

15 September 2022

**Positive preliminary assessment of the satisfactory fulfilment of milestones and targets related to the first payment request submitted by Romania on 31 May 2022, transmitted to the Economic and Financial Committee by the European Commission**

**Executive summary**

In accordance with Article 24(2) of Regulation (EU) 2021/241, on 31 May 2022, Romania submitted a request for payment for the first instalment of the non-repayable support and the first instalment of the loan support. The payment request was accompanied by the required management declaration and summary of audits.

To support its payment request, Romania provided due justification of the satisfactory fulfilment of the 14 (fourteen) milestones and targets of the first instalment of the non-repayable support and the 7 (seven) milestones of the first instalment of the loan support, as set out in Section 2.1.1 and Section 2.2.1 of the Council Implementing Decision of 3 November 2021 on the approval of the assessment of the recovery and resilience plan for Romania<sup>1</sup>.

For 1 (one) target covering a large number of beneficiaries, in addition to the summary documents and official listings provided by Romania, Commission services have assessed a statistically significant sample of individual files. The sample size has been uniformly set at 60 which corresponds to a confidence level of 95% or above in all cases.

Upon receipt of the payment request, the Commission has assessed on a preliminary basis the satisfactory fulfilment of the relevant milestones and targets. Based on the information provided by Romania, the Commission has made a positive preliminary assessment of the satisfactory fulfilment of all 21 milestones and targets.

The milestones and targets positively assessed as part of this payment request demonstrate significant steps in the implementation of reforms and investments laid down in Romania's Recovery and Resilience Plan. These include, among others: sustainable transport, decarbonisation and road safety, electricity market reform, replacement of coal in the energy mix, government cloud architecture, improving tax and tax administration processes, developing pre-hospital medical infrastructure, stepping up the fight against corruption, and reform of the compulsory education system to prevent and reduce early school leaving.

By the transmission of this positive preliminary assessment and in accordance with Article 24(4) of Regulation (EU) 2021/241, the Commission asks for the opinion of the Economic and Financial Committee on the satisfactory fulfilment of the relevant milestones and targets.

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<sup>1</sup> ST 12319/21.

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**[Non-repayable support]**

<b>Number:</b> 69	Related Measure: Sustainable transport, decarbonisation and road safety / Railway infrastructure development and rail traffic management	
<b>Name of the Milestone:</b> Adoption of the strategy for the development of railway infrastructure 2021-2025 and application of the action plan		
<b>Qualitative Indicator:</b> Adoption of the strategy for the development of the railway infrastructure by the Government Decision no. 985/2020 (secondary legislation), adoption of the action plan and start of implementation		<b>Time:</b> Q4 2021
<b>Context:</b> <p>Milestone 69 is part of a reform which aims to support the transition towards sustainable and smart mobility by developing and improving the strategic, legal and operational framework of the transport system in Romania. This reform includes 6 sub-reforms linked to a total of 13 milestones and targets, covering the period from Q4 2021 to Q2 2026, which aim to: (i) introduce a legislative package to implement a new taxation system in line with the polluter pays principle and other principles of environmental taxation; (ii) develop alternative fuels infrastructure for road vehicles; (iii) introduce a National Road Safety Strategy; (iv) develop the Intelligent Transport System strategy and legislative package; (v) strengthen the efficiency and competitiveness of railways in Romania and; (vi) further develop waterborne (inland waterways and ports) transport in Romania.</p> <p>Milestone 69 calls for the adoption of the strategy and action plan for the development of railway infrastructure for the years 2021-2025, which must identify responsible authorities/actors, deadlines for implementation, financial allocations and indicators. The milestone also requires the approval of the Investment Plan for the development of transport infrastructure for the period 2020-2030, which shall prioritise rail investments and European Rail Traffic Management System (ERTMS) operationalization.</p>		
<b>Evidence provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ol style="list-style-type: none"><li>1. Summary document duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li><li>2. Copy of the adopted strategy and a link to the website where the strategy can be accessed.</li><li>3. Copy of the adopted action plan and a link to the website where the action plan can be accessed.</li><li>4. Copy of the approved investment plan for the development of transport infrastructure for the period 2021-2030 and a link to the website where the investment plan can be accessed.</li><li>5. Copy of the Government Decision No. 985/2020 published in the Official Journal No. 1236 confirming the adoption of the strategy by the Romanian Government.</li><li>6. Copy of the Government Decision No. 1302/2021 published in the Official Journal No. 1257 confirming the adoption of the action plan by the competent authority and updated by Government Decision No. 652/2022 in the Official Journal No. 491.</li><li>7. Copy of the Government Decision No. 131 published in the Official Journal No. 1258</li></ol>		

confirming the adoption of the investment plan by the Romanian Government.

The authorities also provided:

8. Explanatory Note for the Investment Plan for the development of transport infrastructure for the period 2021-2030.
9. Explanatory Note for the action plan for the development of the rail infrastructure and the modal shift of the passenger and freight flows towards rail transport.
10. Timetable for the tendering of Public Sector Contracts in railways (freight and passengers) during the period until end 2023 with multi-criteria analysis of organisational scenarios.
11. Explanatory note on the Public Service Contract.
12. ERTMS action plan.

#### **Analysis:**

The requirements of the milestone have been addressed as follows:

1. The adopted action plan identifies:

- responsible authorities / actors by identifying the national interests in rail and issues related to the harmonisation of those interests with European rail transport

The authorities/ actors responsible for measures to increase the administrative capacity of state-owned railway companies are listed on pp.63-64 of the action plan in a table listing each measure, the responsible authority and the deadline for implementation. Elaborated in line with the corporate governance legal framework, these measures, as highlighted in the action plan, contribute to ensuring stable management and financial and non-financial key performance indicators for the railway companies, increased managerial transparency, and simplified operational procedures for project implementation, among others. The responsible authorities as described are the Ministry of Transport and Infrastructure, Executive Directors of the railway companies, Administration Boards or the General Meeting of Shareholders and others.

- deadlines for implementation

The deadlines for the implementation of measures to increase the administrative capacity of state-owned railway companies as listed on pp.63-64 of the action plan are set between December 2021 and October 2022.

- financial allocations

The financial allocation per project is listed on p.23 of the action plan, in a table that details the projects by name, type of intervention, cost estimates with and without VAT and the financing source (RRP, 2021-2027 Operational Program of Transportation, 2014 – 2021 Large Infrastructure Operational Program or Connecting Europe Facility).

- indicators

The indicators to monitor the performance of the national rail transport system are listed on p. 64 of the action plan:

- number of passengers carried compared to other modes of transport
- volume of services in rail passenger traffic (passenger-km, fare trip) compared to other

modes of transport

- commercial speed of passenger trains, including by category of service
- rail passenger modal shares in different market segments, such as:
  - land passenger transport on inter-urban routes (including individual transport)
  - public land passenger transport on inter-urban routes
- gross tons transported compared to other modes of transport, of which:
  - in containers
  - in isolated wagons
- volume of benefits in rail freight traffic (ton-km, tariff path) compared to other modes of transport
- commercial speed of freight trains, including by service category
- commercial speed of goods, including by category of service
- rail freight modal shares in different market segments, such as:
  - freight transport on interurban inland routes (including inland waterways)
  - inland freight transport on inter-urban inland routes

2. The Ministry of Transport and Infrastructure together with the National Railway Company (C.N.C.F. C.F.R. SA) has defined a methodology with clear indicators and criteria for prioritising rail infrastructure investments as well as the institutional arrangements necessary for the implementation of this mechanism and the preparation of investment projects.

The investment plan adopted by Government Decision 1312/2021 sets out a mechanism with clear indicators and criteria for prioritising rail infrastructure investments. This mechanism prioritizes rail investments, taking into account all the available sources of financing, with a focus on the completion of line modernization projects on TEN-T network and pan-European corridors. This is illustrated on p.127 of the investment plan, in a table listing the prioritised and ranked rail projects located on the core network.

The action programme details the institutional arrangements necessary for the implementation of this mechanism and the preparation of investment projects on pp.62 to 68 by detailing how the administrative capacity of the Ministry of Transport and Infrastructure will be increased to implement the action programme.

3. The adopted action plan includes:

- a system with indicators for prioritising investments;

The indicators to prioritise investments are listed on p.23 of the action plan updated by Government Decision 652/2022:

- The objective of economic efficiency: developing a rail transport system that generates benefits greater than the costs incurred;
- The objective of fairness: the costs and revenues of a transport system will be fairly distributed among citizens, industries and geographical areas;
- Safety objective: transport infrastructure and services will be provided in such a way as to protect people against injury or death;
- The objective of integration: the transport system will enable people (including those with reduced mobility) to travel comfortably and safely, using a variety of modes of

transport and minimise freight transport costs;

Environmental objective: the transport system will protect the environment by supporting social and economic development for the benefit of both the present generation and the future.

- a structure responsible for project preparation;

The structure of CFR SA for the implementation of the action plan is detailed on pp.90-91 of the action plan updated by Government Decision 652/2022 and in the railway Strategy which identifies responsible authorities/ actors (p.39), objectives (p.72), measures and costs for implementation (annex 22).

- measures to increase rail freight traffic by a minimum of 25 % in 2026 compared to 2020;

These measures are listed on pp.61-68 of the action plan updated by Government Decision 652/2022:

- Measure 1: Increasing commercial speed and settling travel times
- Measure 2: Attractive infrastructure charges
- Measure 3: New railway agreements with industrial railway lines
- Measure 4: Promoting an attractive transit policy
- Measure 5: Decarbonisation of road transport in line with the “polluter pays” principle to stimulate the transition from freight to rail transport
- Measure 6: Transition of goods to and from Ukraine and the mobility of goods and people in the context of the reconstruction of Ukraine

The action plan also foresees impact assessments to monitor how these measures are contributing to increasing rail freight traffic with the 25% increase target in mind (p.96).

- dedicated measures in view of reaching a target of an increase in the number of railways passengers by an average of 25% compared with 2021 baseline;

These measures are listed on pp.38 to 58 of the action plan updated by Government Decision 652/2022:

- Measure 1: Increasing commercial speed and settling travel times
- Measure 2: Increasing the convenience of travel and the quality of transport services (purchase of new rolling stock, upgrade of existing rolling stock)
- Measure 3: New metro railway services
- Measure 4: Promoting public transport and attracting and retaining public transport users by developing multi-modality and improving rail services (operationalisation of new train stopping points, introduction of timetables for the main rail routes)
- Measure 5: Analysis of the opportunity to build a high-speed line Constanța — Bucharest-Budapest

The action plan also foresees impact assessments to monitor how these measures are contributing to increasing railways passengers with the 25% increase target in mind (p.96).

- measures to increase the use of newly acquired rolling stock;

The efficient use of new rolling stock is envisaged on pp.79-80 of the action plan updated by Government Decision 652/2022. According to the plan, the inefficient use of rolling stock has led to a low level of rail transport services provided to passengers. To maximise the use of new rolling stock, all newly purchased rolling stock will be used on the TEN-T network, with priority on upgraded lines, and will be procured together with long-term maintenance and repair services.

These actions will be complementary to the one aimed at increasing the competitiveness of rail passenger services.

- measures to shift passengers from buses/minibuses to railways on shuttle routes;

Such measures can be found on p.56 and p.60 of the action plan updated by Government Decision 652/2022. Measures proposed to attract passengers using the road transport services aim to focus rail services on passenger needs (information and digital systems, facilities and promotions, attractive train timetables). Measures are also put forth to operationalise new train stopping points and develop multimodality in major cities or rail hubs.

4. The adopted Investment Plan prioritises rail investments.

The prioritisation of rail is detailed in the sub-chapter “Prioritisation of projects on the core rail network” (pp.127-129) of the investment plan.

5. The adopted investment plan prioritises European Rail Traffic Management System (ERTMS) operationalisation.

The investment plan, which makes limited reference to the prioritisation of European Rail Traffic Management System (ERTMS) operationalisation, is supplemented by the European Rail Traffic Management System (ERTMS) action plan, adopted by Government Decision 651/2022 on 18 May 2022. This latter document identifies sets of actions and measures for the accelerated deployment of ERTMS along the TEN-T corridors in a table which lists the implementation status of ERTMS per railway section and the action to be taken.

This European Rail Traffic Management System (ERTMS) action plan states in its background section that it supplements the investment plan’s chapter on the development of railways infrastructure with European Rail Traffic Management System (ERTMS) operationalisation (pp.137-138). In turn, the investment plan contains a clear link to the European Rail Traffic Management System (ERTMS) action plan (pp.133-135). Considering the intrinsic link between the Investment Plan and the action plan, the milestone is considered satisfactorily fulfilled.

Beyond the requirements of the milestone, the Romanian Audit Authority has found that the funds allocated under the recovery and resilience plan for the modernisation and renewal of railway infrastructure are not included as a source of funding in the table on “national public funds allocated for the development of railway infrastructure during the period 2021-2025” in the action plan. Additionally, the action plan specifies under point B.6 (p.19) that the implementation of the railway infrastructure development strategy calls for the rescaling of the multiannual financing plan for railway infrastructure. This rescaling should take into account (i) the financing needs presented in Government Decision 985/2200 approving the strategy and; (ii) the RRP funds allocated to the development of railway infrastructure. The Audit Authority therefore recommends that CNCF CFR SA update its activity and performance contract in light of the above. Noting this, the Audit Authority only considers this recommendation partially implemented.

**Commission Preliminary Assessment:** Satisfactorily fulfilled



<b>Number:</b> 113	<b>Related Measure:</b> Decommissioning of coal-fired power-production capacity		
<b>Name of the Target:</b> Decommissioning of coal-fired power-production capacity			
<b>Quantitative Indicator:</b> Megawatts (MW)	<b>Baseline:</b> 0	<b>Target:</b> 1 695	<b>Time:</b> Q4 2021
<b>Context:</b> <p>Target 113 is part of Reform 1 under the Energy Component, which aims at decarbonising the energy sector, with a focus on power generation. The reform covers two main measures: the coal phase-out and the increase of renewables electricity generation capacity. The first element of the reform aims at phasing-out coal and lignite-fired power plants by 2032 with concrete steps during the lifetime of the Recovery and Resilience Facility.</p> <p>Target 113 is the initial step of the decommissioning of coal-fired power-production capacity. This target is followed by target 115 due by Q4 2022 and target 119 due by Q4 2025, which are expected to reach a cumulative decommissioned capacity of 3 780MW out of 4 590MW total coal/lignite fired installed power-production capacity.</p>			
<b>Evidence Provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided by the authorities:</p> <ol style="list-style-type: none"><li>1. Summary document duly justifying that the target was satisfactorily fulfilled (Cover Note). This summary document justified how the target was satisfactory fulfilled by detailing the Decisions and Certifications needed in line with the CID to deliver on the target.</li><li>2. Copy of the Decisions No. 2391/29.12.2021 and No. 309/24.02.2021 issued by the National Energy Regulator (ANRE) amending the licences of the power generators by withdrawing the licenses to operate power generation capacities of 1 695MW of lignite/coal installed electricity production capacity.</li><li>3. Certification issued by the Transmission System Operator (TSO) in letter No. 18132/28.04.2022 of permanently withdrawing and decommissioning from the National Transmission System (NTS) 1695MW of lignite/coal installed production capacity, endorsed by the Ministry of Energy (by form of official stamps from Ministry of Energy on certificated letter).</li></ol> <p>The authorities also provided:</p> <ol style="list-style-type: none"><li>4. Additional annexes providing evidence that actions have been initiated towards the dismantling/reconversion of the power plants that stopped their operation such as:<ol style="list-style-type: none"><li>a. Letter of the Ministry of Energy no. 13994/VDP/19.05.2022 to the Ministry of European Investments and Funds detailing the actions carried out regarding the achievement of T113.</li><li>b. Letter of the Complexul Energetic Hunedoara S.A. (CE Hunedoara) No AS 4752/19.04.2022, listing all actions taken for the decommission of its power units within the Deva-Mintia power plant.</li><li>c. Letter of the National Agency for Environmental Protection registered under no. AS 4733/19.04.2022 confirming that installations have been removed from the Greenhouse Gas Emission Trading Scheme and the Greenhouse Gas Emission permits are no longer valid.</li><li>d. Letter of the Agency for Environmental Protection Hunedoara no. 10200/AAA/07.03.2022, detailing cessation of the activity and the sale of assets at the Deva-Mintia power plant (5 power units of Mintia) of CE Hunedoara.</li><li>e. Minutes of the meeting of the CE Hunedoara’s creditors no. 9973/21.12.2021,</li></ol></li></ol>			

<p>formally approving recovery of CE Hunedoara's assets through scrapping following closure of the power groups within the Deva-Mintia power plant.</p> <p>f. Letter of the Ministry of Energy no. 16619/VDP/09.12.2021 requesting the withdrawal from operation and closure of mothballed power units within the Deva-Mintia power plant, due to non-compliance with environmental standards.</p>
<p><b>Analysis:</b></p> <p>The evidence provided by the Romanian authorities demonstrates that 1 695MW of coal/lignite-fired installed electricity production capacity have been decommissioned.</p> <p>First, with its Decision No 2391/29.12.2021, the National Energy Regulator (ANRE) amended License no. 1122 granted to the Hunedoara Energy Complex (CE Hunedoara) for the production of electricity and thermal energy in cogeneration from hard coal by removing from the licence Power Units 2, 3, 4, 5, and 6 (210 MW each) of Mintia-Deva power plant.</p> <p>Likewise, with its Decision No 309/24.02.2021, ANRE amended License no. 1085 granted to the Oltenia Energy Complex (CE Oltenia) for the production of electricity and thermal energy in cogeneration from lignite by removing from the licence Power Unit 8 Isalnita (315 MW) and Power Unit 3 Turceni (330 MW). In addition, ANRE confirmed that by amending the licenses of the two-electricity generators CE Oltenia and CE Hunedoara units, a total installed capacity of 1 695 MW were excluded from electricity generation.</p> <p>Second, the certificates issued by Transelectrica (the Transmission System Operator) in letters No. 8132/28.04.2022 and No. 5087/07.02.2022 sent to the Ministry of Energy confirmed that the above mentioned units (Power Unit 8 Isalnita, Power Unit 3 Turceni and Power Units 2, 3, 4, 5, and 6 of Mintia-Deva) with a total coal/lignite-fired installed capacity of 1 695 MW were permanently withdrawn from the national transmission system (NTS). This confirmation was subsequently endorsed by the Ministry of Energy by form of official stamps from Ministry of Energy on certificated letter No. 18132/28.04.2022 – submitted as annex 8. Transelectrica also specified that those power units are no longer producing electricity nor participating on the electricity balancing market. Those capacities (1 695 MW) were also removed from the relevant section of transparency platform of the European Network of Transmission System Operators for Electricity (ENTSO-E), a register available online: <a href="https://transparency.entsoe.eu/generation/r2/installedGenerationCapacityAggregation/show">https://transparency.entsoe.eu/generation/r2/installedGenerationCapacityAggregation/show</a>.</p> <p>Third, according to the annexes submitted by the authorities, the following actions have been initiated to dismantle/reconvert the power plants that stopped their operation:</p> <ol style="list-style-type: none"> <li>Letter of the Ministry of Energy no. 13994/VDP/19.05.2022 to the Ministry of European Investments and Funds detailing the actions carried out regarding the achievement of T113.</li> <li>Letter Complexul Energetic Hunedoara S.A. (CE Hunedoara) No AS 4752/19.04.2022, listing all actions taken for the decommission of its power units within the Deva-Mintia power plant.</li> <li>Letter of the National Agency for Environmental Protection registered under no. AS 4733/19.04.2022 confirming that installations have been removed from the Greenhouse Gas Emission Trading Scheme and the Greenhouse Gas Emission permits are no longer valid.</li> <li>Letter of the Agency for Environmental Protection Hunedoara no. 10200/AAA/07.03.2022, detailing cessation of the activity and the sale of assets at the Deva-Mintia power plant of CE Hunedoara.</li> <li>Minutes of the meeting of CE Hunedoara's creditors no. 9973/21.12.2021, formally approving recovery of their assets through scrapping following closure of</li> </ol>

<p>the energy groups within the Deva-Mintia power plant.</p> <p>f. Letter of the Ministry of Energy no. 16619/VDP/09.12.2021 requesting the withdrawal from operation and closure of mothballed power units within the Mintia - Deva power plant, due to non-compliance with environmental standards.</p> <p>This provides reasonable reassurance that the stoppage is permanent.</p> <p>In light of the above, it is concluded that 1 695 MW of coal/lignite fired generation capacities have been decommissioned.</p>
<b>Commission Preliminary Assessment:</b> Satisfactorily fulfilled

<b>Number:</b> 142	Related Measure: Development of a unitary framework for defining the architecture of a government cloud system	
<b>Name of the Milestone:</b> Task-force to implement and monitor Digital Transformation reforms and investments established and operational		
<b>Qualitative Indicator:</b> Entry into force of the Ministerial Order for the establishment of the task force		<b>Time:</b> Q4 2021
<b>Context:</b> <p>Milestone 142 is part of the reform for the development of a unitary framework for defining the architecture of a government cloud system. The reform’s overarching objective is to modernise the public administration by adopting advanced technologies and focusing on the citizens and businesses’ needs, while ensuring the prerequisites for data-driven policy development and increasing the interoperability of existing digital technologies. This reform contains four interrelated milestones, to be achieved between Q4 2021 and Q2 2022. The operationalisation of the task force required by milestone 142 should facilitate the completion of the analysis for the options for the government cloud architecture (milestone 143), which should facilitate the subsequent entry into force of the law for the governance of cloud services for the government area (milestone 144) and the entry into force of the interoperability law (milestone 145).</p> <p>Milestone 142 aims to create a temporary task force during the implementation period of the Recovery and Resilience Plan, formed by specialists for the monitoring and implementation of all digital-related measures in the Romanian recovery and resilience plan.</p>		
<b>Evidence provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ol style="list-style-type: none"><li>1. Summary document duly justifying how the milestone was satisfactorily fulfilled (Cover Note).</li><li>2. Government Emergency Ordinance 30/2022.</li><li>3. Ministerial Order 20374 issued on 1 April 2022 establishing the organization and functioning of the task force.</li><li>4. Ministerial Order 20373 issued on 1 April 2022 establishing the procedure for recruiting the task force personnel.</li></ol> <p>The authorities also provided:</p> <ol style="list-style-type: none"><li>5. The announcement of the 17 vacancies for the task force Unit published in the Official Journal.</li></ol>		

6. The link to the results of the recruitment procedure.
7. Ministerial Order 20437 issued on 8 April 2022 for the establishment of the salary scale for the task force staff.
8. Ministerial Order 20397 issued on 15 April 2022 for the organization of the competition for recruitment of the task force employees.
9. Organization chart.
10. The employment contracts of the task force employees employed as of August 2022.
11. Link to the results of the recruitment process for the Executive Manager position.
12. Ministerial Order 20586 issued on 31 May 2022 establishing a committee for the periodical evaluation of the performance of the task force employees.
13. Ministerial Order 20912 issued 12 July adding 6 new members to the evaluation committee.

**Analysis:**

The requirements set out in the Council Implementing Decision have been addressed as follows:

- Entry into force of the Ministerial Order for the establishment of the task force;

Government Emergency Ordinance 30/2022, published on 24 March 2022, and which entered into force on 27 March 2022, established the task force. Although the CID Annex requires the entry into force of a Ministerial Order for the establishment of the task force, a Government Emergency Order is a higher normative act in the hierarchy of normative acts under Romanian national legislation than a Ministerial Order. Such deviation from a formal requirement as to the internal national procedure does not affect the progress towards the achievement of the reform in question. Following the entry into force of the Government Emergency Ordinance 30/2022, Ministerial Order 20374 has been adopted to define concrete operational details of the Task Force, namely the organization, functioning and status of the task force.

- The task force shall be under the coordination of a director, subordinated to the minister who holds the portfolio of digitalisation;

Article 1 of Government Emergency Ordinance 30/2022 establishes that the task force is coordinated by a director subordinated to the minister who holds the portfolio of digitalisation and that the task force will be composed of specialists in the field of digital technologies and project management.

- Main tasks of the unit;

Article 3 of Government Emergency Ordinance 30/2022 list the main tasks of the unit which are in line with the requirements established in the CID Annex. These tasks are:

- the development and implementation of the sectoral components of the national recovery and resilience plan;
- monitoring the implementation of the digital-related reforms and investments within the national recovery and resilience plan focusing on key projects, and proposing immediate remedial measures for critical blocks in close collaboration with the other institutions involved;
- development of project performance management systems in covering specific objectives of the digital pillar;
- development and regulation of the regulatory, methodological framework and of the functional, operational and financial procedures in its field of activity;
- development of tools for implementing the digital related policies;
- project management and reporting of all the stages of completing the objectives

established within the digital related measures in the national recovery and resilience plan;

- fulfilment of any other attributes necessary to cover the implementation of the digital related national recovery and resilience plan reforms and investments.
- The operationalisation of a temporary Digital Transformation Task force that shall employ during the implementation period of the Recovery and Resilience Plan 17 highly specialised contractual posts in the field of digital technologies and project management specialists.

The announcement of the 17 vacancies for the task force Unit was published in the Official Journal (part III) No 311 on 05/04/2022. The results of the recruitment procedure were published on the official webpage of the Ministry of Research, Innovation and Digitalisation on 12/05/2022 and 16 candidates were selected (link in the cover note). No candidate successfully passed the competition for the Executive Manager position during this recruitment round. A new recruitment process was therefore conducted from 23/05/2022 to 30/06/2022 for this remaining position. An Executive Manager was subsequently selected, and the result of the recruitment process was published on the Ministry's webpage (link in the cover note).

As of 04/08/2022, 5 of the task force employees were terminated after their 30-days evaluation period due to the results of their activity-based assessments. These assessments were conducted by a committee for the periodical evaluation of the task force members' performance appointed by Ministerial Order 20586 issued on 31 May 2022 and by Ministerial Order 20912 issued 12 July. Another recruitment session will be organised from 12/08/2022 to 23/09/2022 to fill the current open positions. As required by the CID Annex, the task force first became operational on 2 June 2022, when the first four employees started work and their employment contracts corroborate this.

The CID Annex further requires that the task force should employ 17 employees during the implementation period of the RRP. This requirement is substantiated by article 1 (2) of Government Emergency Ordinance 30/2022 which provides explicit wording as regards the staffing of task force, which "shall consist of 17 specialist posts, including one management position and 16 positions of specialists under an individual fixed-term employment contract, respectively during the implementation of Romania's NRRP." Additionally, the specification in the cover note that another recruitment session will be organised from 12/08/2022 to 23/09/2022 to fill the current open positions is expected to enable the establishment of a fully staffed task force during the implementation period of the RRP.

Finally, the CID Annex requirement that the employees of the task force should be specialised in the field of digital technologies and project management is corroborated by Ministerial Order 20374 issued on 15 April 2022. Ministerial Order 20374 for the procedure for recruiting the task force personnel makes clear, under Article 4, that "the task force employs 17 specialists with advanced digital skills and specialised project management skills in the field of digital transformation, in accordance with the Council Decision of 3 November 2021 approving the evaluation of the Romanian NRRP (hereinafter referred to as the Romanian NRDP), including a coordinator". In turn, Article 18(4) specifies that "for specialised positions in digitalisation, the interview shall be organised within a timeframe specified in the calendar of the procedure, in three successive steps during the same day and shall have the following components: a) Verification of knowledge of data structures and algorithms; b) Verification of knowledge of system design, cloud computing, digitalisation; 5 c) The candidate's motivation, experience and creativity; test in English". The link to the results of the recruitment procedure demonstrates that

the people selected are those who scored the highest in the competition.

Ministerial Order 20437 for the establishment of the salary scale for the task force staff also includes information on the qualifications required for each position.

The Romanian Audit Authority recommended for the task force to become operational by employing 17 highly specialised contract agents in the field of digital technologies and specialised project management. The Audit Authority found the recommendation partially implemented, as it will only be fully implemented once the task force is fully staffed with 17 employees. The Commission considers that the documents provided are sufficient to demonstrate that the task force is established and operational and that the CID Annex and the verification mechanism in the operational arrangements are respected given that the task force is expected to be fully staffed after the next recruitment session running from 12 August until 29 September 2022 to fill the 5 current open positions.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 146	Related Measure: Transition to EU 2025 connectivity targets and stimulate private investment for the deployment of very high-capacity networks	
<b>Name of the Milestone:</b> Entry into force of the 5G network security law		
<b>Qualitative Indicator:</b> Provision in the law indicating the entry into force of the 5G security law		<b>Time:</b> Q2 2021
<b>Context:</b> <p>Milestone 146 is part of the reform for the transition to EU 2025 connectivity targets and the stimulation of private investment for the deployment of very high capacity networks. The aim of this reform is to accelerate the national roll-out of 5G networks, in accordance with security regulations, and provide broadband coverage for white areas (small rural municipalities, isolated localities, disadvantaged inhabited areas), tackling the rural – urban digital divide, reducing the administrative burden and streamlining procedures and fees, creating the prerequisites for equal access to digital services and internet access. This reform is composed of four milestones, covering the entry into force of the 5G security law due Q2 2021 (milestone 146), then the publication of the call for tender for the authorisation of telecommunications operators to grant 5G licences (milestone 147) by Q2 2022. These licences will then be assigned based on the results of this competitive selection procedure (milestone 149) in Q3 2022. Recommendations from the EU connectivity toolbox will also be implemented by Q3 2022 (milestone 148).</p> <p>Milestone 146 establishes that communication providers are only able to use technologies, equipment and software in 5G networks from manufacturers authorised in advance by decision of the Prime Minister, on the basis of the opinion of the Supreme Council of National Defence. Based on the 5G network security law, each manufacturer of 5G equipment and software has to apply for this authorisation, which will be submitted to the Ministry responsible for Communications.</p>		
<b>Evidence provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ol style="list-style-type: none"><li>1. Copy of the publication in the Official Journal, part I, no 590/11.06.2021, pp. 7-9 (Law 163/2021).</li></ol>		

2. Summary document duly justifying how the milestone was satisfactorily fulfilled (Cover Note).
<p><b>Analysis:</b></p> <p>The 5G network security law adopted by the Romanian Parliament (no. 163/2021) satisfactorily addresses all the requirements from the description of the milestone in the Annex to the Council Implementing Decision.</p> <p>The 5G network security law was adopted on 7 June 2021, published in the Official Gazette on 11 June 2021 and entered into force on 14 June 2021 (except for the provisions of art. 9 and art. 12-16, which entered into force 30 days from the date of publication of the law in the Official Gazette, according to art. 17 from the law).</p> <p>Article 1 makes clear that the law targets producers of technology, equipment and software used in information and communication infrastructures of national interest and in electronic communications networks providing 5G networks.</p> <p>In Article 3, the law establishes that the use of technology, equipment and software in 5G networks, with the exception of terminal equipment used by end-users, shall be subject to the producers obtaining an authorisation by decision of the Prime Minister, on the basis of the assent of the Supreme National Defence Council (CSAT).</p> <p>Article 4 further explains that the application for the authorisation shall be submitted to the Ministry responsible for communications, which shall immediately forward it to the Supreme National Defence Council (CSAT).</p> <p><b>Commission Preliminary Assessment:</b> Satisfactorily fulfilled</p>

<b>Number:</b> 150	Related Measure: Ensuring cybersecurity of public and private entities owning critical value infrastructure	
<b>Name of the Milestone:</b> Adoption of the National Cybersecurity Strategy 2021- 2026		
<b>Qualitative Indicator:</b> Adoption of the National Cybersecurity Strategy 2021-2026 by the government		<b>Time:</b> Q4 2021
<b>Context:</b> <p>Milestone 150 is part of a reform to ensure the cybersecurity of public and private entities owning critical value infrastructure. The aim of this reform is to continue the process of strengthening the resilience of the public and private entities owning critical infrastructure against cyber risks. This reform contains two milestones (150 and 151). Milestone 150 provides for the adoption of the National Cybersecurity Strategy 2021-2026 by the government by Q4 2021 while milestone 151 calls for the entry into force of the law on Defence and Cyber Security of Romania by Q4 2022.</p> <p>Milestone 150 aims to establish provisions regarding regular assessments and updates of the cybersecurity regulatory and institutional framework to: (1) strengthen the public-private-academic partnership to increase the cyber resilience of society as a whole, (2) to develop the capacity to respond to cyberattacks and the resilience of systems, networks and services and (3) to consolidate the role of Romania in the cybersecurity architecture at international level.</p>		
<b>Evidence provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p>		

1. Summary document duly justifying how the milestone was satisfactorily fulfilled (Cover Note).
2. Copy of the adopted Strategy in the Official Journal n.2 bis of 3 January 2022.
3. Link to the website where the strategy can be accessed.

The authorities also provided:

4. Copy of the judgement approving the publication of the Strategy in the Official Journal No.2 of 3 January 2022 of the Government Decision 1321.

**Analysis:**

The National Cybersecurity Strategy 2021-2027, including the Action Plan for implementation, was approved on 30 December 2021 by Government Decision 1321 and published in Official Journal on 3 January 2022. The annex 1 of the Government Decision contains the published National Cybersecurity Strategy.

The Strategy fulfils the requirements established in the description of the measure and the milestone in the Council Implementing Decision as follows:

- On the regular assessments and updates of the cybersecurity regulatory and institutional framework;

Section 3 of the Strategy sets out principles which must be respected to ensure Romania's cybersecurity. In particular, principle 3 calls for "the constant updating and adaptation of the regulatory and procedural framework [...] to meet the objectives of cybersecurity, given the constant evolution of technology and regulations in the field at international level."

Objective 2 of the action plan for the implementation of the Strategy in Annex 2 of the strategy calls for the "evaluation and regular updating of the cyber security and defence legislative framework in relation to evolving threat".

Sections 4.2.1 and 4.2.2 of the Strategy provide for the consolidation of the role of the Cyber Security Operational Council and the establishment of the National Cyber Security Directorate.

Chapter 3 of Annex 1 to the Government Decision and sub-measures 4.2.1 and 4.2.2 of the Strategy provide for the consolidation of the role of the Cyber Security Operational Council and the establishment of the National Cyber Security Directorate.

- With respect to strengthening the public private-academic partnership to increase the cyber resilience of society as a whole;

Principle 4 in section 3 and section 4.3 of the strategy describe cyber security as the responsibility of all actors involved (public administration authorities and institutions, private entities and citizens). In particular, section 4.3 emphasises that pragmatic public-private partnership between public authorities and institutions, private entities, academia and research and citizens is a necessity when cyber-attacks target a large number and a wide spectrum of networks and information systems. This section highlights the necessity of programmes to raise public awareness, improve cybersecurity culture and promote cyberspace hygiene in the whole of society to prevent cyberattacks.

In addition, the Strategy lists pragmatic public-private partnership as one of the five objectives of



strategic importance in the field of cybersecurity.

- Regarding the development of the capacity to respond to cyber-attacks and the resilience of systems, networks and services;

Section 4.4 of the strategy details measures to increase resilience by implementing all necessary proactive measures aimed at ensuring the resilience of network and information systems and by developing capabilities and mechanisms to deter cyber-attacks affecting society or national security interests.

In particular, measures are proposed for the:

- Development of sectoral computer emergency response teams (CERTs) and security operations centres (SOCs)
- Conducting of exercises with high practical applicability
- Development of proactive, responsive and deterrence capabilities
- Concerning the consolidation of the role of Romania in the cybersecurity architecture at international level;

Principle 4 in section 3 of the strategy details how cybersecurity is strengthened through pragmatic cooperation at international level. This principle calls for Romania to continue to play an active and relevant role in major international structures and initiatives related to digital and cybersecurity actions and strengthen its position as a centre of excellence and relevant actor for European and international cybersecurity.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 211	<b>Related Measure:</b> Reform of the public pension system	
<b>Name of the Milestone:</b> Contract technical assistance provided by an entity that shall be selected according to the national public procurement legislation		
<b>Qualitative Indicator:</b> Contract signed		<b>Time:</b> Q4 2021
<b>Context:</b> <p>The underlying reform (Component 8, Reform 6) involves the adoption of a new law on the public pension system, with the input of technical assistance, which is going to replace the Law 127/2019. The objective is to ensure fiscal sustainability in an environment of ageing population, to correct inequities, to ensure the sustainability, predictability and adequacy of the system and respect the contributory principle in relation to the beneficiaries of pension entitlements.</p> <p>This milestone requires the signing of a technical assistance contract by an entity that shall be selected according to the national public procurement legislation.</p> <p>It is among the first steps in the implementation of the reform (Component 8, Reform 6). A contemporary step also due in Q4/2021 is the fulfilment of milestone 212 (Entry into force of a minister's order setting up a monitoring committee in charge of reviewing, with the support of the technical assistance provider the pension system and the policy interventions in the pension system). The next steps consist of the fulfilment of milestones 213 (Q1 2022), 214 (Q1 2023) and 215 (Q4 2022), regarding the regulatory framework of Pillar 2 pensions, and the legislative frameworks for the general pension and special pension systems respectively. The technical assistance provided as part of 211 will form the basis for the entry into force of the new law on the</p>		

pension system (milestone 214), as outlined in the Council Implementing Decision Annex.

**Evidence provided:**

In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:

1. Summary document duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled ( "Cover Note").
2. Annex with the following documents:
  - a) copy and link to the publication in the national public procurement platform (SICAP);
  - b) copy of the signed contract ( "Reimbursable Advisory Services Agreement (RAS) agreement");
  - c) extract of the relevant parts of the technical specifications/terms of reference of the project proving alignment with the description of the milestone and the reform in the CID (technical specifications include and are referred to as "RAS agreement", "amendment to the RAS agreement" and "ToR");

The authorities also provided:

3. Report No 3785/14.12.2021 from the Ministry of Labour and Social Solidarity describing the reasons and procedure for cancelling the call for tender (hereafter "annulment report").
4. A pension policy note developed by the World Bank in May 2021 (hereafter "policy note"), and
5. Memo Nr.53/DIB/28.12.2021, sent by the Ministry of Labour and Social Solidarity to the Secretariat General of the Government, signed by the Prime Minister, which summarises the discussions on the call for tender and proposes to sign a RAS agreement with the World Bank (hereafter "memo").

**Analysis:**

The Commission finds that the Reimbursable Advisory Services Agreement (RAS) signed with the technical assistance provider addresses all the requirements from the Council Implementing Decision and its Annex, and the milestone is therefore satisfactorily fulfilled. Specifically:

- "Signature of the technical assistance contract with the selected entity to prepare analysis and proposals for a reform of the pensions system - general regime and special schemes – consistent with the principles pledged in the national recovery and resilience plan".
  - Following the requirements in the CID Annex, Romania initially published a call for tender on 22 October 2021. Since the call was unsuccessful, Romania directly awarded the contract to the World Bank, in line with national legislation. The cover note specifies that according to the provisions of art. 104 of Law 98/2016, article transposing art. 32 paragraph 2 letter a) of Directive 2014/24/EU, the contracting authority has the right to apply the negotiated procedure without prior publication of a contract notice for the award of public service contracts if in an open tender procedure, no tender nor request for participation has been submitted or only inappropriate offers or requests to participate have been submitted, provided that the initial conditions of the acquisition are not substantially altered and, at the request of the European Commission, a report is submitted to it.
  - The title of the Reimbursable Advisory Services Agreement (RAS) is "Supporting the Operationalization of Social Protection Reforms in the National Recovery and Resilience Plan", therefore making direct reference to the principles pledged in the national recovery and resilience plan. Furthermore, page 2 of the Reimbursable Advisory Services Agreement (RAS) mentions that "The Client has requested the

<p>Bank to provide to the Client reimbursable advisory services (...) to provide support to the Client in making operational key social reforms of Romania's National Recovery and Resilience Plan (...)"</p> <ul style="list-style-type: none"> <li>○ The amendment to the Reimbursable Advisory Services Agreement (RAS) specifies that the World Bank will be "providing proposals on reform options to the legislative framework to inform the Client's preparation of the revised pension law, including preparation of analysis of reform options (...)" (paragraph 4.2 (iii)); and that the World Bank will be "providing proposals on reform options of the legislative framework in order to reduce special pension expenditure (...)" (paragraph 4.3). In addition, the table under point 2 of the amendment to the Reimbursable Advisory Services Agreement (RAS) clearly outlines as deliverables "report on analysis, impact assessment, and recommendations for reforms of special pensions" and "report on analysis, impact assessment, and recommendations for reforms to the public pension system (...)"</li> <li>● "Technical assistance shall include an impact assessment of the different reform options proposed (long-term projections)". <ul style="list-style-type: none"> <li>○ The amendment to the Reimbursable Advisory Services Agreement (RAS) specifies that the World Bank will provide "(...) an impact assessment on up to two comprehensive reform options selected by the Client" (paragraph 4.2 (iii)); and "(...) an impact assessment on up to two comprehensive reform options selected by the Client for reducing special pension expenditures (...)" (paragraph 4.3 (iii)). Reform options shall be in line with all the requirements for the reform outlined in the Council Implementing Decision Annex, as the amendment to the Reimbursable Advisory Services Agreement (RAS) specifies that the World Bank will be "Providing support to inform the Client's preparation of the drafting of the revised law governing the pension system (replacing the provisions in law 127/2019 and taking into account the provisions in the CID)" (paragraph 4.2).</li> </ul> </li> <li>● "The technical assistance provider shall support the drafting of the pension reform." <ul style="list-style-type: none"> <li>○ The amendment to the Reimbursable Advisory Services Agreement (RAS) specifies that the World Bank will be "Providing support to inform the Client's preparation of the drafting of the revised law governing the pension system (...) taking into account the provisions in the CID" (paragraph 4.2). Full reference to the Council Implementing Decision is included under point 3 of the amendment to the RAS agreement. This will ensure that the elements of the new pension law (milestone 214, Q4 2022) outlined in the description of measures 211 and 214 in the Council Implementing Decision Annex, are covered by the Reimbursable Advisory Services Agreement (RAS).</li> </ul> </li> </ul>	
<b>Commission Preliminary Assessment:</b> Satisfactorily fulfilled	

<b>Number:</b> 212	Related Measure: Reform of the public pension system	
<b>Name of the Milestone:</b> Entry into force of a minister’s order setting up a monitoring committee in charge of reviewing, with the support of the technical assistance provider the pension system and the policy interventions in the pension system		
<b>Qualitative Indicator:</b> Provision in the Common ministerial order indicating the entry into force of the Common ministerial order.		<b>Time:</b> Q4 2021
<b>Context:</b>  The underlying reform (Component 8, Reform 6) involves the adoption of a new law on the public		

pension system, with the input of technical assistance, which is going to replace the Law 127/2019. The objective of the reform is to ensure fiscal sustainability in an environment of ageing population, to correct inequities, to ensure the sustainability, predictability and adequacy of the system and respect the contributory principle in relation to the beneficiaries of pension entitlements.

This milestone requires a monitoring committee in charge of reviewing the pension system and policy interventions in the pension system. It is one of the initial steps in the implementation of the related reform (Component 8, Reform 6), together with milestone 211 (also in Q4 2021), concerning the contracting of technical assistance for the pension reform. The next steps consist of the fulfilment of milestones 213 (Q1 2022), 214 (Q1 2023) and 215 (Q4 2022), regarding the regulatory framework of Pillar 2 pensions, and the legislative frameworks for the general pension and special pension systems respectively.

#### **Evidence provided:**

In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:

1. Copy of the publication in the Official Journal No. 1246 on 30 December 2021 of the Joint Ministerial Order No. (Ministry of Finance No. 1593/29.12.2021 and Ministry of Labour and Social Solidarity No. 1239/27.12.2021).
2. Summary document duly justifying how the milestone was satisfactorily fulfilled ("Cover Note").

#### **Analysis:**

The Commission finds that the entry into force of the Joint Ministerial Order setting up a monitoring committee in charge of reviewing, with the support of the technical assistance provider, the pension system and the policy interventions in the pension system, addresses all the requirements from the Council Implementing Decision and its Annex, and the milestone is therefore satisfactorily fulfilled. Specifically:

- The monitoring committee ("the Committee") has been set up through a Joint Ministerial Order (Ministry of Finance and Ministry of Labour and Social Solidarity), which was published in the Official Journal issue no. 1246/December 30<sup>th</sup>, 2021.
- The Committee will be composed of members and invitees (Art. 2 (1) of the Joint Ministerial order), will be led by the Minister for Labour and Social Solidarity (Art. 2 (2)), and its board will be composed as follows:
  - Minister of Labour and Social Solidarity (Art. 2 (3) a)),
  - Minister of Finance (Art. 2 (3) b)),
  - President of the National House of Public Pensions (Art. 2 (3) c)).
  - On particular issues (such as financial sustainability of the pension system, pension pillar 2 and the service allowances/pensions), the Committee may invite the Presidents of Chamber of Deputies and/or of the Senate, the Ministers for Justice, Foreign Affairs, Transport and Infrastructure, the Chairperson of the Board of the Financial Supervisory Authority, the President of the Romanian Court of Accounts, President of the Fiscal Council and other representatives as appropriate (Art. 2 (4) a) - h)). In addition, the list of invitees may be supplemented by other representatives from the institutions listed in Art. 2 (4), as specified in Art. 2 (5) of the Joint Ministerial Order. Therefore, this shall also include experts from the Fiscal Council, as required by the Council Implementing Decision.
- The Committee shall work closely with the technical assistance provider, mainly by contributing to the development of policy and planning directions for pension reform, providing the decision-making and debate framework for the implementation of the reform

of the pension system and monitoring its implementation, and providing analysis and technical inputs regarding everything related to the pension reform (Art. 3).

The Joint Ministerial Order also provides additional information on the functioning of the committee. Specifically:

- The Committee will be led by the Minister for Labour and Social Solidarity, who coordinates the implementation of the public pension reform of the National Recovery and Resilience Plan (Art. 2 (2)).
- In order to prepare the work, analyse the public policy documents and the deliverables of the technical assistance provider for discussion, analysis, endorsement and/or opinion of the Committee, a technical committee of specialists from each institution involved shall be set up (Art.1 (4)).

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 220	Related Measure: Improving tax and tax administration processes, including through the implementation of integrated risk management		
<b>Name of the Target:</b> Number of cash registers connected to the National Agency for Fiscal Administration IT system			
<b>Quantitative Indicator:</b> Number	<b>Baseline:</b> 0	<b>Target:</b> 150 000	<b>Time:</b> Q4 2021
<b>Context:</b> <p>The objective of the investment is to improve tax and tax administration processes, including through the implementation of integrated risk management. The investment is expected to have an impact on the level of tax compliance and achievement of budget revenue, ensuring a competitive market environment and increasing the efficiency of tax collection.</p> <p>This specific target establishes that at least 150 000 cash registers are connected to the National Agency for Fiscal Administration’s electronic system. The full connection shall address in particular fraud in the area of trade and contribute to reducing the VAT gap. This target is the initial step in the implementation of the related investment. The next steps for the fulfilment of the investment include, among others, target 221 (Q4 2022), on additional cash registers connected to the National Agency for Fiscal Administration IT system. The overall investment underpins Component 8 – Reform 1 - Reform of the National Agency for Fiscal Administration (ANAF) through digitalisation, which shall be completed by 30 June 2026.</p>			
<b>Evidence Provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ol style="list-style-type: none"><li>1. Summary document duly justifying how the target (including all the constitutive elements) was satisfactorily fulfilled, including references to the relevant provisions ( “Cover Note”).</li><li>2. An annex to the summary document, including:<ol style="list-style-type: none"><li>a) a list of unique identifiers for each cash registry, in accordance with the national legislation, demonstrating that the cash register is connected to the National Agency for Fiscal Administration’s electronic system ( “List of Cash Registers”).</li></ol></li><li>3. On the basis of a sample selected by the Commission the following documentary evidence</li></ol>			

was submitted for 60 selected cash registers:

- a) "Z-type reports" of cash registers (that is, report generated from the ANAF electronic system), showing that the cash register is connected to National Agency for Fiscal Administration's electronic system and functioning ("Z Reports").

The authorities also provided:

4. A copy of the Official Journal, PART I, No 319/30.III.2021, which includes the Order of the National Tax Administration Agency approving the procedure for connecting electronic tax markers, as defined in Article 3 (2) of Government Emergency Order No 28/1999 on the obligation for economic operators to use electronic tax markers, to the national IT system for the surveillance and monitoring of fiscal data of the National Agency for Fiscal Administration.

#### **Analysis:**

The Commission finds that the evidence provided by the Romanian authorities demonstrates that at least 150 000 cash registers were connected to the National Agency for Fiscal Administration's electronic system as of 31 December 2021. Based on the information analysed, the number of cash registers connected to the National Agency for Fiscal Administration's electronic system on 31 December 2021 was 515 278, as certified by the list of cash registers submitted by Romania.

Following the selection of a random sample of 60 cash registers, Romania submitted 60 Z reports, one for each selected cash register. Of the 60 Z reports, 45 were submitted in XML format and 15 in Excel. A Z report is defined by Romania as the daily closing fiscal report of cash registers and represents the document issued with the fiscal electronic cash register that contains synthesis data of a fiscal nature. The difference in format of files submitted is due to the fact that the latest Z report of each cash register are kept in XML format for 10 days, after which they are stored in an Excel database.

The analysis of the Z reports shows that these reports correspond to the sample of cash registers selected by the Commission. Specifically:

- 45 Z reports in XML: each such Z report includes an "idM" number (unique message identifier). This idM number is obtained by the electronic system putting in sequence (i) the identification number of the cash register that produces the Z report; (ii) the date and time of the Z report; and (iii) the number of the Z report. The verification of the idM number by the Commission confirmed that the submitted Z reports correspond to the cash registers selected by the Commission.
- 15 Z reports in Excel: the verification of each such Z report submitted confirms that the submitted Z reports correspond to the cash registers which were selected by the Commission.

The evidence provided for the sample of 60 units confirmed that the cash registers are connected to the National Agency for Fiscal Administration's electronic system and are functioning. On the basis of the evidence provided, a statistical analysis has been carried out comparing the reported 515 278 cash registers and the target of 150 000 cash registers, with the 60 samples, out of which all 60 have been considered as connected and functional. This analysis concluded that the target has been over-achieved.

In consideration of the foregoing, the analysis certifies that the cash registers are connected to the National Agency for Fiscal Administration's electronic system and are functioning. The full connection of cash registers will ensure that transactions performed by cash registers are tracked and stored electronically by the National Agency for Fiscal Administration. This will help address,

in particular, fraud in the area of trade, by allowing the National Agency for Fiscal Administration to monitor the activity of cash registers in Romania and reducing informal transactions. The higher number of transactions recorded thanks to the full connection of cash registers shall in turn contribute to reducing the VAT gap in Romania.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 366	<b>Related Measure:</b> Development of pre-hospital medical infrastructure	
<b>Name of the Milestone:</b> Adoption of criteria for prioritising investments in Integrated Community Centres		
<b>Qualitative Indicator:</b> Adoption of the Manual of Integrated Community Centres, including guidelines for the prioritization of investments in Integrated Community Centres through an order of the Minister of Health.		<b>Time:</b> Q4 2021
<b>Context:</b>  As provided in the Council Implementing Decision, the objective of this investment is to improve the access for the population, in particular for people in rural, disadvantaged and marginalized areas, to quality health care, as well as to increase the availability of health services in primary and community care.  The adoption of the criteria for prioritising investments in Integrated Community Centres (ICCs) is the first milestone in this investment. These criteria should be contained in the Manual of the Integrated Community Centres, providing guidelines for prioritisation of communities to benefit from the Integrated Community Centres, approved by Ministerial Order. This milestone is followed by target 370, due by Q2/2025, which consists of building/renovating 200 Integrated Community Centres.		
<b>Evidence provided:</b>  In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided: <ol style="list-style-type: none"><li>1. Summary document duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled (Cover Note).</li><li>2. Copy of the Ministerial Order (Ministry of Health Order 2931/2021, published in the Official Journal No. 1240 bis on 29/12/2021).</li><li>3. Copy of the Manual of Integrated Community Centres.</li><li>4. Guidelines for the prioritization of investments in Integrated Community Centres.</li><li>5. Link to the website where the Manual may be accessed.</li></ol> The authorities also provided: <ol style="list-style-type: none"><li>6. The letter no. 186/20.06.2022 from the Association of Romanian Communes (ACoR) to the Minister of Health confirming the involvement of ACoR in the drafting of the Manual of Integrated Community Centres and in the adoption of the prioritisation criteria for investments in ICCs.</li><li>7. The email correspondence between the Ministry of Health and the president of ACoR and the vice-president of the Romanian Association of Cities since December 2021, for their consultation regarding the drafting of the Manual of Integrated Community Centres and the data collection for the prioritisation criteria for investments in Integrated Community Centres.</li></ol>		
<b>Analysis:</b>		

In line with the requirements set out in the CID Annex, the Ministry of Health elaborated the Manual of Integrated Community Centres which includes the methodological priority guidelines drafted in consultation with representatives of the local public authorities. The Manual has been adopted by Order 2931/2021 of the Minister of Health and the priority guidelines included therein line out the prioritization of investments in the Integrated Community Centres.

The requirements established by the description of the measure and of the milestone in the Council Implementing Decision have been fulfilled as follows:

- Regarding the adoption of the Manual of Integrated Community Centres through an Order of the Minister of Health:
  - the Manual of Integrated Community Centres was approved through Order 2931/2021 of the Minister of Health, published in the Official Journal No. 1240 bis (29 December 2021).
- With respect to the requirement of the priority guidelines in the Manual of Integrated Community Centres being developed in consultation with representatives of the local public authorities:
  - the Manual including the priority guidelines was developed with the support of experts from the Romanian Association of Communes and the Romanian Association of Cities, as proven by the supplementing documents which have been provided (the letter from the Association of Romanian Communes (ACoR) and the email correspondence with the president of ACoR and the vice-president of the Romanian Association of Cities). The consultation with representatives of the local public authorities is also mentioned at page 19 of the Ministerial Order, in the last paragraph.
- Regarding the requirement that the prioritisation of Administrative Territorial Units must consider the following six criteria: (1) the number of vulnerable people per community (minimum 500 medically, socially or economically vulnerable people); (2) the availability of association with other vulnerable localities; (3) the existence of a community nurse and a social worker/social assistance technician; (4) administrative territorial units without access to a family doctor or with insufficient number of family doctors relative to the population; (5) the existence of a local council decision to set up the Integrated Community Centres; (6) the identification of the locality as a marginal rural area. The purpose of these criteria is to allow for the prioritisation of Administrative Territorial Units where Integrated Community Centres are to benefit from the investments.
  - The criteria for prioritising investments in Integrated Community Centres are detailed in chapter 9 (pp. 19-21) of the Manual of Integrated Community Centres which is in the annex of the Ministerial Order. All the criteria correspond to the six requirements enumerated above and listed in the CID Annex.

Additionally, the Manual may be accessed online via the following link: <https://www.ms.ro/organizare/unitatea-de-implementare-si-coordonare-programe/>

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 426	Related Measure: Stepping up the fight against corruption	
<b>Name of the Milestone:</b> Entry into force of the government decision approving new National Anti-Corruption Strategy		
<b>Qualitative Indicator:</b> Provision in the government decision indicating the adoption of the Anti-Corruption Strategy		<b>Time:</b> Q4 2021
<b>Context:</b>		



The objective of reform 6 is to step up the fight against corruption through subsequent milestones, by: i) adopting the national strategic framework for its prevention and repression; ii) strengthening the capacity of the institution competent to combat it, namely the National Anti-Corruption Directorate (DNA); iii) recovering the damage and proceeds of crime, to strengthen integrity in the civil service; iv) ensuring an efficient system for declaring assets and interests.

Milestone 426 requires the adoption of an Anti-Corruption Strategy ("the Strategy") by government decision and constitutes the first part of Reform 6. Romania committed to implement at least 70% of the measures foreseen in the strategy by 31 December 2025 (Target 428).

**Evidence provided:**

In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:

1. Summary document justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled. The document moreover includes links to the website where the strategy can be accessed.
2. Copy of the publication in the Official Journal No. 1218 of 22 December 2021 of the Government Decision GD 1269/2021 approving the Strategy.
3. Copy of the adopted strategy (as annex to GD 1269/2021), including a summary of the policies and measures envisaged.

**Analysis:**

The following elements have been addressed:

- The anti-corruption strategy contains 127 measures organised in 5 general objectives and 19 specific objectives, 16 more than those set out in the CID Annex.
- As required by the CID Annex, the Strategy sets out five general objectives (detailed from pg. 26 to pg. 40): (1) increasing implementation of anti-corruption measures; (2) reducing the impact of Corruption on citizens; (3) strengthening integrity management and administrative capacity to prevent and fight corruption; (4) strengthening integrity in priority areas; (5) improving the performance of the fight against corruption by criminal and administrative means.
- At the level of the specific objective ("SO"), the Strategy aims at training staff of central and local public authorities and representatives of the private sector on environmental integrity issues (SO 4.8, Measure 1), in line with the CID Annex. The Ministry of Justice moreover commits to work with the High Court of Cassation and Justice, the Supreme Council of Magistracy, the National Institute of Magistracy NMI, the Ministry of Environment and the General Inspectorate for Immigration to develop a curriculum for the training of practitioners involved in preventing and combating environmental crime. The curriculum would include issues on preventing and combating related corruption (SO 4.8, Measure 3).
- The Strategy aims at allocating a new DNA seat and provide with the necessary financial resources for the fitting-out of the new premises, which is appropriate also in the light of the support structure of the European Public Prosecutor's Office and the Technical Service to be developed (SO 5.1, Measure 2). It moreover commits to the development of the DNA Technical Service, including at territorial level (3 area centres, with staff of the allocated 90 police officers mentioned in SO 5.1, Measure 4) (SO 5.1, Measure 3) and to provide the financial and human resources needed to support investigations into high-level corruption cases – in particular, by allocating and budgeting an additional 90 judicial police officers in DNA (SO 5.1, Measure 4).

These measures would help enhance the functioning of the DNA (National Anti-Corruption Directorate), the European Public Prosecutor Office support structure, the Technical Service and the reinforcement of judicial police officers, as required by the CID Annex.

- To promote the unification and judicial practice in corruption, the DNA will conduct an analysis of judicial practice concerning corruption cases especially in public procurement (SO 4.4, Measure 1), while ordinary appeals and appeals in the interest of the law will be promoted in order to step up efforts to unify judicial practice with respect to corruption cases (SO 5.1, Measure 7).
- As required by the CID Annex, the new Strategy sets out as new priority area environmental corruption (page 21 and SO 4.8, as discussed above) and the integrity in the protection of cultural assets (pg. 23 and SO 4.9). The Strategy moreover addresses the link between corruption and organised crime (SO 5.3), as it acknowledges corruption as one of the means that sustain the activities of organised crime groups and entrench their power. Measures to achieve this objective include the production of a taxonomy of judicial practices on corruption cases associated with organised crime, and the reinforcement of the protection of judicial staff involved in the prevention and fight against corruption and organised crime (pg. 42).
- The strategy moreover reviews the integrity legislation (Section C.2, pg. 10-11) and sets out measures to improve legislation concerning:
  - Conflicts of interests and incompatibilities, especially in the health sector (SO 4.1, Measure 6), education sector (SO 4.2, Measure 6) and the management of cultural heritage (SO 4.9, Measure 2)
  - Declaration of assets and gifts, especially in the public sector (SO 5.2, Measure 3)
  - Revolving door (pantouflage), especially to avoid conflicts of interests between providers of anti-corruption training and the examiners that shall award licensing/accreditation/certification mechanisms for that training (SO 4.2, Measure 5)
  - The status and mandate of Ethics Adviser, in order to make anti-corruption preventive measures more effective (SO 3.1, Measure 1).

The uniform application of the general standard of disclosure of public interest information ex officio at the level of central and local public authorities (SO 3.2, Measures 1 and 2). Moreover, Annex 4 includes a General Standard for Disclosure of Public Interest Disclosures that central and local public authorities will have to fill into report, among others, information about their budget and all financial sources and, in the case of contracting authorities, annual public procurement programmes, a summary of procured contracts (for contracts worth less than EUR 5,000) or public contracts (in all the other cases).

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 450	Related Measure: Monitoring and implementation of the plan		
<b>Name of the Milestone:</b> Audit and Controls: information for monitoring implementation of the recovery and resilience plan			
<b>Qualitative Indicator:</b> Audit report confirming repository system functionalities			<b>Time:</b> Q4/2021
<b>Context</b>			
The objective of the overall investment is to set up and operationalise the integrated IT system, part			

of the government cloud and connect it with other national and EU systems used for the purpose of the implementation of the recovery and resilience plan.

The purpose of the IT system is to ensure the electronic collection, recording and storage of data relating to each component of the RRF, including all data as requested by Art. 22(2)(d) of the RRF Regulation.

**Evidence Provided:**

In line with the verification mechanisms set out in the Operational Arrangements, the following evidence was provided:

1. Copy of the final Audit Report, signed on 30/05/2022 by the Audit Authority;
2. A certificate of completion of the works signed by the contractor, i.e. Special Telecommunications Service (STS) no 99817/28.04.2022;
3. An acceptance Protocol signed by STS and the competent authority, i.e. Ministry of Investments and European Projects (MIPE), no 99641/30.03.2022);
4. Summary document justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled;
5. Link to the website where the IT system can be accessed: ([Proiecte PNRR \(gov.ro\)](https://proiecte.pnrr.gov.ro)).

**Analysis:**

The evidence provided by the Romanian authorities addresses the description of the reform in the CID Annex as follows:

1. A repository system for monitoring the implementation of the recovery and resilience plan shall be in place and operational before the first payment request (except for pre-financing). The system shall include, as a minimum, the following functionalities:
  - a) collection of data and monitoring of the achievement of milestones and targets;(...)

Romania presented a full repository system for monitoring the implementation of the recovery and resilience plan in place and operational before the first payment request (except for prefinancing). The acceptance Protocol signed between the Romanian Special Telecommunication Services (hereinafter STS) and the Ministry of European Investments and Projects (hereinafter MIPE) as national coordinator in March 2022 covers part of the IT system. The Protocol refers to the functionalities of the front office module (the module used by applicants) as being completed and operational. The certificate of completion of works signed by the developer, i.e. STS, on 28 April covers, however the rest of the IT system, i.e. back office modules confirming that the system has been completed and is operational in its integrity since 26 April 2022.

The audit report submitted by the Romanian authorities (drafted by the Audit Authority - hereinafter the AA) covers not only milestone 450, but all milestones and targets of the first payment request. M450 is assessed in chapter 3.3 The Audit findings and recommendations for M450 and in detail in Annex 12 of the audit report. The audit report confirms that the IT system (e\_SMC) is operational and able to collect all data for the monitoring of the achievement of all milestones and targets, including issuing progress reports and management declarations. Moreover, the Dashboard component is active. It can display in real-time the evolution of the parameters for the implementation of the Plan, i.e. monitoring the achievement of the targets and milestones related to the implementation of the components of the plan, and the state of implementation of each measure.

2. The system shall include, as a minimum, the following functionalities:

(...)

- b) collect, store and ensure access to the data required by Article 22(2)(d)(i) to (iii) of the RRF Regulation.

As regards the collection and storage of the data as requested by Art. 22(2)(d) of the RRF Regulation (EU) 2021/241 (hereinafter the RRF Regulation), the audit report confirmed the collection and storage of all required data at the moment of the final report (i.e. 30 May 2022), with the following exceptions:

- The collection of the name of the final recipient for contracts other than public procurement (the Romanian authorities had 30 days from the date of the audit to implement this recommendation). However, in the meeting of 9 June 2022 [Ares(2022)4687164], the AA confirmed that this is more an IT functionality (field) issue, and confirmed that these data are currently collected by the implementing bodies;
- As regards the capacity of the system to collect and store the information required under Art. 22(2)(d)(iii) of the RRF Regulation, the AA confirmed that the system allows the storage of these data, but such data are not yet inserted into the system because financing contracts and procurement contracts generating these types of data had not been signed at the moment of the report, for the milestones and targets included in the first payment request.
- As regards the collection of the information required under Art. 22(2)(d)(iii) of the RRF Regulation, i.e. beneficial owner data, the integrated monitoring and control system used for RRF (e\_SMC) will extract these data from the National Trade Registry (hereinafter the ONRC) database based on a Protocol signed on 25 May 2022.

Access to data required by Article 22(2)(d) of the RRF Regulation is confirmed for the national coordinator (MIPE), reform and investment coordinators and AA (based on user functions). So far, several institutions have already access and inserted data into the system and requests for access are approved on a continuous basis. The Romanian authorities have also confirmed that the Commission, the European Public Prosecutor Office, the European Court of Auditors and the European Anti-Fraud Office will be granted access to the data, upon request.

To verify whether the system is capable of performing the functions as required by the milestone, notably concerning the collection and storage of data as required under Art. 22(2)(d)(iii) of the RRF Regulation, the Commission requested information on 21 contracts (at the moment of the checks Romania confirmed that only these contracts had been concluded). The control carried out by the Commission confirmed that the system is able to collect and store data on contractors, subcontractors and to some extent on beneficial owners based on the Protocol signed on 25 May 2022 with the ONRC. However, Romania was not able to provide (complete) information on beneficial owners for contracts where there are foreign beneficial owners.

To improve this system for the future, MIPE adopted instructions to reform/investment coordinators on 30 August 2022 so that before signing the contract they verify the completeness of the data in the e-SMC by interrogating the system using the unique tax registration code (CUI)<sup>2</sup>. The applicants are under the obligation to declare these data to National Trade Registry (ONRC) in accordance with applicable rules as regulated by Law no. 315/2021 of 28 December 2021 amending Law no. 129/2019 on preventing and combating money laundering and terrorist financing and amending

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<sup>2</sup> According to art. 8, para. 1 of Law no. 359/2004, with subsequent amendments, upon registration of a company, a registration certificate is issued which entails the order number from the trade register and the unique tax registration code (CUI) assigned by the Ministry of Public Finance.

certain legislative acts, published in the Official Gazette no. 1240 of 29 December 2021.

For cases involving foreign shareholders, final recipients/contractors are requested to sign a declaration of honour under the penalty of the law that the data is complete and correct. This should apply until the interconnection with the European Central Platform established by Art. 22(1) of the Directive (EU) 2017/1132 of the European Parliament and of the Council will be achieved and data could be retrieved directly from that Platform. Furthermore, reform/investment coordinators will have to insert provisions in future contracts which oblige final recipients/contractors to inform MIPE, in parallel with ONRC, of any change/update in their beneficial owners' data and to re-interrogate the e\_SMC system in view of their collection and storage. All those measures (i.e. legal obligations in force since 1 January 2022, together with self-declaration on honour), besides the instructions adopted on 30 August 2022, provide a sufficient level of assurance that the system will collect and store beneficial owner data in accordance with requirements of Art. 22(2)(d).

However, for past contracts, the authorities have put in place a procedure to ensure the collection of the missing data. ONRC has already contacted the Official registers of the States in which foreign companies are residents to collect and ensure reliability of data on beneficial owners, for all contracts signed until 24 August 2022. The European Commission has received copies of all these requests. Furthermore, MIPE adopted final Guidelines to reform/investment coordinators.

In order to ensure continuous compliance with the milestone and its obligations under the Financing and Loan Agreements, as attested through the updated summary document justifying how the milestone was satisfactorily fulfilled, Romania has committed to continue to develop its system to improve its functionalities and efficiency by:

Using the European Central Platform for identifying beneficial owners of foreign companies, should it become available.

In the meantime, for collecting data on foreign companies, for all past contracts signed by 24 August 2022 ONRC will forward them to MIPE at the latest by 15.10.2022; MIPE takes the necessary actions to ensure data received from ONRC (in accordance with the answers received from trade registers of the member states where foreign companies are registered) is inserted and collected into the e\_SMC system and will inform the European Commission by 31.10.2022.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 451	<b>Related Measure:</b> Monitoring and implementation of the plan	
<b>Name of the Milestone:</b> Entry into force of a Government Ordinance enacting the legal mandate of the Ministry of Investments and European Project (MIPE), Ministry of Finance (MoF) and the Audit Authority (AA)		
<b>Qualitative Indicator:</b> Provision in the law indicating the entry into force of the Government Emergency Ordinance on the financial, implementation, control and audit mechanism, including clear mandate to three institutions		<b>Time:</b> Q4/2021
<b>Context:</b>  This milestone enacts the institutional framework for the national recovery and resilience plan and the activities carried out by the constituent institutions entrusting the Ministry for Investments and European Projects (MIPE) the power and mandate to exercise all the tasks of monitoring, verification, control and recovery, drawing up and signing payment applications submitted to the European Commission, the management declaration and the audit summary. The same framework entrusts as well the Ministry of Finance (MoF) with the duties in relation to the signing of the loan		

agreement and the financing agreement together with MIPE, and specifies the activities that the audit authority shall perform as part of its mandate for national recovery and resilience plan. Milestone 450 on the establishment of a repository system is also connected to this measure.

**Evidence Provided:**

In line with the verification mechanism, the following evidence was provided by the Romanian authorities:

1. Copy of the publication of the Government Emergency Ordinance no. 124 of 13 December 2021, enacting the legal mandate of the Ministry of Investments and European Project (MIPE), the Ministry of Finance (MoF) and the Audit Authority (AA), published in the Official Gazette no. 1178 of 14 December 2021, which according to the Romanian legislation entered into force on the day of its publication in the Official Gazette.
2. Copy of the Law no. 178 of 9 June 2022, published in the Official Gazette no. 576 of 14 June 2022 approving the Government Emergency Ordinance no. 124 of 13 December 2021, enacting the legal mandate of the MIPE, MoF and the Audit Authority (AA), published in the Official Gazette no. 1178 of 14 December 2021.
3. Summary document justifying how the milestone (including all constitutive elements) was satisfactorily fulfilled.

The authorities also provided:

4. a notification letter (on 30 May 2022) on the institutional framework (Ares(2022)4418949) outlining certain amendments to the Romanian Recovery and Resilience plan and
5. a copy of the publication of the Government Emergency Ordinance no. 70 of 26 May 2022 on prevention, verification and detection of irregularities/double financing, serious irregularities in obtaining and using the funds allocated under the RRF, published in the Official Gazette no. 526 of 27 May 2022.
6. Protocol concluded between MIPE and the National Agency of Integrity (ANI), with subsequent amendments (Ares(2022)4797267), (2022)5561693) and (2022)5570064).

**Analysis:**

The evidence provided by the Romanian authorities addresses the description of the reform in the CID Annex as follows:

Entry into force of a Government Ordinance enacting the institutional framework for the national recovery and resilience plan and the activities carried out by the constituent institutions entrusting MIPE the power and mandate to exercise all the tasks of monitoring, verification, control and recovery, drawing up and signing payment applications submitted to the European Commission, the management declaration and the audit summary. The same framework shall also entrust MoF with the duties in relation to the signing of the loan agreement and the financing agreement together with MIPE, and also to specify the activities that the audit authority shall perform as part of its mandate for national recovery and resilience plan.

The evidence submitted by Romania demonstrates that the Government Emergency Ordinance no. 124 of 13 December 2021 (hereafter GEO 124/2021) has entered into force on 14 December 2021, the date of its publication in the Official Gazette, in accordance with art. 12(2) of the Law 24 of 27 March 2000 on rules of legislative technique for the preparation of normative acts, version updated, published in the Official Gazette no. 260 of 21 April 2010.

GEO 124/2021 together with the provisions of GEO 70/2022 and the special legislation mentioned above suitably establishes the institutional and financial framework for the management of the national recovery and resilience plan, while outlining the control and audit mechanism and defining

the clear mandate of the three institutions. Therefore, the GEO 124/2021 allows these institutions to properly monitor and implement the plan and adequately addresses the requirements of the Council Implementing Decision.

In line with the description of the milestone and of the measure in the Council Implementing Decision, the following elements included in the Government Emergency Ordinance ensure the achievement of the milestone.

The Government Emergency Ordinance no. 124/2021 establishing the institutional and financial framework for the management of the European funds allocated to Romania under the Recovery and Resilience Facility and amending and supplementing Government Emergency Order No 155/2020 on certain measures for drawing up the National Recovery and Resilience Plan necessary for Romania to access repayable and non-refundable external funds under the Recovery and Resilience Facility was adopted by the Government on 13 December 2021, published in the Official Gazette no. 1178 of 14 December 2021 and entered into force on 14 December 2021, in accordance with art. 12(2) of the Law 24 of 27 March 2000, version updated, on rules of legislative technique for the preparation of normative acts, published in the Official Gazette no. 260 of 21 April 2010.

This was followed by its approval by the Law no. 178 of 9 June 2022, published in the Official Gazette no. 576 of 14 June 2022, in accordance with the procedure detailed in art. 75, 76(2) and 77 of the Romanian Constitution. The provisions of the GEO 124/2021 are further detailed in secondary legislation, namely methodological norms, adopted through the Government Decision no. 209 of 14 February 2022, published in the Official Gazette no. 154 of 15 February 2022, entered into force on 15 February 2022, in accordance with art. 12(3) of the Law 24 of 27 March 2000, version updated, on rules of legislative technique for the preparation of normative acts, published in the Official Gazette no. 260 of 21 April 2010. In addition, the GEO 70/2022 of 26 May 2022 on prevention, verification and detection of irregularities/double financing, serious irregularities in obtaining and using the funds allocated under the RRF, published in the Official Gazette no. 526 of 27 May 2022, entered into force on 27 May 2022, in accordance with art. 12(2) of the Law 24 of 27 March 2000, version updated, on rules of legislative technique for the preparation of normative acts, published in the Official Gazette no. 260 of 21 April 2010, complements and details the measures stipulated in chapter VIII of the GEO 124/2021.

The GEO 124/2021 establishes the institutional and financial framework for the management of the National recovery and resilience plan by:

- defining the specific terminology applied in the framework of this new mechanism (art. 2);
- appointing the institutions and bodies with responsibilities for the coordination, management and control of funds granted under the Recovery and Resilience Facility (herein after the RRF) (art. 3), and
- outlining the general coordination of the implementation of RRF (art. 4).

The mandate of the three main institutions are outlined as follows:

- Art. 3 lit. a) appoints MIPE as national coordinator while art. 5 entrusts MIPE with the tasks of monitoring, verification, control and recovery (alin.1 lit. d), e), f) and h; alin. 3, lit g), j), l), m), n), p), v), x), y), z), aa)-hh)), drawing up and signing payment requests submitted to the Commission (alin.3 lit. q), ii), and the relevant management declarations and the audit summaries (alin.1 lit. g, alin.3 lit. r).
- Art. 3 lit. f) appoints the MoF as the institution responsible for receiving the RRF funds from the Commission as well as their administration/use in accordance with the GEO 124/2021, as well as for regulating the preventive financial control. Art.5, alin. 5 lit. b) entrusts the MoF with the task of signing the loan agreement while describing its responsibilities in art. 5, lit.

a) to g).

- The Audit Authority is entrusted with performing the specific audit activities as stipulated in art. 5, alin. 6.

The provisions of both GEO 124/2021 and GEO 70/2022 related to the mandates of the institutions involved in the mechanism of implementation and control of the Romanian Recovery and Resilience Plan are complemented by existing legislative provisions (i.e. art. 58 and 62 of the Law no. 98 of 19 May 2016 on Public Procurement, published in the Official Gazette no. 390 of 23 May 2016; Law no. 161/2003 on measures to ensure transparency in the exercise of public dignitaries, public functions and in the business environment, prevention and sanctioning of corruption, published in the Official Gazette no. 279 of 21 April 2003; Law no. 500/2002, version updated, for public finances, published in the Official Gazette no. 597 of 13 August 2002) as well as by a protocol concluded between MIPE and the National Agency of Integrity (ANI) (see Ares(2022)4797267), (2022)5561693) and (2022)5570064) which entrusts ANI with the powers to investigate cases of potential conflicts of interests for all categories of staff involved in the implementation of the Recovery and Resilience Plan.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 462	Related Measure: Reform of the compulsory education system to prevent and reduce early school leaving	
<b>Name of the Milestone:</b> Entry into force of the Government Decision establishing the implementation of the National Programme to reduce early school leaving		
<b>Qualitative Indicator:</b> Provision in the Government Decision indicating the entry into force of the National Programme to reduce early school leaving		<b>Time:</b> Q4 2021
<b>Context:</b> <p>Milestone 462 is part of the reform of the compulsory education system to reduce and prevent early school leaving. The milestone calls for the entry into force of a Government Decision implementing the National Programme to reduce early school leaving, including the implementation of the Early Warning Mechanism in Education (MATE) in the schools included in the programme. The programme aims to reduce drop out, improve evaluation outcomes, achieve higher participation rates in national examinations and a higher percentage of pupils completing compulsory education; as well as to monitor, through the Early Warning Mechanism in Education (MATE) IT tool, pupils at risk of early school-leaving and support schools in data collection, individualised work plans and training.</p> <p>Milestone 462 is an initial step in the implementation of the reform and shall be followed by milestone 463, on the entry into force of the Ministerial Order (MO) for the use of Early Warning Mechanism in Education (MATE) tool at national level by Q4 2022. The reform and complementary investments should reduce early school leaving by at least 25% (target 468).</p>		
<b>Evidence provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ol style="list-style-type: none"><li>1. Copy of the publication in the Official Journal No. 1252/2021 of 30.12.2021 of the Ministerial Order No. 6000 approving the Early Warning Mechanism in Education (MATE) mechanism and methodology.</li><li>2. Summary document duly justifying how the milestone (including all the constitutive</li></ol>		



elements) was satisfactorily fulfilled (Cover Note).

The authorities also provided:

3. Copy of the publication in the Official Journal No. 1250 of 31.12.2021 of the Government Decision No. 1309 establishing the implementation of the National Programme to reduce early school leaving.

**Analysis:**

The Romanian government adopted on 30 December 2021 a Government Decision establishing the implementation of the National Programme to reduce early school leaving. It was published in the Official Journal No. 1250/2021 and entered into force on the date of its adoption.

The Government Decision (article 2 on page 2) contains a time-bound, evidence-based target to reduce early school leaving in at least 25% of schools participating in the period 2021-2026. It also sets the objective of improving pupils' performance in national assessments and increasing the percentage of pupils completing secondary education and the participation of secondary education graduates in the national assessment for class VIII graduates and the rate of transition from lower-to upper-secondary or vocational education.

The general objectives of the programme are to increase school autonomy and capacity in the use of resources, through the implementation of the Early Warning Mechanism in Education (MATE), and to monitor, through the Early Warning Mechanism in Education (MATE) tool, pupils at risk of early school leaving, and support schools in collecting relevant data and carrying out plans for individualised activities and training. Through the implementation of these actions, the programme is expected to contribute to a higher cost-effectiveness in the use of resources.

The programme identifies primary and secondary schools with a high percentage of pupils at risk of dropping out, and supports them in collecting relevant data and carrying out individualised work plans through the MATE tool. The MATE collects school data on indicators to assess the risk of early school leaving, on the basis of which its vulnerability index on early school leaving is calculated. There are five Indicators: (1) percentage of replacement teachers in relation to total number of teachers; (2) secondary education attainment rate; (3) the ratio of repeat and drop-out pupils to the total number of pupils; (4) the participation rate of secondary school graduates in the national assessment for 8th grade graduates; (5) the share of lower secondary school graduates who scored less than 6 in the national assessment for 8th grade graduates. Based on the vulnerability index established by the MATE, the intervention priority — high, medium and low at school level — is set to reduce the risk of drop-out and early school leaving.

Finally, Article 5 of the Government Decision states that the Early Warning Mechanism in Education (MATE) and the methodology for the implementation and use of the Early Warning Mechanism in Education (MATE) IT tool shall be approved by order of the Minister for Education within 30 days of the entry into force of the Government Decision.

The Ministry of Education passed the Ministerial Order that approved the Early Warning Mechanism in Education (MATE) mechanism and methodology. The Ministerial Order was published in the Official Journal No. 1252/2021 and entered into force on the date of its adoption, 30 December 2021. This allowed schools to know the activities involved in the project and the monitoring procedures.

Also, following the description of the measure in the CID Annex, the National Programme for the

implementation of the Early Warning Mechanism in Education (MATE) shall allow for an integrated and systemic approach at local, regional and national level (page 12).

The text includes 2 annexes:

- Annex 1 of the Ministerial Order states that the Early Warning Mechanism in Education (MATE) provides a coherent and uniform framework for early detection of pupils at risk of early school leaving, as it is based on real-time data collection of early signs (such as low academic performance, class repetition, absences, inadequate school behaviour). It allows school staff and decision-makers at county and central level to coordinate, plan and implement appropriate and immediate measures to mitigate identified risks and problems. Such an integrated approach at all levels will allow for close monitoring and timely adjustments;
- Annex 2 sets out the methodology for the implementation and use of the Early Warning Mechanism in Education (MATE) IT tool, covering identification and assessment of pupils at risk, the planning and implementation of appropriate measures to reduce early school leaving at school, class and student level, defining monitoring and adjustment responsibilities as well as the data collection.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 464	<b>Related Measure:</b> Supporting educational establishments with high risk of drop-outs	
<b>Name of the Milestone:</b> Open call for projects for the support of students for the transition from lower to upper secondary education, on the basis of 5 indicators defined in the Early Warning Mechanism in Education		
<b>Qualitative Indicator:</b> Publication of the call		<b>Time:</b> Q4 2021
<b>Context:</b> <p>The objective of this investment is to reduce early school leaving by means of using the Early Warning Mechanism in Education methodology and IT tool to allocate financial resources to schools for the support of students for the transition from lower to upper secondary education. The ultimate goal is the reduction in early school leaving.</p> <p>The fulfilment of this milestone required launching a call for projects to award grants for educational establishments, on the basis of 5 indicators defined in the Early Warning Mechanism in Education, for the support of students for the transition from lower to upper secondary education. All indicators are calculated on the basis of a weight that analyses the quantity, i.e. the number of students and teachers, or the quality, i.e. the marks obtained in the national assessment. The five indicators are as follows: (1) percentage of replacement teachers in relation to total number of teachers; (2) secondary education attainment rate; (3) the ratio of repeat and drop-out pupils to the total number of pupils; (4) the participation rate of secondary school graduates in the national assessment for class VIII graduates; (5) the share of lower secondary school graduates who scored less than 6 in the national assessment for class VII graduates.</p> <p>Based on the vulnerability index on Early School Leaving, Early Warning Mechanism in Education (MATE) schools were classified into three categories, depending on the priority of the intervention: high, medium and low. High-priority educational units, which need immediate intervention, are considered to be those that receive a total score between 3,5 and 5 and that have several elements of vulnerability, such as a high number of substitute teachers, a high dropout rate, low participation rate and poor national assessment results. These schools shall be prioritised for funding.</p> <p>Eligible activities include:</p> <ul style="list-style-type: none"><li>• pedagogical and support activities;</li><li>• extra-curricular activities;</li></ul>		

- minor works and purchases of goods;
- grants for pupils in vulnerable groups to ensure the transition from lower secondary to upper secondary education, to complete compulsory education;
- partnerships with NGOs for support and/or extra-curricular activities.

This milestone is an initial step in the implementation of the reform and shall be followed by the award of grant schemes to educational establishments by Q1 2022 (target 465).

**Evidence provided:**

In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:

1. Summary document duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled (Cover Note).
2. The online publication of the call for projects to award grants for educational establishments for the support of students for the transition from lower to upper secondary education, showing that the competition is open to applications.
3. The documents describing the technical specifications of the call (Applicants' guidelines), fully aligned with the description, criteria and conditions as set out in the description of this milestone in the CID Annex.

The authorities also provided:

4. A list of eligible schools based on the 5 indicators defined in the Early Warning Mechanism in Education.

**Analysis:**

Prior to the launch of the call, the Ministry of Education announced the programme on its internet site and invited schools to submit a declaration of intent (to participate in the call). 3 489 schools that applied were deemed eligible based on the Early Warning Mechanism in Education (MATE). The list of eligible schools, which Romania submitted as part of the evidence, shows how the 5 respective indicators were used to define eligible schools (as indicated in columns R1, R2, R3, R4 and R5 in the list of eligible schools based on the 5 indicators defined in the Early Warning Mechanism in Education).

On 2 March 2022 the call for projects was launched on the Ministry of Education's website ([https://www.edu.ro/ghidul\\_solicitantului\\_PNRAS](https://www.edu.ro/ghidul_solicitantului_PNRAS)). The applicant's guidelines were published together with templates for applicants to use in the call. On the website and in the applicants' guidelines, the eligible target group and purpose was defined (see p.2 of the guidelines: schools with high and medium risk of dropout and scheme to allocate financial resources to schools to support students in order to reduce absenteeism, improve assessment results, obtain a higher participation rate in national exams and a higher percentage of students' transition from lower to upper secondary education).

In addition, the applicants' guidelines define management and purposes of the grants and categories of eligible activities (projects) in line with the CID Annex (p.552 of the guidelines). According to the information included on the Ministry of Education website ([https://www.edu.ro/ghidul\\_solicitantului\\_PNRAS](https://www.edu.ro/ghidul_solicitantului_PNRAS)). The call was closed on 14 March.

The guidelines also address the CID Annex requirement of schools becoming responsible for the grant and its use, including student outcomes and for regular updates on the progress achieved, by transferring that information into the MATE data collection system (see p.7 and 9).

Ministerial Order No 3.496/30.03.2022 approved the list of round-1 educational establishments covered by the grant scheme of the National Reduction Programme School abandonment (PNRAS).

The list includes 1 391 educational establishments.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

**[Loan support]**

<b>Number: 1</b>	Related Measure: Strengthening the regulatory framework for the sustainable management of the water and wastewater sector and accelerating public access to quality services under European directives	
<b>Name of the Milestone:</b> Entry into force of the amendments to the Law No 241/2006 on water supply and sewerage		
<b>Qualitative Indicator:</b> Provision in the law indicating the entry into force of the law		<b>Time:</b> Q4 2021
<b>Context:</b> <p>The objective of this reform is to improve the capacity of regional water infrastructure operators, in order to improve the quality and efficiency of cooperation between them and the local authorities/inter-community development associations (IDAs) and water and channel infrastructure owners. To reach this objective, a number of legislative and regulatory changes have to be made by the Romanian authorities. The initial step of this reform is the modification of the Law No 241/2006 on water supply and sewerage, covered by this milestone. The reform will be complemented by the setting up of the national programme “First Connection to Water and Sanitation”, which will support families and single people on low incomes to pay the costs incurred for connection to the water supply and sewerage system.</p> <p>This milestone requires amendments to the Law in order to enable the approval of tariff strategies by the general meeting of the IDAs, impose obligations regarding the record keeping of persons that do not discharge wastewater into the public sewerage network and send the list of such persons to the National Environmental Guard annually, the prohibition of direct discharge of untreated wastewater and requiring persons that do not have an appropriate individual collection and treatment system to connect to existing public sewerage systems. The law also establishes the rules regarding the provision of collection of wastewater services, and develops the criteria for authorization, construction, registration/record, operation and maintenance of appropriate individual systems.</p>		
<b>Evidence provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ol style="list-style-type: none"><li>1. Summary document justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled (Cover Note).</li><li>2. Copy of the publication in the Official Journal No. 1258 of 31 December 2021 of the amendments to the Law No. 241/2006 on water supply and sewerage and reference to the relevant provisions indicating the entry into force.</li></ol>		
<b>Analysis:</b> <p>The amendments to the Law No. 241/2006 were adopted by a government emergency ordinance and were published in the Official Journal No. 1258 of 31 December 2021 and entered into force on the same day. In addition to the copy of the publication in the Official Journal of the amendments to</p>		

Law No. 241/2006, Romania also provided a detailed analysis of the amendments to the Law No. 241/2006 to demonstrate the compliance with the CID Annex, which can be summarised as follows:

Concerning the approval of the tariff strategy of the regional water and sewerage operator by the general meeting of the Intercommunal Development Associations (IDAs), based on the special mandate received from the local administrative units, article 35 paragraph (3) of the Law has been modified to allow the tariff strategy to be approved by decision of the general meeting of the Intercommunal Development Associations for the purpose of water supply and sewage services.

Through this change Romania explained that the timeline for the approval of the tariff strategy will be reduced by 3 to 12 months as the decision-making process will be harmonised and will remain only at the level of the general meeting of IDA instead of requesting separate decision-making procedures at each administrative-unit level. The faster adoption of the tariff strategy provides earlier certainty in the approval and financing of water infrastructure investment projects made from public funds and is therefore expected to enable the extension of the water and wastewater service infrastructure.

Concerning the obligation of the local public administration authorities to keep records of natural and legal persons that do not discharge waste water into the public sewerage network and send the list of such persons to the National Environmental Guard annually, within article 14 of the law, after the letter g) two new letters h) and i) have been inserted providing that those local authorities shall keep records of natural and legal persons that do not connect to existing or newly established public sewerage systems under the conditions set out in Article 31 (14) and that do not discharge wastewater to the existing public sewerage network, in collaboration with operators or regional operators, in order to make an inventory of individual wastewater collection systems and to notify the population for compliance. The related sanctions (fines and imprisonment) are provided by Water Law 107/1996, notably articles 87 and 92. Romania confirmed that the data on illegal discharging of wastewater will be uploaded annually on a specific platform accessible to various administration, including the Environmental guards.

Concerning the obligation of users to connect to existing public sewerage systems if they do not have an appropriate individual collection and treatment system, article 31 paragraph (14) has been modified to include a requirement that users, either natural or legal persons, including those who have their own water supply systems, shall be required to connect to the existing or newly established public sewerage systems.

Concerning the requirement that the Law allows to organise, where appropriate, the provision of the water service only, on the condition that the collection of wastewater is done through individual collection and treatment systems that shall ensure the same level of environmental protection as centralised collection and treatment systems, article 2 paragraph (4) has been modified to include that only the water supply service may be organized in the territorial administrative units, provided that the collection of wastewater is ensured through individual systems appropriate for wastewater treatment. These individual systems ensure hygiene and health of the population and the protection of the environment at standards similar to centralized sewerage and treatment systems. Concerning the requirement to ensure the exceptional nature of adequate individual systems in the sense that these systems address situations where centralised systems are not technically and economically feasible, two new paragraphs (14<sup>1</sup>) and (14<sup>2</sup>) have been added after article 31 paragraph (14), providing that natural and legal persons have the obligation to use some appropriate individual systems or other appropriate systems which can ensure the same level of environmental protection, exclusively in the situation in which the installation of a public sewerage network is not possible for environmental or economic reasons.

Concerning the prohibition to discharge untreated wastewater from appropriate individual systems directly into the environment, two new paragraphs have been added after article 31 paragraph (14), providing that the direct discharge of the untreated wastewaters shall be forbidden from the appropriate individual systems into the surface waters, groundwater, or on the lands, without ensuring their proper treatment.

Concerning the development of criteria for authorization, construction, registration/record, operation and maintenance of appropriate individual systems, article III (1) and (2) allow for the development of criteria by the relevant authorities. In particular, the article provides that the National Regulatory Authority for Community Services of Public Utilities (A.N.R.S.C.) shall elaborate the methodologies provided by art. 16, paragraph (2), letters c) and d) of the Law no. 241/2006, republished. Furthermore, the law provides that the Ministry of Environment, Water and Forests and the Ministry of Development, Public Works and Administration shall draw up the criteria for authorization, construction, registration, control and operation and maintenance of appropriate individual collection systems and wastewater treatment, which are to be approved by Government decision. Government Decision 714 approving the criteria was adopted on 26 May 2022.

All the changes required by the CID Annex have been introduced in the Law No 241/2006.

The Romanian Audit Authority also reviewed the milestone. The authority found that for the last amendment concerning the development of criteria for authorization, construction, registration/record, operation and maintenance of appropriate individual systems, the Romanian government developed the criteria but did not formally approve them. The authority recommended that the government approved them. The milestone requires amendments for the empowerment to develop the criteria and not for their application, therefore this conclusion is not relevant for the assessment of the milestone. As indicated above, the Commission notes that the Government Decision 714 approving the criteria was adopted on 26 May 2022.

Therefore, the Commission considers the milestone as satisfactorily fulfilled.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 78	Related Measure: Performance-based quality management in transport - Improving institutional capacity and corporate governance	
<b>Name of the Milestone:</b> Entry into force of the Law no. 50/2021 for the approval of the Emergency Ordinance no. 55/2016 on the reorganization of the National Company of Highways and National Roads in Romania - S.A. (C.N.A.I.R) and the establishment of the National Road Investment Company - S.A. (C.N.I.R)		
<b>Qualitative Indicator:</b> Provision in the law indicating the entry into force of the Law no 50/2021		<b>Time:</b> Q2 2021
<b>Context:</b>  Milestone 78 is part of a reform which aims to enhance the quality of transport investments and services by improving the corporate governance and the performance of the State-Owned Enterprises operating in the transport sector, notably for those in charge of roads, railways, and metro. This reform contains four interrelated milestones and targets.  Milestone 78 calls for the entry into force of the legislation on the reform of the National Company of Highways and National Roads in Romania (C.N.A.I.R) and the creation of a new Road Investment Project Management Company (C.N.I.R). Along with the entry into force of this legislation,		

milestone 78 requires the adoption of a regulatory package for the purpose of ensuring solid corporate governance and performance of the two state-owned enterprises C.N.A.I.R and C.N.I.R.

**Evidence provided:**

In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:

1. Copy of the publication in the Official Journal no. 315 of 29 March 2021 of law no. 50/2021 for the approval of the Emergency Ordinance no. 55/2016 on the reorganisation of the National Company of Highways and National Roads in Romania - S.A. (C.N.A.I.R) and the establishment of the National Road Investment Company - S.A. (C.N.I.R).
2. Summary document duly justifying how the milestone was satisfactorily fulfilled (Cover Note).

The authorities also provided:

3. Government Emergency Ordinance no. 55/2016 on the reorganization of the National Company of Highways and National Roads in Romania - S.A. (C.N.A.I.R) and the establishment of the National Road Investment Company - S.A. (C.N.I.R).
4. Government Decision no. 864/2021 published in the Official Journal no. 815 of 25 August 2021 approving the statutes of the National Road Investment Company (C.N.I.R).
5. Government Emergency Ordinance no. 109/2011 on the corporate governance of public companies.
6. Government Decision no. 722/2016 on methodological norms of corporate governance.
7. Temporary mandate contract for C.N.I.R Board members until the corporate governance procedure is completed.
8. Government Emergency Ordinance no. 83/2016 on measures to streamline the implementation of transport infrastructure projects.
9. Performance contract of Board members with performance indicators.
10. Annexes approving the model of performance contracts set out in Government Emergency Ordinance no. 83/2016.
11. Tender specifications for the selection and recruitment of board members.
12. Details of the tendering procedure for selecting the companies which will handle the recruitment process of board members.
13. Law no. 111/2016 for the approval of the Government Emergency Ordinance no. 109/2011 on corporate governance of public enterprises.
14. Letter of expectations for C.N.I.R approved by Ministerial Order no. 1272/8 July 2022 guaranteeing that performance indicators/KPIs are included in the management contracts that will be signed with the board members.
15. Letter of expectations for C.N.A.I.R approved by Ministerial Order no. 1273/8 July 2022 guaranteeing that performance indicators/KPIs are included in the management contracts that will be signed with the board members.
16. Ministerial Order no. 1159/2021 for the appointment of state representatives in the General Meeting Shareholders for C.N.I.R.
17. Ministerial Order no. 1175/2021 for the appointment of the General Director of C.N.I.R..
18. Temporary mandate contract for C.N.I.R General Director.
19. Regulation of the company approved by CA decision on 23/27.11.2022.
20. Ministerial Order no. 1172/2021 for the appointment of the interim members of the C.N.I.R board of directors.
21. Memorandum for the appointment of Secretary of State, Mr. Foghis, as interim manager of the board of directors of C.N.I.R..

22. Government Emergency Ordinance no. 84/2003 establishing C.N.A.I.R.
23. Order 1952/2018 regulating the procedure for monitoring the implementation of the provisions for the Government Emergency Ordinance no. 109/2011 on the corporate governance of public enterprises.
24. Results of the procurement procedure for services for the recruitment and selection of candidates for the appointment of board members.
25. Framework agreement for the procurement of services for the recruitment and selection of candidates for the appointment of board members.
26. Substantiation note to Government Emergency Ordinance no. 109/2011 on corporate governance of public undertakings.
27. Ministerial Order no. 1345 issued on 28 July 2022 on the constitution of the selection panel for the selection of candidates for managements positions at C.N.A.I.R and C.N.I.R.

#### **Analysis:**

The objective of this reform is to enhance the quality of transport investments and services by improving the corporate governance and the performance of the State-Owned Enterprises operating in the transport sector, notably for those in charge of roads, railways and metro.

The evidence provided by the Romanian authorities addresses the requirements included in the description of Milestone M78 in the CID Annex as follows:

1. The entry into force of the legislation on the reform of the National Company of Highways and National Roads in Romania - S.A. (C.N.A.I.R) and the creation of a new Road Investment Project Management Company (C.N.I.R);

Law no. 50/2021 for the approval of the Emergency Ordinance no. 55/2016 on the reorganisation of the National Company of Highways and National Roads in Romania - S.A. (C.N.A.I.R) and the establishment of the National Road Investment Company - S.A. (C.N.I.R) was published in the Official Journal on 29 March 2021 and entered into force on 1 April 2021.

As detailed below, this shall allow to focus a specific entity (C.N.I.R) on the efficient management and prioritization of the new road investments, while the other entity (C.N.A.I.R) shall focus on the management and maintenance of the existing road network.

2. Clear performance indicators, aligned with the Boards' mandates and KPIs, sanctions and incentives in case of non-compliance, to assess the financial performance (revenue, profitability, involvement of State's budget) and the performance of the service provided (e.g. via user satisfaction survey) for both companies;

On 11 July 2022, the Commission received Ministerial Orders no. 1272 and 1273 approving letters of expectations which set legally binding and enforceable performance indicators (KPIs) for C.N.I.R and C.N.A.I.R respectively.

Based on articles 1 and 9 of the Government Decision no. 722/2016 on methodological norms of corporate governance (annex 2), the KPIs are defined as "performance indicators enlisted in the annex to the Boards' mandate contract" which are to be used to evaluate the efficiency of the administrators of the public companies. As such, the alignment of performance indicators with the Boards' mandate is ensured.



The letter of expectations for C.N.I.R includes financial and non-financial KPIs, listed on pages 15-19. Examples of such financial KPIs which assess financial performance are: “degree of realization of revenue foreseen in the budget; profitability; increase in debt collection”. Example of non-financial KPIs which assess the performance of the service provided are: “carrying out an opinion survey on customer satisfaction; reduction of number by complaints/petitions from users and third parties; de-congestion of road transport in localities by implementing environmentally friendly projects”.

The financial and non-financial indicators listed in the letter of expectations for C.N.I.R. are clearly linked to incentives and sanctions in a legally binding and enforceable manner for C.N.I.R, as reflected on page 20 of the letter. In this respect, the variable component of the members of the board's salaries (that is, three monthly fixed salaries) is linked to the level of accomplishment of the KPIs (below 20%, 20-40%, 40-60%, 60-80%, above 80%). For instance, in case of fulfilment of key performance at a level between 20 % and 40 %, no variable component is received and the fixed component of the salaries is decreased by 20%. In case of fulfilment of KPIs above 80%, the full variable and fixed components of salaries are paid to board members.

The letter of expectations for C.N.A.I.R includes financial and non-financial KPIs, listed on pages 14-17. Examples of such financial KPIs which assess financial performance are: “degree of realization of revenue foreseen in the budget; profitability; reduction of state intervention by reducing transfers earmarked for the payment of arbitrary rulings generated by investment projects”. Examples of non-financial KPIs which assess the performance of the service provided are: “conducting an opinion survey on customer satisfaction (users of infrastructure); increase in the number of satisfied users (by reference to the data recorded in the years 2023-2025); annual reduction in the number of deficiencies reported; increase in road safety by increasing the number of road safety inspections (out of the total network managed)”.

The financial and non-financial indicators listed in the letter of expectations are clearly linked to incentives and sanctions in a legally binding and enforceable manner for C.N.A.I.R, as reflected on page 18 of the letter, with the same modalities as for C.N.I.R.

Considering the above, it can be concluded that the performance indicators included in the two letters of expectations are clearly defined, are aligned with the Boards’ mandates and KPIs and that the sanctions and incentives in case of non-compliance with the performance indicators are comprehensibly determined, which in turn allows for the assessment of the financial performance (revenue, profitability, involvement of State’s budget) and the performance of the service provided (done via user satisfaction surveys) for both companies.

3. Corporate governance standards in line with the O.E.C.D. framework (professional Boards selected through an open, competitive and transparent procedure);

This element is fulfilled by the provisions of Law no. 111/2016 for the approval of the Government Emergency Ordinance no. 109/2011 on corporate governance of public enterprises. The preambles on page 3 of Government Emergency Ordinance 109/2011 approved by the Law no. 111/2016, mention the alignment of the Government Emergency Ordinance with “the principles of corporate governance of state-owned enterprises developed by the Organisation for Economic Cooperation and Development (OECD) on the basis of the most advanced legislative and good practice standards of corporations”.

The process mentioned in the Government Emergency Ordinance 109/2011 approved by Law no. 111/2016, under article 5 (5-10) and article 29 (15-14), lists the steps for the recruitment process. This process ensures openness and transparency by rendering public the selection process for Board members as “the notice of selection of board members shall be published (...) in at least two widely distributed economic and/or financial newspapers and, (...) on the website of the public undertaking”. The process can be considered competitive as the selection documents to be made public also “must include the conditions to be met by the candidates and the criteria for their assessment” and “the selection shall be carried out in compliance with the principles of non-discrimination, equal treatment, and transparency (...)”. The selection procedures, as specified in the articles above, also foresee the use of “independent experts” during the selection process, in particular for autonomous corporations with more than 500 employees. This is in line with OECD standards, which consider a good practice the use of independent experts in the selection procedure, particularly for large SOEs engaged in economic activities.

Finally, considering that the aim of the Government Emergency Ordinance 109/2011, as enshrined in their preambles, is to ensure that the selection of professional Boards of public companies is aligned with the principles of corporate governance of state-owned enterprises developed by the OECD, and taking into account that the preamble not only form an integral part of the Government Emergency Ordinance, but also serve for the interpretation of the provisions and of the overall purpose of this Ordinance, it can be concluded that Law no. 111/2016 for the approval of the Government Emergency Ordinance no. 109/2011 on corporate governance of public enterprises allows for the selection of professional Boards through an open, competitive and transparent procedure (as aligned with corporate governance standards in the OECD framework).

4. Primary and secondary legislation amended to make the company’s activities more effective and to reorient C.N.A.I.R.’s powers and institutional mechanisms;

According to article 25 (1) of the Law no. 50/2021, C.N.A.I.R. must publish an activity report every six months detailing the progress of investment projects and the organisation and operation of the company. Articles 45 (1) and 46 prescribe that the monthly payments received by C.N.A.I.R. should be tied to its economic performance and the number of employees. It can be concluded that these provisions contained in the Law no. 50/2021 which amends Government Emergency Ordinance 55/2016 contribute to making C.N.A.I.R. more effective, as it increases the level of transparency of C.N.A.I.R.’s activities.

Law no. 50/2021, amending Government Emergency Ordinance 55/2016, aims to reorient C.N.A.I.R.’s powers and institutional mechanisms, as demonstrated by the following amendments put forth: According to article 64 of the Law no. 50/2021, C.N.A.I.R. must transfer road infrastructure projects for the development of transport infrastructure to C.N.I.R. within three years. This article therefore reorients C.N.A.I.R.’s powers, as required by the CID Annex. Article 77 of the same Law provides that until the projects under implementation have been completed or handed over to C.N.I.R., C.N.A.I.R. must carry out specific activities such as the rehabilitation of motorways and shall receive funds for the expenditure related to such specific activities. Article 83 states that the investment projects subject to transfer to C.N.I.R. must be approved by the Ministry of Transport and Infrastructure. Articles 77 and 83 therefore reorient C.N.A.I.R.’s institutional mechanisms, as required by the CID Annex.

5. C.N.A.I.R. shall retain the current tasks in terms of road maintenance as well as existing

investments both at the level of major and minor projects. There shall be a transitional period of 3 years during which C.N.A.I.R. and C.N.I.R. shall run investment projects in parallel until C.N.I.R. is fully operational and all major investment projects shall be in the management of the C.N.I.R.;

As provided by Article 4 of the Government Emergency Order no. 55/2016, "C.N.A.I.R. has as its principal activity: maintenance, repair, management and operation of motorways, express roads, national roads, bypasses and other road infrastructure elements defined in accordance with the law, for the purpose of safe road traffic [...]". Given that that Law no. 50/2021 does not modify this article, it can be reasonably concluded that all tasks related to road maintenance, including to the existing investments, both at the level of major and minor projects, are retained by C.N.A.I.R.

Article 64 of Law no. 50/2021 provides without ambiguity that the transfer of road transport infrastructure projects for the development of transport infrastructure shall be transferred from C.N.A.I.R. to C.N.I.R. within a period of 3 years.

Additionally, Article 77 of Law no. 50/2021 provides that:

- "(1) Until the projects under implementation have been completed or all the projects specified in the Order of the Minister for Transport and Infrastructure, referred to in Article 83 of this Emergency Order, have been handed over to the C.N.I.R, whichever is the first, the C.N.A.I.R shall also carry out the following activities [...] b) ensure the implementation of unitary development programmes for the public road network [...]
- (2) Until the projects under implementation have been completed or all the projects referred to in Article 64 of this Emergency Order have been handed over to the CNIR, funds shall be allocated to CNAIR from the state budget and from the budget allocated to non-repayable funds, in accordance with the law, and for the following categories of expenditure necessary for the implementation of the projects [...] a) rehabilitation of motorways, express roads, national roads, bypasses and other national road infrastructure elements for road transport infrastructure projects it has in its implementation [...]."

Based on the above provisions, it is concluded that investment projects shall run in parallel for C.N.A.I.R and C.N.I.R until C.N.I.R is fully operational and all major investment projects shall be under the management of the C.N.I.R.

The evidence provided by the Romanian authorities addresses the description of the reform in the CID Annex as follows:

1. A new entity C.N.I.R. S.A. (National Company for Road Infrastructure) has been created by legislation entered into force in April 2021 to manage the investments in road sector, with the responsibility to ensure the implementation of the projects from the technical and economic documentation phase, tendering procedures, effective construction to reception. It is expected that this shall allow to focus a specific entity (C.N.I.R) on the efficient management and prioritization of the new road investments, while the other entity (C.N.A.I.R) shall focus on the management and maintenance of the existing road network.

According to Article 8 of Government Emergency Ordinance no. 55/2016, C.N.I.R is mainly tasked with the management of the investments in the road sector and is also attributed the responsibility to ensure the implementation of road infrastructure projects, starting from the technical and

economic documentation phase to the tendering procedures, the supervision of the effective construction and the reception of the construction phase. Article 4 of the Ordinance provides that C.N.A.I.R shall focus on the management and maintenance of the existing road network.

The analysis of Government Emergency Ordinance no. 55/2016 demonstrates that the competences attributed to C.N.I.R and C.N.A.I.R are in line with the description of milestone 78 and its corresponding measure.

The preambles of Government Emergency Ordinance no. 55/2016 explain that the delays in the implementation of road transport infrastructure projects are due to C.N.A.I.R allocating time to both investment projects and maintenance. It can therefore be concluded that C.N.I.R's focus on efficient management and prioritisation of new road investments allows C.N.A.I.R to allocate more time on the management and maintenance of the existing road network. This is aligned with the expectation presented in the description of the reform associated with milestone 78, that the creation of C.N.I.R shall allow C.N.A.I.R to better manage and maintain the road network.

2. This reform shall ensure a balanced representation of women in all reform processes and in the organisational structures specific to its implementation. It shall also aim to improve the representation of women in decision-making positions of companies undergoing this reform.

Milestone 78 establishes the legislation and the regulatory package for C.N.A.I.R and C.N.I.R. To verify that the organisational structures specific to the implementation of the reorganisation of C.N.A.I.R and the establishment of C.N.I.R ensure a balanced representation of women, the panels selecting the members of the boards of directors of C.N.I.R and C.N.A.I.R shall themselves be gender balanced. Ministerial Order no. 1345 issued on 28 July 2022 on the constitution of the selection panel for the selection of candidates for managements positions at C.N.I.R and C.N.A.I.R lists the 7 members of the selection panel, 5 of which are women.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 247	Related Measure: Financial instruments for the private sector - Portfolio guarantee for resilience		
<b>Name of the Milestone:</b> Signature of the contribution agreement between the European Commission and the Romanian Government			
<b>Qualitative Indicator:</b> Agreement signed			<b>Time:</b> Q4 2021
<b>Context:</b> <p>The objective of this sub-investment is to address financial hurdles faced by Romanian enterprises in accessing finance. In particular, the sub-investment shall target the liquidity/solvency challenges of Romanian enterprises, which arise from the significant and temporary reduction of their revenues, due to the COVID-19 crisis. The investment shall take the form of a portfolio guarantee, to be implemented as a contribution to InvestEU by the European Investment Fund (“EIF”).</p> <p>The signature of the Contribution Agreement is the steppingstone for the implementation of the investment C9.I2a. The Contribution Agreement allows Romania to contribute the dedicated funds to the InvestEU Programme, managed at EU level, which are then provided as a guarantee to attract private investments in the country via financial intermediaries (also known as “Member State Compartment”). Following the signature of the Contribution Agreement, and subsequently the guarantee agreement (not covered by this milestone), 50% of the total amount of resources shall be</p>			

approved by the InvestEU Investment Committee by Q2 2023 (Milestone 248), and the rest by Q2 2024 (Milestone 249).

**Evidence provided:**

In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:

1. Summary document duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled, including references to the relevant provisions.
2. A copy of the signed Contribution Agreement. The Contribution Agreement defines all the financial instruments covered by Milestones 247, 250 and 259. Details about the characteristics of sub-investment C9.I2a can be found under Clause 11.2 and under Annex 4, Part 1.

The authorities also provided:

3. a Memorandum of Understanding signed by Ministry of Investments and European Projects and the Ministry of Finance and addressed to the Secretary General of the Government of Romania introducing and justifying the signature of the Contribution Agreement.
4. A note prepared by the implementing partner including information on the number of beneficiaries the financial instrument is expected to support.

**Analysis:**

All elements of the CID Annex have been addressed. In particular:

- The Contribution Agreement defines the financial instrument to be implemented as a portfolio guarantee (Clause of the Contribution Agreement [“Clause”] 11.2).
- In line with the Contribution Agreement and Art. 10 of the InvestEU Regulation, Romania proposed the EIF as implementing partner (Clause 13.2). In line with Art. 15 of the InvestEU Regulation and as indicated in the Council Implementing Decision (“CID”), the European Commission and the EIF are to sign a guarantee agreement that implements the financial instrument (Clause 13.1).
- In the wake of COVID-19, the portfolio guarantee aims at addressing: (i) the financial hurdles faced by Romanian enterprises in accessing finance (namely increased cost of finance, lack of collateral and impaired, as mentioned in Clause 11.1); (ii) liquidity/solvency challenges faced by Romanian enterprises due to their inability to meet their financial obligations resulting from the significant - temporary reduction of their revenues (Annex 4, Part 1, Section 3 and 4).
- To do so, and consistently with the milestone description, the form of the financial instrument is set out as working capital, credit lines, investment loans or leasing (Clause 11.2 and Annex 4, Part 1, Section 10.d).
- The target of the instruments are individuals and SMEs as defined in the Annex to Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises – that is, self-employed persons or enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million. In line with the milestone description, the financial instrument is expected to support at least 1 500 beneficiaries – as stated in a dedicated note prepared by the implementing partner and in the summary document provided by Romania. The guarantee agreement will provide further and more refined detail about the final targeted companies (Annex 4, Part I, Sections 6 and 7).
- The structure of the instrument enables to leverage private funds, as the minimum leverage of the financial product is set at four (clause 11.2). This is in line with the Council Implementing Decision.
- The Contribution Agreement requires the Guarantee Agreement (to be signed by the European

Commission and the implementing partner) to include provisions ensuring compliance of the financial instrument and its supported transactions with the “Do no significant harm” Technical Guidance (2021/C58/01). In particular, the Guarantee Agreement sets out an obligation for the implementing partner to use InvestEU sustainability proofing and to comply with an exclusion list - as outlined in the CID Annex [COM(2021)608 final and ST12319/21 ADD 1]. In accordance with the description of the milestone, the Contribution Agreement ensures that the Guarantee Agreement shall exclude the following list of activities and assets from eligibility (Clause 4.7):

- activities and assets related to fossil fuels, including downstream use (with the related exception concerning projects in power and/or heat generation, as well as related transmission and distribution infrastructure, using natural gas)
- activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks (with further requirements concerning supported activities achieving projected greenhouse gas emissions that are not significantly lower than the relevant benchmarks).
- The sub-investment is in line with Commission’s Guidance Note of 22 January 2021 (SWD(2021) 12 final) as the Contribution Agreement: i) ensures the implementation of the contribution via the guarantee agreement shall respect the requirements of the RRF Regulation (Clause 7.4); and that ii) it contains all the relevant information regarding the participation of Romania in the InvestEU Programme has been transposed into the Contribution Agreement: the policy objectives of the measure (Clause 11); the State aid dimension (Clause 3.5); the contribution to the Invest EU provisioning (Clause 5); the target amount of finance and investment to be mobilized (Clause 11.2 and Annex 4); the type of support to be deployed mobilized (Clause 11.2 and Annex 4); the targeted beneficiaries and the nature of the mobilized (Clause 11.2 and Annex 4); a timetable for deploying the financial instrument (Clause 11.2 and Annex 4); the name of the InvestEU implementing partner (Clause 13.2); a description of the monitoring system to report on the investment mobilized through the financial instrument (Clause 16.3).
- In accordance with the milestone description, Clause 15.1 stipulates that returns to the financial instrument (that is, revenues generated from the management of assets and allocated to the Member State compartment, remuneration of the EU Guarantee under the Member State Compartment, amounts recovered and any other payments received) shall be reinvested to pursue the same policy goals, with the effect of such provisions extending after 2026.
- In its summary of audits (issued in April 2022), the Romanian Auditing Authority argued that the milestone was not satisfactorily fulfilled because the Contribution Agreement had not been finalised at that stage yet. As a result, the Authority reported that the following legal provisions were not complied with: Article 5(1) of the Loan Agreement signed between the European Commission and Romania in 15.12.2021; Article 5(4) of Government Emergency Order No nr.124/2021. In fact, The Contribution Agreement was signed only on 24 May 2022, after the Authority’s checks. With the signature of the Contribution Agreement, Romania has therefore achieved the milestone.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 250	Related Measure: Financial instruments for the private sector - Climate Action Portfolio Guarantee	
<b>Name of the Milestone:</b> Signature of the contribution agreement between the European Commission and the Romanian Government		
<b>Qualitative Indicator:</b> Agreement signed		<b>Time:</b> Q4 2021

**Context:**

The objective of this sub-investment is to deliver finance and investments to companies and the residential and building sector investing in energy efficiency improvements. The investment shall take the form of a portfolio guarantee, to be implemented as a contribution to InvestEU by the European Investment Fund ("EIF").

The signature of the Contribution Agreement is the stepping stone for the implementation of the investment C9.I2b. The Contribution Agreement allows Romania to contribute the dedicated funds to the InvestEU Programme, managed at EU level, which are then provided as a guarantee to attract private investments in the country via financial intermediaries (also known as "Member State Compartment"). Following the signature of the Contribution Agreement, and following the signature of the guarantee agreement (not covered by this milestone), 50% of the total amount of resources shall be approved by the InvestEU Investment Committee by Q2 2023 (Milestone 251), and the rest by Q2 2024 (Milestone 252).

**Evidence provided:**

In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:

1. Summary document duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled, including references to the relevant provisions.
2. A copy of the signed Contribution Agreement. The Contribution Agreement defines all the financial instruments covered by Milestones 247, 250 and 259. Details about the characteristics of sub-investment C9.I2b can be found under Clause 11.2 and under Annex 4, Part 2.

The authorities also provided:

3. A Memorandum of Understanding signed by Ministry of Investments and European Projects and the Ministry of Finance and addressed to the Secretary General of the Government of Romania introducing and justifying the signature of the Contribution Agreement.
4. A note prepared by the implementing partner including information on the number of beneficiaries the financial instrument is expected to support.

**Analysis:**

All elements of the CID Annex have been addressed. In particular:

- The Contribution Agreement defines the financial instrument to be implemented as a portfolio guarantee (Clause of the Contribution Agreement ["Clause"] 11.2).
- In line with the Contribution Agreement and Art. 10 of the InvestEU Regulation, Romania proposed the EIF as implementing partner (Clause 13.2). In line with Art. 15 of the InvestEU Regulation and as indicated in the Council Implementing Decision ("CID"), the European Commission and the EIF are to sign a guarantee agreement that implements the financial instrument (Clause 13.1) through debt financing (Clause 11.2).
- The Contribution Agreement sets out general guidelines for the setup of the Climate Action Portfolio Guarantee in compliance with the CID. With respect to "scope", the Agreement establishes that the portfolio guarantee will support investments in green transitioning, energy efficiency and renewable energy production (Clause 11.1, Annex 4, Part II, Sections 3 and 4), which will help to address Romania's current challenges in supporting investments in the energy efficiency and renewable energy sectors. In terms of "structure", the deployment of the

instrument will be intermediated by eligible financial intermediaries (Annex 4, Part II, Sections 10 and 10a). Finally, eligibility criteria (additional to the application of the DNSH principle) are mentioned in Annex 4, Part II, Sections 6 and 7.

- In line with the general approach taken under InvestEU, the Contribution Agreement defers the definition of details that determines the alignment between Member State Compartment and EU Compartment to a Guarantee Agreement between the EIF and the Commission. The Guarantee Agreement is the fundamental document that allows for the actual implementation of the portfolio guarantee and is currently being negotiated by the European Commission and the EIF.
- In the summary document duly justifying the achievement of the milestone, Romania has requested that the Climate Action Portfolio Guarantee be fully aligned with the corresponding InvestEU EU-Compartment instrument with regard to specific goals and energy efficiency ambitions, structure and eligibility criteria – along with the general guidelines defined by the Contribution Agreement and the provisions in the CID Annex.
- The target of the instruments are individuals and SMEs as defined in the Annex to Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises – that is, self-employed persons or enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million. In line with the milestone description, the financial instrument is expected to support at least 250 beneficiaries – as stated in a dedicated note prepared by the implementing partner and in the summary document. The guarantee agreement will provide further and more refined detail about the final targeted companies (Annex 4, Part I, Sections 6 and 7).
- The structure of the instrument enables to leverage private funds, as the minimum leverage of the financial product is set at four (clause 11.2). This is in line with the CID.
- The Contribution Agreement requires the Guarantee Agreement to include provisions ensuring compliance of the financial instrument and its supported transactions with the “Do no significant harm” Technical Guidance (2021/C58/01). In particular, the Guarantee Agreement sets out an obligation for the implementing partner to use InvestEU sustainability proofing and to comply with an exclusion list - as outlined in the CID Annex [COM(2021)608 final and ST12319/21 ADD 1]. In accordance with the description of the milestone, the Contribution Agreement ensures that the Guarantee Agreement shall exclude the following list of activities and assts from eligibility (Clause 4.7):
  - a. activities and assets related to fossil fuels, including downstream use (with the related exception concerning projects in power and/or heat generation, as well as related transmission and distribution infrastructure, using natural gas)
  - b. activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks (with further requirements concerning supported activities achieving projected greenhouse gas emissions that are not significantly lower than the relevant benchmarks).
- The sub-investment is in line with Commission’s Guidance Note of 22 January 2021 (SWD(2021) 12 final) as the Contribution Agreement: i) ensures the implementation of the contribution via the guarantee agreement shall respect the requirements of the RRF Regulation (Clause 7.4); and that ii) it contains all the relevant information regarding the participation of Romania in the InvestEU Programme that has been included in the national recovery and resilience plan has been transposed into the Contribution Agreement: the policy objectives of the measure (Clause 11); the State aid dimension (Clause 3.5); the contribution to the Invest EU provisioning (Clause



<p>5); the target amount of finance and investment to be mobilized (Clause 11.2 and Annex 4); the type of support to be deployed mobilized (Clause 11.2 and Annex 4); the targeted beneficiaries and the nature of the mobilized (Clause 11.2 and Annex 4); a timetable for deploying the financial instrument (Clause 11.2 and Annex 4); the name of the InvestEU implementing partner (Clause 13.2); a description of the monitoring system to report on the investment mobilized through the financial instrument (Clause 16.3).</p> <ul style="list-style-type: none"> <li>• In accordance with the milestone description Clause 15.1 stipulates that returns to the financial instrument (that is, revenues generated from the management of assets and allocated to the Member State compartment, remuneration of the EU Guarantee under the Member State Compartment, amounts recovered and any other payments received) shall be reinvested to pursue the same policy goals, with the effect of such provisions extending after 2026.</li> <li>• In its summary of audits (issued in April 2022), the Romanian Auditing Authority could not assess positively the achievement of the milestone. The Authority had not been provided with the necessary and sufficient documents proving the signature of the contribution agreement between the European Commission and the Romanian Government. In fact, The Contribution Agreement was signed only on 24 May 2022, after the Authority's checks. With the signature of the Contribution Agreement, Romania has therefore achieved the milestone.</li> </ul>
<p><b>Commission Preliminary Assessment:</b> Satisfactorily fulfilled</p>

<p><b>Number:</b> 253</p>	<p>Related Measure: Financial instruments for the private sector - Recovery Venture Capital Fund</p>
<p><b>Name of the Milestone:</b> Signature of the financing agreement between the European Investment Fund and the Romanian Government for the creation of the Recovery Risk Capital Fund ("the Fund") and adoption of the investment policy of the Fund</p>	
<p><b>Qualitative Indicator:</b> Agreement signed</p>	<p><b>Time:</b> Q4 2021</p>
<p><b>Context:</b></p> <p>The objective of this sub-investment is to provide equity support for SMEs, mid-caps, including start-ups, companies in early and advanced growth stages, and infrastructure projects focused on renewable energy, and energy efficiency. The support shall be delivered through venture capital funds and infrastructure funds, as part of a Risk Capital Fund, managed by the European Investment Fund ("EIF").</p> <p>The signature of the Financing Agreement is the steppingstone for the implementation of the sub-investment I2c of Component 9. The Financing Agreement allows the EIF to open the call of competition for financial intermediaries through which resources would then be channelled towards final beneficiaries. Following the signature of the financing agreement, 50% of the total amount of resources allocated to this investment shall be transferred to financial intermediaries by Q4 2024 (Milestone 254), and the rest by Q2 2026 (Milestone 255).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ol style="list-style-type: none"> <li>1. A summary document justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>2. A copy of the signed Financing Agreement.</li> </ol>	

The authorities also provided:

3. a Memorandum of Understanding signed by the Ministry of Investments and European Projects (MIPE) and the Ministry of Finance approving the negotiation and signature by MIPE of the financing contract for equity financial instruments under the National Recovery and Resilience Plan.
4. A signed copy of the addendum that aligns the Financing Agreement to the CID Annex and the RRF regulation.
5. A Memorandum of Understanding for the nomination of the members of the Investment Committee, signed by the Prime Minister of Romania.

**Analysis:**

- In its summary of audits (issued in April 2022), the Auditing Authority remarked that the following provisions of the CID Annex had not been transposed in the Financing Agreement:
  - the requirement that beneficiaries earning more than 50 % of their revenues in the previous financial year from activities or assets included in the exclusion list adopt and publish green transition plans;
  - provisions relating to the category of beneficiaries implementing infrastructure projects focusing on renewable energy and energy efficiency;
  - provide that “Any proceeds of the fund or financial instruments, including repayments, as well as profits made through the use of Recovery and Resilience Facility funds, less remuneration of the fund manager and financial intermediaries, will be used for the same policy objectives, including after 2026”.
- As discussed below:
  - the Addendum to the Financing Agreement addresses concern (i);
  - the Financing Agreement clearly specifies that the Fund provides support to, among others, infrastructure projects focused on renewable energy and energy efficiency (Annex A, under policy objectives). As a consequence, the provisions mentioned in the Financing Agreement that applies to all the other beneficiaries, apply to such infrastructure projects too.
  - Clause 5.2 regulates the use of proceeds of the fund or financial instruments, including repayments, as well as profits made through the use of Recovery and Resilience Facility funds (i.e., “Proceeds of Operations”).

All elements of the CID Annex have been addressed. In particular:

- The Financing Agreement was signed by the governing bodies (that is, the EIF and the Government of Romania) of the financial instruments on 29 December 2021. An addendum to the Financing Agreement, which aligns the financing agreement to the CID Annex and the RRF Regulation, was signed on 25 May 2022.
- Clause 2.1 of the Financing Agreement specifies that the Government of Romania appoints the EIF to implement and manage the funds and resources made available for the purpose of this financial instrument.
- An investment committee is entrusted with approving, monitoring and supervising the implementation of the investment strategy and the deployment of the instrument (Clause 7.1 of the financing agreement). The investment committee was established by a Memorandum of Understanding signed by the Prime Minister of Romania on 16 May 2022 and is composed of 8 members.
- According to the investment strategy (Annex A of the Financing Agreement), the financial

instrument provides access to finance in the form of equity and quasi equity to SMEs, mid-caps including start-ups, companies in early, advanced growth and expansion stages (Annex A.2 – policy objective) and infrastructure projects (Annex A.5 – investment policy).

- The addendum specifies that the targeted number of beneficiaries under RRF over the entire duration of the Agreement is 100 (Amendment 2.i).
- The Financing Agreement and its addendum includes selection criteria to ensure compliance with the “Do no significant harm” Technical Guidance (2021/C58/01) of supported transactions. The application of the Commission Notice on Technical guidance on sustainability proofing for the InvestEU Fund” is recalled in Annex G as well as in the addendum (Amendment 2.ii). Amendment 2.ii of the Addendum explicitly refers to an exclusion list that is in line with the provisions set out in the CID Annex. More specifically, according to this list the financial instrument cannot target:
  - activities and assets related to fossil fuels, including downstream use (with the related exception concerning projects in power and/or heat generation, as well as related transmission and distribution infrastructure, using natural gas);
  - activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks (with further requirements concerning supported activities achieving projected greenhouse gas emissions that are not significantly lower than the relevant benchmarks);
  - activities and assets related to waste landfills, incinerators (with related exceptions, as defined in the CID Annex) and mechanical biological treatment plants (with related exceptions, as defined in the CID Annex);
  - activities and assets where the long-term disposal of waste may cause harm to the environment.

The Financing Agreement and its addendum also include the requirement for beneficiaries that derived more than 50% of their revenues during the preceding financial year from activities or assets in the exclusion list to adopt and publish green transition plans. It moreover ensures compliance of the instrument with the relevant EU and national environmental legislation.

- Clauses 8.1 to 8.4 mention that the Government of Romania shall remunerate the EIF with a fixed management fee as well as a variable performance fee.
- Annex I.6 to the Financing Agreement specifies that the structure of the fund (determined by the types of underlying funds and final recipients) will allow for an indicative leverage effect of 1.5 of the allocated amount.
- Clause 5.2 of the Financing Agreement mentions that any returns to the Fund or financial instruments (i.e., “Proceeds of Operations”) generated in the course of a calendar year shall be used for the payment and/or reimbursement of management fees and performance fees, of any unforeseen additional expenses and of shortfalls (if any). The remaining amount shall be used for the same policy goals (that is, “entering into commitment agreements with underlying funds) in accordance with the investment strategy (Annex 1).
- The Financing Agreement set up adequate mechanisms for monitoring and reporting the performance of the instrument. This Financing Agreement commits the EIF to prepare a semi-annual progress report (clause 15.2). The report shall include among others a list of final recipients and their characteristics, the total amounts approved by the investment committee and the amount transferred to final recipients, a summary of the performance of the fund and a

report on the compliance with the DNSH principle.
<b>Commission Preliminary Assessment:</b> Satisfactorily fulfilled

<b>Number:</b> 259	Related Measure: Financial instruments for the private sector - Energy efficiency investment in the residential and buildings sector	
<b>Name of the Milestone:</b> Signature of the contribution agreement between the European Commission and the Romanian Government		
<b>Qualitative Indicator:</b> Agreement signed		<b>Time:</b> Q4 2021
<b>Context:</b> The objective of this sub-investment is to deliver finance and investments for energy efficiency and renewable energy in the residential and buildings sector. The investment shall take the form of a portfolio guarantee, to be implemented as a contribution to InvestEU by the European Bank for Reconstruction and Development (“EBRD”).  The signature of the Contribution Agreement is the steppingstone for the implementation of the investment C9.I2e. The Contribution Agreement allows Romania to contribute the dedicated funds to the InvestEU Programme, managed at EU level, which are then provided as a guarantee to attract private investments in the country via financial intermediaries (also known as “Member State Compartment”). Following the signature of the Contribution Agreement, and following the signature of the guarantee agreement (not covered by this milestone), 50% of the total amount of resources shall be approved by the InvestEU Investment Committee by Q2 2023 (Milestone 260), and the rest by Q2 2024 (Milestone 261).		
<b>Evidence provided:</b>  In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:  <div><div>1. Summary document duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled, including references to the relevant provisions.</div><div>2. A copy of the signed Contribution Agreement. The Contribution Agreement defines all the financial instruments covered by Milestones 247, 250 and 259. Details about the characteristics of sub-investment C9.I2e can be found under Clause 11.2 and under Annex 4, Part 3.</div></div> The authorities also provided: <div><div>3. A Memorandum of Understanding signed by Ministry of Investments and European Projects and the Ministry of Finance and addressed to the Secretary General of the Government of Romania. The MoU introduces and justifies the signature of the Contribution Agreement.</div><div>4. A note prepared by the implementing partner including information on the number of beneficiaries the financial instrument is expected to support.</div></div>		
<b>Analysis:</b>  In its summary of audits (issued in April 2022), the Romanian Auditing Authority could not prove the satisfactorily achievement of the milestone because the Contribution Agreement had not been finalised at that stage yet. As a result, the Authority reported that the following legal provisions were not complied with: Article 5(1) of the Loan Agreement signed between the European Commission and Romania in 15.12.2021; Article 5(4) of Government Emergency Order No nr.124/2021. The signature of the Contribution Agreement between the European Commission and the EBRD on 24 May 2022 makes Romania compliant with those provisions.		

All elements of the CID Annex have been addressed. In particular:

- The Contribution Agreement defines the financial instrument to be implemented as a portfolio guarantee (Clause of the Contribution Agreement [“Clause”] 11.2).
- In line with the Contribution Agreement and Art. 10 of the InvestEU Regulation, Romania proposed the EBRD as implementing partner (Clause 13.2). In line with Art. 15 of the InvestEU Regulation and as indicated in the Council Implementing Decision (“CID”), the European Commission and the EBRD are to sign a guarantee agreement that implements the financial instrument (Clause 13.1).
- The portfolio guarantee aims at delivering finance and investments for energy efficiency and renewable energy in the residential and buildings sector (Clause 11.1) through debt financing (Clause 11.2).
- The target of the instruments are individuals and SMEs as defined in the Annex to Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises – that is, self-employed persons or enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million. In line with the milestone description, the financial instrument is expected to support at least 100 beneficiaries – as stated in a dedicated note prepared by the implementing partner and in the cover note. The guarantee agreement will provide further and more refined detail about the final targeted companies (Annex 4, Part I, Sections 6 and 7).
- The structure of the instrument enables to leverage private funds, as the minimum leverage of the financial product is set at four (clause 11.2). This is in line with the CID.
- The Contribution Agreement requires the Guarantee Agreement (to be signed by the European Commission and the implementing partner) to include provisions ensuring compliance of the financial instrument and its supported transactions with the “Do no significant harm” Technical Guidance (2021/C58/01). In particular, the Guarantee Agreement sets out an obligation for the implementing partner to use InvestEU sustainability proofing and to comply with an exclusion list - as outlined in the CID Annex [COM(2021)608 final and ST12319/21 ADD 1]. In accordance with the description of the milestone, the Contribution Agreement ensures that the Guarantee Agreement shall exclude the following list of activities and assets from eligibility (Clause 4.7):
  - activities and assets related to fossil fuels, including downstream use (with the related exception concerning projects in power and/or heat generation, as well as related transmission and distribution infrastructure, using natural gas);
  - activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks (with further requirements concerning supported activities achieving projected greenhouse gas emissions that are not significantly lower than the relevant benchmarks).
- The sub-investment is in line with Commission’s Guidance Note of 22 January 2021 (SWD(2021) 12 final) as the Contribution Agreement: i) ensures the implementation of the contribution via the guarantee agreement shall respect the requirements of the RRF Regulation (Clause 7.4); and that ii) it contains all the relevant information regarding the participation of Romania in the InvestEU Programme has been transposed into the Contribution Agreement: the policy objectives of the measure (Clause 11); the State aid dimension (Clause 3.5); the contribution to the Invest EU provisioning (Clause 5); the target amount of finance and investment to be mobilized (Clause 11.2 and Annex 4); the type of support to be deployed mobilized (Clause 11.2 and Annex 4); the targeted beneficiaries and the nature of the mobilized (Clause 11.2 and Annex 4); a timetable for deploying the financial instrument (Clause 11.2 and Annex 4); the name of the InvestEU implementing partner (Clause 13.2); a description of the monitoring system to report on the investment mobilized through the financial instrument (Clause 16.3).
- In accordance with the milestone description, Clause 15.1 stipulates that returns to the financial instrument (that is, revenues generated from the management of assets and allocated to the

Member State compartment, remuneration of the EU Guarantee under the Member State Compartment, amounts recovered and any other payments received) shall be reinvested to pursue the same policy goals, with the effect of such provisions extending after 2026.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 270	<b>Related Measure:</b> Streamline governance of research, development, and innovation	
<b>Name of the Milestone:</b> Policy Support Facility (PSF) Reform Implementation Unit established and operational		
<b>Qualitative Indicator:</b> Adoption of a normative act for the operationalisation Policy Support Facility Reform Implementation Unit		<b>Time:</b> Q4 2021
<b>Context:</b> <p>This milestone requires the establishment and operationalisation of the Unit for the implementation of the Policy Support Facility Reform (UIRPSF) within the Ministry of Research and Innovation and Digitalisation (MRDI). The UIRPSF shall coordinate all reforms and investments that aim at modernising the architecture and functions of the R&amp;D&amp;I system in Romania. Part of these reforms and investments are already envisaged by the RRP, while the bulk will be recommended by the Policy Support Facility (PSF) in an upcoming report.</p> <p>The UIRPSF is instrumental for supporting several other milestones and targets in the plan that aim at: a) streamlining the governance of research, development and innovation system (such as Milestone 273); b) set out framework conditions for public research, human resources for research and innovation (Milestones 274 and 276); integrate research, development and innovation organizations in the European R&amp;D&amp;I ecosystem (e.g., Milestones 278 and Target 284); d) promote public–private partnerships in R&amp;D&amp;I (e.g., Milestones 276 and Milestones 280); e) enhancing the impact of structural funds on the research, development and innovation system (e.g., Milestones 278 and Milestones 286). Overall, the UIRPSF shall steer the adoption of at least 80% of PSF recommendations by the end of 2026 (Target 271); by 2026, it shall evolve into a stable structure ensuring the harmonious design and implementation, monitor and evaluation of R&amp;D&amp;I innovation policy beyond 2026 (Milestone 272).</p>		
<b>Evidence provided:</b> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ol style="list-style-type: none"><li>1. A summary document justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li><li>2. A copy of the publication in the Official Journal No. 425 of 2 May 2022 of Government Decision 371/2021, establishing the UIRPSF.</li><li>3. Copies of ministerial orders appointing 10 staff members for the period 2022-2026.</li><li>4. Financing order on the implementation of reforms and/or investments financed by Romania’s national recovery and resilience plan (No. 20525/17.05.2022).</li><li>5. An official communication confirming from the Ministry of Investment and European Projects that the commitment appropriations and budget appropriations for item 61.01 in the abovementioned financing order are exclusively allocated to the functioning of the PSF unit.</li><li>6. A note from the Romanian authority proving that, following the public competition that ended in June 2022, the number of staff members of the unit increased from 10 to 13, and 2 members more will join in July 2022. All staff members have full-time contracts.</li></ol> <p>The authorities also provided:</p>		

7. Ministerial Order No. 20137/2022 introducing the rules on the organisation and functioning of the MRDI – including the UIRPSF.
8. Letter No. 475379/27.05.2022 certifying the resources the Ministry of Finance (MoF) supplemented to the budget of MRDI for the implementation of RRP measures.
9. Interim activity report of the UIRPSF, covering the period December 2021 — May 2022

The MRDI/UIRPSF also shared several documents that concern other milestones and targets than Milestone 270, to demonstrate that the UIRPSF is already operational and working for the implementation of future R&D&I reforms and investments. The documents are:

10. Guide for researchers living abroad applying for grants to conduct R&D&I activities in Romania (Investment 8) and design of the related state-aid scheme (for applicants employed by companies where R&D&I is not the core activity).
11. Guide for holders of certificates of excellence received in the Marie Skłodowska Curie Individual Fellowship Award applying for grants to carry out Horizon 2020 and Horizon Europe research projects (Investment 9) and design of the related state-aid scheme (for applicants employed by companies where R&D&I is not the core activity).

#### **Analysis:**

- All elements of the CID Annex have been addressed, in particular: The Government Decision 371/2021, Art. 7(4) introduces the UIRPSF within the MRDI, at a directorate level. According to Art. 2(6), the UIRPSF provides “independent support to national public authorities responsible for RDI”.
- In line with the first and second provisions of Milestone 270 in the CID Annex, the Rules on the organisation and functioning of the MRDI (introduced by Ministerial Order 20137/2022) specify that, as a general objective and together with experts of the European Commission, the UIRPSF shall carry out an external evaluation of national R&D&I policies, governance and institutional architecture, and support MRDI in the implementation of recommendations received from the European Commission through the Policy Support Facility. It shall moreover ensure the implementation of reforms and investments set out in Romania’s RRP (section 4.12, page 36).
- As required in the CID Annex, the Rules set out (section 4.12, page 38) the mandate of the UIRPSF, which shall focus on priorities: a) the governance of the R&D&I system; b) framework conditions for public research, human resources for research and innovation; (c) internationalisation of research, development and innovation organisations; d) public-private partnerships in research, development and innovation; e) the impact of the Structural Funds on the R&D&I system;
- In particular, the Rules stipulate that the UIRPSF “ensures coordination at MRID level on redesign, together with the relevant public authorities, of the architecture and functions of the Romanian R&D&I system, in order to improve the quality of RDI investments for a resilient and performing system at European level” (pg.36). Moreover, since by design, the UIRPSF will coordinate the implementation of all R&D&I-related reforms and investment in the RRP as well as recommendations of the PSF report, it will also steer the implementation of reforms to achieve two milestones that aims at redesigning the governance of the R&D&I system in Romania: Milestone 272 – which is about the entry into force of a permanent system to design, implement, monitor, and evaluate research, development, and innovation policy - and Milestone 273 – which is about the entry into force of a Government Ordinance establishing a single body that encompasses the existing councils, ensures inter-ministerial coordination, and reaches out to the private sector.
- The Rules clarify that the UIRPSF shall operate from 2021 to 2026, thus fulfilling the CID Annex (section 4.12, page 36).
- An interim report (and minutes from technical meetings held by the European Commission and MRID on other measures in Component 9 involving the UIRPSF) confirms that the unit is

operational and involved in the policy-making process.

- Concerning the budget line, MoF allocated RON 3.5 billion to the MRDI for the implementation of all measures in Components 7 (on digitalisation) and 9 (on support to business) of the RRP. Some 3% (RON 17.8 million) are budget appropriations (for payments that can be executed in 2022); the rest are commitment appropriations (they can be spent between 2022 and 2026) (letter No. 475379 sent by the MoF to MRDI on 27 May 2022).<sup>3</sup> The financing order No. 20525/17.05.2022 specifies that RON 2.4 million (half of which are budget appropriations) of the RON 3.5 billion are earmarked for the implementation for Reform 2 in Component 9, for which the achievement of Milestone 270 is a steppingstone.<sup>4</sup>
- In the summary audit accompanying the payment request, the Romanian Audit Authority's identified the lack of human capacity as an obstacle to the achievement of the Milestone. At the time of the Authority's assessment (19 April 2022), 8 posts were filled for the period 2021-2025 on a full-time basis, 2 posts were filled for the period 2021-2025 with part-time contracts and 7 posts remained vacant.
- In line with the CID Annex, the UIRPSF has received an assignment of 17 staff positions for the duration of the Recovery and Resilience Facility. As of 31 May 2022, the UIRPSF hired 10 staff members, all with a contract running through 2026 – as proven by the provisions in the ministerial orders of appointment of those staff members. Another competition was organised in June and lead to the selection of 5 new staff members of the UIRPSF, all with full-time contracts. The European Commission considers the current staffing adequate for the operationalisation of the unit.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

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<sup>3</sup> Many investments in R&D&I are grants allocated to research projects through public competition rolling throughout 2026. The large discrepancy between budget appropriations and commitment appropriations depends in large part on the outcome of those competitions and on the number of successful projects that will be selected (within the limit set out in the CID Annex).

<sup>4</sup> The other milestones and targets included in Reform 2 are: T271 (Share of recommendations in Policy Support Facility adopted by the end of 2026), M272 (Entry into force of a permanent system to design, implement, monitor, and evaluate research, development, and innovation policy) and M273 (entry into force of a Government Ordinance establishing a single body that encompasses the existing councils, ensures inter-ministerial coordination, and reaches out to the private sector).