

Guide for simplification of customs operations and the application of the favorable customs legislation during the COVID-19 pandemic

Considering the financial impact of the COVID-19 pandemic on companies, the customs legislation provides for multiple payment facilities and simplifications, which can improve the cash flow and the financial situation of economic operators, accelerate customs operations and limit the exposure of the personnel involved in customs operations.

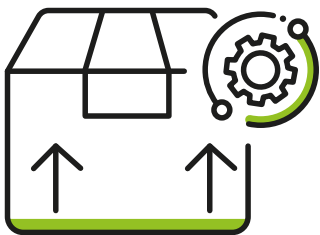
Please find below a list of recommendations, authorizations, customs simplifications and customs legislation provisions of help during the COVID-19 pandemic.



01. Online application for obtaining or extending customs authorizations

The Customs Decisions System operates at EU level since 2017. The system facilitates online consultations and management of the authorization process, as well as the exchange and storage of information required for 22 applications and authorizations.

Economic operators can apply remotely through the online EU Trader Portal in order to obtain or extend 22 types of customs authorizations such as inward processing, entry in the declarant's records (i.e. local clearance), centralized clearance, use of comprehensive guarantee and others.




02. Use of customs simplifications and payment facilities

• **Authorizations for entry in the declarant's records (i.e. local clearance procedure)** allows economic operators to place goods under a customs procedure (e.g. free circulation, export, inward processing) with the following advantages:

- customs clearance at either the premises, warehouse of the economic operator or other place approved by the customs authorities;
- the declaration of the goods is made in the economic operator's records in a simplified form and subsequently, within a period of up to 30 days, a supplementary recapitulative declaration has to be lodged;
- payment of import duty and regularization of VAT and excise duties, as the case may be, are made at the time when the supplementary declaration is lodged, resulting in a postponement of customs duties up to 30 days.

Economic operators authorized for customs simplifications (AEOC) qualify automatically for this authorization but must submit an application. Furthermore, based on a request, AEOC have the right to waive the presentation of goods to customs. In this case, it is considered that the customs clearance was granted at the time of entry in the declarant's records.



- **The authorization for lodging simplified customs declarations** allows economic operators to place goods under a customs procedure with the following advantages:

- omission of certain elements of the declaration and of the documents necessary for the calculation of the import or export customs duties;
- payment of import taxes and regularization of VAT and excise duties, as the case may be, are made at the time when the supplementary declaration is lodged, resulting in a postponement of customs duties of up to 30 days.

Please note that the customs legislation provides for the possibility to use the simplified customs declarations without prior authorization in case of irregular or occasional use.

The customs legislation provides that regular use represent the transport of goods having the same consignee and the same consignor that fulfill the following conditions:

- a frequency of more than two transports per day;
- the goods transported fall within the same tariff code;
- the country of dispatch and the country of destination, as well as the applicable customs procedure and tariff treatment remain unchanged.

AEOC economic operators authorized for customs simplifications shall automatically qualify for this authorization in so far as their records are appropriate for the purposes of the placement of goods under a customs procedure on the basis of a simplified declaration.

- **The authorization for centralized customs clearance** allows the economic operator to submit the customs declaration to a customs office in Romania other than the one at which the goods are presented.

The centralized clearance procedure involves the separation between the place of presentation of the

goods to customs and the place of lodging customs declarations, which enables economic operators to both centralize and reduce costs.

Please note that the centralized customs clearance procedure can only be used by economic operators authorized for customs simplifications (AEOC).

- **The import VAT deferment certificate** allows economic operators who either carry out imports of more than RON 100 million or those who have the AEO authorization, to postpone the VAT payment at importation and to declare it in the VAT return through the reverse charge mechanism.

This payment facility can considerably improve the cash flow of companies.

Please note that during the period starting with March 30, 2020 and up to 30 days from the end of the state of emergency in Romania, companies importing goods intended for diagnosis and treatment of persons with COVID-19 benefit from import VAT deferment.

- **Customs procedure 42** allows economic operators to benefit from the relief from import VAT when the imported goods are to be transported and supplied in another Member State. VAT will be payable in the Member State of destination by declaring it in the VAT return using the reverse charge mechanism.

Consequently, economic operators involved in the import and distribution of goods in the European Union can significantly improve their cash flow.

- **The approved exporter authorization** allows economic operators involved in commercial operations with partners from third countries with whom preferential agreements have been concluded by the European Union, to certify themselves the preferential origin of exported products either on the invoice or on any other commercial document.

Hence, economic operators will no longer have to request the issuance of origin certificates for each export of goods.

- **Authorized consignor / consignee for Union transit procedures and authorized consignee for TIR operations**

- **The status of authorized consignor for the Union transit procedure** allows the authorization holder to place the goods under Union transit procedure without presenting them to customs;
- **The status of authorized consignee for the Union transit procedure** grants the holder of the authorization the right to receive the goods under the Union transit procedure in an authorized place in order to end the procedure without the goods being presented to the customs office of destination;

- **The status of authorized consignee for TIR operations** allows the authorization holder to receive the goods dispatched in accordance with the TIR Convention in an authorized place in order to end the procedure without the goods being presented to the customs office of destination.

As the goods do not have to be presented to the competent customs office, these authorizations allow the acceleration of customs transit operations and the reduction of costs.



03. Favorable provisions of the customs legislation during the COVID-19 pandemic

Several provisions of the customs legislation provide payment facilities and allow the customs authorities, on a case by case basis, to take account of serious economic or social difficulties in respect of the debtor. In consequence, the following provisions could be invoked at the request of economic operators in case of necessity during the COVID-19 pandemic.

Please note that it is up to economic operators to prove the economic and social difficulties.

- **Suspending the implementation of a customs decision involving the payment of import or export duty**

Article 45, para. (2) and (3) of Regulation (EU) No 925/2013 laying down the Union Customs Code ("UCC") allows the customs authorities to suspend the implementation of a customs decision which involves the payment of import or export duties even without a guarantee, if it is established on the basis of a documented assessment that such guarantee would be likely to cause the debtor serious economic or social difficulties.

- **Payment of customs duties in installments without interest**

Article 112, para. (1) and (3) of the UCC provide that the customs authorities may refrain from requiring a guarantee or from charging interest on credit facilities (e.g. payment in installments) where it is established, on the basis of a documented assessment that this would create serious economic or social difficulties for the debtor.

- **Relief from interest of customs debts resulting from post-release customs controls or through non-compliance**

Article 114, para. (3) of the UCC allows the authorities to refrain from charging interest on arrears where it is established, on the basis of a documented assessment that it would create serious economic or social difficulties for the debtor.

- **Suspending the time-limit for payment in the case of customs debts incurred through non-compliance**

Article 91, para. (2), (b) of Regulation no. 2446/2015 ("UCC-DA") provides for the suspension of the time-limit for payment of a customs debt that has arisen through non-compliance, even without a guarantee, if it is established that the requirement of such a guarantee would be likely to cause the debtor serious economic or social difficulties.

- **Suspending the time-limit for payment in case of application for remission**

Article 89 of the UCC-DA provides that the customs authorities shall suspend under some conditions the time limit for payment of a customs debt in relation to which there is an application for remission. When the goods subject to such application are no longer under customs supervision, customs shall not require a guarantee if it is established that providing such a guarantee would be likely to cause the debtor economic and social difficulties.




- **Extending the time-limit for taking decisions regarding authorization applications**

Article 22, para. (3) of the UCC provides for a derogation from the 120 days general time-limit for taking customs decisions and / or granting authorizations.

This provision allows an extension of the time-limit for taking a decision at the request of the applicant, when extra time is needed to ensure that the relevant conditions and criteria are met. This situation may arise, for example, in cases where applicants cannot allow customs authorities to inspect locations involved in customs operations due to movement restrictions and quarantine measures.

In such cases, the customs authorities may be asked to postpone such a visit due to the restrictions applied.



- **Extending the time-limit for temporary storage for a period longer than 90 days**

As the maximum period of 90 days for temporary storage cannot be extended, a customs debt occurs for goods that are not declared for a customs procedure (or re-exported) within that period.

Hence, if the goods fail to be placed in a customs regime or re-exported due to the circumstances related to the spread of COVID-19, the economic operator may invoke the force majeure and request repayment or remission of the amount of import or export duty, for reasons of equity in accordance with Article 120 of the UCC.

However, we underline that this provision cannot be relied upon to place the goods in free circulation without payment of customs duties.

- **Extending the time-limit for filing the supplementary declaration**

The time limits for submitting the supplementary declaration provided for in Article 146 UCC-DA are determined by reference to the date of the entry into accounts which do not apply in cases of unforeseeable circumstances or in cases of force majeure.

Accordingly, if an economic operator cannot meet the time-limit for submitting the supplementary declaration for reasons related to the COVID-19 pandemic, he must inform the customs supervising office as soon as possible. The request for extending the deadline is to be submitted to the customs authorities and justified by duly substantiated unforeseeable circumstances.

- **Extending the time-limit for presenting the goods placed under the Union transit procedure at the customs office of destination**

Economic operators can expect the customs office of destination to take into consideration the possible longer transport times due to pandemic prevention measures when setting the deadline for the goods to be presented to the customs office of destination.

When the goods are presented to the customs office of destination after the time-limit expires, the customs authority may assume that the delay was not attributable to the carrier on the basis of the provisions of art. 306, para. 3 of Regulation no. 2447/2015 ("UCC-IA").

At the same time, the time-limit for sending the results of the control to the customs office of destination may be extended up to six days, in accordance with article 309, para. (1) of the UCC-IA.



- **Delay of the invalidation of the customs declaration for export or re-export declaration**

In the case that the customs office of export has not received any information or evidence that the goods have left the customs territory of the EU within 150 days from the date of release of the goods for export, re-export or outward processing procedure, the customs office may invalidate the declaration, in accordance with Article 248 of the UCC-DA.

In view of the current exceptional circumstances, according to the recommendations and guidelines of the European Commission, the customs office of export, at the request of the economic operator, should not initiate such invalidation unless explicitly requested by the declarant.

At the same time, the time-limit for sending the results of the control to the customs office of destination may be extended up to six days, in accordance with article 309, para. (1) of the UCC-IA.

• Extending the time-limit for re-exportation of goods under temporary admission procedure

As many economic operators have been forced to close their premises and stop working, it may be impossible to re-export the goods placed under temporary admission through ATA carnet within the set deadline.

In such cases, article 251, para. (3) and (4) of the UCC gives the holder of the procedure the possibility to request the customs authorities to extend the time-limit for re-export of the goods in exceptional circumstances (such as COVID-19).

This provision is applicable regardless of the type of declaration used to introduce the goods in the temporary admission procedure.

If the ATA carnet has been used for this purpose, it is not necessary to issue a new ATA carnet, as article 14 of the Istanbul Convention is an optional provision.



• Total relief from import duty by placing medical equipment under temporary admission

According to the recent recommendations and guidelines of the European Commission, the current exceptional situation should be considered a "disaster" in the terms of Article 221 of the UCC-DA, which sets out the cases in which the total exemption from import duty may be granted for the goods placed under the temporary admission procedure.

Thus, all goods brought into the customs territory of the Union to combat the consequences of COVID-19, such as ambulances or some medical support equipment, should be eligible to be declared for temporary admission, with total relief from import duties (customs duties and VAT). Article 139 UCC-DA may allow these goods to be declared by any other act, e.g. by the sole act of crossing the border, according to Article 141, para. (1)(d) UCC-DA.

Another possibility would be to lodge an oral declaration according to Article 136 para. (1) UCC-DA. The provision of the form established in Annex 71-01 is mandatory in this case (see Article 165 UCC-DA), but such provision could be postponed up to 120 days after the release of the goods if customs authorities allow it (see Articles 166(2) UCC and 147, para. (2) UCC-DA).

The same approach can apply for the temporary admission of medical, surgical and laboratory equipment referred to in Article 222 UCC-DA by any other act, in accordance with Article 139 UCC-DA or by an oral declaration based on Article 136, para. (1)(d) UCC-DA.

How can we help?

Our priority is to understand the needs of your company and to establish an immediate action plan to simplify customs operations and combat the economic consequences of the COVID-19 pandemic.

With extensive experience in customs operations in all industries, we can provide you with the right solutions for your business operations and business model.

Obtaining customs authorizations, the application of favorable customs legislation and payment facilities

- ✓ Analysis and recommendations regarding the application of authorizations and payment facilities suitable for the economic situation and carried out operations;
- ✓ Assessment for fulfilling the necessary criteria for obtaining authorizations and customs facilities;
- ✓ Filling in applications, preparation of necessary documents and their submission on the EU Trader portal or, as the case may be, to the customs authorities;
- ✓ Assistance during the audit carried out by the customs authorities in case of certain authorizations;
- ✓ Acting as a contact person with the customs authorities in order to speed up the attainment of customs authorizations and customs facilities.



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