

UNOFFICIAL TRANSLATIONS EQUATORIAL GUINEAN LAWS



DECREE NUMBER 43/2020, DATED MARCH 31st, ADOPTING
ECONOMIC MEASURES TO STRENGTHEN THE NATIONAL SYSTEM OF
SOCIAL PROTECTION AND SUPPORT FOR SMES

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STATEMENT OF MOTIVES

The global health crisis, caused by COVID-19, together with the recent fall in international prices of raw materials, in particular the price of crude oil, has become an explosive mix for the world economy. Indeed, the BRENT oil price, the benchmark for Equatorial Guinea, has fallen by 34% in the last twelve months, registering the biggest crash since the Gulf War in 1991.

Equatorial Guinea remains highly dependent on oil revenues, which present an average of 85% of public revenues. Therefore, the negative effect of this shock is very important in the national economy, particularly in the General State Budget, which also affects the other macroeconomic and financial indicators, as occurred with the oil price crisis that started in mid-2014.

The economic and health situation that the world economy is going through has created a global challenge characterized by volatility, uncertainty, complexity and ambiguity. Taking into account the challenges and particularities of Equatorial Guinea, it is important to react by taking as many measures as necessary to minimize the deterioration of the economic, financial and social indicators.

Mindful of Law No. 9/2003, dated November 13th, Regulating Public Finances, which in its Additional Provisions empowers the Ministry of Finance and Planning to adopt as many provisions as are necessary for the exact compliance with the provisions of the aforementioned Law, with the aim of effective management of Public Finances in line with the objectives of the National Development Strategy;

By virtue of the above and at the proposal of the Ministry of Finance, Economy and Planning, after deliberation by the Inter-ministerial Council, at its meeting dated March 27th, 2020,

I HEREBY DECLARE:

CHAPTER I: GENERAL PROVISIONS

Article 1. Object

This Decree includes a series of urgent measures that the Government adopts, in the current year, within the framework of the National Health Alert, which affect both public revenue and expenses, in order to facilitate financing of the budget, mitigate the negative effects of COVID-19 on economic activity and the most vulnerable social strata.

Article 2. The Ministerial Departments, the Public Institutions, the Autonomous Bodies and Public Companies that are not vested by the law with the necessary competencies to collect taxes, may not demand or collect them under any circumstances. The payment or collection of taxes that are not included in the respective regulatory laws is also prohibited.

Article 3. Due to financial difficulties caused by the COVID-19 pandemic, the Public Sector Credit and Debt Compensation Regime is re-established with the companies authorized with the aforementioned compensation regime for cross-operations with the Government.

Article 4. Emergency Budgetary Regime

4.1. The Ministry of Finance, Economy and Planning shall review the estimated income in article 25 of (Law) No. 5/2019, of the General State Budget for Financial Year 2020.

4.2. The Ministry of Finance, Economy and Planning will request from multilateral development, and bilateral partners, (IMF, ADB and others) financial assistance to cover the financing gap resulting from the application of paragraph 1 of this article.

4.3. The Ministry of Finance, Economy and Planning will introduce modifications in the expenditures set forth in articles 25, 26 and 27 of Law No. 5/2019, of the General State Budget for Financial Year 2020, insofar as they are organized exclusively in higher expenditures in subsection 2 of article 25, referring to the ceiling of current expenditures fixed to the affected ministerial Departments, especially Health, Social Affairs, Civil Aviation and National Security.

4.4. As a result of the provisions of the previous article, , the Ministry of Finance, Economy and Planning is empowered to expand the financing space and modify the result of the exercise estimated in article 25, paragraph 1 of Law No. 5/2019 of the General State Budget for financial Year 2020.

Article 5. At the end of the State of National Health Alert, the Government shall report to the National Parliament on the economic implications of the article in question, and will proceed, if circumstances so advise, at the beginning of the legal procedure to rectify the Budget.

Article 6. Of the Management of Entities and Public Companies

6.1. The Ministry of Finance, Economy and Planning shall accelerate the process of participation of public companies and / or with State participation in the CEMAC Regional Stock Exchange.

6.2 In consultation with the Public Companies Restructuring Committee, the quantitative performance targets assigned to each public entities will also be reviewed.

Article 7. On Public-Private Contracts and Contracts for Maintenance Services

The Ministry of Finance, Economy and Planning must:

1. Implement, in coordination with other relevant bodies, the launch of the public procurement board.
2. Review all public contracts, including maintenance, technical assistance, advertising and any general service that is in force until the end of the year 2020, suppressing, in the event that circumstances so advise, those contracts with automatic renewal clauses.
3. Prepare an inventory of the contracts of the strategic sectors, such as:

Defense, Security, Mines, Energy and Telecommunications, among others, in order to know the level of commitments for budgeting.

4. Enable a special unit for the promotion of Public-Private Partnership (PPP) contracts in basic public services such as: water, sanitation, electricity and communication.

CHAPTER II: REVENUE

Article 8. The Ministry of Finance, Economy and Planning must enable a special declaration mechanism in order to regularize the tax debt and offer incentives to taxpayers that comply with the same.

Article 9. The Ministry of Finance, Economy and Planning will impose the mandatory use of the *SIDUNEA* automated system in the customs jurisdiction of Malabo.

Article 10. The Government assumes the management and administration of the parking lots at the Malabo and Bata international airports, suspending their current private management system.

Article 11. The Ministries of Finance, Economy and Planning, and Mines and Hydrocarbons shall negotiate with companies in the petroleum sector so that they pay the tax debts resulting from the liquidations of the corporate income tax for the 2019 fiscal year, before the end of April of the year 2020.

CHAPTER III : ON PUBLIC EXPENDITURE

Article 12. On the Control and Budgeting of Recurring Expenditure

The Ministry of Finance, Economy and Planning shall prepare a budgeting plan for recurring Public Administration expenditures, such as electricity, telephone, fuel, acquisition, maintenance of ships and aircrafts, etc.

Article 13. On the budgeting of Public Investment Projects

The current situation that the public finances are going through requires "force majeure" that the Government reprogram expenditures in order to avoid the accumulation of arrears; For this, the Certification Committee, together with the awarded companies, must reprogram the schedule of commitment of public investments to be started from the second semester of the current year, with the exception of those projects that the Government declares of highest priority.

CHAPTER IV: ON SOCIAL MEASURES AND SOCIAL PROJECTION

Article 14. On the National Emergency Fund COVID-19

1. The Government will make a contribution of 5 billion XAF to the National COVID-19 Emergency Fund. This Fund will be managed and administered by the Committee of Technicians of Response and Surveillance of the new Coronavirus COVID-19.
2. The financial and all kinds of resources of the National Emergency Fund COVID-19, as well as the contributions of the General State Budget will be destined to finance the Public Social Guarantees Program against the impact of the COVID-19 pandemic.

3. The Public Social Guaranties Program against the impact of the COVID-19 pandemic will guarantee: (I) basic food and basic necessities for identified households, (II) a basic personal and household hygiene kit for identified groups; (III) social support consisting of counseling and psychological and health support.

Article 15. On the Strengthening of the National Health System

The Plan to Strengthen the National Public Health System presented by the Ministry of Health and Social Welfare will be financed from the General State Budgets. Likewise, they will finance the needs identified by the rest of the public administrations to acquire the necessary material to guarantee basic hygiene conditions in all official offices, especially National Security and Civil Aviation. "

CHAPTER V: ON SUPPORT MEASURES FOR SMALL AND MEDIUM-SIZE ENTERPRISES (SMEs) IN SECTORS OTHER THAN THE PETROLEUM SECTOR

Article 16. Except for companies that, through established contracts, carry out services outside of any institution that is part of the Public Sector, the following measures are adopted:

1. The payment period of the Minimum Income Tax corresponding to the year 2020 is extended until June;
2. The period of voluntary payment of the liquidation resulting from the Corporate Income Tax corresponding to the fiscal year 2019 is extended until July; and
3. The Minimum Income Tax is also reduced from 3% to 1.5% for the year 2020, until September 30, 2020.

Article 17. Donations for the Partial Guaranty Fund for SMEs that are affected by the declaration of the State of National Health alert will be increased by one thousand (1,000) million XAF.

Article 18. The Ministry of Commerce and Promotion of Small and Medium-Size Enterprises, together with the Ministry of Finance, Economy and Planning, shall put into operation a new structure of Governance of the Partial Guaranty Fund to guarantee the efficiency, transparency and objectivity in the allocation of the resources of this Fund.

Article 19. The Ministry of Industries and Energy, in consultation with the Ministry of Finance, Economy and Planning, together with the public company SEGESA, will adopt a strategy that minimizes the payment of electric energy for SMEs.

Article 20. The Ministry of Transport, Post and Telecommunications in consultation with the Ministry of Finance, Economy and Planning, and private and public operators, will adopt a strategy that minimizes the payment of internet services for SMEs.

Article 21. The Ministry of Finance, Economy and Planning, together with the Professional Association of Credit Establishments and the representatives of micro-finance companies, must adopt a strategy to reschedule the amortization of financial credits for SMEs.

Article 22. During the validity of the period of restriction of the national airspace, the companies leasing commercial public spaces at the International Airports of Malabo and Bata will be exempt from the payment of 50% of the monthly fees as established by the contracts of assignments and / or exploitation of said publicly owned properties.

Article 23. The Ministry of Finance, Economy and Planning shall attend to the demands from food distribution and marketing companies and from all those companies that hire new employees to reinforce their workforce to comply with the standards established by the health authorities; granting them a bonus of 100% of the Social Security contributions until September 30th, 2020.

CHAPTER VI: ON THE MEASURES TO STRENGTHEN PUBLIC FINANCES AND THE BANKING SECTOR

Article 24. The Ministry of Finance, Economy and Planning shall distribute, as soon as possible, all the available financial assets of the State that are outside the national financial institutions.

Article 25. The Ministry of Finance, Economy and Planning will continue working on the regulation of internal arrears with companies in the construction sector, in accordance with the results obtained from the audit carried out in this regard.

ADDITIONAL PROVISION

The different ministerial departments concerned are empowered, each in terms of their competences, to issue as many provisions as necessary for the effective application of this Decree.

REPEALING PROVISION

Any previous provisions of equal or inferior scope which are contrary to the provisions of this Decree are hereby repealed.

FINAL PROVISION

This Decree shall enter into force upon its publication in the Official State Gazette and without prejudice to its publication in the national media.

I validate this Decree, issued in Malabo on the thirty-first day of the month of March, two thousand and twenty.

FOR A BETTER GUINEA,

-OBIANG NGUEMA MBASOGO-

PRESIDENT OF THE REPUBLIC