

Minister Order no 578 of April 20th, 2021

Regarding the stopping and/or recovery of state aid or de minimis aid awarded through De minimis scheme approved by Order of Minister Delegate for European Funds no 6509/2017 *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 in the context of Interreg V-A Romania-Hungary Programme* and through State aid scheme approved by Order of Minister Delegate for European Funds no 6510/2017 *intended to finance investment priorities 6/c - Conserving, protecting, promoting and developing natural and cultural heritage 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, under Interreg V-A Romania-Hungary Programme*

Issuer: Ministry of Development, Public Works and Administration

Published: Official Journal of Romani, no 484 of May 11th, 2021

Entry into force: May 11th, 2021

Having regard to the provisions of:

- Article 25 (5) of the Government Emergency Ordinance No 77/2014 on national procedures in the field of State aid, as well as on the amendment and completion of the Competition Act No 21/1996, as amended and supplemented by Law No. 20/2015, with subsequent amendments and completions;
- Government Emergency Ordinance No. 66/2011 on the prevention, detection and sanctioning of irregularities in the obtaining and use of European and/or national public funds relating thereto, amended and supplemented by Law No 142/2012, with subsequent amendments and completions;
- Article 4 (2) letter p) of Government Decision No. 477/2020 on the organisation and functioning of the Ministry of Public Works, Development and Administration;
- Order of Minister Delegated for European Funds no 6510/2017 intended to finance investment priorities 6/c - Conserving, protecting, promoting and developing natural and cultural heritage 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, under Interreg V-A Romania-Hungary, with subsequent amendments and completions;
- Order of Minister Delegated for European Funds no 6509/2017 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 in the context of Interreg V-A Romania-Hungary Programme, with subsequent amendments and completions;

- Memorandum of Implementation (MoI) – Arrangements between the Member States involved in the Interreg V-A Romania – Hungary Programme - concluded between the Ministry of Public Works, Development and Administration, as a Member State and Managing Authority with certification function, and the Hungarian Ministry of Foreign Affairs and Trade, as a Member State and National Authority (NA);

- Interreg V-A Romania-Hungary programme, approved by Decision No.9112 of 09.12.2015, as amended by European Commission Decision No.1783 of 07.03.2019, with subsequent amendments and additions;

Pursuant to the provisions of Article 12 (6) of Government Decision No 477/2020,

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

Order:

Chapter I

Stopping and recovery of State aid/de minimis aid ordered by the Ministry of Development, Public Works and Administration as a result of monitoring of State aid/de minimis aid granted under the Interreg V-A Romania-Hungary Programme

Article 1

- (1) The Ministry of Development, Public Works and Administration, as the Managing Authority for the Interreg V-A Romania-Hungary Programme, as provided for in Article 4 (2) letter p) of Government Decision No 477/2020 on the organisation and functioning of the Ministry of Public Works, Development and Administration, and provider of State aid and/or de minimis aid, in accordance with Order of Minister Delegated for European Funds no 6509/2017 *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 in the context of Interreg V-A Romania-Hungary Programme*, with subsequent amendments and completions and Order of Minister Delegated for European Funds no 6509/2017 *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 in the context of Interreg V-A Romania-Hungary Programme, with subsequent amendments and completions, having regard to the implementation of the transparent State aid scheme and the De minimis scheme under the Interreg V-A Romania-Hungary Programme, hereinafter referred to as the Programme, has to provide a unified framework for their monitoring.

- (2) Monitoring will be carried out by the schemes' administrator, namely Oradea Regional Office for Cross-Border Cooperation for the Romania Hungary Border (BRECO), in accordance with the provisions of the Order of the Minister Delegated for European Funds No. 6509/2017, with subsequent amendments and completions, and the Order of the Minister Delegated for European Funds No 6509/2017. 6510/2017, with subsequent amendments and completions. If the recipient of State aid and/ or de minimis does not coincide with the recipient of non-refundable funding (indirect aid), the monitoring of State aid/de minimis will be carried out by the scheme administrator at the level of the recipient of non-refundable financing who granted the indirect aid. The recipient of non-refundable funding shall make available to the scheme administrator all relevant data and information provided by the final beneficiaries of State aid/de minimis aid.

Article 2

- (1) The scheme administrator may make on-the-spot visits to the location of projects under implementation/during the sustainability period, in accordance with the provisions of the Subsidy contract, of the Government Emergency Ordinance No. 77/2014 on national procedures in the field of State aid, as well as on the amendment and completion of the Competition Act No 21/1996, as amended and supplemented by Law No. 20/2015, with subsequent amendments and completions, and in accordance with the Programme documents.
- (2) In case the scheme administrator finds a situation which, according to provisions of Art. 2, (1), letters f) and g) of Government Emergency Ordinance No. 77/2014, as amended and supplemented by Law No. 20/2015, with subsequent amendments and completions, as well as with the regulatory provisions of the schemes, leads to action being taken with regard to the granting of State aid/de minimis aid, it will mention the findings in a report which will include also the determination of the amount proposed for recovery.
- (3) The report referred to in paragraph (2) shall be forwarded to the scheme provider within 3 days of its issuance.
- (4) In performing the powers of State aid/de minimis aid provider, where the schemes' administrator identifies a situation falling under the scope of Article 2 (1) a), a1) and b) of Government Emergency Ordinance No 66/2011 on the prevention, detection and sanctioning of irregularities in the obtaining and use of European and/or national public funds relating thereto, amended and supplemented by Law No 142/2012, with subsequent amendments and completions, it will complete the form set out in Annex 2 to the Methodological Rules for the Implementation of the Provisions of the Government Emergency Ordinance No 66/2011 on the on the prevention, detection and sanctioning of irregularities in the obtaining and use of European and/or national public funds relating thereto approved by Government Decision

No 875/2011, with subsequent amendments and additions, respectively Suspicion of Irregularity/Suspicion of Fraud.

- (5) The form referred to in paragraph (4) will be forwarded to the schemes' provider in order to start verification and control actions, in accordance with internal working procedures and in accordance with the provisions of the Government Emergency Ordinance No. 66/2011, amended and supplemented by Law No 142/2012, with subsequent amendments and additions, within 3 days of its issuance.

Chapter II

Mechanism for stopping/recovering aid as a result of monitoring State aid/de minimis aid

.....

Article 6

- (1) In the case of Hungarian beneficiaries of direct aid, the recovery of misused State aid/de minimis aid is ensured through the Hungarian National Authority in accordance with the provisions of the Memorandum of Implementation - Arrangements between the Member States involved in the Interreg V-A Romania-Hungary Programme.
- (2) In case the report referred to in Article 2 (2) identifies the non-compliance with State aid/de minimis aid granting criteria, as provided for in the schemes approved at Programme level, respectively where a situation is found to be an irregularity, within the meaning of Article 2. 36 and 38 of Regulation (EU) No 1.303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 for a beneficiary of State aid/de minimis, Hungarian legal person, the Managing Authority will notify the Hungarian National Authority on the findings of the report regarding the misused aid awarded to beneficiaries in Hungary, including also the determination of the amount proposed for recovery.
- (3) For all situations where the implementation of the aid measure has not yet caused damage to the market situation and therefore no recovery is necessary, the Managing Authority may issue a decision on stopping the State aid/de minimis aid, covering the part of the European Regional Development Fund (ERDF) of the aid granted to Hungarian beneficiaries still unpaid.
- (4) The decision on stopping the State aid/de minimis aid or, where appropriate, the decision on the recovery of State aid/de minimis aid - part or all - from the Hungarian beneficiary of State aid/de minimis aid, will be forwarded by the State aid/de minimis aid provider to the Romanian Competition Council within 5 days of its issuance.

.....

For the Minister of Development, Public Works and Administration

Matuz Adrian-Zsolt, State Secretary

Bucharest, April 20th, 2021