

ORDER no 1200/2023

Establishing a de minimis 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 Government Emergency Ordinance no 77/2014 on national procedures in the field of State aid, as subsequently amended and supplemented, as well as for the amendment and supplementation of the Competition Law no 21/1996, approved with modifications and completions by Law no 20/2015, as further amended and supplemented,
- having regard to the Opinion of the Competition Council communicated with address no 7196 of 25.05.2023,
- under to Article 12(6) of Decision no 477 of 16 June 2020 on the organisation 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 de minimis aid scheme to set up a support measure consisting of de minimis aid granting under the Interreg VI-A Romania - Hungary Programme, hereinafter referred to as measure, for the implementation of certain activities under the specific objectives of SO 2.2 – *Promoting renewable energy* in accordance with Directive (EU) no 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.

- (2) The scheme is applicable in the 8 eligible counties of the Interreg VI-A Romania - Hungary Programme and will be implemented by 31.12.2023. 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 scheme does not fall under the notification obligation to the European Commission in accordance with Commission Regulation (EU) no 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid published in the Official Journal of the European Union, series L, no 352 of 24.12.2013, as amended (Reg EU no 1407)
- (4) The granting of de minimis aid under this scheme shall only be subject to complying with the de minimis criteria laid down in Regulation (EU) no 1407/2013.

ART. 2

Legal grounds

This scheme is developed in accordance with:

- a) Regulation (EU) No. 1407/2013 of December 18th, 2013;
- b) Government Emergency Ordinance no 77/2014 on national procedures in the field of State aid, as subsequently amended and supplemented, as well as for the amendment and supplementation of the Competition Law no 21/1996, approved with amendments by Law No 20/2015, as further amended and supplemented,
- c) EC Decision no. C(2022)9787/16.12.2022 regarding the approval of the Interreg VI-A Romania - Hungary Programme.

ART. 3

Scope and objective of the scheme

- (1) The objective of this de minimis 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 de minimis 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 eligible 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) **undertaking** - any entity that carries out economic activity, or supplies of goods, works or services on a market, regardless of legal status, association, NGO, public authority, etc. or its financing method. The application of the rules on state aid is not conditional on the existence of a profit-making purpose of the established entity; non-profit entities can also offer goods and services on a market.

g) **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) NGOs;

- (v) European Groupings of Territorial Cooperation, defined by Regulation (EC) no. 1082/2006 of the European Parliament and of the Council of July 5, 2006 regarding a European grouping of territorial cooperation (EGTC), amended by Regulation (EU) no. 1302/2013 of the European Parliament and of the Council of December 17, 2013 amending Regulation (EC) no. 1082/2006 regarding a European territorial cooperation grouping (EGTC) in terms of clarifying, simplifying and improving the establishment and functioning of such groups, as legal entities under private law, non-profit, with their own patrimony and based on the territory of a member state of the European Union. It carries out activities of public interest through which territorial cooperation is facilitated;
- h) **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;
- i) **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);
- j) **beneficiary of de minimis 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 Regulation (EU) No 1407/2013 of 18 December 2013;
- k) **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;
- l) **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;
- m) **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.

- n) **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;
- o) **De minimis 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 de minimis 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 non-refundable financing/national co-financing and the beneficiary of indirect de minimis aid.
- p) **agricultural product** - the products listed in Annex I to the TFUE, except fishery and aquaculture products listed in Regulation (EU) No 1379/2013;
- q) **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;
- r) **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;
- s) **single undertaking** - the concept includes all undertakings with at least one of the following relationships:
 - (i) an undertaking holds the majority of the voting rights of shareholders or associates of another undertaking;
 - (ii) an undertaking is entitled to appoint or remove a majority of the members of the administrative, management or supervisory bodies of another undertaking;
 - (iii) an undertaking is entitled to exercise a dominant influence over another undertaking under a contract concluded with the undertaking concerned or under a provision of the company agreement or its statutes;
 - (iv) an undertaking which is a shareholder or associate of another undertaking and which controls, by virtue of an agreement with other shareholders or members of that undertaking, the majority of the voting rights of the shareholders or associates of that undertaking.

Undertakings which, through one or more undertakings, maintain the relationships referred to in points q/ (i) to (iv) shall be considered as "single undertakings";

- t) **de minimis aid provider** - is the Managing Authority (MA) of the Interreg VI-A Romania-Hungary Programme for ERDF financing granted to the

- beneficiaries in Romania and Hungary, respectively the MA and local and central public institutions for the financing from the national co-financing (state and local budget) to the beneficiaries in Romania. MA is the structure that mainly manages the Programme on behalf of the two partner countries. The MA 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 MA is represented by the Ministry of Development, Public Works and Administration;
- u) 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) This scheme applies to aid granted to undertakings in all sectors, **except for**:
 - a) aid granted to undertakings active in the fishery and aquaculture sector, as covered by Regulation (EC) no. 1379/2013;
 - b) aid granted to undertakings active in the primary production of agricultural products;
 - c) 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 established on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings;
 - (ii) where the aid is conditional on being partly or entirely transferred to primary producers.
 - d) aid for export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditures linked to the export activity;
 - e) aid contingent upon the use of domestic over imported goods;
 - f) aid for the acquisition of road freight transport vehicles by undertakings performing road freight transport on behalf of third parties or for hire or reward.
- (2) Where an undertaking is active in the sectors referred to in paragraph (1) letter a) - c) and in one or more of the sectors of activity included in the scope of this de minimis scheme, it shall apply to aid granted for the eligible activity fields, provided that the beneficiary ensures by appropriate means, such as separation of activities or distinction of costs, that the activities carried out in sectors excluded from the scope of the scheme do not benefit from de minimis aid.

ART. 6

Duration of the de minimis aid scheme

(1) The period of validity of the scheme where de minimis aid will be granted is from the date of publication in the Official Journal of Romania, Part I, of this scheme, until 31st of December 2023.

(2) Payments for aid granted under this scheme shall be made no later than 30.06.2030.

ART. 7

Eligibility conditions for de minimis aid beneficiaries

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

- a) falls into one of the following categories:
 - i. public institution;
 - ii. body under public law;
 - iii. state company;
 - iv. NGOs;
 - v. European grouping of territorial cooperation;
- b) is not in one or more of the exclusion situations presented in article 136 letters a)-h) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) no. 1296/2013, (EU) no. 1301/2013, (EU) no. 1303/2013, (EU) no. 1304/2013, (EU) no. 1309/2013, (EU) no. 1316/2013, (EU) no. 223/2014, (EU) no. 283/2014 and Decision no. 541/2014/EU and repealing Regulation (EU, Euratom) no. 966/2012;
- c) have as their object of activity, according to the statute or as legal attributions, according to national legislation, the realization of the activities proposed by the project;
- d) have stable and sufficient financial resources throughout the duration of the project and its sustainability period;
- e) have not received funding support from public funds in the last 5 years prior to the submission of the funding request within the relevant call for project proposals for the same operation/project, in terms of objectives, activities and results;
- f) 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;
- g) is not resident for tax purposes in, or incorporated under the laws of, jurisdictions that feature on the European Union list¹ of non-cooperative jurisdictions for tax purposes.

(2) The total allocation of de minimis aid to the single undertaking for a period of 3 consecutive years (2 previous fiscal years and the current fiscal year), cumulated with the amount of financial allocation granted according to the provisions of the present scheme, does not exceed the equivalent in lei of EUR 200 000 (EUR 100 000 for

¹ 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

undertakings performing road freight transport on behalf of third parties for hire or reward);

(3) Where an undertaking performing road freight transport on behalf of third parties for hire or reward, and also carries out other activities to which the ceiling of EUR 200 000 applies, the ceiling of EUR 200 000, equivalent in RON, for the undertaking concerned, is subject to the presentation of the accounting records attesting the separation of the records of such activities or the distinction of costs in order to prove that the amount granted for the road freight activity does not exceed the equivalent in lei of EUR 100 000 and that de minimis aid is not used for the purchase of road freight transport vehicles.

(4) The de minimis ceilings apply irrespective of the form of de minimis aid or the objective pursued and whether the aid granted is funded wholly or partly from community resources.

(5) Compliance with the de minimis ceiling is intended for a single undertaking. Thus, if between the undertakings benefiting from this scheme, there is at least one of the relations referred to in Article 4 letter s), those structures will be treated as a sole "single undertaking".

(6) The total maximum de minimis aid amount which the single undertaking benefited from for a period of 3 consecutive years (2 previous tax years and the current tax year), cumulated with the amount of the tax allocation granted under the scheme's provisions, will not exceed the equivalent in EUR 200 000 (EUR 100 000 for undertakings performing road freight transport on behalf of third parties or against payment). These ceilings apply irrespective of the form of the de minimis aid or the objective pursued and whether the aid is financed by national or community sources.

(7) In the case of mergers or acquisitions, in determining whether any new de minimis aid granted to the new undertaking or the acquiring undertaking exceeds the relevant ceiling, all prior de minimis aid granted to any of the merging undertakings shall be taken into account. De minimis aid legally granted before the merge or acquisition shall remain legally granted.

(8) Where an undertaking is divided into two or more separate undertakings, the de minimis aid granted prior to the separation shall be allocated to the undertaking benefiting from it, namely, in principle to the undertaking, which takes over the activities for which the de minimis aid was used. Where such allocation is not possible, the de minimis aid shall be allocated proportionately on the basis of the book value of the equity capital of the new undertakings at the date when the separation takes effect.

(9) The set ceiling shall be expressed in the financial form as the gross value before any deduction of taxes or other charge.

ART. 8

Eligible expenditure

(1) The eligible activities to benefit from financing under the terms of this de minimis aid scheme are those mentioned in letters a)-d) of this paragraph, as well as in the Applicant's Guidelines, respectively:

a) for Specific Objective (OSR) 2.2 - Promotion of energy from renewable sources in accordance with Directive (EU) 2018/2001, including the sustainability criteria

provided for in it: infrastructure investment projects, including design documentation (e.g. studies, plans, etc.), for the production and distribution of energy from renewable sources (eg geothermal water);

b) for Specific Objective (OSR) 4.5 - Ensuring equal access to health care and ensuring the resilience of health systems, including in terms of primary health care, as well as promoting the transition from institutional care to family or community care: investments in infrastructure, equipment, IT software/hardware, support for eGovernment in the field of health; joint demonstrative/innovative projects in the field of health, including exploring cross-border treatment opportunities and (if possible) contributing to the reduction of cross-border obstacles (simplification of administrative procedures) related to health-oriented services;

c) for the Specific Objective (OSR) 4.6 - Increasing the role of culture and sustainable tourism in economic development, social inclusion and social innovation: the development of sustainable common cultural and/or touristic offers and products, including investments, incorporated in common tourism strategies for local development;

d) for Interreg Specific Objective (OSI) 6.3 - strengthening mutual trust, especially by encouraging interpersonal actions (small-scale projects that facilitate collaboration between communities and/or citizens): community events, such as fairs, festivals, etc., which facilitate the promotion and/or sale/purchase of products and/or services.

(2) The activities mentioned in paragraph (1) are indicative.

ART. 9

Eligible costs

(1) Eligible expenses under the scheme are those established by articles 38-44 of Regulation (EU) 1059/2021 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the objective of European Territorial Cooperation (Interreg) supported by the European Fund for regional development and external financing instruments.

(2) Staff costs are eligible. Staff costs shall consist of gross employment costs of staff employed by the Interreg partner in one of the following ways:

- (a) full time;
- (b) part-time with a fixed percentage of time worked per month;
- (c) part-time with a flexible number of hours worked per month; or
- (d) on an hourly basis.

(3) Staff costs shall be limited to the following:

- a) salary payments related to the activities which the entity would not carry out if the operation concerned was not undertaken, provided for in an employment document, either in the form of an employment or work contract or an appointment decision, or by law, and relating to responsibilities specified in the job description of the staff member concerned;
- b) any other costs directly linked to salary payments incurred and paid by the employer, such as employment taxes and social security including pensions

as covered by Regulation (EC) No 883/2004 of the European Parliament and of the Council (20), on condition that they are:

- (i) provided for in an employment document or by law;
- (ii) in accordance with the legislation referred to in the employment document and with standard practices in the country or the organisation where the individual staff member is actually working, or both; and
- (iii) not recoverable by the employer.

(4) With regard to para (3), letter (a), payments to natural persons working for the Interreg partner under a contract other than an employment or work contract may be assimilated to salary payments and such a contract shall be considered to be an employment document.

(5) Office and administrative costs shall be limited to the following elements:

- a) office rent;
- b) insurance and taxes related to the buildings where the staff is located and to the equipment of the office (such as fire or theft insurance);
- c) utilities (such as electricity, heating, water);
- d) office supplies;
- e) accounting;
- f) archives;
- g) maintenance, cleaning and repairs;
- h) security;
- i) IT systems;
- j) communication (such as telephone, fax, internet, postal services, business cards);
- k) bank charges for opening and administering the account or accounts where the implementation of an operation requires a separate account to be opened;
- l) charges for transnational financial transactions.

(6) Travel and accommodation costs, regardless whether such costs are incurred and paid inside or outside the Programme area, shall be limited to the following cost elements:

- a) travel costs (such as tickets, travel and car insurance, fuel, car mileage, toll, and parking fees);
- b) the cost of meals;
- c) accommodation costs;
- d) visa costs;
- e) daily allowances.

(7) External expertise and service costs shall be limited to the following services and expertise provided by a public or private body or a natural person, other than the beneficiary, and all partners of the operation:

- a) studies or surveys (such as evaluations, strategies, concept notes, design plans, handbooks);
- b) training;
- c) translations;
- d) development, modifications and updates to IT systems and website

- e) promotion, communication, publicity, promotional items and activities or information linked to an operation or to a programme as such;
- f) financial management;
- g) services related to the organisation and implementation of events or meetings (including rent, catering or interpretation);
- h) participation in events (such as registration fees);
- i) legal consultancy and notarial services, technical and financial expertise, other consultancy and accountancy services;
- j) intellectual property rights;
- k) verifications pursuant to point (a) of Article 74(1) of Regulation (EU) 2021/1060 and Article 46(1) of Regulation (EU) 2021/1059;
- l) costs for the accounting function on Programme level pursuant to Article 76 of Regulation (EU) 2021/1060 and Article 47 of Regulation (EU) 2021/1059;
- m) audit costs on Programme level pursuant to Articles 78 and 81 of Regulation (EU) 2021/1060 and pursuant to Articles 48 and 49 of Regulation (EU) 2021/1059;
- n) the provision of guarantees by a bank or other financial institution where required by Union or national law or in a programming document adopted by the monitoring committee;
- o) travel and accommodation for external experts, speakers, chairpersons of meetings and service providers;
- p) other specific expertise and services needed for operations.

(8) Costs for equipment purchased, rented or leased by the beneficiary of the operation shall be limited to the following:

- a) office equipment;
- b) IT hardware and software;
- c) furniture and fittings;
- d) laboratory equipment;
- e) machines and instruments,
- f) tools or devices;
- g) vehicles;
- h) other specific equipment needed for operations.

(9) Costs for the purchase of second-hand equipment may be eligible subject to the following conditions:

- a) no other assistance has been received for it from the Interreg funds or from the funds listed in point (a) of Article 1(1) of Regulation (EU) 2021/1060;
- b) its price does not exceed the generally accepted price on the market in question;
- c) it has the technical characteristics necessary for the operation and complies with applicable norms and standards.

(10) Costs for infrastructure and works shall be limited to the following:

- a) purchase of land in accordance with point (b) of Article 64(1) of Regulation (EU) 2021/1060;
- b) building permits;
- c) building material;

- d) labour;
- e) specialised interventions (such as soil remediation, mine-clearing).

Art. 10

The method of granting the de minimis aid

(1) Projects that have gone through the evaluation and selection process defined in the relevant documents of the Interreg VI-A Romania - Hungary Program can be financed under this scheme.

(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, against the assessment criteria mentioned at articles 7,8 and 9 hereinabove, as approved by the Programme's Monitoring Committee.

(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 state aid incidence 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 is undertaken by the Programme's Management Authority, in its capacity as de minimis aid provider.

(5) The scheme administrator verifies the fulfillment of the eligibility conditions and the granting of de minimis aid provided for in this scheme, including the existence of the de minimis Declaration and compliance with the de minimis threshold, for the beneficiaries of non-refundable funding/national co-financing who are also beneficiaries of de minimis aid, for activities that fall under de minimis aid.

(6) De minimis aid is granted in the form of non-refundable financing - grant - 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 Romanian state budget for Romanian beneficiaries of non-refundable financing, within the framework of the national co-financing contracts.

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

(8) For cases of indirect aid, de minimis aid is granted through the State aid contract concluded between the beneficiary of non-refundable financing/national co-financing and the beneficiaries of indirect de minimis aid. The beneficiary of the non-refundable financing /national co-financing has the obligation to request the administrator of the scheme to verify the fulfillment of the conditions for granting de minimis aid to the beneficiaries of indirect de minimis aid, before signing the de minimis aid awarding contract. For this purpose, the beneficiary of the non-refundable financing/national co-financing will request the beneficiaries of indirect de minimis aid the De minimis Declaration and will quantify the value of the indirect aid/economic advantage. The scheme administrator will verify the fulfillment of the conditions for

granting de minimis aid, including the amount of quantified aid and compliance with the de minimis threshold.

(9) Contracts granting indirect de minimis aid include clauses that ensure the fulfillment of all the conditions stipulated by this scheme, including the monitoring functions and the repayment of de minimis aid by the administrator/provider of the scheme.

(10) The self-responsible declaration of the beneficiary of de minimis aid/ the beneficiary of indirect de minimis aid, the De minimis Declaration, will cover the following aspects::

a) the de minimis aid received by the single undertaking in the fiscal year concerned and during the previous two fiscal years (either from the state or local authorities or from Community sources);

b) the structure of the single undertaking to which the beneficiary belongs to;

c) any other state aid previously received for the same eligible costs as those financed by this scheme;

d) the fact that it has not been the subject of state aid or de minimis decision or, if such a decision has been taken, it has already been executed and the debt fully recovered;

e) that the de minimis aid will not finance activities or domains exempted from this scheme.

(11) De minimis 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 de minimis aid beneficiaries' own declarations.

(12) In the light of monitoring the cumulation of de minimis aid that can be granted to companies during 3 consecutive fiscal years, in accordance with Regulation (EU) no. 1407/2013, the moment of awarding the de minimis aid is considered to be the date of signing the de minimis aid awarding contract.

(13) Where the total amount of the de minimis aid granted to a single undertaking over a period of 3 consecutive years, cumulated with the amount of the financial allocation granted under the scheme, exceeds the threshold of EUR 200,000 (EUR 100,000 in the case of single undertakings performing road freight transport for hire or reward), equivalent in lei, the undertaking cannot benefit from the scheme even for that fraction of aid that does not exceed this ceiling.

(14) By way of exception to paragraph (13), an enterprise to which the Member State of establishment intends to grant de minimis aid which, due to the existence of previous aid, would bring the total amount of aid granted to that enterprise above the ceiling of 200,000 euros for the duration of three financial years provided for in Article 3 paragraph (2) of Regulation no. 1407/2013, may opt, until this aid is granted, for the reduction of the requested financing or for the partial or full return of some aid already received, a fact that will be proven with appropriate documents.

(15) The de minimis aid granted under this scheme will not cumulate with other state aid according to art. 107 paragraph (1) of the Treaty on the Functioning of the European Union granted for the same eligible costs if such cumulation generates an

intensity of state aid exceeding the maximum intensity established in each case by a Block Exemption Regulation or by a decision adopted by the European Commission.

(16) De minimis aid granted in accordance with the provisions of this scheme may be cumulated with the de minimis aid granted in accordance with the provisions of Regulation (EU) no. 360/2012 of Commission of April 25th, 2012 on the application of articles 107 and 108 of the Treaty on the Functioning of the European Union to the de minimis aid granted to undertakings providing services of general economic interest within the limit of the ceiling laid down in that regulation. These may be cumulated with the de minimis aid granted under other de minimis regulations within the ceiling of EUR 200,000 (EUR 100,000 for undertakings performing road freight transport for hire or reward), equivalent in lei.

ART. 11

Notifying the de minimis aid beneficiary

(1) If the undertaking is not eligible to receive a specific allocation under this de minimis scheme, it will be notified in writing by the de minimis aid scheme administrator.

(2) Where the applicant undertaking is eligible to receive de minimis aid under this scheme, the scheme administrator must notify the beneficiary of the de minimis aid about the amount granted to it and its de minimis aid character, with a clear indication of Regulation (EU) No 1407/2013 by mentioning its title and the publication number in the Official Journal of the European Union.

ART. 12

Budget of the de minimis 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 20,000,000, out of which EUR 16,000,000 ERDF and EUR 4,000,000 national co-financing. The estimated value of the scheme budget for the year 2023 is EUR 20,000,000.

(3) The estimated budget of the de minimis aid can be modified according to the project selected for financing within the Interreg VI-A Romania-Hungary Programme, under the provisions of art.15 of Government Emergency Ordinance no. 77/2014, approved with amendments and supplements by Law no. 20/2015, with subsequent modifications.

ART.13

Number of beneficiaries

The estimated maximum number of de minimis aid beneficiaries is 200 eligible beneficiaries.

ART. 14

Monitoring and reporting

(1) The reporting and monitoring of the de minimis aid granted under this scheme is carried out by the Scheme Administrator, in accordance with the provisions of

Government Emergency Ordinance no. 77/2014, approved with subsequent amendments and completions by Law no 20/2015, with subsequent amendments and completions, and the Regulation on state aid monitoring procedures, implemented by Order no 441/2022 of the President of the Competition Council, as well as the provisions of the methodological rules laid down in Article 17, paragraph (2), the second thesis.

(2) The de minimis aid provider shall keep detailed records of the aid granted under this scheme for a period of 10 years from the date when the last specific allocation has been granted under the scheme. These records must contain all the information necessary to demonstrate compliance with the conditions imposed by the Community law on State aid.

(3) The beneficiary of the non-refundable financing/national co-financing, as well as the beneficiary of de minimis indirect aid shall keep detailed records of the de minimis aid granted/received for at least 10 years from the date on which the last specific allocation was granted under the de minimis aid scheme. Such records must contain all the information necessary to demonstrate compliance with the conditions imposed by Community de minimis aid law.

(4) The de minimis aid/indirect aid beneficiary 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.

(5) The beneficiary of the de minimis aid /indirect de minimis 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 de minimis aid, in the format provided by the scheme provider. The beneficiary of the non-reimbursable financing makes the relevant data and information available to the scheme administrator, in order for him to fulfill the reporting and monitoring obligations provided for in paragraph (1).

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

(7) The de minimis aid provider shall continuously monitor the ongoing de minimis 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 10.

(8) Based on a written request, the de minimis 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 de minimis aid scheme.

(9) The administrator of this scheme shall make available to the de minimis 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.

(10) The de minimis 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 de minimis aid at national level.

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

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

ART. 15

Notifying the Competition Council

The de minimis aid provider will, for information purposes, submit to the Competition Council this scheme within 15 days from its adoption date, according to art. 17 of Government Emergency Ordinance no. 77/2014, approved with subsequent amendments and completions by Law 20/2015, as amended.

ART. 16

Transmitting information through Electronic Register of state aid granted in Romania (RegAS)

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

(2) The financing contracts, aid awarding acts, payments, recovery obligations and effective repayment of such obligations related to this measure will be entered into the Registry within maximum 7 (seven) days after the contract/ act signature, respectively from the date of the establishment of payments, the recovery obligations or the effective repayment of such obligations.

ART. 17

Recovery of the de minimis 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 de minimis aid granted to Romanian de minimis aid beneficiaries is carried out by the aid provider, based on the monitoring performed by the scheme administrator, in accordance with provisions of Government Emergency Ordinances no 77/2014, as approved and amended by Law no 20/2015, as amended, and from the beneficiaries of the partner state, according to the provisions of the Memorandum of Implementation - arrangements between the Member States involved in the Interreg VI-A Romania-Hungary Programme and the other legal provisions applicable to the financing contract. For this purpose, the provider of the de minimis aid scheme will develop the methodology for the recovery of the aid.

(3) The aid to be recovered shall also include interest due from the date of payment of the aid until the date of its recovery. The applicable interest rate shall be

that fixed by Regulation (EC) no 794/2004 of 21 April 2004 implementing Council Regulation (EU) no 1589/2015 laying down detailed 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 30.4.2004, as amended and supplemented, and in compliance with the provisions of Regulation (EU) no 1589/2015 of 13 July 2015 laying down detailed 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 de minimis aid is carried out on the basis of the contract for granting the indirect de minimis aid, the recovery decision issued by the supplier, in accordance with the rules of the Program and with the methodology provided for in paragraph (2) the second thesis, as well as with the provisions of the Memorandum of Implementation - arrangements between the member states involved in the Interreg VI-A Romania-Hungary Program, depending on the member state where the beneficiary of de minimis aid is located.

ART. 18

Irregularities and reimbursement of financing not falling under the de minimis aid rules

(1) Where irregularities are found in projects implemented under the specific objectives financed through this de minimis aid 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 contract/de minimis aid awarding contract, the Managing Authority shall carry out checks on the eligibility of expenditure incurred by Romanian beneficiaries of the de minimis aid scheme during the technical and financial implementation of the projects (use of the approved de minimis aid scheme budget), in accordance with 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 completions by Law no. 142/2012, as further 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.

(4) Recovery of budgetary debts resulting from irregularities from Romanian beneficiaries of the de minimis 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. 19

Final provisions

- (1) Having regard to the fact that this de minimis 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, is considered to be the provider of de minimis 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 de minimis 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 - the Managing Authority, respectively the Member State - shall be responsible for monitoring the projects or the project parts financed under this de minimis 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 \(interreg-rohu.eu\)](http://interreg-rohu.eu).

ART. 20

Publication

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

MINISTER OF DEVELOPMENT, PUBLIC WORKS AND ADMINISTRATION