

Project carried on based on the Contract No. 31 from 09/23/2002.

Operation contemplated in the project

The operation contemplated in the contract referred to making a draft emergency ordinance on modifying and completing the Law No. 133/1999 on stimulating private entrepreneurs to establish and develop small and medium-sized enterprises, as amended and completed.

Scope of work

In drafting the emergency ordinance on modifying and completing the Law No. 133/1999, the Consultant performed the following:

1. Analyzing the incentives granted to small and medium-sized companies in the EU member or candidate countries.
2. Actually drafting the emergency ordinance on modifying and completing the Law No. 133/1999, as follows:
 - Clear definition of small and medium-sized enterprises, in compliance with the EU legislation, but also considering the specific conditions in Romania;
 - Clearly establishing the modality of calculating certain indices (e.g.: the average number of employees) to prevent conflicting interpretations;
 - Defining the categories of measures to stimulate the establishing and development of small and medium-sized enterprises and the actual modality of enforcing such measures, considering the elimination of tax incentives for small and medium-sized enterprises, in accordance with the EU practices and taking into account the experience of other candidate countries;
 - Updating the other categories of measures stipulated by the Law No. 133/1999 considering the changes in the legislation regarding the registration and authorization of traders, the privatization of companies in which the state or a local government authority is a shareholder, public procurement by electronic auctions etc.
 - Making additions to assure the priority access of small and medium-sized enterprises to public procurement;
 - Defining “available assets” and correlating the provisions regarding the access of small and medium-sized enterprises to the assets of companies, national companies and autonomous state corporations to the legal provisions regarding the reorganization of the autonomous state corporations as trading companies and national companies, to the legal provisions regarding the legal status of the claimed or claimable movable property, to the legal framework of the granting by concession of the public property of the state managed by national companies and autonomous state corporations etc.;
 - Establishing penalties for the failure to comply with the legal provisions, clearly establishing, depending on the legal authority of each public institution, the enforcement competence;

- Updating the amounts stipulated as limits for allowing the small and medium-sized enterprises priority access to public procurement and putting the public procurement categories in compliance with the applicable legislation;
 - Identifying a modality for the government to effectively support the access of small and medium-sized enterprises to transport and communication networks and assure the supplying of electricity, water and other public utilities required for the activity of SMEs;
 - Identifying possible measures to facilitate the access of small and medium-sized enterprises to e-commerce, Internet and other IT services;
3. Drawing up the supporting document – the substantiation note that accompanied the draft bill throughout the approval procedure.
 4. Drawing up a chart of compliance of the draft ordinance with the community regulations applicable to small and medium-sized enterprises.
 5. Translating into English the draft ordinance and its substantiation document.

Project outcome

The project outcome included the following documents drawn up by the consultant:

1. The draft emergency ordinance on amending and completing the Law No. 133/1999 on stimulating private entrepreneurs to establish and develop small and medium-sized enterprises;
2. Presentation of the definition of small and medium-sized enterprises as reflected in the documents adopted by the European Union, in the legislation of certain EU-member states, in the legislation of certain candidates to EU accession, as well as in the laws of certain Asian countries:
 - Definition of small and medium-sized enterprises according to the European Commission Recommendation No. 280/1996;
 - Definition of small and medium-sized enterprises according to the draft review of the SME definition in the European Commission Recommendation No. 280/1996, submitted in 2001;
 - Definition of small and medium-sized enterprises according to the draft review of the SME definition in the European Commission Recommendation No. 280/1996, in the form dated June 25, 2002;
 - Definition of small and medium-sized enterprises as reflected in the legislation of certain EU countries, including Germany, Italy, UK, Finland, Belgium, Portugal, Austria;
 - Definition of small and medium-sized enterprises as reflected in the legislation of certain countries candidate to EU accession, including the Czech Republic, Poland, Hungary, Bulgaria, Slovenia, Greece, Turkey, Russia, Lithuania;

- Definition of small and medium-sized enterprises in the legislation of certain Asian countries, including: Japan, Korea, Indonesia, the Philippines, Singapore, Thailand and China.
3. Proposal to modify the definition of small and medium-sized enterprises as stipulated in the Law No. 133/1999 on stimulating private entrepreneurs to establish and develop small and medium-sized enterprises:
 - definition of small and medium-sized enterprises
 - definition of small enterprises
 - definition of micro-enterprises
 - other relevant definitions
 - explanatory provisions required to be included in order to assure the consistent and correct enforcement of the definition of small and medium-sized enterprises; specifications regarding the modality of calculating the number of employees and the financial limits applied in defining SMEs.
 4. Presenting the national legal framework relevant for the small and medium-sized enterprises;
 - Overview of the Law No. 133/1999 on stimulating private entrepreneurs to establish and develop small and medium-sized enterprises and of the regulations that amend it;
 - Current content of the Law No. 133/1999 on stimulating private entrepreneurs to establish and develop small and medium-sized enterprises;
 - Content of the Methodological Norms for enforcing the Law No. 133/1999 on stimulating private entrepreneurs to establish and develop small and medium-sized enterprises;
 - Incentives granted by the Romanian legislation to small and medium-sized enterprises.
 5. Presentation of the relevant international legislation, including:
 - documents of the European Union regarding small and medium-sized enterprises
 - SME legislation in the EU-member states, in the countries candidate to EU accession and in certain Asian countries.