

The jumble of aid to SMEs and the self-employed

Consultants and lawyers are working hard to interpret the decrees and process the benefits

(As published in Spanish in El Pais 20/4/20120)

The coronavirus pandemic has become, in the blink of an eye, an economic drama that threatens to wipe out millions of jobs.

The heavy artillery that the government has brought out to mitigate the catastrophe has put unprecedented pressure on tax and labour advisors, consultants and lawyers, who since the declaration of the state of alarm have been working at a fast pace to interpret the avalanche of decrees that are being published week after week and to process the approved aid. "It's a nightmare," says Roberto Pereira, president of the Labour Consultant Economists, of the General Council of Economists.

The saying that the law comes after the fact has found fertile ground in the pandemic. Tax and labour professionals who look after SMEs and the self-employed recognize the difficulty of legislating at such a complicated time and the work of the Administration, but they do not hide the fact that some regulations were approved at the last minute, along with the lack of clarity of some decrees, creating legal uncertainty that does not permit a clear shot when applying for aid and benefits.

"There are clients with water up to their necks who call every day. But I can't tell them 'don't worry' if there isn't a decree that allows this," says Pereira. "These are companies that often have no administrative structures."

In some cases, I had to ask them to wait until I had read the BOE (the State Gazette) to see in what terms the rules would be approved. Meanwhile, the number of people affected has reached massive proportions. Last Friday, the Ministry of Social Security announced that more than one million self-employed had applied for the benefits for cessation of activity and that payments had been authorised for 919,000 individuals.

Two days earlier, President Pedro Sanchez admitted that the workers affected by a temporary employment regulation (ERTE) file were close to four million, a figure so large that it has forced them to work against the clock to try to unblock bottlenecks created in some administrations.

The effort is enormous. According to estimates by Social Security Minister José Luis Escrivá, at least 6.3 million people will benefit from some kind of benefit, an amount that could increase by several million with the approval of the minimum living income. "We understand that this is a difficult moment, but there has been a tremendous interpretation problem," confirms Stella Raventós, president of the Spanish Association of Tax Advisors (Aedaf).

Added to this are practical obstacles: many are unable to provide their advisors with the necessary documentation because of confinement. "It is a constant source of anxiety". Unprecedented crisis In order to face this unprecedented crisis, the autonomous communities – whose resources are invested in health care -

have also released funds to protect the activities that have been most affected or that have the most difficult access to state benefits.

The Generalitat Valenciana has earmarked 6.5 million euros for SMEs and self-employed workers in the tourism sector; Andalusia will inject 50 million euros for self-employed workers, and Madrid has taken out direct aid to cover the social security contributions of self-employed workers.

The fact is that the Autonomous Regions have less muscle than the State: when the allocation of benefits is finished the tap is then cut off until a new aid is approved. In addition, the allocation criterion is usually on a first-come, first-served basis. "They run out very quickly," confirms Ricardo Perpiñán, secretary of the Spanish Association of Tax Advisers and Consultants Asefiget.

Where the Autonomous Communities (and town halls) have taken the lead is in the deferral of taxes that have been assigned to them, such as inheritance and gift tax or wealth tax. The Government, on the other hand, waited until the last moment to defer tax filings for the self-employed and micro SMEs.

The announcement came last week, just one day before the deadline for tax filings: the Government approved the deferral of tax filings from 20 April to 20 May for activities with a turnover of less than 600,000 euros.

The measure has been applauded by tax consultants' associations, but many believe it to be inadequate. "A client with a closed restaurant cannot give us the documentation, but he must present taxes because he has invoices more than 600,000 euros. We will do it, but badly", laments Adolfo Jiménez, president of Asefiget.

In addition to the practical difficulties, there are also legal doubts. In March, the government approved a tax postponement of up to 30,000 euros for six months for activities with a turnover of less than six million. Jiménez now wonders whether the running of the tax filing deadlines also implies an extension of the tax payment extension. "We understand that it is going to be November (instead of October), but we are waiting for a clarification".

"This is going to be a festival of claims of all kinds."

"All the procedures are cumbersome," says labour lawyer Teresa Aguirre, "because the rules are created without an administrative structure to support them" given the speed at which the economy has stopped.

She stresses that the processing of ERTE is particularly chaotic because the platforms are different in each Autonomous Community. In addition, he assures, there are problems with the dossiers due to force majeure: some companies have applied them without a response from a competent authority, which is considered positive administrative silence after five days, although some Communities have extended this period to 10 days and then later reversed this.

The problem is that in this moment of uncertainty, it is also impossible to find peace in the jurisprudence, because it does not exist yet.

It is not by chance that the government is designing a plan to prevent the justice system from getting bogged down: to the avalanche of procedures that have been stopped due to the suspension of activity, it is likely that a long list of lawsuits linked to the granting of aid will be added.

"This is going to be a festival of claims of all kinds," predicts Roberto Pereira, of Labour Consultant Economists, of the General Council of Economists.