

**ORDER nr. 1201/2023**

establishing a transparent State aid scheme intended to finance the specific objectives of SO 2.2 – *Promoting renewable energy in accordance with Directive (EU) 2018/2001, including the sustainability criteria, set out therein*, SO 4.5 – *Ensuring equal access to health care and fostering resilience of health systems, including primary care, and promoting the transition from institutional to family-based and community-based care*, SO 4.6 – *Enhancing the role of culture and sustainable tourism in economic development, social inclusion and social innovation* and ISO 6.3 – *Strengthening mutual trust, in particular by encouraging people-to-people actions* through Interreg VI-A Romania-Hungary Programme.

-having regard to the provisions of the Government Emergency Ordinance no 77/2014 on national procedures in the field of State aid, as well as on the amendment and completion of the Competition Law no 21/1996, approved with amendments and completions by Law no 20/2015, with subsequent amendments and completions,

- the opinion of the Competition Council communicated with Address no 7197 of 25.05.2023,

- under Article 12(6) of Government Decision no 477/2020 on the organization and functioning of the Ministry of Development, Public Works and Administration,

the Minister of Development, Public Works and Administration issues the following

**ORDER:**

**ART. 1**

**General dispositions**

(1) This order establishes a transparent State aid scheme intended to finance the specific objectives of SO 2.2 – *Promoting renewable energy in accordance with Directive (EU) 2018/2001, including the sustainability criteria, set out therein*, SO 4.5 – *Ensuring equal access to health care and fostering resilience of health systems, including primary care, and promoting the transition from institutional to family-based and community-based care*, SO 4.6 – *Enhancing the role of culture and sustainable tourism in economic development, social inclusion and social innovation* and ISO 6.3 – *Strengthening mutual trust, in particular by encouraging people-to-people actions* through Interreg VI-A Romania-Hungary Programme, hereinafter referred to as scheme.

(2) The scheme is applicable in the 8 eligible counties of the Interreg VI-A Romania - Hungary Programme and will be implemented by 31.12.2026. Under Interreg VI-A Romania-Hungary Programme, the eligible counties are as follows:

- a) four counties in Romania - Arad, Bihor, Satu Mare and Timiș;
- b) four counties in Hungary - Békés, Csongrád-Csanád, Hajdú-Bihar and Szabolcs-Szatmár-Bereg.

- (3) This aid scheme is not subject to the requirement regarding the notification to the European Commission as per Article 108 (3) of the Treaty on the Functioning of the European Union (TFEU).
- (4) Aid under this scheme shall be granted only under the conditions and criteria laid down in this State aid scheme, within the limits of the budget available.
- (5) State aid under this scheme shall only be granted subject to compliance with the State aid criteria exempted from the notification requirement laid down in Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, published in the OJEU, series L 187/26.06.2014, as amended and the awarding of the aid under the present scheme will be in compliance with art. 20, 20a and 53 of the Reg.(EU) 651/2014, as amended by COM Communication C(2023) 1712 final, dated 09.03.2023.
- (6) The granting of state aid under this scheme will be done only in compliance with the criteria regarding state aid exempted from the notification obligation stipulated in Regulation (EU) no. 651/2014, with subsequent amendments;
- (7) The exempted aid categories granted under this scheme are provided for in Articles 20, 20a, and 53 of Commission Regulation (EU) No. 651/2014, as amended, respectively:
  - a) aid for costs incurred by undertakings participating in European Territorial Cooperation projects;
  - b) limited amounts of aid to undertakings for participation in European Territorial Cooperation projects;
  - c) aid for culture and heritage conservation.

## **ART. 2**

### **Legal grounds**

This scheme is drawn up in accordance with:

- a) Regulation (EU) no 651/2014 of the Commission of 17.06.2014 of declaring certain categories of aid compatible with the internal market pursuant to articles 107 and 108 of the TFEU, published in the Official Journal of the European Union series L no. 187 of June 26th, 2014, as subsequently amended and supplemented.
- b) Government Emergency Ordinance no. 77/2014 on national procedures in the field of State aid, as well as for amending and completing the Competition Law no. 21/1996, modified and completed by the effect of Law no. 20/2015, as amended;
- c) EC Decision no C(2022)9787/16.12.2022 regarding the approval of the Interreg VI-A Romania-Hungary Program;
- d) Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instrument.

## **ART. 3**

### Scope and objectives of the scheme

(1) The objective of this State aid scheme is to support the development of the programme area, in particular by promoting energy from renewable sources, ensuring equal access to healthcare, increasing the role of culture and sustainable tourism in economic development and strengthening mutual trust, by encouraging people-to-people actions without affecting competition in the internal market and intra-Community trade to an extent contrary to the common interest.

(2) The scope of this State aid scheme is to finance a number of activities necessary for the implementation of projects ensuring:

- a) the promotion of energy from renewable sources in accordance with Directive (EU) 2018/2001, including the sustainability criteria set out therein, by making particular use of the existing potential in the field of photovoltaic energy and geothermal resources;
- b) equal access to health care and ensuring the resilience of health care systems, including primary health care, and promoting the transition from institutional care to family and community care;
- c) increasing the role of culture and sustainable tourism in economic development, social inclusion and social innovation;
- d) strengthening mutual trust, in particular by encouraging people-to-people actions.

(3) The achievement of the scope and objective is realised within the area of Interreg VI-A Romania - Hungary Programme, as defined in Article 1 (2).

### ART. 4

#### Definitions

For the purpose of this scheme, the terms have the following meaning:

a) **aid** - any support measure fulfilling all the criteria set out in Article 107 (1) of TFEU;

b) **indirect aid** - is when a third party (not included in the project partnership) gets an economic advantage from the project, this advantage being State aid;

c) **economic advantage** - any form of granting a quantifiable advantage in money, regardless of its form: subsidies, cancellation of debts or assumption of losses, exemptions, reductions or postponements from the payment of fees and taxes, renunciation of obtaining normal income from following public funds, including the granting of loans with preferential interest rates, guarantees granted under preferential conditions, capital participation of the state, of central or local public authorities or of other bodies that administer sources of the state or of local communities, if the rate of profit of these investments is lower than normal, anticipated by a prudent private investor, price reductions on goods supplied and services provided by central or local public authorities or by other bodies that administer state or local authority sources, including the sale of some land belonging to the private domain of the state or local public authorities, below the market price, creating a market or strengthening the beneficiary's position on a market, etc.;

d) **unlawful aid** - aid granted without complying with national and Union procedures in the field of State aid;

e) **misused aid** - aid used by the beneficiary without complying with the conditions for granting such aid;

f) **beneficiary of the non-refundable financing** - an entity that falls into one of the following categories, as defined in the Guide for Applicants of the Calls for project proposals launched under the Interreg VI-A Romania-Hungary Programme, participating in the implementation of a project funded under the Programme.

In this respect, the beneficiaries of the non-refundable financing can be:

- (i) public institutions;
  - (ii) public law bodies;
  - (iii) state-owned companies;
  - (iv) NGO;
  - (v) European Groupings of Territorial Cooperation;
- g) **lead beneficiary of the non-refundable financing** - the partner responsible for the joint project's general implementation, financed under the specific objectives/priorities of the Interreg VI-A Romania-Hungary Programme. The lead beneficiary shall conclude the Partnership Agreement with the project partners and the ERDF subsidy contract with the Managing Authority of the Programme. The lead beneficiary is responsible for the transfer to the project partners of their corresponding ERDF contributions, including the exempted State aid, where applicable;
- h) **the national co-financing beneficiary** - the Romanian partner in the joint project financed under Interreg VI-A Romania-Hungary Programme (the lead beneficiary of the non-refundable financing and/or its Romanian project partners);
- i) **beneficiary of exempted State aid** – the lead beneficiary/ beneficiary of the non-refundable financing/national co-financing beneficiary directly benefiting from one of the categories of exempted State aid referred to in this scheme, as a result of the implementation of a project financed by the specific objectives SO 2.2, SO 4.5, SO 4.6 and ISO 6.3 of the Interreg VI-A Romania-Hungary Programme, based on Articles 20, 20a and 53 of Regulation (EU) No 651/2014, with the subsequent modifications and amendments;
- j) **beneficiary of and indirect State aid** - a third party which is not included in the project partnership and which receives an economic advantage resulting from the implementation of the project, this advantage represents indirect State aid;
- k) **undertaking** - any entity carrying on economic activity, irrespective of its legal status. This includes, in particular, self-employed workers and family businesses engaged in crafts or other activities, as well as partnerships or associations which regularly carry out an economic activity;
- l) **economic activity** - any activity consisting of the supply of goods, services or works on a market;
- m) **Subsidy contract** - the legal document signed between the Managing Authority of the Interreg VI-A Romania-Hungary Programme, on the one hand,

- and the lead beneficiary of the non-refundable financing, on the other hand, setting out the correlative rights and obligations of the parties for the implementation of the projects within the Interreg VI-A Romania-Hungary Programme;
- n) **Partnership Agreement** - the agreement signed by all partners in the project, that regulates partners' rights and obligations in relation to project activities and other aspects necessary to be regulated for its proper implementation. The Partnership Agreement is annexed to the subsidy contract and an integral part thereof;
  - o) **Co-financing contract** - the legal document signed between the Managing Authority of the Interreg VI-A Romania-Hungary Programme, on the one hand, and the Romanian beneficiary of the national co-funding, on the other hand, setting out the correlative rights and obligations of the parties for the implementation of the projects within the Interreg VI-A Romania-Hungary Programme;
  - p) **State aid granting contract** - the contract concluded between:
    - i. the Managing Authority of the Interreg VI-A Romania-Hungary Programme and the beneficiary of non-refundable financing/national co-financing, in case this is also the beneficiary of State aid, in which case the aid granting contract takes the form of the Subsidy contract (including the Partnership Agreement)/Co-financing contract;
    - ii. the beneficiary of indirect State aid, concluded between the beneficiary of non-refundable financing/national co-financing and the beneficiary of indirect State aid, as the case may be;
  - q) **date of granting the aid** - the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;
  - r) **agricultural product** - the products listed in Annex I to the TFUE, except fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013, as amended;
  - s) **processing of agricultural products** - any operation on an agricultural product resulting in a product, which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;
  - t) **marketing of agricultural products** - the holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose;
  - u) **reasonable profit** - shall be determined with respect to the typical profit for the sector concerned. In any event, a rate of return on capital that does not exceed the relevant swap rate plus a premium of 100 basis points will be considered to be reasonable;

- v) **operating profit** - the difference between the discounted revenues and the discounted operating costs over the economic lifetime of the investment, where this difference is positive. The operating costs include costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, but exclude depreciation charges and the costs of financing if these have been covered by investment aid. Discounting revenues and operating costs using an appropriate discount rate allows a reasonable profit to be made;
- w) **undertaking in difficulty** - means an undertaking in respect of which at least one of the following circumstances occurs:
  - i. In the case of a limited liability company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME that fulfils the condition in Article 21(3), point (b), and qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I to Directive 2013/34/EU of the European Parliament and of the Council\* and 'share capital' includes, where relevant, any share premium.
  - ii. In the case of a company where at least some of its members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME that fulfils the condition in Article 21(3), point (b), and qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of 11 accumulated losses. For the purposes of this provision, 'a company where at least some of its members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU
  - iii. Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors;
  - iv. Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;
  - v. In the case of an undertaking that is not an SME, where, for the past two years:
    - 1. the undertaking's book debt to equity ratio has been greater than 7,5 and



2. the undertaking's EBITDA interest coverage ratio has been below 1,0.
- x) the **State aid provider** is the Managing Authority of the Interreg VI-A Romania - Hungary Programme (Managing Authority) for the ERDF funding granted to the beneficiaries in Romania and Hungary, respectively the Managing Authority and the central and local public institutions for the national co-financing (state and local budget) to beneficiaries in Romania. The Managing Authority is the structure that mainly manages the Programme on behalf of the two partner countries. The Managing Authority has competencies and responsibilities in the selection of operations, financial management and control of the Programme, including the certification of payments. At Programme level, the Managing Authority is represented by the Ministry of Development, Public Works and Administration;
  - y) The **Scheme Administrator** is Oradea Regional Office for Cross-Border Cooperation on Romania-Hungary Border (BRECO). BRECO contributes to the current implementation of the Programme and supports the Managing Authority in its coordination and implementation activities.

## ART. 5

### Scope of application

- (1) Under the present scheme, aid will be awarded to the projects selected for financing in the context of Interreg VI-A ROHU Programme, and shall apply to:
  - a) aid for costs incurred by undertakings participating in European Territorial Cooperation projects
  - b) limited amounts of aid granted to undertakings for participation in European Territorial Cooperation projects
  - c) aid for culture and heritage conservation.
- (2) This scheme shall not apply to:
  - a) aid to export-related activities towards third countries or to other Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;
  - b) aid contingent upon the use of domestic over imported goods;
  - c) aid granted in the fishery and aquaculture sector, within the scope of Regulation (EU) No 1379/2013 of the European Parliament and of the Council with the exception of: training aid; aid for SMEs' access to finance; aid in the field of research and development; innovation aid for SMEs; aid for disadvantaged workers and workers with disabilities; regional investment aid in outermost regions; regional operating aid schemes; aid for community-led local development ('CLLD') projects; aid to European Territorial Cooperation projects; as of 1 July 2023, aid in the form of reductions in environmental taxes under Article 15(1)(f) and 15(3) of Council Directive 2003/96/EC; aid involved in financial products supported by the InvestEU Fund, except for operations listed in Article 1(1) of Commission Regulation (EU) No 717/2014; for aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat referred to in Article 19c; for aid to SMEs in the form of temporary public interventions concerning the supply of electricity, gas or heat

produced from natural gas or electricity to mitigate the impact of price increases following Russia's war of aggression against Ukraine referred to in Article 19d;

d) aid granted in the primary agricultural production sector, with the exception of regional investment aid in outermost regions, regional operating aid schemes, aid for consultancy in favour of SMEs, risk finance aid, aid for research and development, innovation aid for SMEs, environmental aid, training aid, aid for disadvantaged workers and workers with disabilities, aid to community-led local development (CLLD) projects, aid to European Territorial Cooperation projects, aid involved in financial products supported by the InvestEU Fund, aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat as referred to in Article 19c and aid to SMEs in the form of temporary public interventions concerning the supply of electricity, gas or heat produced from natural gas or electricity to mitigate the impact of price increases following Russia's war of aggression against Ukraine as referred to in Article 19d;

e) aid granted to undertakings active in the sector of processing and marketing of agricultural products, in the following cases:

i. where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned; or

ii. where the aid is conditional on being partly or entirely passed on to primary producers;

f) aid to facilitate the closure of uncompetitive coal mines, as regulated by Decision no. 2010/787 of the Council;

g) the categories of regional aid referred to in Article 13 of Regulation (EU) no. 651/2014, with subsequent amendments.

(3) Where an undertaking carries on its activities both in the excluded sectors referred to in paragraph (2) points. c), d) or e), as well as in the sectors falling within the scope of this scheme, this scheme shall apply to the aid granted to the latter sectors or activities, provided that the beneficiaries ensure, by appropriate means, such as the separation of activities or a distinction of costs, that the activities carried out in the excluded sectors do not benefit from the aid granted under this scheme.

(4) This scheme shall not apply to:

a) undertakings that are subject to a recovery order which has not been executed following a previous Commission decision, a state aid grantor or other entity requesting recovery whereby aid is declared unlawful and incompatible with the internal market, with the exception of aid schemes for the repair of the damage caused by certain natural disasters;

b) undertakings in difficulty. However, this scheme applies, by way of derogation, to enterprises that were not in difficulty on 31 December 2019, but which became enterprises in difficulty between 1 January 2020 and 31 December 2021, according to Article 1, paragraph (4), letter (c) of Regulation (EU) no. 651/2014.

(5) This scheme shall not apply to state aid measures that by their very nature, by their associated conditions or their financing method, entail an indisputable breach of Union law, in particular:



a) aid measures where the granting of aid is conditional upon the beneficiary having its headquarters in Romania or being established predominantly in Romania; however, the requirement to have a registered office or branch in Romania at the time of payment of the aid is allowed;

b) aid measures where the granting of aid is conditional upon the beneficiary having to use nationally produced goods or domestic services.

c) aid measures that limit the possibility for beneficiaries to exploit in other member states the results obtained from research, development and innovation

(6) This scheme shall not apply to aid exceeding the following thresholds:

a) for aid for undertakings participating in European Territorial Cooperation projects: for aid under Article 20 of Regulation no. 651/2014, EUR 2.2 million per undertaking, per project; for aid under Article 20a of Regulation no. 651/2014, EUR 22,000 per undertaking, per project;

b) for investment aid for culture and heritage conservation: EUR 165 million per project;

c) operating aid for culture and heritage conservation: EUR 82.5 million per undertaking per year;

(7) The thresholds set out or referred to in paragraphs a) and b) shall not be circumvented by artificially splitting up the aid schemes or aid projects.

## **ART. 6**

### **Transparency of aid**

(1) This scheme applies only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid ex-ante without any need to undertake a risk assessment ("transparent aid").

(2) The following categories of aid shall be considered to be transparent:

a) aid comprised in grants and interest rate subsidies;

b) aid to undertakings for their participation in European Territorial Cooperation projects under Article 20a of Regulation no. 651/2014, including cases where such aid does not take the form of grants, where it provides for a cap ensuring that the applicable threshold laid down in Article 20a of Regulation no. 651/2014 is not exceeded;

## **ART. 7**

### **Incentive effect**

Aid for undertakings participating in European territorial cooperation projects and aid for culture and heritage conservation meet the conditions of art. 6 para. (5) of Regulation (EU) no. 651/2014 combined with the conditions provided for in article 20 or 20a, respectively in article 53 of Regulation (EU) no. 651/2014.

## **ART. 8**

### **Publication and information**

(1) The state aid provider will inform the beneficiaries about the amount of the aid granted under this scheme and the state aid character of the financing, mentioning the

applicable regulations, respectively art. 20, 20a and 53 of Regulation (EU) no. 651/2014, with subsequent amendments and additions.

(2) The state aid provider will upload to the SANI platform - "State Aid Notification Interactive", a synthetic information sheet regarding this state aid scheme in the standard format provided in Annex II to Regulation (EU) no. 651/2014, within 20 working days from the entry into force of this scheme. Any change that falls within the situations provided for in art. 15 of GEO no. 77/2014 will be submitted for approval to the Competition Council and, after adoption, a new file will be entered in SANI.

(3) This state aid scheme will be published in its entirety on the website of the state aid provider at Interreg - The Interreg Romania-Hungary Program ([interreg-rohu.eu](http://interreg-rohu.eu)). On the same website, the summarized information will be published in the Standard format provided for in Annex II to Regulation (EU) no. 651/2014 or a link to them, as well as the information mentioned in Annex III to Regulation (EU) no. 651/2014 regarding each individual aid granted under this scheme that exceeds 100,000 euros. The information mentioned in Annex III to Regulation (EU) no. 651/2014 are published on the website within 6 months from the date on which the aid was granted, are organized and are accessible in a standardized way, according to the description in Annex III to Regulation (EU) no. 651/2014, so that they make it possible to perform search and download functions effectively and remain available on the site for at least 10 years from the date on which the aid was granted.

## **ART. 9**

### **Duration of the State aid scheme**

(1) The validity period of the scheme, when state aid will be granted, is from the date of publication in the Official Journal of Romania Part I of this scheme, until 31.12.2026.

(2) Payments reimbursed by the aid provider to beneficiaries in respect of aid granted under this scheme will be made no later than 30.06.2030.

## **ART. 10**

### **Eligibility conditions for State aid beneficiaries**

(1) Undertakings selected for financing under the Interreg VI-A Romania - Hungary Programme and which meet the following conditions may benefit from the facilities provided for in this scheme:

a) have not been the subject of a decision to recover state aid or de minimis aid, or, if such a decision has been taken, the latter has already been executed and the claim fully recovered;

b) not in difficulty, with the exception of undertakings that were not in difficulty on December 31, 2019, but which became undertaking in difficulty between January 1, 2020 and December 31, 2021;

c) is not resident for tax purposes in, or incorporated under the laws of, jurisdictions that feature on the European Union list<sup>1</sup> of non-cooperative jurisdictions for tax purposes.

---

<sup>1</sup> Commission Recommendation (EU) 2020/1039 of 14 July 2020 on making State financial support to undertakings in the Union conditional on the absence of links to non-cooperative jurisdictions

(2) If the undertaking is not eligible to receive a specific allocation under this exempted aid scheme, the administrator of the scheme shall notify the undertaking, in writing.

(3) If the applicant undertaking is eligible to receive State aid under this scheme, the administrator must notify the State aid beneficiary on the amount awarded to it and the State aid nature of the amount, with clear reference to Regulation (EU) no. 651/2014.

## **ART. 11**

### **The method of granting the state aid**

(1) Under this scheme, projects that have undergone the assessment and selection process as defined in the relevant documents in the framework of the Interreg VI-A Romania - Hungary Programme.

(2) The lead beneficiary of the non-refundable financing must submit to the Managing Authority a project proposal, according to the Call for proposals requirements. The project proposal is assessed from quality, administrative and eligibility points of view, on the basis of assessment criteria approved by the Programme's Monitoring Committee, in order to be selected for financing.

(3) The Monitoring Committee of the Interreg VI-A Romania - Hungary Programme approves the list of projects proposed for financing.

(4) The assessment of the incidence of state aid in relation to the project's activities is carried out by experts and takes place during the contracting phase of the projects selected for financing and undertaken by the Programme Management Authority, in its capacity as state aid provider.

(5) The scheme administrator verifies the fulfillment of the conditions for eligibility and the granting of state aid provided for in this scheme, including the Declaration regarding the enterprise in difficulty, the GBER Declaration, for the beneficiaries of non-reimbursable financing/national co-financing who are also beneficiaries of state aid, for activities that fall under the scope of state aid.

(6) State aid is granted in the form of non-refundable financing from ERDF Community funds to Romanian and Hungarian beneficiaries of non-refundable financing, within the subsidy contracts concluded between the Managing Authority and the lead beneficiaries of non-refundable financing, respectively from national funds from the state budget for Romanian beneficiaries of non-reimbursable financing, within the framework of the national co-financing contracts.

(7) The relations between the State aid beneficiary and the Managing Authority with regard to the granting obligations, monitoring, reporting and recovery of State aid are regulated by the Subsidy contract (including the Partnership Agreement) and the co-financing contract, for cases where the beneficiaries of State aid are also beneficiaries of non-reimbursable financing.

(8) For cases of *indirect aid*, the economic advantage is granted through the State aid contract concluded between the beneficiary of non-reimbursable financing/national co-financing and the beneficiaries of indirect State aid. The beneficiary of non-reimbursable financing/national co-financing has the obligation to request the administrator of the scheme to verify the fulfillment of the conditions for

the granting of state aid by the beneficiaries of indirect state aid, before signing the contract for granting the aid. For this purpose, the beneficiary of the financing/national co-financing will ask the beneficiaries of indirect state aid for the GBER Declaration and quantify the value of the indirect aid/economic advantage. The administrator of the scheme will verify the fulfillment of the conditions for granting the state aid, including the amount of the quantified aid.

(9) Indirect State aid granting contracts shall include clauses ensuring the fulfillment of the monitoring functions and repayment of State aid by the administrator/provider of the scheme.

(10) State aid is granted under this scheme only for projects which are not and have not previously been financed by other national or Community public funds, including support measures in the form of de minimis/State aid (in accordance with the State aid beneficiaries' own declarations).

## **ART. 12**

### **Budget of the State Aid Scheme**

(1) The allocated budget is made up of ERDF funds and national co-funding from the state budget.

(2) The estimated value of the scheme budget, for the entire period of its implementation, is EUR 42,000,000, out of which EUR 33,600,000 ERDF and EUR 8,400,000 national co-financing, broken-down as follows:

a) aid for costs incurred by undertakings participating in European Territorial Cooperation projects - EUR 21,000,000, out of which EUR 16,800,000 ERDF and EUR 4,200,000 national co-financing;

b) limited amounts of aid granted to undertakings for participation in European Territorial Cooperation projects - EUR 1,000,000, out of which EUR 800,000 ERDF and EUR 200,000 national co-financing;

c) aid for culture and heritage conservation - EUR 20,000,000, out of which EUR 16,000,000 ERDF and EUR 4,000,000 national co-financing.

(3) The estimated value of the scheme budget per year of implementation is broken down as follows:

- for 2023 - EUR 10,500,000
- for 2024 - EUR 10,500,000
- for 2025 - EUR 10,500,000
- for 2026 - EUR 10,500,000

(4) Unused amounts in one year will be transferred to the following year.

(5) The estimated budget regarding the amount of state aid by type of aid can be modified depending on the projects selected for financing within the Interreg VI-A Romania - Hungary Program, under the conditions of art. 15 of the Government Emergency Ordinance no. 77/2014, approved with amendments and additions by Law no. 20/2015, with subsequent amendments and additions.

## **ART. 13**

### **Number of beneficiaries**

The estimated maximum number of beneficiaries is 150 eligible beneficiaries.

## **ART. 14**

### **Eligible costs and ineligible costs**

(1) This scheme covers the following: aid for costs incurred by undertakings participating in European Territorial Cooperation projects, limited amount aid granted to undertakings for participating in European Territorial Cooperation projects and aid for culture, in accordance with Articles 20, 20a and 53 of Regulation (EU) No 651/2014.

(2) Costs of land purchase are not eligible for an amount exceeding 10 % of the total eligible expenditure for the operation concerned; for abandoned sites and those previously in industrial use, which include buildings, this limit is increased to 15 %. This paragraph shall not apply to operations concerning environmental conservation.

(3) Costs related to second-hand equipment purchase may be eligible under the following conditions:

a) no other assistance has been received for them from Interreg funds or funds listed in point (a) of Article 1(1) of Regulation (EU) 2021/1060.

b) the price of the equipment does not exceed the generally accepted price on the market concerned;

c) the equipment has the technical characteristics necessary for its operation and complies with the applicable rules and standards.

(4) In order to calculate the aid intensity and the eligible costs, all the figures used are taken into account before any deduction of taxes or other charges. Value added tax charged on eligible costs or expenses which is refundable under the applicable national tax legislation will not, however, be taken into account for the calculation of aid intensity and eligible costs. Eligible costs must be supported by supporting documents that must be clear, specific and contemporaneous with the facts. The amounts of eligible costs may be calculated in accordance with the simplified cost options, provided that the operation is at least partially financed by a Union fund that allows the use of these simplified cost options and that the category of costs is eligible in accordance with the relevant derogatory provision. In this case, the simplified cost options provided for in the relevant rules governing the Union fund are applicable.

(5) Aid payable in the future, including aid payable in several instalments, shall be updated to their value at the time they are granted. Eligible costs are updated to their value at the time the aid is granted. The interest rate to be applied to the discount is the discount rate applicable on the date of granting the aid.

## **ART. 15**

### **Aid for costs incurred by undertakings participating in European Territorial Cooperation projects**

(1) Aid for costs incurred by undertakings participating in European Territorial cooperation projects covered by Regulation (EU) 1059/2021 shall be compatible with the internal market within the meaning of Article 107(3) of the TFEU and shall be exempted from the notification requirement of Article 108(3) of the TFEU, subject to the conditions laid down in this Article and in Chapter I of Regulation (EU) No 651/2014.

(2) In so far as they are related to the cooperation project, the costs set out below, which have the meaning assigned to them by Articles 38 to 44 of Regulation (EU) 1059/2021, shall be eligible:

- a) staff costs;
- b) office and administrative expenses;
- c) travel and accommodation costs;
- d) costs relating to consultancy and external services;
- e) expenditure on equipment;
- f) infrastructure and works costs.

(3) The aid intensity does not exceed the maximum co-financing rate laid down in Regulation (EU) 1059/2021.

#### **ART. 16**

##### **Limited amounts of aid granted to undertakings for participation in European Territorial Cooperation projects**

(1) Aid granted to undertakings for their participation in European Territorial Cooperation projects falling within the scope of Regulation (EU) 1059/2021, shall be compatible with the internal market within the meaning of Article 107(3) of the TFEU and shall be exempted from the notification requirement of Article 108(3) of the TFEU, provided that the conditions laid down in this Article and in Chapter I of Regulation (EU) No 651/2014 are fulfilled.

(2) The total amount of aid granted under this Article to an undertaking per project shall not exceed EUR 22,000.

#### **ART. 17**

##### **Aid for culture**

(1) Aid for culture and heritage conservation shall be compatible with the internal market within the meaning of Article 107(3) of the TFEU and shall be exempted from the notification requirement of Article 108(3) of the TFEU, provided that the conditions laid down in this Article and in Chapter I of Regulation (EU) No 651/2014 are fulfilled.

(2) Aid for culture can be granted for the following cultural objectives and activities:

a) museums, archives, libraries, artistic and cultural centres or spaces, theatres, cinemas, opera houses, concert halls, other live performance organizations, film heritage institutions and other similar artistic and cultural infrastructures organizations and institutions;

b) tangible heritage, including all forms of movable or immovable cultural heritage, as well as archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognized as a cultural or natural heritage by the competent authorities of a Member State;

c) intangible heritage in any form, including folklorist customs and crafts;

d) art or cultural events and performances, festivals, exhibitions and other similar cultural activities;

e) cultural and artistic education activities, as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational programs and raising public awareness, including the use of new technologies



f) writing, editing, production, distribution, digitization and publishing of musical and literature works, including translations.

(3) Aid for culture may be granted in the form of:

a) investment aid, including aid for the construction or upgrade of culture infrastructure;

b) operating aids.

(4) In the case of investment aid, the eligible costs are investment costs in tangible and intangible assets, including:

a) costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure if at least 80% of either the time or the space capacity per year is used for cultural purposes;

b) costs for the acquisition or physical relocation of cultural heritage;

c) costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication;

d) costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors;

e) costs for cultural projects and activities, cooperation and exchange programmes, and promotion costs.

(5) In the case of operating aid, the eligible costs are the following:

a) the cultural institution's or heritage site's costs linked to continuous or periodic activities (included in the application form), including exhibitions, performances and events and similar cultural activities that occur in the ordinary course of business;

b) costs of cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and awareness-raising programs, including the use of new technologies;

c) costs of the improvement of public access to the cultural institution or heritage sites and activities including costs of digitization and of use of new technologies as well as costs of improving accessibility for people with disabilities;

d) operating costs directly relating to the cultural project or activity, such as rent of real estate and cultural venues, travel expenses (for the staff nominated in the project team), materials and supplies directly related to the cultural project or activity, architectural structures for exhibitions and stage sets, loan of tools, software and equipment, costs for access rights to copyright works and other related intellectual property rights protected contents, costs for promotion and costs incurred directly as a result of the project or activity; costs of financing are only eligible if they have not been covered by investment aid;

e) costs for the personnel nominated in the project team;

f) costs for advisory and support services provided by external consultants and service providers incurred directly as a result of the project (only for activities implemented during the project period).

(6) In the case of investment aid, the amount of the aid must not exceed the difference between the eligible costs and the operating profit related to the investment. The operating profit is deducted from the eligible costs ex-ante, based on reasonable estimates, or through a recovery mechanism. The infrastructure operator has the right to keep a reasonable profit during the relevant period.

(7) In the case of operating aid, the amount of the aid must not exceed what is necessary to cover operating losses and a reasonable profit during the relevant period. This is ensured ex ante, based on reasonable estimates, or through a recovery mechanism.

(8) In the case of activities defined in point (f) of paragraph 2, the maximum amount of aid shall not exceed either the difference between the eligible costs and the discounted revenue of the project, or 70 % of the eligible costs. Revenues shall be deducted from eligible costs either ex-ante or through a recovery mechanism. Eligible costs are costs related to the publication of musical and literary works, including authors' fees (copyright costs), translators' fees, editors' fees, other publishing costs (print correction, proofreading, revision), costs of layout and pre-press and costs of printing or electronic publishing.

(9) Aid to press and magazines, whether they are published in print or electronically, shall not be eligible under this article.

## **ART. 18**

### **Cumulation**

(1) In order to determine whether the notification thresholds established under Commission Regulation (EU) no. 651/2014 and the maximum aid intensities laid down in Chapter III of said regulation are complied with, the total amount of the state aid granted for the aided activity or project must be taken into account.

(2) Where European Union financing centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union that is not directly or indirectly controlled by the Member State is combined with state aid, only the latter is analysed in order to establish whether the notification thresholds and the maximum aid intensities or maximum aid amounts are complied with, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate provided for in the applicable rules of Union law.

(3) Aid with identifiable exempted eligible costs may be cumulated with:

a) any other state aid, as long as those measures cover different identifiable eligible costs;

b) any other state aid in respect of the same eligible costs overlapping in whole or in part only if the cumulation in question does not result in exceeding the highest aid intensity or the highest aid amount applicable to that aid respectively under Commission Regulation (EU) No 651/2014.

(4) State aid exempted under this scheme shall not be cumulated with any de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity/aid amount exceeding those set out in this scheme.

(5) Aid without identifiable eligible costs exempted under Article 16 of this scheme may be cumulated with any other State aid with identifiable eligible costs. Aid without identifiable eligible costs may be cumulated with any other State aid without identifiable eligible costs up to the highest relevant total funding ceiling established under the specific conditions of each case in Regulation (EU) No 651/2014, or in another block exemption regulation or decision adopted by the Commission.

## **ART. 19**

### **Monitoring and reporting**

(1) The scheme administrator under this State aid scheme shall inform the European Commission, via the electronic notification system, State Aid Notification Interactive (SANI), set up by the European Commission, within 20 working days of the entry into force of this scheme, according to art. 11 of Regulation (EU) no. 651/2014, and Government Emergency Ordinance no. 77/2014, approved with subsequent amendments and completions by Law 20/2015, as amended. This information will be published in the Official Journal of the European Union and on the website of the European Commission.

(2) The monitoring and reporting of State aid granted under this scheme shall be carried out by the provider of the State aid scheme, in accordance with the provisions of the Government Emergency Ordinance no. 77/2014, approved with subsequent amendments and completions by Law 20/2015, with subsequent amendments and completions, and the Regulation on State aid and de minimis aid monitoring procedures, approved by Order No 441/2022 of the President of the Competition Council, as well as with the provisions of the methodological rules laid down in paragraph (2), second thesis, of Article 21.

(3) The state aid provider shall keep detailed records of the state aid received/granted for a period of at least 10 years from the date to which last specific allocation was granted under the state aid scheme. This record must contain all the information necessary to demonstrate compliance with the conditions imposed by the Community law on State aid. This provision shall not apply to aid granted to European Territorial Cooperation projects referred to in Article 16.

(4) The beneficiary of the non-refundable financing respectively the lead beneficiary/beneficiary of non-reimbursable financing, as well as the beneficiary of indirect state aid shall keep detailed records of the state aid granted/received for at least 10 years from the date on which the last specific allocation was granted under the State aid scheme. Such records must contain all the information necessary to demonstrate compliance with the conditions imposed by Community State aid law. This provision shall not apply to aid granted to European Territorial Cooperation projects referred to in Article 16.

(5) The beneficiary of State aid/indirect State aid shall respond, within the deadline set by the Competition Council, to any request for information regarding the

state aid or de minimis aid received. The deadline set by the Competition Council may not be less than 5 working days.

(6) The beneficiary of the State aid/indirect State aid has the obligation to report to the scheme provider/administrator/beneficiary of the non-refundable financing all data and information necessary for the monitoring of the State aid, in the format provided by the scheme provider. The beneficiary of the aid shall make the data and information available to the scheme provider in order for the scheme provider to fulfil the reporting and monitoring obligations referred to in paragraph 2.

(7) The beneficiary of the State aid/indirect State aid shall repay the full amount of the state aid received in case of non-compliance with the conditions for granting the aid, including the related interest.

(8) State aid provider shall continuously monitor the State aid granted and order the necessary measures in case of breach of the conditions imposed by this scheme or by the national or European legislation in force. This shall be done in accordance with the provisions of the contract concluded under the conditions described in Article 11.

(9) Based on a written request, the state aid provider shall send to the European Commission, through the Competition Council, within 20 working days or within the time limit set in the request, all information the European Commission considers necessary for the assessment of compliance with the conditions of this State aid scheme.

(10) The administrator of this scheme shall make available to the state aid provider, in the format and within the timeframe requested by the latter, all the data and information necessary to carry out the reporting and monitoring procedures that are the responsibility of the provider.

(11) The State aid provider shall submit to the Competition Council, in the format and within the timeframe foreseen by the Regulation on State aid monitoring procedures, implemented by Order of Competition Council President no. 441/2022, all data and information necessary for the monitoring of state aids at national level.

(12) If the State aid provider does not have definitive data on the amount of State aid, it will provide estimates.

(13) Errors found by the state aid provider and legal corrections, cancellations, recalculations, recoveries, and repayments shall be reported by March 31st of the year following the reporting year.

## **ART. 20**

### **Aspects regarding the Electronic Register of State aid granted in Romania (RegAS)**

(1) The State aid provider or, as the case may be, the administrator of the State aid scheme, shall, according to the provisions of art. 29 of the Regulation on the State Aid Register, implemented by the Order of the President of the Competition Council no. 437/2016, to upload in the Electronic State Register of State Aid granted in Romania (RegAS) the data and information related to this State aid scheme within a maximum of 5 (five) days from the date of its entry into force.

(2) Financing contracts, aid granting acts, payments, recovery obligations and actual reimbursement of these obligations relating to this measure shall be uploaded to the RegAS by the scheme administrator within 7 (seven) days from the date of

signature of the contract/act, respectively, from the date of the establishment of payments, the recovery obligations or the actual reimbursement of such obligations.

## **ART. 21**

### **Recovery of State Aid**

(1) In the event that non-compliance with the granting criteria provided for in this scheme is found, all the necessary steps will be taken to recover the aid granted.

(2) The recovery of State aid granted, from RO aid beneficiaries, is carried out by MDPWA, based on the monitoring performed by the scheme administrator, in accordance with provisions of Government Emergency Ordinances no 77/2014 approved with amendments and additions by Law no. 20/2015, with subsequent amendments and additions, and from the beneficiaries of state aid from the partner state, based on the provisions of the Implementation Memorandum - arrangements between the member states involved in the Interreg VI-A Romania-Hungary Program, hereinafter referred to as the Memorandum of Implementation and the other legal provisions applicable to the financing contract. For this, the provider of the state aid scheme will develop the aid suspension/recovery methodology.

(3) The aid to be recovered also includes the related interest, due from the date of payment of the aid, until the date of its recovery. The applicable interest rate is the one established by Regulation (EC) no. 794/2004 of the Commission of April 21, 2004 implementing Regulation (EU) 1,589/2015 of the Council establishing the rules for the application of Article 108 of the Treaty on the Functioning of the European Union, published in the Official Journal of the European Union, series L, no. 140 of 30.04.2004, with subsequent amendments and additions, as well as in compliance with the provisions of Council Regulation (EU) 1,589/2015 of 13 July 2015 establishing the rules for the application of Article 108 of the Treaty on the Functioning of the European Union, published in the Official Journal of the European Union, series L, no. 248 of 24.09.2015.

(4) The recovery of the indirect state aid is carried out on the basis of the indirect state aid award contract, the recovery decision issued by the aid provider, in accordance with the rules of the Programme and the methodology provided for in paragraph (2), as well as with the provisions of the Memorandum of Implementation, depending on the member state where the beneficiary of state aid is located.

## **ART. 22**

### **Irregularities and reimbursement of financing not falling under state aid rules**

(1) Where irregularities are found in projects implemented under the specific objectives financed through the present scheme, they shall be analysed in the light of the irregularity and/or fraud regime and recovery of unduly paid amounts shall be ordered.

(2) In the event of suspicion of irregularities or fraud, after the signature of the Subsidy contract/national co-financing/state aid awarding contract, the Managing Authority shall verify the eligibility of expenditure incurred by Romanian beneficiaries of the state aid scheme during the technical and financial implementation of the projects (use of the approved state aid scheme budget), according to the provisions of

Government Emergency Ordinance no. 66/2011 on prevention, detection and sanctioning of irregularities in obtaining and using European funds and/or national public funds related thereto, approved with modifications and additions by Law no. 142/2012, as amended and supplemented.

(3) The procedure to identify irregularities or fraud and to establish budgetary debts/financial corrections resulting from irregularities identified during the implementation of the projects or after the completion of their implementation, shall be carried out under the provisions of Government Emergency Ordinance no. 66/2011, approved with amendments and completions by Law no. 142/2012, as amended and supplemented.

(4) Recovery of budgetary debts resulting from irregularities from Romanian beneficiaries of the State aid scheme shall be carried out under the provisions of Government Emergency Ordinance no. 66/2011, approved with amendments and completions by Law no. 142/2012, as amended and supplemented, and from Hungarian beneficiaries, in line with the provisions of the Memorandum of Implementation.

## **ART. 23**

### **Final provisions**

(1) Having regard to the fact that this State aid is granted to European Territorial Cooperation projects, Romania, as the Member State on whose territory the Managing Authority is located, as defined in Article 45 of Regulation (EU) no 1059/2021 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instrument, is considered to be the provider of State aid for the ERDF financing part and as a result, the Managing Authority shall comply with these provisions.

(2) Each Member State shall provide the Managing Authority with the necessary information to comply with the relevant provisions at national level.

(3) Each Member State is considered a State aid provider for the national co-financing of European Territorial Cooperation projects and shall be responsible for complying with the relevant procedures.

(4) Each provider - Managing Authority, respectively Member State - shall be responsible for monitoring the projects or the project parts financed under this State aid scheme, in accordance with their national rules.

(5) The text of this scheme, the Guides for Applicants, as well as other relevant documents of the Programme will be published on the Interreg VI-A Romania-Hungary Programme website, at [Interreg - The Interreg Romania-Hungary Programme \(interreg-rohu.eu\)](https://interreg-rohu.eu).

## **ART. 24**

### **Publication**

This order is published in the Official Journal of Romania, Part I.

**MINISTER OF DEVELOPMENT, PUBLIC WORKS AND ADMINISTRATION**