

**DE MINIMIS AID SCHEME** for activities within the investment priorities 6/c - *Conserving, protecting, promoting and developing natural and cultural heritage*, 7/c *Developing and improving environmentally-friendly (including low noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility* and 8/b - *Supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources*, - published in the Official Journal of Romania no. 861/01.11.2017

## **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 V-A Romania - Hungary Programme, hereinafter referred to as measure, for the implementation of certain activities within the investment priorities 6/c - Conserving, protecting, promoting and developing natural and cultural heritage, 7/c - Developing and improving environmentally-friendly (including low noise) and low-carbon transport systems including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility and 8/b - Supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources, hereinafter referred to as scheme.

(2) The scheme is applicable in the 8 eligible counties of the Interreg V-A Romania - Hungary Programme, which will be implemented by 31.12.2020. Under Interreg V-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, 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. L 352 of 24.12.2013.

(4) The granting of *de minimis* aid under this scheme will only be made 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 regarding the national procedures in the field of state aid, as well as for amending and completing the Competition Law no. 21/1996, approved with subsequent amendments and completions by Law no.20/2015, as amended;
- c) EC Decision no. 9.112/09.12.2015 regarding the approval of the Interreg V-A Romania-Hungary Programme.

### **Art. 3 Scope and objective of the scheme**

(1) The scheme aims at supporting the development of the eligible area of the Interreg V-A Romania-Hungary Programme through aid granted for cultural heritage, environmentally-friendly local transport and labour force development in the eligible area of the Interreg V-A Romania-Hungary Programme.

(2) This scheme aims at stimulating and supporting projects in the fields of natural and cultural heritage, transport and employment.

### **Art. 4 Definitions**

For the purpose of this scheme, in the context of the Interreg V-A Romania-Hungary Program, the following relevant definitions apply:

- a) **aid** - any support measure that fulfils all the criteria set out in Article 107 (1) TFEU;
- b) **beneficiary of the non-refundable financing** - an entity that falls into one of the following categories as defined in the Guide for Applicants to these investment priorities, participating in the implementation of a project financed under these investment priorities. 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.
- c) **lead beneficiary of the non-refundable financing** - the partner responsible for the overall implementation of the joint project financed under the investment priorities of the Interreg V-A Romania-Hungary Programme. The lead beneficiary will conclude the Partnership Agreement with the project beneficiaries and the Subsidy Contract for the financing from the European Regional Development Fund, with the Managing Authority of Interreg V-A Romania-Hungary Programme. The lead beneficiary is responsible for the transfer to the project beneficiaries of their ERDF contributions;

d) **national co-financing beneficiary** - the Romanian partner in the joint project financed under Interreg V-A Romania-Hungary Programme (the lead beneficiary of the non-refundable financing or the project beneficiaries);

e) **beneficiary of *de minimis* aid** - an undertaking benefiting within a project funded under the investment priorities provided in art. 1 paragraph (1) from *de minimis* aid for the activities described below in this scheme;

f) **Subsidy contract** - the legal document signed between the Managing Authority of the Interreg V-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 operations under the Interreg V-A Romania - Hungary Programme;

g) **Partnership Agreement** - the agreement signed by all partners in the project that regulates project beneficiaries' rights and obligations in relation to project activities and other issues that need to be regulated in order to properly implement the project;

h) **Co-financing contract**- the legal document signed between the Managing Authority of the Interreg VA Romania - Hungary Programme, on the one hand, and the Romanian beneficiary of the national co-financing, on the other hand, establishing the correlative rights and obligations of the parties for the implementation of the operations within the Interreg VA Romania - Hungary Programme;

i) ***De minimis* aid awarding contract** - the administrative document of transferring the economic advantage to the beneficiary of *de minimis* aid, concluded either between the MA and the non-refundable financing beneficiary when it is also a beneficiary of *de minimis* aid (in which case the *de minimis* aid awarding contract takes the form of the Subsidy contract/ Co-financing contract) or between the beneficiary of the non-refundable financing and the *de minimis* aid beneficiary, as the case may be;

j) **discount rate** - is the reference rate established by the European Commission for Romania based on objective criteria and published in the Official Journal of the European Union and on the web site [www.ajutordestat.ro](http://www.ajutordestat.ro);

k) **undertaking** - any entity engaged in an economic activity, irrespective of its legal status, its funding method or the existence of a lucrative scope; this category includes self-employed workers, family businesses as well as partnerships or associations which regularly carry out an economic activity;

l) **economic activity** - any activity consisting in the supply of goods, services or works on a market;

m) **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 (i) to (iv) shall be considered as "single undertakings";

n) **de minimis aid provider** - is the Managing Authority of the Interreg V-A Romania - Hungary Programme (MA) 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 competences 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 Regional Development, Public Administration and European Funds (MRDPAEF);

o) **administrator of the scheme** - Oradea Regional Office for Cross-Border Cooperation for Romania-Hungary Border (BRECO). BRECO contributes to the current implementation of the Programme and supports the Managing Authority in its coordination and implementation activities;

p) **agricultural products** - products listed in annex I to the Treaty, with the exception of fishery and aquaculture products provided for in Regulation (EC) no. 1379/2013 of the European Parliament and of the Council of December 11th, 2013 on the common organization of the markets in fishery and aquaculture products, amending Regulations (EC) 1184/2006 and (EC) no. 1224/2009 of the Council and repealing Regulation (EC) no 104/2000, published in the Official Journal of the European Union series L no. 354 / 28.12.2013;

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.

## **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. 717/2014 of the European Parliament and of the Council;

- 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 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;
  - (ii) where the aid is conditional on being partly or entirely passed on 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 expenditure 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 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 31<sup>st</sup> of December 2020.
- (2) Payments for aid granted under this scheme shall be made no later than 31<sup>st</sup> of December 2023.

#### **Art. 7. Eligibility conditions for *de minimis* aid beneficiaries**

- (1) The eligible activities to qualify for the *de minimis* aid scheme are:
  - a) Investment Priority 6/c - Conserving, protecting, promoting and developing natural and cultural heritage, which includes:
    - (i) improving the conservation status of monuments and buildings that are part of the natural or cultural heritage of the area (for example churches, castles, museums, theatres, natural parks, protected natural areas);
    - (ii) preservation, promotion and development of intangible cultural heritage;

(iii) digitization and bringing online cultural heritage, reusing the digitized cultural heritage for educational content, documentaries, tourism applications, games, etc. to foster creative industries;

(iv) development, reconstruction and promotion of cultural facilities that protect the cultural heritage of the eligible area;

(v) creation of thematic routes;

(vi) the promotion and utilization of cultural heritage potential by investments in sustainable touristic infrastructure.

b) Investment Priority 7/c - Developing and improving environmentally-friendly (including low noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility, which includes:

(i) development of cross-border intelligent transport system, passenger information system, on-line schedule, e-ticketing, mobile apps, common tariff systems;

(ii) development and integration of cross-border public transport services;

(iii) innovative solutions to improve cross-border public transport and reduce transport-related emissions.

c) Investment Priority 8/b - Supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources, which includes:

(i) implementation of cross-border employment initiatives, cross-border cooperation between relevant stakeholders of labour market (for example employment centres, training providers, social partners, enterprises and NGOs);

(ii) targeted actions facilitating the creation of local products/ services and related infrastructures, based on the local potential;

(iii) increase employment by improving business environment through integrated development measures;

(iv) support for climate change and mitigation through the development of green skills and green employment opportunities in sectors based on local potential.

(2) The above mentioned activities, at paragraph (1) are indicative. Other eligible activities under the Investment Priorities 6/c, 7/c and 8/b that are not included in the Guide for Applicants and/or in the Fact sheet related to Investment Priorities 6/c, 7/c and 8/b will be assessed and, as a consequence, classified by the external State aid assessor, as the case may be.

## **Art. 8. Eligible beneficiaries**

(1) Beneficiaries of the facilities provided for in this Scheme may be undertakings that meet the following conditions:

a) are not insolvent, do not have affairs administered by a syndic judge, have no restrictions on commercial activity, are not the subject of arrangements between creditors and are not in a situation similar to the above, regulated by law;

- b) do not register public debts and have paid in due time their taxes, obligations and other contributions to the state budget, special budgets and local budgets provided by the legislation in force;
- c) the legal representative of the undertaking has not been convicted of *res judicata* for fraud, corruption, involvement in criminal organizations or other illegal activities to the detriment of the financial interests of the European Community;
- d) the legal representative of the undertaking has not been the subject of *res judicata* in the last 3 years by any court for professional or ethical reasons;
- e) the legal representative of the undertaking does not provide false information;
- f) do not carry out activities in the areas exempted from financing under the terms of this scheme. Where an undertaking is active in the sectors referred to in article 5, 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;
- g) 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 wholly recovered;
- h) 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 undertakings performing road freight transport for hire or reward);
- i) where an undertaking performing road freight transport 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 ;

(2) 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.

(3) 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 at Article 4 letter m), those structures will be treated as a sole "single undertaking "

(4) 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 ceiling 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.

(5) 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.

(6) 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.

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

#### **Art. 9. Financing conditions**

Under the *de minimis* aid scheme only projects that meet the following cumulative conditions will be funded:

a) are not and have not been previously funded from other national or community public funds, including *de minimis*/state aid measures, for the same eligible costs (consistent with the beneficiaries' own declarations);

b) general principles to be complied with by projects: sustainability, cost efficiency:

(i) to justify the contribution to the specific objective;

(ii) to have added value, cross-border impact;

(iii) to comply with horizontal principles.

#### **Art. 10. Eligible expenditure**

Eligible costs under the scheme are those outlined in the Guide for Applicants for investment priorities under the scheme.

#### **Art. 11. How *de minimis* aid is awarded**

(1) The *de minimis* aid scheme provider shall launch a call for proposals.

(2) The lead beneficiary of the non-refundable financing must submit to the Programme a project proposal in accordance with the call for proposals, a proposal to be selected by the Monitoring Committee of the Interreg V-A Romania - Hungary Programme in accordance with the Guide for Applicants investment priorities outlined in this scheme.

(3) Project proposals are assessed from the administrative and eligibility point of view by the *de minimis* scheme administrator. The quality assessment and the assessment of the state aid are carried out by external assessors on the basis of assessment criteria approved by the Programme's Monitoring Committee.

(4) The Monitoring Committee approves the list of projects proposed for financing and the Managing Authority signs Subsidy contracts with the lead beneficiaries of ERDF financing and national co-financing contracts with the Romanian beneficiaries.



(5) From the point of view of the state aid, under the Interreg V-A Romania-Hungary Programme, the beneficiary of a non-refundable financing can be in one of the following situations:

- a) the beneficiary of the non-refundable financing is also the final beneficiary of *de minimis* aid;
- b) the beneficiary of the non-refundable financing is a *de minimis* aid beneficiary for part of the funding but also transfers a part of the aid/advantage in a transparent way to another *de minimis* aid beneficiary taking into account the procedure outlined below;
- c) the beneficiary of the non-refundable financing is only an intermediary and transfers all aid/advantage in a transparent way to the final beneficiary of the *de minimis* aid, taking into account the procedure outlined below.

(6) In each of the cases referred to in the paragraph (5), the manner in which the *de minimis* aid is awarded concerns the following aspects:

a) Meeting all the eligibility conditions set out in this *de minimis* scheme for obtaining the *de minimis* aid is being checked by:

(i) The Managing Authority, when assessing applications, if the beneficiary of the *de minimis* aid is also the beneficiary of the non-refundable financing, respectively when the *de minimis* beneficiary can be identified in the application phase. In this case, the beneficiaries of *de minimis* aid will attach to the application form the *de minimis* declaration.

(ii) The non-refundable financing beneficiary, based on the *de minimis* aid awarding contract, where the non-refundable financing beneficiary transfers part or all of the aid/advantage to a *de minimis* aid beneficiary that cannot be identified in the application phase. Furthermore, compliance with the conditions for granting the *de minimis* aid under the *de minimis aid* awarding contract, concluded between the beneficiary of the non-refundable financing and the *de minimis* aid beneficiary will be subject to verification by the Managing Authority during the implementation of the project and reimbursement of the expenditure. If deviations are found, they will be analyzed from the perspective of the irregularity and / or fraud regime and the recovery of such *de minimis* aid shall be ordered. The signing of the *de minimis* aid awarding contract between the beneficiary of the *de minimis* aid and the beneficiary of the non-refundable financing will be a mandatory condition stipulated in the financing contract between the beneficiary of the non-refundable financing and the Managing Authority as a mandatory condition for the reimbursement of the validated expenditure related to the project. The signing of the *de minimis* aid awarding contract is conditional on the *de minimis* aid beneficiary providing the *De minimis* declaration.

b) the relationship between the *de minimis* aid beneficiary and the Programme in relation to the obligations arising from the granting, monitoring and recovery of *de minimis* aid is regulated by the *de minimis* aid awarding contracts concluded between:

(i) The Managing Authority and the beneficiary of the non-refundable financing, if the beneficiary of the *de minimis* aid is also beneficiary of the non-refundable

financing, and in this case the contract for awarding the *de minimis* aid takes the form of the Subsidy Contract (including the Partnership Agreement) / the Co-financing contract,

and also between:

(ii) The beneficiary of the non-refundable financing and the *de minimis* aid beneficiary, if the beneficiary of the non-refundable financing transfers part or all of the aid received through the subsidy / co-financing contract.

(7) The contract awarding *de minimis* aid, concluded either between the MA and the beneficiary of the non-refundable financing, or between the beneficiary of the non-refundable financing and each final beneficiary of *de minimis* aid under this scheme, according to the aforementioned situations, will contain clauses to ensure the fulfilment of *de minimis* aid monitoring functions by the aid provider / scheme administrator, including for cases of aid transfer or indirect aid.

(8) The declaration on own responsibility of the final beneficiary of *de minimis* aid will address 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 a 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.

(9) If the final beneficiaries of the *de minimis* aid cannot be identified at the time of submission of the project proposal, due to the specific nature of the activities described, the lead beneficiary of the non-refundable financing is bound to collect the *de minimis* declarations according to the Subsidy contract concluded with the MA. The *de minimis* scheme administrator will monitor the fulfilment of this requirement through monitoring and first-level control.

(10) 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.

(11) 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.

(12) The beneficiary of the non-refundable financing will grant the *de minimis* aid after deciding, on the basis of the undertaking's declaration on own responsibility, that the total amount of the *de minimis* aid received by the single undertaking over a period of three consecutive years (the previous 2 fiscal years and the fiscal year concerned) either from local government sources or from community sources, cumulated with the amount of financial allocations granted in accordance with the provisions of this scheme, does not exceed the threshold of EUR 200 000 (EUR 100 000 for undertakings performing road freight transport for hire or reward), equivalent in lei.

(13) 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.

(14) *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 25<sup>th</sup>, 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.

(15) The aid is granted in the form of a non-refundable financing from the ERDF Community funds and national funds. Where the aid is granted in instalments, the instalment shall be discounted to its value at the moment when the aid is granted. The discount rate will be the reference rate applied when granting the aid.

#### **Art. 12. Notifying the *de minimis* aid final beneficiary**

If the final beneficiary of the *de minimis* aid is not eligible to receive a specific allocation under this *de minimis* scheme, it will be notified in writing either by the *de minimis* aid scheme administrator (when the final beneficiary of the *de minimis* aid is also beneficiary of non-refundable financing, respectively when the final beneficiary of the *de minimis* aid can be identified at the moment of submitting the application) or, as the case may be, by the beneficiary of the non-refundable financing (in case it transfer entire or part of *de minimis* aid/advantage to a *de minimis* aid beneficiary which cannot be identified in the application phase). ,

#### **Art. 13. Budget of the *de minimis* aid scheme**

(1) The budget of the scheme is made up of ERDF funds and national co-financing.

(2) The Interreg V-A Romania-Hungary Programme represents the financing source of the present scheme.

(3) The estimated value of the *de minimis* scheme budget, for the entire period of its implementation, is of EUR 27.116.235, broken down as follows:

a) Priority Axis 1 (Investment priority 6/c): ERDF funds: EUR 6.893.225, national co-financing: EUR 608.226;

b) Priority Axis 2 (Investment priority 7/c): ERDF funds: EUR 3.981.350, national co-financing: EUR 351.295;

c) Priority Axis 3 (Investment priority 8/b): ERDF funds: EUR 14.043.047, national co-financing: EUR 1.239.092;

(4) The estimated budget of the *de minimis* aid can be modified according to calls for project proposals within the Interreg V-A Romania-Hungary Programme.

(5) The breakdown of the budget by categories of expenditure, according to the *de minimis* aid may undergo changes according to the project proposals within the Interreg V-A Romania-Hungary Programme.

#### **Art. 14. Number of beneficiaries**

The maximum estimated number of *de minimis* aid beneficiaries is of 600 eligible beneficiaries.

#### **Art. 15. Notifying the *de minimis* applicant**

(1) If the applicant is eligible to receive financing under this *de minimis* scheme and is selected for financing following the assessment process, the administrator of the *de minimis* aid scheme shall notify in writing the beneficiary undertaking on the maximum amount of aid that may be granted and its *de minimis* nature, making explicit reference to (EU) Regulation no. 1407/2013 by mentioning its title and the publication number in the Official Journal of the European Union.

#### **Article 16. Reporting and monitoring**

(1) The reporting and monitoring of the *de minimis* aid granted under this scheme shall be in accordance with the provisions of Government Emergency Ordinance no. 77/2014, approved with subsequent amendments and completions by Law 20/2015, as amended, respectively of the Regulation on state aid monitoring procedures, approved by Order of the President of the Competition Council. 175/2007.

(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. This record 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 and the beneficiary of the *de minimis* aid shall keep a detailed record of the *de minimis* aid granted for a period of at least 10 years from the date when the last specific allocation was granted under the *de minimis* aid scheme. This record must contain all the information necessary to demonstrate compliance with the conditions imposed by Community legislation in the field of *de minimis* aid.

(4) The beneficiary shall answer, within the deadline set by the Competition Council, to any request for information on the state aid or the *de minimis* aid received. The deadline set by the Competition Council may not be less than 5 working days.

(5) The beneficiary of *de minimis* aid shall report to the beneficiary of the non-refundable financing all the data and information necessary to monitor the *de minimis* aid, using the format provided by the scheme provider

(6) The beneficiary of the *de minimis* aid shall repay the full amount of the *de minimis* aid received in the event of non-compliance with the aid granting conditions, including the related interest. The beneficiary of the non-refundable financing is bound to notify the scheme provider/ administrator on the need to recover the *de minimis* aid.

(7) *De minimis* aid providers shall constantly monitor the ongoing *de minimis* aid and to order the necessary measures in case of breach of the conditions imposed by this scheme or by the applicable 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, paragraph (6), letter b).

(8) The *de minimis* aid to be repaid or recovered includes the related interest due from the payment date until the date of recovery or full repayment. The *de minimis* scheme Provider/ Administrator will develop methodological rules, approved by administrative acts, for stopping/recovering the aid, which will be forwarded to the Competition Council within 5 working days from the date of approval.

(9) The applicable interest rate is the one established under article 14 paragraph (2) of Council Regulation (EC) no. 659/1999 of 22 March 1999 laying down detailed rules for the application of art. 93 of the EC Treaty.

(10) The decisions of the *de minimis* aid provider to recover the *de minimis* aid shall be submitted to the Competition Council, for information, within 5 days from the date of being adopted.

(11) On the basis of a written request, the *de minimis* aid provider shall submit to the European Commission through the Competition Council, within 20 working days or within the deadline set out in the request, all information that the European Commission considers necessary to assess the compliance with the terms of this *de minimis* aid scheme.

(12) The administrator of this scheme shall make available to the *de minimis* aid provider, in the format and within the time limit 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.

(13) 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, enforced by Order of Competition Council President no 175/2007, all data and information necessary for the monitoring of the *de minimis* aid at national level.

(14) Where the *de minimis* aid provider has no definitive data on the amount of the *de minimis* aid, it will provide estimated values.

(15) Errors ascertained by the *de minimis* aid provider and legal corrections, cancellations, recalculations, recoveries, reimbursements shall be reported by March 31<sup>st</sup> of the year following the reporting year.

(16) If there are serious doubts on the data submitted by the *de minimis* aid provider, the Competition Council may request additional data and information and, if necessary, carry out a control action on the beneficiary of the *de minimis* aid. The Competition Council's control team will be accompanied by representatives of the *de minimis* aid provider.

(17) If the *de minimis* aid provider does not implement the measures required to comply with the state aid law, the Competition Council issues decisions to stop or recover the *de minimis* aid. The decisions issued by the Competition Council are enforceable.

#### **Art. 17. 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. 18. 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 V-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 to the Registry within maximum 7 (seven) days after contract/ act signature, or of their publication in the Official Journal of Romania, as the case may be, respectively from the date of the establishment of payments, the recovery obligations or the effective repayment of such obligations.

#### **Art.19. Recovery of the state aid**

(1) If any of the criteria set out in this Scheme are found to be non-compliant, all necessary steps shall be taken to recover the *de minimis* aid, including related interests, calculated in accordance with the Community provisions in force.

The recovery of the *de minimis* aid from Romanian beneficiaries is carried out by the state aid provider, based on the provisions of Government Emergency Ordinance no. 66/2011 regarding the ascertaining and sanctioning of irregularities occurred in the obtainment and usage of European funds and/or related national public funds, as subsequently amended and supplemented by Law no.142/2012, as amended and supplemented and other legal provisions applicable to the financing contract. The *de minimis* aid recovery from the beneficiaries of the partner state shall be carried out by the *de minimis* aid provider, based on Memorandum of Implementation provisions - agreements between Member States involved in Interreg V-A Romania-Hungary Programme, and other legal provisions applicable to the financing contract. The applicable interest rate shall be that laid down in Regulation (EC) no. 794/2004 of 21 April 2004 implementing the Council Regulation (EC) no. 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, published in the Official Journal of the European Union series L no. 140/30.04.2004, as subsequently amended and supplemented, and in compliance with the provisions of the Council Regulation (EU) 2015/1589 of July 13th, 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 248/24.09.2015.

(2) If the beneficiary of the *de minimis* aid is similar to the beneficiary of the non-refundable financing, the recovery of the *de minimis* aid provided in the current scheme is made by MRDPAEF, as Managing Authority for the Interreg V-A Romania - Hungary Programme, according to the Government Emergency Ordinance no. 77/2014, approved with its amendments and completions by Law no. 20/2015, as amended, and the Government Emergency Ordinance no. 66/2011, approved with the amendments and completions by Law no. 142/2012, as amended and supplemented. This recovery shall be made on the basis of the financing contract concluded between the Managing Authority for the Interreg V-A Romania Programme - Hungary and the beneficiary of the non-refundable financing.

(3) Where the non-refundable financing beneficiary is different from the *de minimis* aid beneficiary, is the non-refundable financing beneficiary obligation to ensure this recovery from the beneficiary of the *de minimis* aid, based on the *de minimis* aid awarding contract. The recovery shall be carried out under the same conditions as stipulated in paragraph (1) and (2).

(4) If the beneficiary of non-refundable financing is a *de minimis* aid beneficiary for a part of the grant but also transfers a part of the aid/advantage to another beneficiary of *de minimis* aid, it is the non-refundable financing beneficiary's responsibility to ensure this recovery from the beneficiary of the *de minimis* aid, based on the *de minimis* aid awarding contract. The recovery shall be carried out under the same conditions as stipulated in paragraph (1) - (4).

(5) In all the situations described above, the recovery of the *de minimis* aid and related interest will be pursued in order to ensure that the situation existing beforehand is restored.

(6) Given that this *de minimis* aid is granted for European Territorial Cooperation projects, Romania, as the Member State on whose territory the Managing Authority is located, as defined in Art. 21 of Regulation (EU) no. 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European

Regional Development Fund to the European territorial cooperation goal, is considered to be the *de minimis* aid provider for the ERDF financing part, and as a result the Managing Authority shall comply with these provisions.

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

(8) Each Member State is considered as *de minimis* aid provider for the national co-financing related to European Territorial Cooperation projects and shall be responsible for complying with such procedures.

(9) Each provider (Managing Authority vs. Member State) shall be responsible for monitoring projects or parts of projects under the *de minimis* aid, in accordance with their national rules established in accordance with the provisions of this Article.

#### **Art. 20 Final Provisions**

(1) The text of this scheme as well as the Guide for Applicants will be published, entirely, on the Interreg V-A Romania-Hungary Programme website at <http://interreg-rohu.eu/ro/home/>.

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