

THE REORGANIZATION OF BUDGETARY OBLIGATIONS. GENERAL CONSIDERATIONS ABOUT THIS JURIDICAL INSTITUTION

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Abstract: In 2019, the Romanian legislator regulated for the first time, in the content of O.G. no. 6/2019, the legal institution of the restructuring of budgetary claims on the establishment of fiscal facilities. After that, a series of successive normative acts were adopted, meant to prolong the effects of the initial normative act, but also to bring new and necessary clarifications to the content of this legal institution and the procedure for its development from the moment of initiation until the final extinguishment of its effects on the public budget and the patrimony of the involved budgetary debtor. As we have already shown in the content of the present paper, the analysis of the way in which the restructuring of budgetary claims is regulated has allowed us to draw a series of conclusions concerning this legal institution: a. the restructuring of the budgetary claims is a relatively new legal institution that has been adopted through a normative act other than the Fiscal Procedure Code, which it does not, directly and explicitly, amend or supplement, but indirectly by the fact that it can interfere in the conduct of the fiscal procedure, as well as by the fact that it refers to fiscal law institutions regulated by the Fiscal Procedure Code and which thus bears substantial changes; b. the restructuring of the budgetary claims is essentially different from the other forms of financial support established by the provisions of the Fiscal Procedure Code and in particular from the payment facilities designed to provide the budgetary debtor with a grace period in order to obtain the funds necessary to extinguish by payment his obligations to the public budgets. It is also different from the cancellation of tax claims established by the Fiscal Procedure Code because it becomes applicable when the collection of tax receivables becomes useless, inefficient, or impossible. c. although it differs from the rescheduling and adjournment of payment, or the cancellation of tax claims, however, in regulating the restructuring of budgetary claims, the legislator appeals to them themselves, in the form in which they were established in the provisions of the Fiscal Procedure Code. d. the local tax authorities have the right to decide (they are not obliged by law to do so) if they use this legal institution, in the process of collecting the debts due to the budgets they manage; e. in terms of content, the restructuring refers to any kind of budgetary claim (due to the general consolidated budget),

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in connection with which enforceable titles have also been issued (i.e. the claim has become certain and demandable).

Keywords: restructuring of budgetary claims; restructuring plan; supervision of the budgetary debtor; legal effects; main and accessory budgetary claims; penalties.

1. Introduction

In 2019, the Romanian legislator instituted a series of measures meant to improve the collection of outstanding budgetary debts and, at the same time, through which support the budgetary debtors who registered debts to the public budgets of the state. In order to achieve this goal, the Government Ordinance nr. ANRE President's Order no. 6/2019 on the establishment of outstanding tax and budgetary facilities on 31 December 2018. Subsequently, it proceeded to extend this regulation through successive extensions aimed at ensuring the continuity of the application of the institution of restructuring the budgetary obligations. Thus, as a result of the adoption of the Government Emergency Ordinance no. 85/2022 concerning the amendment and completion of some normative acts in the field of taxation and customs, the regulations concerning the restructuring of budgetary obligations are applicable until 2023, inclusive. We mention that the subsequent regulations were not limited to extending the deadlines for the application of the provisions of the initial normative act (GO no. 6/2019), but also brought important content changes, repealing some provisions and instituting new ones, so that at present the institution of restructuring the budgetary obligations has undergone substantial changes.

At the same time, two categories of situations can be identified, from the analysis of the above-mentioned legal text:

a. in the case of the debtors with budgetary debts less than 1 million lei, the legislator establishes some support measures, respectively for the cancellation of some accessory fiscal (budgetary) claims under the condition of extinguishing the main fiscal (budgetary) claims that generated them;

b. in the case of the debtors who have debts in the amount of 1 million lei or more, the legislator establishes the procedure of restructuring the budgetary obligations;

Considering the first hypothesis, although it is not the subject of the present analysis, we find it necessary to mention the fact that by O.G. nr. 6/2019 new regulations are brought regarding the institution of cancellation of budgetary claims that already have a normative consecration in the content of the Fiscal Procedure Code.

Considering the second hypothesis, we have asked ourselves the question of why it would be necessary to regulate a new legal institution, namely the "restructuring of budgetary claims", taking into account that by the provisions of the Fiscal Procedure Code were already regulated different categories of support instruments for bona fide tax debtors interested in overcoming situations of financial difficulty and settling their tax and budgetary claims? So, the framework law in this field, respectively the

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Fiscal Procedure Code regulates facilities for payment, but also ways of extinguishing tax claims that do not lead to the realization of effective amounts of money in public budgets such as tax amnesty, payment, or conversion into shares of tax liabilities.

A series of observations are formulated for this reality:

- a. The restructuring of the budgetary claims is a new legal institution that has not benefited before from other legislative consecrations;
- b. Legal institutions regulated by the provisions of the Fiscal Procedure Code (such as the main budgetary claim and the accessory budgetary claim, the budgetary debt title, the enforceable title, the forced execution of budgetary claims, the facilities for payment, the cancellation of budgetary claims, compensation, restitution, etc.) are called, to which it brings, punctually, basic changes. This is also possible by the fact that O.G. no. 6/2019 is a special law applicable to the procedure for the administration of fiscal and budgetary claims that is substantively regulated through the provisions of the Fiscal Procedure Code which is, under these conditions, a general law in this field;
- c. Although the text of O.G. no. 6/2019 does not expressly mention the fact that it amends the provisions of the Fiscal Procedure Code, however, this happens and it can be notified only to a careful analysis of the legal institutions concerned by such amendments.

2. Conceptual specifications regarding the restructuring of budgetary claims.

Field of application of O.G. no.6/2019

From the very beginning, we want to point out that the restructuring covers all categories of budgetary claims and not just tax claims. Therefore, according to art. 1, paragraph (2) "budgetary obligations mean the obligation to pay any amounts that are due to the general consolidated budget and/or to the budgets of the central and local public authorities individualized in enforceable titles issued according to the law, existing in the records of the central tax body, for recovery".

Two extremely important observations can be extracted from this definition.

- a. any sums due to the consolidated general budget may be restructured. This mention itself, is extremely covering and does not require other additional specifications, because according to the law (art.3, point (2) of the Law no. 69/2010 on budgetary fiscal responsibility, republished) the consolidated general budget means "the whole of the component budgets of the budgetary system, including the state budget, the state social insurance budget, the budgets of special funds, the centralized general budget of the administrative-territorial units, the budget of the State Treasury, the budgets of the autonomous public institutions, the budgets of the public institutions entirely or partially financed from the state budget, from the state social insurance budget and from the budgets of the special funds, as the case may

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be, the budgets of the public institutions financed entirely from their own revenues, the budget of funds from external credits contracted or guaranteed by the State and whose reimbursement, interest and other costs are ensured from public funds, the budget of non-reimbursable external funds, as well as of other entities classified in public administration, aggregated, consolidated and adjusted in accordance with Regulation (EU) No. 549/2013 to form a whole". Therefore, as we can see, by budgetary claims we must understand any amount of money due to a public budget of the state or to an administrative-territorial unit that is part of the "national public budgetary system" (Onet, 2018). The mention that the payment obligation is due to "and/or to the budgets of central and local public authorities" is superfluous, because the legal definition of the notion of consolidated general budget to which I have previously referred, also refers to these hypotheses.

b. the budgetary claims must be individualized in enforceable titles. This indication suggests that the budgetary claims for which the due date has not expired may not be covered by these provisions. On the contrary, the claims, in order to be subject to a restructuring procedure, must be certain (i.e. they must have been established, i.e. a budgetary debt instrument has been issued), must be due (i.e. the due date has expired) and even the enforcement has been initiated, (i.e. an enforceable title has also been issued).

The legislator also makes a series of successive additional clarifications that could be considered as "absorbed" by the statement "due to the consolidated general budget", but which it decides to point out in particular. So, the restructuring also applies to:

- the budgetary obligations and payment obligations related to the amounts granted, on the period of the state of emergency, as a loan from revenues resulting from privatization registered in the general current account of the State Treasury, individualized in enforceable titles issued according to the law and transmitted for recovery to the central tax body, which do not concern amounts that are the object of State aid, according to art. 1, paragraph (2¹) of GO no. 6/2019;
- the main budgetary obligations outstanding on December 31, 2021, and the budgetary obligations declared by the debtor or established by the competent fiscal body by decision after January 1, 2022, related to the fiscal periods until December 31, 2021, according to art. 1, paragraph. (3) of GO no. 6/2019;
- the main and accessory budgetary obligations established by bodies other than the fiscal bodies, as well as for fines of any kind, sent for recovery to the central fiscal bodies after January 1, 2022, until the date of issuance of the fiscal attestation certificate, according to art. 1, paragraph (4) from OG no. 6/2019;
- the budgetary obligations for which payment rescheduling was done, but which were lost, as the cash availabilities of the budget debtors foreseen during the rescheduling period, did not allow its support;

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- the budgetary obligations for which there are payment guarantees according to art. 210 and art. 211 Fiscal Procedure Code.

Last but not least, the legislator establishes a series of exceptions to the previously mentioned rule regarding the receivables that may be subject to restructuring, namely:

a) the budgetary obligations which, on the date of the tax attestation certificate issuance, fall under the provisions of the Fiscal Procedure Code regarding compensation, within the limit of the amount to be reimbursed, returned, or paid from the public budget. It is about the situation in which compensation decisions were issued, which are administrative-fiscal acts and which have produced or are about to produce their legal effects, a fact that cannot be stopped later by a restructuring decision;

b) the budgetary obligations established by administrative acts which, at the date of the fiscal attestation certificate issuing, are suspended under the conditions of the Law on Administrative Litigation. If the suspension of the execution of the administrative act stops after the date of approval of the restructuring plan and the communication of the decision to facilitate payment, the debtor may request the inclusion in the payment facility of the budgetary obligations that have been suspended or other measures to be taken in order to restructure budgetary obligations. In this situation, the competent tax authority shall communicate to the debtor a payment notice of the individualized budgetary obligations in administrative acts for which the suspension of execution has stopped, as well as the decisions regarding the related obligations. Debtors may also give up the effects of the suspension of the fiscal administrative act in order to benefit from the possibility of restructuring the budgetary obligations, in which case the debtors must submit to the fiscal body an express disclaimer request;

c) the main and related budgetary obligations that represent state aid to be recovered, granted from state sources or resources or managed by the state, those that represent European funds or national public funds related to European funds;

d) the budgetary obligations that represent customs duties, excise duties and value-added tax for which the administration, with the exception of fiscal inspection and enforcement, is to the Romanian Customs Authority;

e) the budgetary obligations due as a result of a previously granted restructuring, for which the restructuring plan failed.

According to art. 2 of GO no. 6/2019, in order to benefit from the restructuring of budgetary obligations, the debtor must cumulatively meet the following conditions:

a) not to meet the conditions in order to benefit from the staggered payment regulated by the Fiscal Procedure Code;

b) to present a restructuring plan and a test of the prudent private creditor, drawn up by an independent expert;

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- c) not to be in insolvency proceedings;
- d) not to have been dissolved;
- e) to have submitted all tax returns, according to the fiscal tax vector. This condition must be met on the date of the tax attestation certificate issuance. It is also considered fulfilled if, for the periods in which tax returns were not submitted, the budgetary obligations were established, by decision, by the competent tax body;
- f) to fulfill the prudent private creditor test.

The prudent private creditor test is an independent analysis, carried out on the basis of the premises considered in the debtor's restructuring plan, from which it can be concluded that the state behaves similarly to a private creditor, sufficiently prudent and diligent, which would obtain a recovery greater degree of receivables recovery in the restructuring option compared to both the foreclosure option and the opening of the bankruptcy procedure. Therefore, the regulation of the institution of budget debt restructuring is based on arguments for maximizing the efficiency of the tax debt collection activity. Of course, sometimes it can coincide with the interest of the tax debtor to maintain his activity in the most profitable conditions, but sometimes the interests of the two parties in the fiscal legal relationship born in such circumstances can be different or even divergent.

All these conditions indirectly point out the context in which the restructuring of the budgetary receivables can operate and highlight, at the same time, the important aspects through which this new legal institution differs from the precedents already regulated by the provisions of the Fiscal Procedure Code.

3. General presentation of the budget debt restructuring institution. Theoretical discussions

Although the present study undertakes to analyze only the general aspects regarding the restructuring of the budget debts because the detailed procedure will be the subject of a future study, however, we consider it appropriate to point out its most important moments for a more correct understanding of the observations that we will formulate.

Thus, the first moment of the restructuring procedure is the notification of the intention to restructure the budget receivables. It is particularly important to mention that:

- the legislator establishes an annual calendar for the submission of these notifications, under the penalty of losing the right to benefit from this form of support from the fiscal body;
- the legislator establishes by exclusion what are the outstanding claims categories for which the benefit of the restructuring can be granted.

The second moment of the restructuring procedure is the submission of the actual application.

Between the time of notification and the submission of the request, the fiscal body will analyze the categories of claims that can be subject to restructuring, will request the extinguishment by payment or compensation of those claims that cannot be subject to restructuring and will check the manner of fulfilling certain procedural obligations of the budgetary debtor:

- the obligations to declare the fiscal receivables included in the fiscal vector targeted by the notification of the restructuring intention;
- the elaboration of a restructuring plan;
- the performance of the prudent private creditor test.

As it can be seen, the legislator links the benefit of the restructuring of budget claims to the fulfillment of some payment or procedural obligations in order to align the debtors' fiscal behavior with the existing legal provisions in this matter.

If the submission of the notification of the restructuring intention is not followed by the submission of the request, the legislator establishes the fact that the tax debtor in this situation will be subject to enforcement.

The third moment of the restructuring procedure is the settlement of the request.

The solutions can be to admit or reject the request. The admission solution is directly dependent on the content of the restructuring plan and may contain a payment facility in the nature of a postponement or in the nature of a payment schedule based on a scaling graph, combined (or not) with a request to cancel some related budget claims. The rejection solution must be motivated and communicated in writing to the requesting budgetary debtor, as it may be the subject of a subsequent action in administrative-fiscal litigation.

The fourth moment of the restructuring procedure refers to the implementation of the restructuring plan. Throughout the implementation of the measures included in the restructuring plan, the central fiscal body establishes a debtor supervision regime, regarding the observance of the provisions of the restructuring plan, as well as the measures to restructure budgetary obligations. In this case, the head of the competent tax authority shall designate one or more persons to carry out the supervision. We can see that the fiscal body assumes the task of monitoring the current activity of the fiscal debtor, but nevertheless does not assume in any way the responsibility for the failure of the restructuring plan. This is difficult to understand, given that the taxpayer's right to decide is drastically limited throughout the restructuring plan, but the negative consequences of the plan or its potential failure are borne exclusively by the taxpayer.

The fifth moment of the restructuring procedure refers to the establishment of the effects of the restructuring plan. These effects can refer to:

- a. the successful implementation of the restructuring plan;
- b. the failure of the restructuring plan;

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c. the modification of the restructuring plan, followed by the modification of the payment facilitation decision.

As for the budgetary obligations for which the restructuring benefit was granted, it should be noted that they are no longer considered outstanding obligations. This reality presents a series of extremely important legal effects, which we will refer to in the following.

Regarding accessories, art. 12 of the O.G. no. 6/2019 establishes that they will not be due, if they are related to the budgetary obligations that are the subject of restructuring, starting from the date of approval of the restructuring plan. In the case of the payment facilitation rate paid late until the next payment term in the payment schedule, as well as for the differences in budgetary obligations marked and remaining unextinguished after the settlement of statements with a negative amount of VAT with the option of reimbursement, a significantly increased penalty is charged, which will be communicated to the debtor through a decision regarding the related payment obligations. This penalty becomes revenue to the state budget and is, without a doubt, a drastic sanction applied for an incorrect fiscal behavior practiced by the fiscal debtor who was granted some legal benefits that he did not use correctly and with good faith. The level of this penalty is 5% of:

- a) the amount from the facilitation rate remaining unextinguished, representing main budgetary obligations;
- b) the differences in budget obligations marked and remaining unextinguished after the settlement of accounts with a negative amount of VAT with the option of reimbursement.

Also, according to a later normative act, respectively O.U.G. no. 19/2021, interest, penalties and all accessories related to the main budgetary obligations administered by the central fiscal body with maturities prior to March 31, 2020, inclusively, and individualized in taxation decisions issued as a result of a fiscal inspection or a verification of the personal fiscal situation in progress on entry into force of this normative act, or started after the date of its entry into force, but no later than January 31, 2022, regardless of when the fiscal inspection is completed, are canceled if the following conditions are cumulatively met:

- a) all the differences in main budgetary obligations individualized in the tax decision are extinguished by any method provided by the Fiscal Procedure Code;
- b) the request to cancel the accessories is submitted, under penalty of forfeiture, until January 31, 2022, inclusive, respectively within 90 days from the notification of the decision to impose if the 90-day period is fulfilled after January 31, 2022, inclusively.

All accessories that can be canceled in this way and that were extinguished after the entry into force of the mentioned normative act will be returned.

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As for the suspension of enforced execution, art. 15 of OG no. 6/2019 establishes that, for budgetary obligations that are the subject of restructuring, enforcement does not begin or, if it has begun, is suspended from the date of submission of the notification or the date of communication of the summons, as the case may be. Thus, with the communication of the decision approving the restructuring plan to the debtor, the competent fiscal bodies communicate, in writing, the measure of lifting enforcement by attachment, to the credit institutions with which the debtor has bank accounts and/or third parties attached who own/owe sums of money to the debtor. However, the sequestrations and precautionary measures instituted by the fiscal body are maintained during the granting of the payment facility. If the seized goods must be capitalized in order to ensure the financing or payment of the debtor's debts, the tax body raises the seizures, by issuing a decision at the request of the debtor, with the opinion of the supervisor and the amounts obtained are used by the debtor to implement the restructuring plan. Also, the guarantees constituted by the debtors in the form of the letter of guarantee or the guarantee insurance policy or the recording of funds at a unit of the State Treasury, are to be capitalized only in case the restructuring plan does not provide the way to capitalize the sums or the debtor's own assets which formed the basis for issuing the guarantees.

Regarding the advance payment of the amounts included in the payment schedule, according to art. 20 of O.G. no. 6/2019, it is decided that the debtor can pay in advance, partially or fully, the amounts included in the payment schedule. In this case, the debtor notifies the fiscal body, by request, of the intention to repay these amounts in advance. In the case of early partial payment, the competent fiscal body notifies the debtor, until the next payment term in the schedule, regarding the settlement of the amounts owed on account of the next, approved installments until the competition with the amount paid. As a result, the fiscal body must redo the payment schedule, ex officio, until the next installment payment term, in the following situations:

- a) whenever there is a decrease in the budgetary obligations included in the decision to facilitate payment as a result of the cancellation of debt or enforceable securities,
- b) more than 3 installments of the payment schedule are extinguished in advance; respecting the period approved facilities. In this case, the installments, subject to early repayment, are due on the date of payment or on the date of issuance of the reimbursement decision, as the case may be;
- c) in the payment schedule there are also budgetary obligations established by other bodies and sent for recovery to the fiscal body, and they have been extinguished, totally or partly, according to the specific legislation, by the bodies that manage them.

In this situation, the new facilitation schedule shall be communicated to the debtor within 10 days, by the decision of the competent tax authority, and shall replace the

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existing one in the restructuring plan. Thus, whenever an adjusted restructuring plan that includes a new payment schedule is presented, the competent tax authority issues a decision to modify the payment facilitation decision, with the new schedule attached.

As for the request to open the insolvency procedure, according to art. 21 of O.G. no. 6/2019, the competent fiscal body has the obligation to request the opening of the insolvency procedure, (with the exception of debtors who are under special administration, according to Law no. 137/2002 on some measures to accelerate the privatization and of economic operators in the national defense industry, according to Law No. 232/2016 on the national defense industry), in the following situations:

- a) if the debtor does not submit the restructuring request within the term provided by law;
- b) if the competent fiscal body rejects the restructuring request and does not issue the agreement in principle for granting a rescheduling according to the Fiscal Procedure Code and the debtor does not pay the budgetary obligations within 90 days from the date of communication of the rejection decision, but not earlier than the term provided by law for the submission of the restructuring request;
- c) if the restructuring plan fails and the debtor does not pay the budget obligations within 90 days from the date of communication of the decision establishing the loss of validity of the payment facility, but not earlier than the deadline provided by law for submitting the restructuring request.

Regarding the maintenance of the validity of fiscal facilities, according to art. 35 of O.G. no. 6/2019, they also maintain their validity in the following cases:

- a) in case of annulment of the fiscal administrative act in the procedure of solving the appeal even if the issuance of a new fiscal administrative act was ordered,
- b) if after issuing the fiscal attestation certificate, the fiscal body finds the existence of some budgetary obligations that haven't been included in the tax attestation certificate.

At the same time, according to art. 16 of the O.G. no. 6/2019, for debtors who requested the restructuring of budget obligations and who must pay the budget obligations administered by the state fiscal body within a certain period in order to maintain the authorization, agreement, or other similar administrative act, the competent authority will not revoke or suspend the act on the grounds of non-payment of budget obligations by the term provided for in the specific legislation. Therefore, during the implementation of the restructuring plan, the competent authority will not revoke or suspend the authorization, agreement, or other similar administrative act on the grounds of non-payment of budgetary obligations by the term provided for in the specific legislation. If, however, the request for restructuring has been rejected, the debtors must pay the budgetary obligations the payment of which depends on the maintenance of the authorization, agreement, or other similar

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administrative act, in order to maintain the act. This must be done within 15 days of the date of communication of the rejection decision. In this case, a new restructuring request can be submitted only after the payment of these budgetary obligations.

Concerning the calculation of deadlines, we must specify that they are calculated according to the standard rules for calculating deadlines in the Romanian legal system, respectively on calendar days, starting with the day immediately following the one from which they begin to run and expiring at 24.00 of the last days in which the deadlines are fulfilled. It also maintains the rule according to which, if the deadlines are fulfilled on a public holiday or when the service is suspended, they are extended until the end of the first working day that follows.

The same can be said with regard to the correction of material errors that may appear in the content of the fiscal administrative documents drawn up by the fiscal bodies during the budget receivables restructuring procedure. Therefore, according to the usual rules for correcting material errors in the content of the documents drawn up, the competent fiscal body can do this on its own initiative (i.e. *ex officio*) or on the initiative of the fiscal debtor (i.e. at his request), through a decision to correct the error. The decision to correct the error takes effect towards the debtor from the date of its communication.

When the fiscal body does not share the opinion of the budgetary debtor on a material error, or on substantial inaccuracies in the content of the fiscal administrative act, the budgetary debtor has no other means to follow than to initiate the administrative-fiscal dispute in accordance with the provisions of the Fiscal Procedure Code (as a special law in this matter) and the Law on Administrative Litigation (as a general law).

On the occasion of public procurement in which participates a debtor in the procedure of restructuring his budget receivables and in line with the same effects of the restructuring meant to support the budgetary debtor involved in this procedure, the provisions of art. 36¹ of O.G. no. 6/2019 established that an economic operator cannot be excluded from the award procedure if he has submitted the notification regarding the intention to restructure the budgetary obligations to the state fiscal body. Thus, the economic operator must submit a copy to the contracting authority after the notification of the intention to restructure the budgetary obligations registered with the competent fiscal body. This rule applies as follows:

- a) until the date of the communication of the decision approving the restructuring of budget obligations if the economic operator submits the request for restructuring the budget obligations and it is approved;
- b) until the date of the communication of the decision to reject the request for restructuring of budget obligations, if the economic operator submits the request for the restructuring of the budgetary obligations and it is rejected;

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c) until the expiry of the deadline for submitting the request for restructuring if the economic operator does not submit the request for the restructuring of the budgetary obligations.

The competent fiscal authority shall provide information on the status and manner of settlement of the restructuring request, at the request of the contracting authority. Last but not least, we must mention the fact that the legislator allowed through art. 22¹ of OG no. 6/2019 that the restructuring of budgetary obligations also operates in the relationship with the local fiscal bodies, respectively in the process of collecting budgetary claims due to local budgets. So, budget debtors can request the restructuring of budget obligations outstanding on December 31, 2021, and unpaid until the date of issuance of the tax attestation certificate, as well as accessory budget obligations, existing in the records of the local fiscal body, for the purpose of their subsequent recovery. However, the legal text only establishes the vocation of budgetary receivables to be restructured, but the procedure for carrying out this operation must be approved by the decision of the existing deliberative authorities at the level of administrative-territorial units. Under these conditions, the question arises, what are the concrete effects of such a regulation? We believe that the intention of the legislator was to open the way to this procedure for local authorities as well, but the provisions do not seem to be imperative, as they have the opportunity to decide whether to use it or not. Depending on this decision, which belongs exclusively to the local deliberative authority (the local or county council), this one will proceed accordingly and adopt a specific procedure for the restructuring of budget claims, or not, as the case may be.

4. Conclusions

The analysis contained in the present study regarding the new institution of the restructuring of budgetary receivables allowed us to establish a set of conclusions that, essentially and fundamentally, characterize this legal institution, namely:

- a. the restructuring of the budget receivables is a relatively new legal institution that has been adopted by a normative act distinct from the Fiscal Procedure Code which it does not modify or supplement directly and explicitly, but indirectly by the fact that it may interfere with the development the fiscal procedure, as well as the fact that it appeals to fiscal law institutions regulated by the Fiscal Procedure Code and which thus undergo substantial changes;
- b. the restructuring of the budgetary receivables differs essentially from the other forms of financial support established by the provisions of the Fiscal Procedure Code and in particular from the payment facilities intended to provide the budgetary debtor with a period of grace, in order to obtain the necessary funds to pay off its obligations to public budgets. It also differs from the cancellation of tax receivables established

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by the Fiscal Procedure Code, because this becomes applicable when the collection of tax receivables becomes useless, inefficient, or impossible;

c. although it differs from the rescheduling and adjournment of payment, or from the cancellation of fiscal receivables, nevertheless, in regulating the restructuring of budgetary receivables, the legislator appeals to them, in the form in which they were established by the provisions of the Fiscal Procedure Code;

d. local tax authorities have the right to decide (they are not required by law to do so) whether to use this legal institution in the process of collecting receivables due to the budgets they manage;

e. in terms of content, the restructuring refers to any kind of budget receivable (due to the general consolidated budget), in connection with which executory titles were also issued (ie the receivable became certain and due).

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