easy to use method for assessing the degree to which the company meets its short-term obligations (Bărbuță-Mișu, 2009).

Figure 7. Global liquidity related to December 2019, March 2020 and April 2020 (thousands RON)



Source: Information processed by the author from the balance sheets

Depending on the specifics of the activity, some companies had decreases in April, others in March. The value of stocks was usually higher in March, in April registering slightly lower values. Company C, which mediates and advises on the sale of computer software, performed better than in December, while for company J, which deals with the trade in cars and motor vehicles, this indicator fell sharply in April due to the reduction in the value of account 371 Goods, in the debit of account 409 - Suppliers-Debtors I noticed an amount of -43,697 RON, which can also be interpreted as the withdrawal of an advance or an order (or several orders).

However, overall, a return of the components of this indicator for April can be seen.

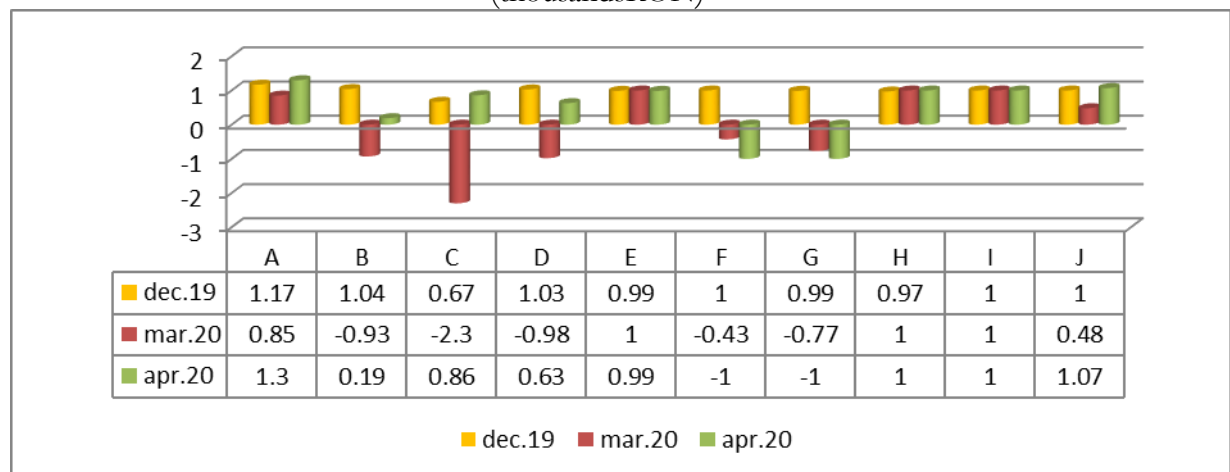
Most companies are in the field of retail trade, they are small companies that do not have bank loans, neither short-term nor long-term - and which have accumulated debts to pay obligations to the state budget not necessarily only in the months analysed. It therefore calls for these obligations to be paid in instalments over periods which generally cover 12 months.

The amounts are up to the limit of 20,000 RON, which allows the granting of rescheduling without material guarantees. The only exception is company J, which requests 98,000 RON for a period of 6 months, as it has no registered movable or immovable property in the company's balance sheet and does not want to bring a third party guarantor - then opts for this period which, according to the Fiscal Procedure Code, allows him to stagger debts without material guarantees.

3.5 Solvency

Solvency highlights a company's ability to meet long and medium term maturities and depends on the size of these debts and the cost of borrowing. Therefore, to the extent that the real asset is sufficient to enable it to pay all debts, the company is solvent. Thus, the solvency follows its capacity to pay its total obligations from total resources, based on this indicator being able to assess the risk of long-term insolvency (insolvency or bankruptcy risk) (Bălăşescu, 2014).

Figure 8. Solvency of companies studied in December 2019, March 2020 and Feb 2020 (thousandsRON)



Source: Information processed by the author from the balance sheets

It is observed that the solvency also registered negative values for some companies, due to the credit balances of the assets from the studied months. I noticed, for example, for company J, that in March, both assets and liabilities had negative balances, and the result was a positive solvency. The same was true for company D in April. However, there is a tendency to return in April. Company F, which is a grocery store that also has a restaurant, has a

downward trend in all indicators. It will probably go into insolvency soon, given that the state of alert has been prolonged and that there are no prospects of reopening restaurants that do not have open spaces. And if we talked about fiscal measures granted by the government, it should be noted that the Romanian state does not cover the losses of this type of business, technical unemployment granted to employees - which worked until June 1st, 2020 - postponement of payment deadlines of main obligations and loans with subsidized interest are not enough to save these types of businesses.

Company A registered a slight recovery of 18.26% in April compared to March, after decreasing in March by 27.35% compared to December. Company J has the same evolution, the solvency related to April returning to the value from December, after a decrease of 52% in March. Companies D, H and I have maintained this indicator approximately constantly.

If companies B, C and D registered negative solvency values in March compared to December, registering decreases of 197% for B, 297% for C and 201%, however, they recovered in April, the increases being 112 % for B, 316% for C and 161 for D, reported from April to March. This means an increase in assets, as total debt (over 1 year plus cumulative under 1 year) decreased at a slower pace than asset growth.

3.6 Statement of bank accounts and cash accounts

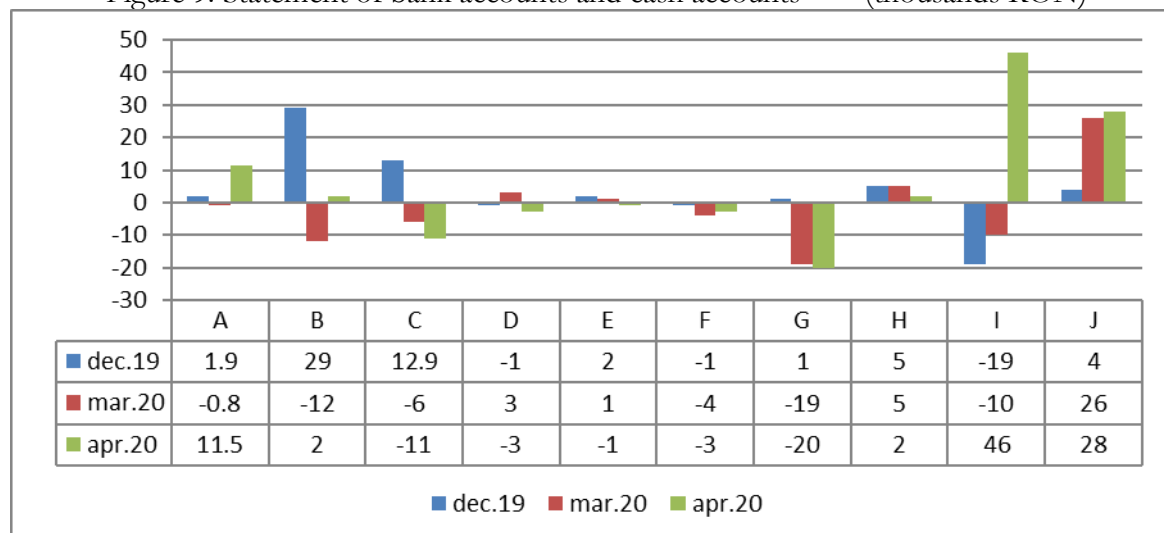
If the companies requesting the payment rescheduling have a credit balance related to the class 5 accounts, namely the Accounts from group 512 Bank accounts and group 531 - Chest, it is considered that the respective company has cash to be able to pay its debts.

However, an analysis is made in which it is assessed whether the amounts existing in these accounts are sufficient or not for the partial or total payment of the debts.

In the case of the analysed companies, even if some are companies that have available in the bank accounts or in the chest, these amounts related to the total debts are insufficient to cover the debts, so from these points of view, the companies are eligible for contracting the payment schedule.

The amounts in the accounts can be used to pay current liabilities that are not included in the instalment.

Figure 9. Statement of bank accounts and cash accounts (thousands RON)



Source: Information processed by the author from the balance sheets

With the exception of 3 companies (A, I, J), whose revenues increased in April, the other companies face a lack of cash.

However, from the correlation with the income statement, it is found that companies A, I and J, which are listed with cash and cash equivalents, recorded decreases in revenues in March and April compared to December. Also, Company A was not available in accounts in March, when it registered a decrease of 270% compared to December. The fact that in April he appears with a balance available in the bank or in the chest, means that he started working, but that he did not start paying from the accumulated debts. The same situation is for companies I and J.

A special case is represented by the real estate agency G, which although it has collected revenues and has other good economic indicators, still faces a lack of availability, certainly due to the payment of obligations to some partners. However, it is in debt to the state budget and social security, which is why it is requesting the payment of these debts.

Company C registers decreases in cash from accounts and cash equivalents, the decrease being 189% in March compared to December and 239% in April compared to December, although revenues increased by 40.81% in April and 34.48% in March compared to December. The same situation is observed at Company D whose revenues increased by 20.96% in March, maintaining the same level in April, and cash decreased by 200% in April compared to March, but increased by 130% in March compared to December.

Companies E, F and H also recorded a decrease in cash from accounts in March and April, and in their case revenues also decreased in March and April.

One of the main conditions for granting payment instalments is that the applicant company does not have liquidity, as it is interpreted as having resources and does not want to pay tax obligations. However, a thorough analysis must be made between the balance of Class 5 accounts and the level of debt of the tax liability, as well as the history of receipts. If it is found that the company has and still has financial resources to cover the payment obligations (even partially), the request for rescheduling may be rejected. I would like to point out that, for example, companies which, following a tax inspection check, have to pay non-declaration penalties, they can be reduced by 75% if the staggering schedule is followed. A 5% discount is also granted for those who follow the same schedule and complete the instalment on time or in advance.

The second main condition for granting instalments of payment of tax obligations is to demonstrate the ability to pay during the instalment period. However, for companies requesting a 5-year instalment, for example, it is unrealistic to forecast this entire period by estimating receipts and payments. In the current conditions it is even more difficult to predict.

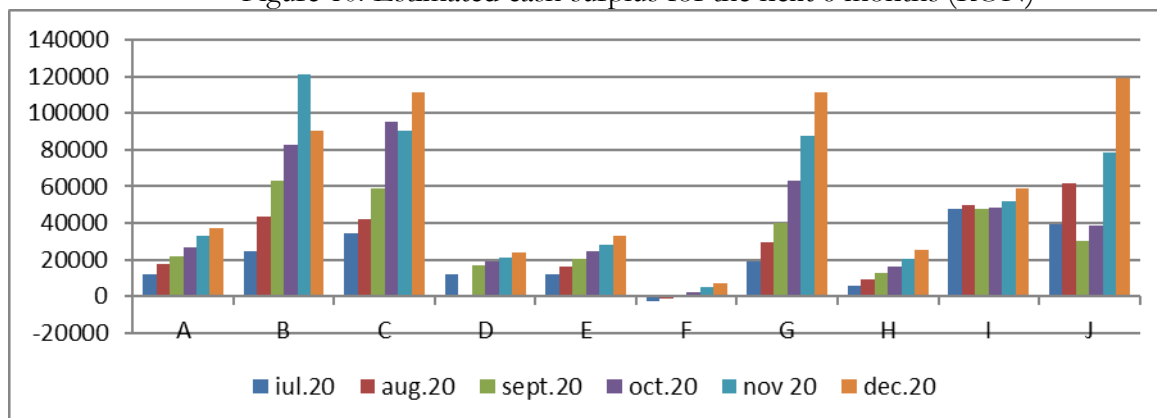
The company will have to present contracts that are already concluded and that allow the development of the activity in the next period, and the estimation of revenues and expenses is indicated to be made for a period of at least 6 months. A recovery plan must also be submitted with the measures that will be applied in order to be able to support the rate schedule in addition to the current tax obligations but also the other obligations of the company.

The essential condition for maintaining the payment rescheduling, after granting it, is the observance of the payment terms, both of the rescheduling rates and of the current obligations. If the payment of instalments and current obligations is delayed by more than 30 days, then the rescheduling is lost, all obligations and accessories become due and after another 30 days from the loss of rescheduling the execution of guarantees, if any, and seizure of the applicant's bank accounts or third party guarantors.

3.7. Estimated income and expenses for the analysed companies over a period of 6 months

All companies have positive forecasts for the next 6 months. However, it is difficult to estimate how things will evolve in the current context of the evolution of the pandemic COVID-19.

Figure 10. Estimated cash surplus for the next 6 months (RON)



Source: Information processed by the author from the balance sheets

Company G - which is a grocery store with restaurants that probably does not have a terrace and has not complied with home orders or catering, - will not, however, receive a favourable opinion on the request for rescheduling. It is true that at the time of the application it was not known that the state of necessity would be prolonged, but it has the possibility of submitting a new application if it presents a viable financial recovery program.

Company F also raises questions, to which we noticed that in July, August and September it has a cash deficit. The question is how he will be able to meet his payment obligations, if the estimated receipts do not allow him to pay the obligations. The solution I am thinking of to come to the aid of society is the following: the current application for rescheduling will be rejected, with the proposal to submit another application when it will be financially balanced. This balancing can be done considering that non-payment of obligations will not lead to foreclosure until the autumn. He will then be able to return with a new application for rescheduling, and for accessories that have been set up by March 31st; he can apply with a request for the granting of tax facilities, so that only the main tax obligations remain for payment. However, in order to benefit from this emergency ordinance on tax facilities, it will have to pay the main debit for the previous period and this fiscal year by the end of 2020.

The other companies meet the conditions for granting the payment rescheduling of tax obligations.

4. Conclusions

As a result, the business environment is facing a reduction in demand and difficulties in securing flows of supply and sale of goods and services, which could lead to financial bottlenecks. In order to support the financial resources of both taxpayers and the state, to cover expenses, but also given the fact that during the state of emergency the business faced a significant decrease in liquidity, which leads to its difficulty in voluntarily comply with the payment, but also to prevent the accumulation by taxpayers of new debts to the general consolidated budget that could lead to the initiation of insolvency proceedings, the payment of tax obligations is used, in addition to other tax facilities adopted during this period.

Of the 10 companies analysed that applied to facilitate the payment of tax obligations, 8 of them will receive the proposal to accept the request for rescheduling, to be approved by the management of the institution, and 2 will receive an unfavourable response because they do not meet the conditions required by Fiscal Procedure Code. However, they are supported to find the best ways to overcome the difficult period they are in and to apply the tax facilities.

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