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PUBLIC VERSION

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Subject: **State Aid SA. 55433 (2020/N) Romania– RES District heating projects**

Excellency,

1. PROCEDURE

(1) Following pre-notification contacts, by the submission registered on 19 August, the Romanian authorities notified the above-mentioned measure to the Commission pursuant to Article 108(3) of the Treaty on the Functioning of the European Union ("TFEU"). Upon request of the Commission by letter of 18 September 2020, the Romanian authorities provided additional information on 29 September and 8 October 2020.

(2) On 29 September, the Romanian authorities waived their right under Article 342 TFEU in conjunction with Article 3 of Regulation (EEC) No 1/1958, to have the decision be adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

2.1. Objective of the measure

(3) This notification concerns a scheme of aid measures in the form of investment aid awarded to entities responsible for the District Heating Service in Romania.

(4) The state aid scheme applies to projects proposing development and/or modernization of thermal energy production capacities (separately or in cogeneration) from i) biomass, ii) biogas or iii) geothermal energy and of the related district heating networks needed to facilitate the distribution of heat to consumers.

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(5) The aid granted under the state aid scheme aims to achieve the objectives undertaken by Romania under *Priority Axis 6: Promoting clean energy and energy efficiency in order to support a low carbon economy*, to contribute to the Europe 2020 Strategy goals, through:

- increase of the share of renewable energy in the total primary energy consumption, as a result of the investments to increase the installed capacity of heat production from less exploited renewable energy;
- reducing carbon emissions by replacing the fossil fuels used each year (coal and natural gas);
- reducing also other sources of pollution within residential areas, which have negative effects on the health of the local resident.

(6) According to the Romanian authorities, the production and distribution of thermal energy within the centralized heating systems is the most efficient way to use the existing energy resources to heat the local residents' dwellings. Therefore, supporting the investments in production and distribution of district heating is the most efficient manner to use the aid in order to supply the public heating services for the local residents.

(7) The Romanian authorities consider that the counterfactual scenario in absence of the scheme would be the following: keeping on using the polluting and inefficient individual heating units (burning coal, natural gas and wood in old stoves) or the inefficient district heating systems based on fossil fuels, most often located in residential areas.

(8) The Romanian authorities have calculated that the scheme would allow the increase by up to 60 MW of installed capacity to produce energy from biomass, biogas and geothermal energy and the decrease of the amount of greenhouse gas emissions by up to 48,000 (equivalent to tons of CO_2), throughout the scheme duration until 2023, estimated, as a result of replacing the fossil fuel energy production (coal, natural gas) with renewable energy production.

(9) The financial support within the state aid scheme is granted to the administrative-territorial units/subdivisions and inter-community development associations for investments in production and distribution of heat and hot water to local residents, based exclusively on less exploited renewable sources (biomass, biogas, geothermal), in order to ensure the public heating services.

2.2. Legal basis

(10) The scheme is based on a Government Decision- not yet final- "*on the approval of the State aid scheme for supporting the production and distribution in centralized system of green thermal energy from less exploited renewable sources, respectively biomass, biogas, geothermal energy*".

2.3. Budget and financing

(11) The total budget of the scheme is 724,770,000 lei, (150 MIO EUR) to be paid out over a timeline of four years.

(12) The source of financing is EU grants from ERDF (85%) which the Romanian authorities would request and state budget (15%).

2.4. Duration

(13) The aid will be granted after State aid approval. The scheme will be in force until December 31, 2021.

2.5. Scope and object of the measure

(14) The scheme covers investments for the development and/or modernisation of district heating both generation installations and distribution network. The investments concern only district heating networks which either are already "energy-efficient", according to EU legislation (Article 2, paragraphs 41 and 42 of the Directive 2012/27/EU[1]), or would become so, based on the supported investments.

(15) Investments aiming at production of electricity, or the investment component for production of electricity in cogeneration installations, or exclusively at developing/modernizing the distribution networks are explicitly excluded from the scheme, so are investments in the Bucharest Region. Investments shall not have benefitted from other funding sources in the previous five years, and need to be approved from a regulatory viewpoint. In order to meet Romania's RES/EED targets, and in line with the Specific Objective 6.1 - Increasing production of energy from renewable sources less exploited (biomass, biogas, geothermal), from the Large Infrastructure Operational Programme (LIOP) 2014-2020 Romania decided to focus the support measure on the development and/or modernization of generation installations within existing district heating networks. For this reason, investments aiming at development and/or modernization of the networks have a cap of maximum eligible costs (20%) as compared to the overall investment.

(16) Supported investments for energy generation installations are based exclusively on biogas, biomass and geothermal generation[2]- as defined, in

[1] Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC, in OJ L 315, 14.11.2012, p. 1–56.

[2] Biogas - the energy contained in gaseous by-products, obtained by fermentation from organic waste materials, forming the category of gaseous fuel; biomass - the biodegradable fraction of products, waste and residues from biological origin from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste; geothermal energy' means energy stored in the form of heat beneath the surface of solid earth.

line with EU legislation (notably the so-called Renewable Energy Directive, RED II)[3]. In particular on investments based on biomass and biogas, the Romanian authorities committed to assess compliance with rules set out in the RED II (notably article 29). Romanian authorities have clarified that the supported development and modernization investments do not relate in any case to co-firing installations and that the scheme covers only the development or modernization of production facilities, either through "fuel shifting", from fossil fuels to renewables, or increasing the capacity of generating energy from exclusively renewable sources (biomass, biogas, geothermal).

(17) The measure consists of direct grants. The aid is limited to relatively small energy production capacities, as the maximum amount that can be granted for an investment is 15 million euros per project.

(18) Support covers only the investments costs within the "funding gap", as calculated in an Annex (1) to the Government decision. In details, first of all a list of eligible expenditures is set out, as follows:

a) expenditures for obtaining and managing the land;
b) expenses for ensuring the utilities necessary for the investment objective;
c) expenditure for obtaining permits, agreements, authorizations;
d) design and engineering;
e) expenditures for the consultant on execution management;
f) expenditures with technical assistance from the designer during the execution period;
g) expenditures with the payment of the site managers;
h) expenditures for construction and installation;
i) expenditures with equipment (machinery, equipment with and without assembly, equipment);
j) expenditures with intangible assets;
k) expenditures with site organization;
l) contingencies;
m) expenditures for technological tests and tests and delivery to the beneficiary.

(19) Eligible costs with the transmission and distribution network cannot exceed 20% of the eligible value of the overall project. Furthermore, a list of ineligible costs is also provided.

(20) The funding gap assumed by the Romanian authorities refers to the balance between investment costs and the net operating revenue (the difference between revenues and operating and maintenance expenditures) generated

[3] Directive 2009/72/EC of the European Parliament and of the Council, as amended by Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (RED II), OJ L 328, 21.12.2018, p. 82–209.

by the investment over its lifetime. The calculation method is an incremental one, in which the situation with project and the situation without project are compared to determine the net effect of the project. Thus, only the effect of the investment is taken into account (not the general situation of the beneficiary). For the purposes of calculating the funding gap, pure financial expenses (such as reimbursement of a loan for financing the investment) are not considered.

(21) The Romanian authorities confirmed that for the purpose of calculation of the funding gap, both the generation facilities and the distribution network shall be included, with their respective costs and revenues, as above recalled, in an incremental manner, also in case of investments which concern only upgrade of generation facilities.

(22) In particular, if there is a district heating operator with a legal personality other than that of the applicant (Administrative territorial units or Inter-community development associations) the analysis will be done from the "applicant's plus district heating operator's" point of views, in order to exclude possible financial transfers between the two type of entities (royalties/subsidies).

(23) As further specified by Romania, in case there are two different operators (one for generation and one for distribution), the analysis will entail a global analysis (including both operators) as well as an analysis per operator, to ensure which operator exactly benefits from State Aid (i.e. to avoid that the State Aid received by one operator is transferred to the other one).

(24) The calculation is made during the project lifetime (including the implementation period of the investment). As clarified by Romanian authorities, the legal depreciation period will be used as reference, setting the minimum lifetime period[4].

(25) The Romanian authorities use as financial discount rate a cost of capital equal to 4% in real terms, in line with Structural Funds guidelines.

(26) Net revenue shall be applied proportionally to the two components of investment costs, namely eligible costs and non-eligible costs (but excluding VAT).

(27) The funding gap and the amount of state aid of each investment is calculated on the basis of the specific project lifetime and on the cost and revenue data resulting from the cost-benefit analysis or business plan.

[4] For investments including several components (such as generation and distribution), the average life time will be determined proportionally with the value of each component and the life time of the respective component. According to the Romanian accounting framework, the minimum and maximum lifetimes used to calculate depreciation of the project investments are as follows: 30/48 years - thermo-power plant; 20/30 years - district heating pipelines.

(28) If the discounted net operating revenue is greater than or equal to the discounted investment cost, the funding gap is zero and the state aid is not necessary.

(29) If the discounted net operating revenue is negative, the funding gap is 100% and the state aid is equal to the amount of eligible investments expenditure, under the aid scheme threshold. In such cases, the Romanian authorities require that the beneficiary fully explains how the net operating loss will be covered, taking account of State Aid rules.

(30) If the discounted net operating revenue is positive but lower than the discounted investment costs, the funding gap rate is calculated as follows: rate = (discounted investment costs minus discounted net operating revenue) / discounted investment costs).

(31) The Romanian authorities confirmed that the granting authorities- LIOP Managing Authority- supported if needed by EIB, will perform a quality review of the feasibility studies, including the funding gap calculations, submitted by beneficiaries. In particular, the process of assessing the project application, including feasibility study and funding gap, by the MA LIOP takes place prior to approving the project application and further signing a grant agreement with the beneficiary. Also, the assessment of the funding gap takes place prior to granting the aid, since the amount of the aid depends on the funding gap.

(32) Finally, the Romanian authorities clarified that the financing conditions set out in the Applicant's Guide by LIOP MA will ensure that the investments costs (covered by the State Aid) will not be passed on into the consumer's utility bills. In this regard, they clarified that any planned tariff increase will be reflected in the funding gap assessment and will be deducted from the amount of State Aid. Furthermore, the Managing Authority will strictly monitor the observance by the beneficiary of aid of all the conditions defined *ex-ante*, and in particular any tariff increase during the implementation and project sustainability and that the tariffs will not include the depreciation of the project components financed under the state aid scheme. Romanian authorities clarified that this condition would be set out in the financing agreement.

2.6. Beneficiaries of the measure. Conditions of eligibility. Granting process.

(33) As above mentioned, beneficiaries are only administrative territorial units (municipalities) or subdivisions or intercommunal development associations- which are formed by municipalities or subdivisions, which perform the services of district heating for their geographical extent.

(34) The beneficiaries need to have legal personality, be entrusted with the public task of ensuring the supply of thermal energy in district heating systems (district heating service).

(35) Furthermore they need not to be in situation of "difficulty", as set out in EU guidelines, or be in a situation of payment difficulties, insolvency and so on, as set out in national legislation. In similar terms, beneficiaries cannot be subject to a recovery order following from decisions of a national or EU Authority related to incompatible State aid.

(36) Requests of support are submitted individually, they need to be in line with "incentive effect" principle, in that beneficiaries need to apply formally for support before starting of works and need to show the presence of a negative net present value (NPV) of the projects.

(37) The Romanian authorities clarified that after submitting an application form to the state aid grantor by the aid applicant, the project proposal will be subject to the assessment process, which is done in two stages: the first stage is the administrative and eligibility verification; if selected at first stage, the project proposal will enter the second stage - the technical and economical evaluation. The financing agreement will be signed only if the project proposal passes the second stage and the aid applicant is notified by the state aid grantor about the project approval.

2.7. Cumulation, transparency and other rules.

(38) The Romanian authorities have confirmed that the aid measure cannot be cumulated with other aid or *de minimis* aid received from other local, regional or national aid to cover the same eligible costs.

(39) The Romanian authorities confirmed that the scheme complies with the Directive 2008/98/EC on waste ("Waste Directive") and in particular with the waste hierarchy set out therein[5].

(40) The Romanian authorities have indicated a website address on which the information related to the Applicant's Guide for supporting the investments in production of heat and thermal networks will be made available[6].

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid within the meaning of Article 107(1) TFEU

(41) Article 107(1) TFEU provides that "*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market*". The application of these cumulative conditions is examined below.

[5] See article 4 of the Waste Directive.

[6] https://www.fonduri-ue.ro/poim-2014#implementare-ghiduri-beneficiari

(42) The investment aid scheme is linked to EU Structural Funds (Operational Program2014–2020, specific Priority Axis 6: Promoting clean energy and energy efficiency in order to support a low carbon economy). The Romanian authorities notified this measure as State aid. The scheme grants will be awarded through State resources and will be imputable to the State since the management of the EU Structural Funds is entrusted to the Romanian State. Therefore, the Commission considers that the aid is granted from State resources within the meaning of Article 107(1) TFEU.

(43) The aid will be granted to municipalities and intercommunal associations which own and operate district heating installations and networks, directly or through subsidiaries. The scheme thus provides the beneficiaries with funding that would otherwise not be available on the market. The Commission therefore concludes that the measure gives an economic advantage to the scheme beneficiaries. Moreover, the aid is selective as it favours only the aid beneficiaries compared to competing heat suppliers.

(44) Finally, the markets for the supply of heat, such as generated from gas, oil or heat pumps, are open to competition and trade between Member States. The aid measure is therefore liable to distort competition and affect trade between Member States.

(45) The Commission therefore concludes that the notified measure constitutes State aid within the meaning of Article 107(1) TFEU. It is thus necessary to consider whether the aid measure is compatible with the internal market.

3.2. Legality of the aid

(46) The scheme was notified on 19 August 2020. The Romanian authorities have confirmed that they will not grant the aid before it is authorised by the European Commission. Consequently, the Romanian authorities did not implement the measure before the European Commission carried out its investigation. Romania thus fulfils its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid with the internal market

(47) The notified aid measure intends to support investment in district heating networks in Romania; the aid therefore consists of an investment aid scheme.

(48) The measure has been analysed under the 2014-2020 Energy and Environmental Aid Guidelines, (EEAG)- as corrected by the corrigendum

adopted by the Commission[7]-, as well as in light of the Commission Communication on Sustainable Europe Investment Plan[8] (SEIP).

(49) The Commission assessed the aid measure in particular based on section 3.2 (general compatibility provisions) and section 3.4 (energy efficiency measures, including cogeneration and district heating and cooling) of the EEAG as integrated by the SEIP.

3.3.1. Contribution to the development of an economic activity

(50) Article 107(3)(c) TFEU provides that the Commission may declare compatible *"aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest"*. Therefore, compatible aid under that provision of the Treaty must contribute to the development of certain economic activity.[9]

(51) The Romanian authorities have submitted that the notified aid measure supports the development of economic activities of district heating in a manner that increases energy efficiency and thus contributes to environmental protection.

(52) As pointed out in point (138) of the EEAG, the European Union aims to reduce its primary energy consumption by 20% by 2020. To this end, the Union has adopted in particular the EED, which establishes a common framework for the promotion of energy efficiency in the Union.

(53) The EEAG state in point (139) that aid for energy efficiency may be compatible with the internal market if granted for investment, including upgrades, to energy-efficient district heating and cooling systems.

(54) The scheme specifically targets investments for the development and modernisation/upgrade of district heating generation installation or jointly with upgrade of distribution networks, provided they either are already or they would become "energy efficient" district heating networks, as set out in point (19) paragraph (14) of the EEAG and Article 2(41) and (42) of the EED, thanks to the supported investments. This therefore satisfies the definition of efficient district heating and cooling system[10].

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[7] OJ C 290, 10.08.2016, p.11.

[8] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Sustainable Europe Investment Plan European Green Deal Investment Plan, 14.1.2020, COM(2020) 21 final.

[9] C-594/18 P *Austria v Commission* EU:C:2020:742, paras 20 and 24.

[10] The EED states that: "Efficient district heating and cooling means a district heating or cooling system using at least 50 % renewable energy, 50 % waste heat, 75 % cogenerated heat or 50 % of a combination of such energy and heat"

(55) Since the objective of the notified scheme is to support investments in an efficient district heating network, it contributes to the development of that economic activity in a manner that promotes environmental protection, as further explained in recital (57).

(56) Furthermore, the scheme aims at achieving CO_2 reduction, through replacing the fossil fuel energy production (coal, natural gas) with renewable energy production for district heating systems. This is in line with the section 4.3.3. of the SEIP which mentions "*the potential of district heating to contribute to the transition to a climate-neutral economy*".

(57) The EEAG stipulate in points (33) and (141) that the Member State may use quantifiable indicators in order to demonstrate the contribution of an individually notifiable aid towards an increased level of environmental protection.

(58) The scheme aims at generating yearly savings due to higher energy efficiency in the district heating systems, reduce the yearly CO_2 emissions as well as other pollutants. In particular, as set out in recital (8) the scheme would yield an increase by up to 60 MW of installed capacity to produce energy from biomass, biogas and geothermal energy, which would entail the decrease of the amount of greenhouse gas emissions by up to 48,000 (equivalent to tons of CO_2), estimated, as a result of replacing the fossil fuel energy production (coal, natural gas) with renewable energy production.

(59) The objective of CO_2 reduction is in line with the SEIP (notably section 4.3.3.) which recalls the need "to unlock the potential of district heating to contribute to the transition to a climate-neutral economy".

(60) Finally, in line with point 140 of EEAG, which stipulates that aid for district heating installations using waste as input fuel should ensure that the waste hierarchy principle is not circumvented, Romania confirmed that the supported investments would comply with the waste hierarchy principle set out in article 4 of the Directive 2008/98/EC, as detailed in recital (39).

(61) Based on these factors, the Commission concludes that the notified measure will contribute to the development of economic activities of district heating in a manner that increases energy efficiency and thus contributes to environmental protection.

3.3.2. Need for State intervention

(62) According to section 3.2.2 of the EEAG, the Member State must show that the State intervention is necessary and, in particular, that the aid is necessary to remedy a market failure.

(63) As referred to in point (142) of the EEAG, State aid may be necessary to promote investments in energy efficiency in order to meet the targets of the EED. To do so, State intervention must target certain market failures, as

referred to in point (35) of the EEAG by creating individual incentives to achieve those objectives.

(64) The Romanian authorities submit that the scheme makes it possible to correct certain market failures, in particular the existence of negative externalities and imperfect and asymmetric information on the funding market.

(65) Firstly, efficient networks supplying clean heat compete with alternative solutions based on conventional energy sources (in particular, gas- or oil-based individual heating). However, heat users do not bear the full cost of the pollution that conventional energy sources generate when they opt for these polluting technologies. Given the importance of the investments necessary for the creation of efficient heat networks and the lower price of competing, more polluting solutions, these investments cannot be fully financed at competitive market prices. The existence of alternative solutions discourages market participants to switch to solutions that emit less CO_2, such as the supported investments in heat generation from renewable energy sources (RES).

(66) Secondly, as recalled in recital (32) the Romanian tariffs system and the concession system for heat distribution, in case of State support, prevent the passing on of the revitalisation costs on the final heat/electricity consumers.

(67) The objective of the aid is thus to ensure the competitiveness of efficient district heating systems within the meaning of the EED and to ensure that the network rehabilitation projects take place.

(68) Based on the information provided by the Romanian authorities, the Commission concludes that the scheme is necessary to incentivize the RES generation and distribution network modernization and upgrade investments in Romanian district heating systems.

3.3.3. Appropriateness

(69) The EEAG state in point (40) that an aid measure will be considered compatible with the internal market if it is not possible to achieve the same positive contribution to environmental protection through other less distortive policy instruments or other less distortive types of aid instruments.

(70) With regard to energy efficiency measures more specifically, the EEAG state in point (145) that State aid can be regarded as an appropriate instrument for financing such measures, irrespective of the form in which it is granted.

(71) In the case of the scheme, the grant provided by EU structural and investment funds for growth and employment 2014-2020 incentivises an investment, which will make a positive contribution to the protection of the

environment in an economic context that is not conducive to the development of an efficient district heating system.

(72) The price level of alternative heating solutions does not allow efficient heat networks to be competitive. In addition, the European carbon market (ETS) concerns installations with a rated thermal input exceeding 20 MW. Competing heat solutions, namely individual natural gas boilers or oil-fired boilers of the order of magnitude of MWth, are therefore not subject to the European carbon market and therefore benefit from an economic advantage.

(73) In this context, the grants are considered to be an appropriate tool to incentivise the investment in the clean and efficient upgrade of district heating generation facilities and distribution networks.

3.3.4. Incentive effect

(74) An aid has an incentive effect if it incentivises the beneficiary to change its behaviour towards the development of certain economic activity pursued by the aid and if the change in behaviour would not occur without the aid[11].

(75) As mentioned in recital (36) above, the scheme explicitly requires as eligibility condition, the presence of a negative net present value (NPV) of the projects. This means that the projects would bear a negative NPV in the absence of the aid.

(76) The Romanian authorities also confirmed that one of the eligibility conditions is the presence of a formal application for aid before the starting of works, in compliance with the requirements set out in points 50-52 of the EEAG.

(77) The Commission therefore concludes that the aid will enable the beneficiaries to make the planned investments in the networks and will thus have an incentive effect.

3.3.5. Proportionality of the aid

(78) According to point (148) of the EEAG, the proportionality of the scheme will be assessed based on the conditions specified in Section 3.2.5 of the EEAG, as integrated by the SEIP.

(79) Since the scheme involves both investments for the upgrade of district heating generation facilities and distribution network, the compatibility criteria would be different.

(80) In principle Point (76) of the EEAG stipulates that for the district heating installations, the eligible costs would be determined based on a counterfactual scenario and point 77-79 refer to maximum aid intensities to

[11] See in that sense points 49 and 144 of the EEAG, as well as the *Hinkley* judgment in footnote 9 above.

approve aid to such facilities. Conversely, point (76) specifies that the funding gap approach should be applied for aid to the construction of the network, similar to the assessment of energy infrastructure, considering that the eligible costs are the entire extra costs for the construction of the network. The counterfactual scenario is that in the absence of aid, the project would not be carried out.

(81) As mentioned in section 4.3.3. of the SEIP, "*To unlock the potential of district heating to contribute to the transition to a climate-neutral economy, Member States can in the future use a funding gap approach also for the district heating generation as alternative to the maximum aid intensities set in the Guidelines for environmental protection and energy.*"

(82) Accordingly, since the scheme concerns investments for district heating generation upgrades, the Romanian authorities have availed of the possibility, as mentioned in the SEIP, to use the funding gap approach also for such types of investments.

(83) According to point (19) paragraph (32) of the EEAG, the funding gap is defined as the difference between the positive and negative cash flows over the lifetime of the investment, discounted to their present value. The funding gap represents thus the amount of aid needed to lead to a NPV of zero.

(84) Accordingly the scheme foresees the calculation of the funding gap method for all the concerned projects. Correctly, the eligible costs correspond to the entirety of the investment costs for the upgrade of the generation facilities and the revitalisation of the network (where foreseen). The scheme allows for a calculation of the funding gap per each project and limits the granting of aid to projects with a negative NPV.

(85) As shown by the Romanian authorities, if the discounted net operating revenue is negative, the funding gap is 100% (and the state aid is equal to the amount of eligible investments expenditure, under the aid scheme threshold). In such cases, the beneficiary shall also fully explain how the net operating loss will be covered, taking full account of State Aid rules.

(86) If the discounted net operating revenue is positive but lower than the discounted investment costs, the funding gap rate is calculated as follows: rate = (discounted investment costs minus discounted net operating revenue) / discounted investment costs).

(87) If the discounted net operating revenue is equal to (higher than) the discounted investment costs, the project presents an NPV equal to (higher than) zero. In this case, no state aid is granted as there is no funding gap.

(88) In addition, the Commission notes that, as mentioned above, the Romanian authorities stipulate that the projects are expected to achieve a much lower internal rate return than normally expected by private investors because

district heating operators cannot pass on such costs on the consumers in case of State support. Romanian authorities confirmed that any planned tariff increase will be reflected in the funding gap assessment and will be deducted from the State Aid amount. It follows that the beneficiaries are not likely to obtain excessive profits from the aided project.

(89) The Commission therefore concludes that the notified scheme is proportionate, and in line with the relevant EEAG sections, as integrated by SEIP.

3.3.6. Avoidance of undue negative effects on competition

(90) The measure will have a limited effect in the market. First of all there is a maximum amount of aid granted to investment projects set at fifteen million EUR. The capacities of heating production facilities and networks will be relatively small, with limited numbers of connected customers. Furthermore the scheme will target the less developed regions in Romania's territory, and will in any case have a local character, given the nature of the district heating markets.

(91) The potential distortion of market competition is limited due to the specific characteristics of this market i.e. the requirement to supply heat to citizens at affordable prices. At the same time, the effect on trade is marginal because heat supply (distribution) is linked to a specific pipeline location and therefore by its nature local.

(92) For these reasons, the Commission concludes that the distortion of competition remains limited. Overall, the positive effects of the planned aid for the development of the economic activities of district heating, which support energy efficiency and thus promote environmental protection, outweigh the limited negative effects of the aid on the internal market in terms of competition distortion.

3.3.7. Transparency of aid

(93) The Romanian authorities have undertaken to comply with the transparency requirements set out in points (104) to (106) of the EEAG, with publicity of the aid as mentioned in recital (39) of the present decision.

4. AUTHENTIC LANGUAGE

(94) As mentioned under section 1 above, the Romanian authorities has accepted to have the decision adopted and notified in English. The authentic language will therefore be English.

5. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3) c) of the Treaty on the Functioning of the European Union.

Yours faithfully
For the Commission

Margrethe VESTAGER
Executive Vice-President