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**Subject: State Aid SA.102761 (2022/N) – Romania
RRF – State aid scheme aimed at developing electricity storage in
Romania**

Excellency,

1. PROCEDURE

- (1) Following pre-notification contacts, pursuant to Article 108(3) of the TFEU, Romania notified to the Commission on 16 November 2022 its intention to set up a scheme to provide support for the establishment of electricity storage facilities in Romania (the “measure”).
- (2) The Commission requested additional information on 23 January 2023, 16 February 2023 and 7 March 2023, which was provided by the Romanian authorities on 30 January 2023, 1 February 2023, 23 February 2023 and 15 March 2023.
- (3) By letter dated 7 November 2022, Romania agreed to waive its rights deriving from Article 342 TFEU in conjunction with Article 3 of Regulation 1/1958 ⁽¹⁾ and to have this Decision adopted and notified in English.

⁽¹⁾ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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2. DETAILED DESCRIPTION OF THE MEASURE

2.1. Background and objectives

- (4) The measure aims at supporting investments in electricity storage facilities for an aggregate installed capacity of at least 240 MW (or 480 MWh) by 31 December 2025.
- (5) The measure is part of the National Recovery and Resiliency Plan (“RRP”) of Romania ⁽²⁾.
- (6) By increasing available storage capacity in the system, Romania aims to achieve the following objectives: to reduce carbon emissions generated by the energy sector, to contribute to the integration of a higher share of renewable energy sources (“RES”) in the Romanian electricity system and to support the secure operation of the Romanian electricity system.
- (7) Storage facilities participate in the electricity markets notably performing a price arbitrage function, i.e. absorbing and storing electricity when electricity market prices are low, and injecting it back into the grid when electricity market prices are high. As such, storage facilities effectively substitute expensive electricity generated by high-cost units for low-cost, clean electricity available during high RES generation conditions, thus generally facilitating RES integration and reducing RES curtailments during over-generation periods.
- (8) Apart from performing price arbitrage and balancing services, the storage facilities have other benefits. They also provide flexibility, adequacy and ancillary services to the electricity system, which are key to the successful integration of a large capacity of varying and intermittent RES in power systems. Romania submitted that storage facilities participate in the electricity balancing markets. Therefore, the measure will contribute to increase the liquidity of those markets, supporting competitiveness and transparent price formation, and will contribute to reduce the prices of balancing services.
- (9) The Romanian national energy and climate plan (“NECP”) ⁽³⁾ presents the various roles of storage in the medium-term development of the Romanian electricity sector in the 2021-2030 period. The NECP highlights the benefits of electricity storage facilities for the higher penetration of RES in the electricity system and for the reduction of electricity production cost and retail electricity prices. In this respect, the Romanian NECP recommends to integrate at least 400 MW of battery storage systems in the Romanian electricity system, in particular in order to flatten the load curve and to add technical system services such as frequency restoration reserves.

⁽²⁾ The national Recovery and Resilience Plan was approved by the Council Implementing Decision (EU) 2021/0309 of 26 October 2021 on the approval of the assessment of the recovery and resilience plan for Romania (available here: <https://data.consilium.europa.eu/doc/document/ST-12319-2021-ADD-1/en/pdf>). See also: https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/recovery-and-resilience-plan-romania_en. In particular, see Component C6 – Energy, Investment Measure I.4 – Industrial chain of production and/or assembly and/or recycling of batteries, cells and photovoltaic panels (including auxiliary equipment) and new electrical energy storage capacities, sub-measure 3 – Development electrical energy storage capacities (batteries).

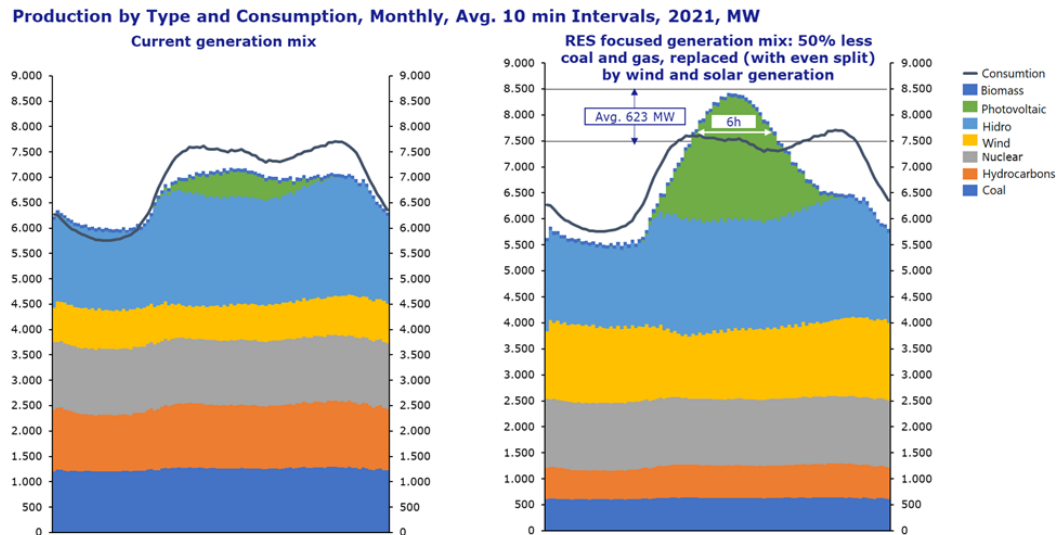
⁽³⁾ Available here: https://energy.ec.europa.eu/system/files/2020-06/ro_final_necp_main_en_0.pdf

- (10) Romania submitted that the measure is intended to promote the development of storage facilities as a mean of supporting the decarbonisation of Romania's electricity system in the medium term and the introduction of a large volume of new RES generating capacity.
- (11) According to Romania's NECP, in order to reach the ambition level regarding the share of renewable energy of 30.7% in gross final energy consumption in 2030, Romania will develop additional RES capacities of approximately 6900 MW compared to 2015.
- (12) Moreover, Romania's RRP sets a target of at least 3 000 MW of additional renewables capacity (wind and solar) compared to the existing installed capacity by 2026. To increase the flexibility of the electricity grid and to contribute to the integration of additional renewables generation capacities, the RRP sets a target of total installed electricity storage capacity of at least 240 MW (or 480 MWh) by 31 December 2025, following a call for projects with selection criteria ensuring compliance with the "do no significant harm" Technical Guidance (2021/C58/01) ⁽⁴⁾. Moreover, the RRP sets a milestone for the signature of contracts for the development of battery storage capacity of at least 240MW with an indicative timeline of Q3 2022.
- (13) Romania explained that simulations show that if Romania reaches its RES targets for 2030, the national energy system will need at least 3 GW of storage. The President of ANRE (the Romanian Energy Regulatory Agency) stated that by 2030, the Romanian energy system will have between 10 and 12 GW of new RES capacity. If this capacity is not coupled with storage capacity, the risk of instability in the sector will be very high. According to estimates, at least 3 GW storage capacity is needed ⁽⁵⁾.
- (14) Romania provided the figure below to show that a substantial part of the renewable energy generated in the national energy system will not be able to be absorbed into the system without very high balancing costs and special risks of interruptions in the supply of energy to the grid:

⁽⁴⁾ Commission Notice Technical guidance on the application of 'do no significant harm' under the Recovery and Resilience Facility Regulation 2021/C 58/01 (OJ C 58, 18.2.2021, p. 1).

⁽⁵⁾ <https://www.bursa.ro/dumitru-chirita-presedintele-anre-pana-in-2030-putem-adeuce-in-sistemul-energetic-national-pana-la-12000-de-mw-29147641>

Figure 1: Production by technology and consumption in Romania



Source: Valorem Management Consulting calculations based on energy production and consumption data provided by OPCOM, Transelectrica, ANRE

- (15) Moreover, a recent study of Transelectrica, the Romanian transport system operator, stresses the lack of dispatchable customers or storage facilities to help compensate for electricity scarcity at times when renewable power plants cannot operate, or fossil power plants are operating at low levels of generated power ⁽⁶⁾.
- (16) Romania explained that there is currently virtually no battery storage in Romania, and very limited storage in hydro-pumped units (below 50 MW installed power). According to the Romanian authorities, this is due to the fact that there are no other remunerated system services for storage projects in Romania. Romania further explained that current market forecasts show that relying only on electricity markets to trigger investments in storage facilities will not make it possible to reach the installed capacity targets set in the NECP (as also described in the funding gap analysis in section 2.7.1).
- (17) Finally, the Romanian authorities submitted that the energy crisis and the subsequent high price volatility have not triggered investments in battery storage facilities in Romania.

2.2. National legal basis and granting authority

- (18) The national legal basis of the measure is the order of the Minister of Energy 1229 of 28 November 2022 approving the State aid scheme aiming at supporting investments in the development of electricity storage capacities (batteries), as amended by the order of the Minister of Energy 1299 of 16 December 2022 (the “ministerial order”).

⁽⁶⁾ Study on the adequacy of the national energy system in winter 2022-2023, Transelectrica, November 2022.

- (19) Annex I of the ministerial order (the “State aid scheme” and the related annexes) sets rules concerning, among other provisions, the eligible projects, the eligible beneficiaries and their obligations, the selection process as well as the form and maximum amount of aid.
- (20) Annex II of the ministerial order (the “Specific guide” and the related annexes) lays down detailed rules concerning the measure and in particular the application and selection process.
- (21) According to Article 15(1) of the State aid scheme, no aid can be granted under the measure before the notification of the Commission’s decision approving the measure in accordance with State aid rules.
- (22) The granting authority is the Ministry of Energy. The Ministry of Energy is in charge of setting the parameters of the tender process, the eligibility criteria and the award process as well as evaluating the offers of the bidders.

2.3. Budget and financing

- (23) The total budget of the measure is EUR 103.48 million.
- (24) The measure will be funded through the RRF (EUR 79.6 million) and the national State budget (EUR 23.88 million).

2.4. Form and duration of support

- (25) Beneficiaries are selected through a competitive bidding process. The Romanian authorities intend to organise one single tender procedure. The tender has been launched on 28 November 2022 with a stand-still clause: the signature of the contracts and the granting of the aid are suspended until the notification of the Commission’s decision approving the measure. If the submitted bids do not cover the allocated budget, Romania will organise a subsequent tender.
- (26) The aid requested by each bidder cannot exceed (i) 100% of the funding gap of the project, (ii) EUR 167 000/ MWh of storage installed capacity, nor (iii) EUR 15 million per undertaking, per investment project.
- (27) Projects fulfilling the eligibility conditions are ranked based on the ratio of aid requested per MWh installed storage (relative scoring based on the lowest and highest bids). Projects with the lowest ratio of aid requested per MWh installed storage are selected within the limits of the available budget. Once selected, beneficiaries sign a financing contract with the Ministry of energy and implement the selected projects.
- (28) The aid is granted on the basis of the initial bid submitted by the tenderer. The aid is paid as a reimbursement of the eligible expenditures incurred and cannot exceed the aid requested (see recital (52)).
- (29) Aid can be granted under the measure until 31 December 2023. The selected investments must be completed (put into operation) by 31 December 2025.

2.5. Eligibility

- (30) To be eligible under the measure, the undertakings must meet the conditions laid down in Article 12 of the State aid scheme. The Specific guide and Annex 2.1 to the State aid scheme (the Check grid for administrative compliance of offers) provide detailed explanation on the fulfilment of those conditions. To be eligible, undertakings must notably:
- be registered according to Companies Law no. 31/1990, as amended, or established in accordance with the specific legislation of the Member State of which they hold nationality;
 - carry out its activity in an eligible sector (electricity production, electricity trading, activity with significant energy consumption such as processing, steel, agri-food, construction materials, chemical and petrochemical products, etc.) corresponding to division 35: “Production and supply of electricity and thermal energy, gas, hot water and air conditioning” from the classification of NACE codes; The Romanian authorities have explained that this list is indicative only and not exhaustive, as also demonstrated by the “etc.”. The measure is thus not limited to beneficiaries active in certain economic sectors.
 - demonstrate technical and financial capacity to support the implementation of the project;
 - it contributes to the improvement of the economic situation and to the increase of the capacity for resilience; at the level of the development regions of Romania ⁽⁷⁾;
 - comply with the conditions provided for financing within the Romanian RRP;
 - comply with the requirements provided by the Recovery and Resilience Mechanism; and
 - demonstrate that the project has a significant impact for economic development and for the promotion of investments in the clean and energy-efficient energy sector, in order to ensure the contribution to the objectives of the Europe 2020 Strategy regarding the final consumption of energy from renewable resources and the increase in energy efficiency, respectively: storage facilities for electricity, taking into account the National Strategy for sustainable development of Romania 2030 ⁽⁸⁾.
- (31) According to Article 13 of the State aid scheme, eligible projects must meet the following eligibility requirements:

⁽⁷⁾ Romania explained that, for the purpose of this requirement, the granting authority will verify that (i) the project is consistent with the objectives of the national RRP, (ii) the project is located in Romania and (iii) the offer formulates clear objectives and quantify the expected results.

⁽⁸⁾ The Romanian authorities explained that, to meet this requirement, the tenderer must describe in the offer the positive impact of the proposed investment according to the administrative conformity evaluation grid (Annex 1 of the State aid scheme).

- to demonstrate its economic efficiency and viability during the investment implementation period and five years from the date of its completion according to the business plan defined in the Specific Guide;
 - to demonstrate that the aid has an incentive effect Article 10 of the State aid scheme regarding the incentive effect of the aid ⁽⁹⁾;
 - to meet the quantitative and qualitative indicators provided for in the Specific Guide ⁽¹⁰⁾; and
 - to generate a quantifiable multiplier effect in the economy by attracting other related investments and the development of local suppliers of products and services ⁽¹¹⁾.
- (32) In line with the target set in the Romanian RRP (see recital (12)), the measure focuses on electricity storage in batteries. To be eligible under the measure, the project must concern new electrical energy storage facilities using batteries connected to transmission or distribution lines, regardless of voltage levels.
- (33) The Romanian authorities explained that this pilot storage support measure is intended to focus on batteries, as an emerging but mature and proven technology, with already several applications in projects throughout Europe and at the global level. The Romanian authorities explained that the budget and resulting tendered capacity would be too small for pumped hydro storage projects ⁽¹²⁾.
- (34) No support will be granted in cases where the start of works ⁽¹³⁾ of the project took place prior to the aid application by the beneficiary to the national authorities, i.e. prior to the submission of the bid.

⁽⁹⁾ Article 10(5) of the State aid scheme: “It is considered that the aid has an incentive effect if the company addresses the Ministry of Energy with the offer, in the framework of the competitive bidding procedure, before the start of the works”.

⁽¹⁰⁾ The Romanian authorities explained that, in addition to the qualitative indicators that each offer must meet (approved Feasibility Study, Cost Benefit Analysis, Environmental permits, DNSH assessment) the Specific Guide requires that projects must demonstrate the contribution to the target (“Commissioning of at least 240MW of electricity storage capacity, in accordance with the Do No Significant Harm conditions set out in the “Do No Significant Harm” Technical Guidance (2021/C58/01) and in milestone 136.”) provided in the national RRP for this investment measure, to the indicator Newly installed electricity storage capacity (MWh), as well as to any other relevant project physical indicators (measurable and correlated with the project activities) proposed by the tenderers.

⁽¹¹⁾ Romania explained that, for the purpose of this requirement, the granting authority will verify that (i) the project is consistent with the objectives of the national RRP and (ii) the offer formulates clear objectives and quantify the expected results.

⁽¹²⁾ The Romanian authorities explained that pumped hydro storage is typically viable for much larger capacities: with a cap of EUR 15 million, as under the measure, it is not possible to build a viable pumped hydro storage system. According to Romania, chemical, thermal and other emerging technologies do not have proven implementations for energy storage to date: technologies are still immature and technical losses are high. Therefore, only battery storage can viably respond to the basic requirements of (i) being able to provide small – medium size storage capacity, (ii) with proven implementations and credible use-cases, while (iii) being economically viable.

⁽¹³⁾ According to Article 4(c) of the State aid scheme, “starting the works” means the first firm commitment (e.g. to order equipment or start construction) that makes an investment irreversible. The purchase of land and preparatory work, such as obtaining permits and carrying out preliminary feasibility studies,

- (35) The Romanian authorities confirmed that the beneficiaries will be subject to the energy market regulations and will notably comply with the requirements set out in Regulation (EU) 2019/943⁽¹⁴⁾ and Directive (EU) 2019/944⁽¹⁵⁾ and no derogations will be granted from the Romanian authorities.
- (36) Applicants must submit as part of their application:
- an offer form with the name of the applying enterprise and its size, a description of the project, including its location, the aid amount requested and other relevant administrative, technical and financial capacity data concerning the tenderer;
 - a feasibility study;
 - a cost-benefit analysis; and
 - a declaration regarding compliance with the DNSH principle including a potential need for an environmental impact assessment (EIA).
- (37) The granting authority will check that applicants comply with the DNSH principle and the applicable environmental legislation, in particular their obligations related to environmental impact assessment (“EIA”) (if applicable), as part of the eligibility check stage before the granting of the aid.

2.6. The tender process

- (38) The storage projects to be supported by the measure will be selected through a competitive bidding process.
- (39) The eligibility and selection criteria as well as all the tender documents were published for public consultation on the website of the Ministry of Energy in May 2022. The tender rules are defined in the approved State aid scheme and the Specific guide (see recital (18)).
- (40) The main features of the tender process are described in recitals (41) to (55).

2.6.1. Timing

- (41) The State aid scheme and Specific guide have been published on the website of the Ministry of energy in May 2022. The tender was launched on 28 November 2022 with a stand-still clause (see recital (25)). The application deadline is 28 March 2023, and by 15 March 2023, 22 applications had been received. If the submitted bids do not cover the allocated budget, Romania will organise a subsequent tender taking into account the need to ensure competitiveness in such subsequent tenders.

are not considered as starting work. In the case of business takeovers, "commencement" means the date of acquisition of assets directly related to the acquired entity.

⁽¹⁴⁾ Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity, OJ L 158 p. 54.

⁽¹⁵⁾ Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, OJ L 158 p. 125.

- (42) The projects will be selected by 31 December 2023 at the latest and the storage facilities be completed by 31 December 2025 at the latest (see recital (29)).

2.6.2. *Allocated budget*

- (43) The budget of the measure is approximately EUR 103 million (see recital (23)).
- (44) If the budget is not exhausted following the first tender process, a new competitive bidding procedure will be organised.
- (45) According to Romania's estimates, this total budget would translate into a total tendered capacity of approximately 240 MW (480 MWh).
- (46) The Romanian authorities explained that it can be expected that not all bidders will receive aid. Given the novelty of storage investments in Romania, there are no studies available on the expected market developments, but the total need for storage assumed by the system operator and regulator (see recitals(13) and (14)) largely exceeds the volume to be tendered. Considering the allocated budget, the estimated number of beneficiaries is between 5 and 20. Based on informal information from market participants on expected projects under development and the number of applications already received under the measure, the Romanian authorities anticipate between 22 and 30 applications.

2.6.3. *Level of support and maximum aid amount*

- (47) All selected projects from the tender process will receive an amount of investment grant (in EUR) equal to the aid amount requested (pay-as-bid). The participants' bids will be expressed in EUR/MWh of storage installed capacity.
- (48) The aid requested by each bidder cannot exceed (i) 100% of the funding gap of the project, (ii) EUR 167 000/MWh of storage installed capacity, nor (iii) EUR 15 million per undertaking, per investment project ⁽¹⁶⁾.
- (49) The funding gap of the project is defined as the difference between the economic revenues and costs (including investment and operating costs) related to the aided project and those related to the alternative project that the aid beneficiary would credibly achieve in the absence of the aid (the counterfactual scenario).
- (50) The granting authority will check that the aid requested does not exceed 100% of the funding gap of the project based on the received application and its supporting documents, notably the feasibility study and the cost-benefit analysis. The cost-benefit analysis to be submitted by the project promoters needs to follow the requirements set out in the European Commission's Guide to cost-benefit analysis of investment projects ⁽¹⁷⁾, which includes in particular details on investment and operating costs of energy projects, including cost of capital, and revenues expected from energy and service markets. Among other things, this will serve as a basis for verifying that the individual projects do not receive more aid than their individual funding gap. The granting authority will verify that the input data in the cost-benefit

⁽¹⁶⁾ The Romanian authorities explained that only one application is allowed per undertaking.

⁽¹⁷⁾ European Commission, Directorate-General for Regional and Urban Policy, *Guide to cost-benefit analysis of investment projects: economic appraisal tool for cohesion policy 2014-2020*, Publications Office, 2015, <https://data.europa.eu/doi/10.2769/97516>.

analysis are updated and based on credible sources (for instance, reports of the National Institute of Statistics). The granting authority may be assisted during the process by independent project evaluators.

- (51) The Romanian authorities explained that the cap of EUR 15 million aims at allowing as many as possible applicants to benefit from the allocated budget of the measure, rather than concentrating the support under the measure into a small number of large applicants.
- (52) The aid is paid out in the form of reimbursement of eligible expenses incurred. Eligible expenses are defined in Article 8 of the State aid scheme as the costs necessary to realize new electrical energy storage capacities (batteries), namely the acquisition of installations or equipment for the construction of new electric energy storage capacities in batteries and buildings that are the subject of the electric energy storage project in batteries ⁽¹⁸⁾. Operating costs are not eligible expenses. The eligible expenses incurred by a beneficiary are reimbursed up to the reimbursable amount established in the financing contract based on the offer received.

2.6.4. Ranking criterion

- (53) Romanian authorities submitted that aid under the measure will be granted on a competitive basis, in accordance with the principles of publicity, transparency, objectivity, equality and non-discrimination that rules the management of public aid and subsidies.
- (54) Tendered projects will be ranked based on the amount of aid requested per MWh of storage installed capacity (EUR/MWh). The project with the lowest value will get a maximum score (100 points) and the application with the highest value will have zero points, with a linear decrease of the score for the intermediate values. The total score related to the application is between 0 and 100 points.
- (55) The applications will be ordered according to the final scores obtained and will be selected under the measure starting from those with the highest score, until the allocated budget is exhausted.

2.7. Funding gap analysis

2.7.1. Funding gap of the reference project

- (56) The Romanian authorities have provided the business plan of a reference project of a 20-50 MW battery electric storage for the Romanian electricity system. This business plan took into account assumptions for the investment costs, the time of operation, the network costs, capital costs such as the weighted average cost of capital (“WACC”), expected electricity prices and frequency of high and low prices as well as potential revenues from the balancing market.
- (57) The expected range for the WACC is reported between 6.5 and 9.6% and is based on the IEA Clean energy transitions in emerging economies ⁽¹⁹⁾. Key components for the calculation of the WACC are the cost of equity in a range of 10.9 to 14.5%

⁽¹⁸⁾ See also section 2.3 of the Specific Guide.

⁽¹⁹⁾ <https://www.iea.org/articles/the-cost-of-capital-in-clean-energy-transitions>

and a share of project debt between 40 and 50%. Other assumptions for the calculation of the WACC is the debt base rate after tax of 0.3% and the debt risk premium after tax of 1.9%. The IEA found these numbers to be representative for utility-scale solar PV projects in Europe with market-based revenues. According to the Romanian authorities, the risk levels for solar PV and battery electric storage facilities connected to the power grid are comparable.

- (58) In the model, the costs of the reference project reflected expert estimates for each component (estimates from October 2022), covering the battery system, the inverter and other balance of the storage system, engineering procurement and construction, connection costs and development costs. The technical characteristics (efficiency, degradation per year, availability, and lifetime) of each reference project also came from the same expert estimates.
- (59) The Romanian assumptions for the funding gap of for a reference battery project are presented in Table 1 below. All numbers are post-tax, in real 2022 terms.

Table 1: Projection of specific costs and revenues for storage units entering into operation in 2025

	High WACC scenario	Low WACC scenario
CAPEX [EUR/MW]	859 898	859 898
Average MWh per MW	2.2	2.2
CAPEX [EUR/MWh]	390 863	390 863
OPEX [EUR/kW/a]	4%	4%
WACC	9.6%	6.5%
Project IRR without aid	-4,7%	-4,7%
Project lifetime [years]	10	10
Residual value at the end of lifetime	0	0
Net present value [EUR/kW]	-187 596	-166 978
Funding gap	48%	43%

Source: Romanian authorities based on Valorem Management Consulting's calculations based on reports from the International Energy Association (IEA) ⁽²⁰⁾, ANRE reports ⁽²¹⁾, Asian Development Bank Handbook on Battery Energy Storage System ⁽²²⁾.

- (60) Romania submitted that a medium-term analysis of the Romanian electricity market shows that through their participation in the electricity markets, battery storage technologies do not earn enough to recover their costs. The net present value (“NPV”) ranges from EUR -166.98 to -187.6 per kW.
- (61) The numbers presented by the Romanian authorities for the reference project, result in funding gaps between 43% and 48% under the assumptions provided.
- (62) Without the aid, the NPV of battery projects (the factual scenario) over their lifetime would be negative and the projects would not materialise. According to Romania, in the absence of the measure and based on the estimated market revenue alone, a private investor would thus not have the necessary incentive to undertake the project and install the storage facility.

⁽²⁰⁾ IEA, Clean Energy Transitions in Emerging Economies report, <https://www.iea.org/articles/the-cost-of-capital-in-clean-energy-transitions>.

⁽²¹⁾ <https://www.anre.ro/ro/energie-electrica/rapoarte/rezultate-monitorizare-piata-energie-electrica>

⁽²²⁾ Asian Development Bank, 2018, Handbook on Battery Energy Storage System, <https://www.adb.org/publications/battery-energy-storage-system-handbook>.

- (63) The Romanian authorities pointed out that, as regards other potential revenue streams for storage projects than the ones mentioned in recital (56), no other suitable opportunities would have the potential to increase the financial viability of storage projects.
- (64) The counterfactual consists in the beneficiary not carrying out the project and the NPV of the counterfactual is zero.
- (65) In order to ensure the installation of the storage capacity needed to fulfil the targets set out in the Romanian NECP and RRP (see recitals (9) to (12)), the Romanian authorities submitted that it is necessary to bridge the funding gap of the reference storage project through support under the measure. The requested aid amount cannot exceed 167 000 EUR/MWh, i.e. the funding gap determined above for the reference project (in the Low WACC scenario). The Romanian authorities explained that they discounted the projected cash flows using the Low WACC scenario as the most conservative approach in order to avoid overcompensation.
- (66) The Romanian authorities explained that the uncertainty related to market revenues does not entail a significant risk of excessive investment returns, because price volatility will decrease by the time the selected storage projects will become operational in the course of the years 2024 and 2025. They also argue that the high uncertainty created by the current energy crisis and the unpredictability of future market developments, including price volatility which is of high importance for the viability of storage investments, could mean that a claw-back provision would reduce the attractiveness of the measure for investors to an extent that could endanger the competitiveness of the bidding procedure. Furthermore, the Romanian authorities argue that the use of a competitive bidding procedure and the definition of strict maximum amounts per MWh and in total per project per undertaking would prevent excessive returns. They also argue that the added administrative complexity of a claw-back mechanism could disincentivize potential bidders, jeopardizing the fulfilment of the target set out in the Romanian NECP and RRP. For these reasons, the Romanian authorities do not consider that any form of claw-back mechanism is necessary.

2.7.2. Funding gap of the tendered projects

- (67) In addition to the cap based on the funding gap of the reference project (EUR 167 000/MWh of storage installed capacity), the aid requested by each bidder cannot exceed 100% of the funding gap of the project (see recital (48)).
- (68) The granting authority will verify this requirement in the competitive bidding process, before the ranking of the projects, among other requirements, based on the feasibility study and the cost-benefit analysis submitted by the applicant as part of its application (see recital (50)).
- (69) The Romanian authorities explained that this additional check, together with the competitive bidding process and the two other bid caps (see recital (48)), will ensure the absence of overcompensation under the measure.

2.8. Cumulation

- (70) Beneficiaries cannot receive financing from other public sources for the same eligible expenses of the project, under the penalty of the termination of the

financing contract and the reimbursement of the aid amounts already received (with interests).

- (71) Romania explained that the measure may be cumulated with other forms of support, provided those other forms of support do not cover the same eligible costs as those covered by the measure.

2.9. Transparency and monitoring

- (72) Romania committed to comply with the transparency requirements laid down in points 58 to 61 of the Commission's Guidelines on State aid for climate, environmental protection and energy 2022 ("CEEAG")⁽²³⁾. The relevant data of the measure will be published on a national website that will link to the Commission's transparency register⁽²⁴⁾.

- (73) In addition to the publication in the Commission's transparency register and in accordance with Romanian law and the provisions of points 58 to 62 CEEAG, the aid will be published on the following Romanian websites:

- a) National Subsidies Database, <https://regas.consiliulconcurentei.ro/>; and
- b) Ministry for Energy, <https://energie.gov.ro/>.

- (74) In line with requirements from the RRF, Romania will monitor the implementation of the measure. The monitoring will describe how the target storage rollout was achieved, in line with provisions C6.I4 of the RRF operational arrangement between the European Commission and Romania⁽²⁵⁾.

2.10. Companies in difficulty and under recovery order

- (75) According to Article 12 of the State aid scheme, no aid will be granted under the measure to:

- undertakings in difficulty, as defined by the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty⁽²⁶⁾.
- undertakings that are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, to take account of the amount of aid still to be recovered.

⁽²³⁾ Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022, C/2022/481 (OJ C 80, 18.2.2022, p. 1).

⁽²⁴⁾ Accessible here: <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>.

⁽²⁵⁾ See https://ec.europa.eu/info/sites/default/files/countersigned_es_first_copy_en_01.pdf

⁽²⁶⁾ Communication from the Commission - Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p. 1.

3. ASSESSMENT OF THE MEASURE

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

- (76) According to Article 107(1) TFEU, the qualification of a measure as State aid requires the following conditions to be met cumulatively:
- (a) the measure is imputable to the State and financed through State resources;
 - (b) it grants a selective advantage liable to favour certain undertakings or the production of certain goods;
 - (c) the measure distorts or threatens to distort competition; and
 - (d) it has the potential to affect trade between Member States.

3.1.1. *Imputability and State resources*

- (77) The Commission notes that the measure is imputable to the State, as it is established by ministerial ordinance (see recital (18)).
- (78) As regards the State resources criterion, the Commission notes that the investment grant will be financed by the RRF and the State budget (see recital (24)).
- (79) The RRF funds are considered as State resources, since Member States have the discretion to decide on the use of those resources. Once awarded, the RRF funds would be directly controlled by the Romanian State and the granting authority would be the Ministry of Energy.
- (80) Therefore, the resources are deemed under State control and qualify as State resources.

3.1.2. *Economic Advantage*

- (81) The Commission notes that the measure will provide an economic advantage to the beneficiaries, as they will obtain an investment grant for their storage facilities, which they would not have obtained under normal market conditions, i.e. in the absence of the State intervention.

3.1.3. *Selectivity*

- (82) The measure is selective since it is provided only to certain beneficiaries, which are selected via a tender process, and is not accessible to all undertakings.

3.1.4. *Impact on competition and on trade between Member States*

- (83) In accordance with settled case law ⁽²⁷⁾, for a measure to impact competition and trade, it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (84) The electricity market has been liberalised and electricity producers (and storage operators) engage in trade between Member States. The electricity stored by the

⁽²⁷⁾ Judgment of 30 April 1998, *Het Vlaamse Gewest v Commission*, T-214/95, EU:T:1998:77.

beneficiaries of the measure will generally be sold on the market where it will enter in competition with electricity from different sources (such as electricity from RES and conventional sources). Moreover, the Romanian market is interconnected to other markets, for example the Hungarian and Bulgarian markets as well as coupled with other markets via the European day ahead market coupling ⁽²⁸⁾.

- (85) Therefore, the advantage granted to the beneficiaries of the measure is likely to distort competition and affect trade between Member States.

3.1.5. Conclusion regarding existence of State aid

- (86) Based on the above considerations, the Commission concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Lawfulness of the aid

- (87) By notifying the measure before its implementation (see recitals (21) and (25)), the Romanian authorities have respected the notification and standstill obligation laid down in Article 108(3) TFEU.

3.3. Compatibility of the aid

3.3.1. Legal basis for assessment

- (88) 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 a certain economic activity ⁽²⁹⁾. Furthermore, the aid should not distort competition in a way contrary to the common interest.
- (89) The Commission notes that the measure aims at the promotion of the establishment of battery electric storage (BES) facilities in Romania, which qualify as energy storage facilities under point 19(33) CEEAG. According to point 377 CEEAG, section 4.9 CEEAG also applies to energy storage facilities, connected to transmission or distribution lines irrespective of the voltage levels, for schemes approved no later than 31 December 2023.
- (90) The Commission has therefore assessed the compatibility of the measure on the basis of the general compatibility provisions of CEEAG (set out in section 3 CEEAG), where applicable, and the specific compatibility criteria for aid for energy infrastructure (section 4.9 CEEAG).

⁽²⁸⁾ https://www.entsoe.eu/network_codes/cacm/implementation/sdac/

⁽²⁹⁾ Judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742, paragraphs 20 and 24.

3.3.2. *Positive condition: the aid must facilitate the development of an economic activity*

3.3.2.1. Identification of the economic activity, which is being facilitated by the measure, its positive effects for society at large and, where applicable, its relevance for specific policies of the Union

- (91) In line with points 23 to 25 CEEAG, Member States must identify the economic activities that will be facilitated as a result of the aid and describe if and how the aid will contribute to the achievement of Union policies and targets.
- (92) The Commission notes that the measure aims at developing the establishment of electric storage facilities in Romania. It thus contributes to the development of a certain economic activity. The Commission also notes that the measure will allow the feasibility of the supported projects, which would not have taken place in the absence of the aid (see section 2.7.1).
- (93) Moreover, the promotion of the development of electricity storage is in line with Romania's NECP and RRF (see recitals (9) to (12)). The measure will help Romania reach its objectives related to the reduction of greenhouse gas emissions, in line with the Green Deal ⁽³⁰⁾, as it will enable the smooth integration of a higher level of penetration of RES in the Romanian electricity system with a reduced level of curtailments (see recitals (12) to (14)).
- (94) The measure will thus contribute towards Romania's decarbonisation process and, at the same time, will contribute to a smooth operation of the electricity system during the latter's transition towards the extensive use of RES energy. In this context, the measure will also contribute towards the attainment of the Union targets of reduction of greenhouse gas emissions by 2030 and towards a climate neutral Union by 2050.
- (95) The measure will also provide a number of additional services and benefits to the electricity system, including flexibility, adequacy and ancillary services to the electricity system. In addition, storage facilities enhance market liquidity, particularly in the balancing markets, supporting competitiveness and transparent price formation, and contribute to reduce the prices of balancing services (see recital (8)).
- (96) Finally, the Commission refers to the analysis of the Romanian RRP accompanying the Commission's proposal for a Council implementing decision on the approval of the Romanian RRP, where the benefits of storage facilities for renewable integration and their contribution to Romania's green transition have been set out and the measure is mentioned as one of the planned measures.
- (97) Considering the above, the Commission concludes that the measure contributes to the development of economic activities of electricity storage, as required by Article 107(3)(c) TFEU, in a manner that improves the RES penetration in Romania and has also other positive effects on the Romanian electricity system.

⁽³⁰⁾ COM/2019/640 final.

3.3.2.2. Incentive effect

- (98) According to point 26 CEEAG, aid can be considered as facilitating an economic activity only if it has an incentive effect. An incentive effect occurs when the aid induces the beneficiary to change its behaviour, to engage in additional economic activity or in more environmentally-friendly economic activity, which it would not carry out without the aid or would carry out in a restricted or different manner. The aid must not support the costs of an activity that the aid beneficiary would anyhow carry out and must not compensate for the normal business risk of an economic activity (point 27 CEEAG).
- (99) Proving an incentive effect entails the identification of the factual scenario and the likely counterfactual scenario in the absence of aid (point 28 CEEAG). For aid to infrastructure, the counterfactual scenario is presumed to be the situation in which the project would not take place (point 381 CEEAG).
- (100) Romania submitted that, in the absence of the aid, investors would not have the appropriate incentive to undertake the material investments required for the establishment of the required storage capacity (see recital (16)). The analysis provided by Romania shows that without the aid measure, the storage facilities would not be constructed because the expected market revenues do not suffice to ensure viability of the storage projects, leading to a negative NPV (see section 2.7.1). Without the aid, the facilities could not materialise and contribute to ensure stable RES integration and provide benefits to the electric system.
- (101) Furthermore, the Commission notes that the aid application, required in point 30 CEEAG, will be in the form of a bid in the tender process that Romania will carry out for the selection of the beneficiaries.
- (102) Romania also confirmed that no aid will be granted in cases where the start of works on the project took place prior to the aid application by the beneficiary to the national authorities, i.e. prior to the submission of the bid, in line with point 29 CEEAG (see recital (34)).
- (103) Taking into account the above considerations, it can be concluded that the measure has an incentive effect, as it induces the beneficiaries to engage in an economic activity that they would not carry out without the aid or would carry out in a restricted or different manner.

3.3.2.3. No breach of any relevant provision of Union law

- (104) According to point 33 CEEAG, if the supported activity, or the aid measure or the conditions attached to it, including its financing method when it forms an integral part of the measure, entail a non-severable violation of relevant Union law, the aid cannot be declared compatible with the internal market.
- (105) In the present case, the Commission has assessed in particular whether the measure contravenes any relevant Union legislation in the energy sector. Romania confirmed that the beneficiaries will be subject to the energy market regulations and will notably comply with the requirements set out in Regulation (EU) 2019/943 and Directive (EU) 2019/944 (e.g. excluding system operators from owning, developing, managing or operating energy storage facilities) (see recital (35)).

- (106) The measure will be funded mainly through the RRF (see recital (24)).
- (107) The Romanian authorities confirmed that the granting authority will check that beneficiaries comply with the DNSH principle and their obligations related to EIA before the granting of the aid (see recital (37)).
- (108) In view of the above considerations, the Commission concludes that the measure does not contravene any relevant provision or general principles of Union law, in the sense of the abovementioned case law, and is in line with point 33 CEEAG.

3.3.3. Negative condition: the aid measure must not unduly affect trading conditions to an extent contrary to the common interest

3.3.3.1. Minimisation of distortions of competition and trade

- (109) The measure affects mainly the electricity market in Romania, notably the day-ahead, intraday and balancing markets, where several suppliers are in competition with each other. The measure also affects the electricity markets in neighbouring countries, in view of the cross-borders interconnections.

3.3.3.1.1. Necessity of the aid

- (110) In order to demonstrate the necessity of the measure, it has to be established that the measure is targeted towards a situation where aid can bring about a material improvement that the market alone cannot deliver.
- (111) The Commission recognised in point 372 CEEAG that where market operators cannot deliver the infrastructure needed, State aid may be necessary in order to overcome market failures and to ensure that the Union's considerable infrastructure needs are met. In the present case, without the measure, the necessary investments in storage facilities would not take place now and the storage needs of the Romanian electricity system would not be fulfilled (see recital (62)).
- (112) Energy infrastructure is typically financed through user tariffs and the granting of State aid is a way to overcome market failures that cannot be fully addressed by means of compulsory user tariffs (points 379 and 380 CEEAG). According to point 380(c) CEEAG, in order to demonstrate the need for State aid for electricity storage facilities, the Commission may require the demonstration by the Member State of a specific market failure in the development of facilities to provide similar services.
- (113) The Commission notes that, based on Romania's analysis of the Romanian electricity market, in the absence of a support scheme, the market revenues of storage projects and in particular the reference BES project would not suffice to ensure viability of the storage projects, leading to a negative NPV (see section 2.7.1). So far, notwithstanding the energy crisis and high price volatility resulting thereof, there have been no investments in Romania in battery storage facilities (see recital (17)). This indicates the existence of a specific market failure (point 380 (c) CEEAG), which can be related to the unpredictability of future market developments at the current stage (see recital (17)). State aid is necessary in order to bridge the funding gap of the storage projects and thus promote the development of the required storage capacity, which will allow the material increase in RES penetration levels anticipated in the coming years.

- (114) In addition, the need for storage was also identified by the Romanian authorities in the analysis on the required electricity storage in order to support the fulfilment of the NECP targets for 2030 (see recitals (13) to (15)).
- (115) In the absence of the measure, RES electricity generation in Romania would face increasing curtailment problems, which would likely increase because of the increasing penetration of RES into the electricity system. The introduction of the targeted storage capacity will mitigate the level of RES curtailment, promoting thereby the sustainability and viability of RES investments.
- (116) The Commission therefore concludes that the measure is necessary for the development of storage facilities in Romania.

3.3.3.1.2. Appropriateness

- (117) The proposed aid measure must be an appropriate policy instrument to achieve the intended objective of the aid, that is to say there must not be a less distortive policy and aid instrument capable of achieving the same results.
- (118) The Commission recalls that, according to point 380 CEEAG, the granting of State aid is a way to overcome market failures that cannot be fully addressed by means of compulsory user tariffs.
- (119) The Commission notes that the measure will offer short-term flexibility to the Romanian system, which is required to support the enhanced penetration of volatile RES sources (see recital (7)). The measure will allow for the speedy implementation of storage projects, also in view of the RRF timeline, according to which the projects under the measure must be operational by 31 December 2025 (see recital (42)).
- (120) Moreover, the investment grant will incentivise the supported projects to participate in the market and the measure is designed to avoid overcompensation (see recital (69)).
- (121) The Commission also notes that, based on the information provided by the Romanian authorities, under normal market conditions, no market investor would invest in the storage projects without aid due to the funding gap (see recitals (56) to (65)). In such a case, the benefits of the measure (e.g. facilitation of the development of new storage facilities, support to the integration of RES and benefits to the electric system) would not materialise.
- (122) Unlike classical energy infrastructure, pursuant to Article 54 Directive 2019/944, storage is in principle not part of the asset base for transmission or distribution system operators. As such, it cannot be financed by general transmission or distribution tariffs.
- (123) Given the need for a grant in order to finance the funding gap, the Commission considers that the measure constitutes an appropriate instrument to bring the projects forward.

3.3.3.1.3. Proportionality and cumulation

- (124) Aid is considered to be proportionate if the aid amount per beneficiary is limited to the minimum needed for carrying out the aided project or activity (point 47 CEEAG).
- (125) According to point 381 CEEAG, proportionality is assessed on the basis of the funding gap principle, as set out in points 48, 51, and 52 CEEAG.
- (126) The Commission notes that the aid amount will be established through a competitive bidding process and the aid requested cannot exceed (i) 100% of the funding gap of the project, (ii) EUR 167 000/MWh of storage installed capacity, nor (iii) EUR 15 million per undertaking, per investment project (see recitals (47) and (48)).
- (127) Thus, in order to assess proportionality, it is necessary to assess both the tender process and the assumptions underpinning the calculation of the funding gap of the reference project.
- (128) Aid is considered as limited to the minimum needed for carrying out the aided project or activity if the aid corresponds to the funding gap necessary to meet the objective of the aid measure, compared to the counterfactual scenario in the absence of aid. The counterfactual scenario in the case of the measure corresponds to the situation in which a storage project would not be realised, in line with point 381 CEEAG.
- (129) Concerning the tender process, the Commission notes that the tender process foreseen in the measure is transparent and based on clear rules which have been made available to all participants more than nine months in advance of the application deadline, in line with point 49 CEEAG and in particular footnote 43 (see recitals (30) and (41)). The eligibility criteria are reasonable and non-discriminatory in view of the objectives of the measure, which is to prepare the Romanian electricity system for increasing levels of penetration of RES electricity and make it more flexible and decentralised.
- (130) The criteria to evaluate the bids have also been established upfront in an objective and transparent manner. The bidders requesting the lowest aid amount per MWh of installed storage capacity will have the highest chance of being selected (see recital (54)).
- (131) In addition, the number of participants is expected to be high and sufficient to ensure effective competition. According to Romania, based on informal information from market participants on expected projects under development and considering the allocated budget, the estimated number of beneficiaries is between 5 and 20 out of 22 to 30 anticipated applications (see recital (46)). Moreover, should subsequent rounds of tender be organised, Romania will ensure that there will be sufficient competition (see recital (41)), in line with point 49(c) CEEAG.
- (132) The Commission notes that Romania argues that only battery storage facilities are sufficiently developed to be expected to provide the needed flexibility in the short available time at competitive cost. The Commission has no indication that opening the measure formally to other storage technologies would enable the realisation of projects using other than battery storage technology.

- (133) Moreover, the bid caps based on the funding gap of the reference project (EUR 167 000/MWh installed storage capacity) and based on the funding of the individual projects will also limit the risk of overcompensation (see analysis below).
- (134) Finally, the cap of EUR 15 million per project, per undertaking (see recital (51)), which reduces the potential for an entity with a large bid to negatively influence the result of the tender, will reinforce the competitiveness of the tender process.
- (135) In view of the above, the Commission finds that the tender process is conducted in a transparent, competitive and non-discriminatory fashion and therefore ensures that the amount of aid granted is kept to the minimum.
- (136) Concerning the funding gap of the reference project, the Commission notes that the calculation of the funding gap provided by the Romanian authorities is based on business projections, which the Commission has reviewed.
- (137) The underlying assumptions of the projected costs seem credible and in line with the expected developments in the Romanian electricity market. Specifically, capital and operational expenditures as outlined in section 2.7.1 are consistent with the latest assessment of the battery storage market available to the Commission ⁽³¹⁾. The project lifetime is based on the estimation of the effective lifetime in which the battery would be able to provide services in a quality specified by the tender requirements. The frequency with which a battery is used has a large impact on its annual degradation. Since the battery is expected to be used on a daily basis, it will be under heavy strain operationally which can be expected to cause degradation of various components. This is largely due to irreversible chemical degradation in the battery cells. As a benchmark for the assessment of the stated 10-year lifetime, the Commission notes that the benchmarked warranty for storage systems as composed by BloombergNEF Energy Storage System Costs Survey 2021 ⁽³²⁾ is nine years. This means that a typical vendor will guarantee some measure of performance and functionality of a battery system for nine years, after which the system performance shrinks to 55-70% of the initial state.
- (138) The Commission concludes further that the assumptions made to calculate the WACC are sufficiently justified by the specificities of the market at stake and the investment made in a specific project, and that these specificities are satisfactorily captured by the WACC computed by the Romanian authorities.
- (139) In addition, the Commission notes that the profitability of the reference BES project, measured by the IRR, corresponds to the remuneration required by the

⁽³¹⁾ See for instance Energy Storage System Costs Survey 2021 by BloombergNEF (21 December 2021), according to which capital expenditure for a typical battery storage project range from 524 EUR per kW for a system with two-hour discharge duration to 476 EUR per kW for a system with four-hour discharge duration. For operational costs, see Cole, Wesley; Frazier, A. Will; and Augustine, Chad: Costs Projections for Utility-Scale Battery Storage: 2021 Update. National Renewable Energy Laboratory (available at <https://www.nrel.gov/docs/fy21osti/79236.pdf>), where operational costs are assessed at 2.5% of the capital expenditure on page 10. While some recent news show an increase in investment costs due to growth in demand and shortage of supply, there are no comprehensive studies yet to quantify these effects and render the 2021 studies outdated.

⁽³²⁾ Energy Storage System Costs Survey 2021 by BloombergNEF (21 December 2021), p. 10-11.

market measured by the WACC and also corresponds to the profitability proposed in similar projects recently reviewed by the Commission⁽³³⁾. Without the aid and taking into account the proposed IRR, the NPV of the reference project over its lifetime would be negative (-EUR 166 980 per MW) and the project would not materialise (see recitals (60) to (62)).

- (140) The Commission concludes that the assumptions made to calculate the NPV of the reference storage projects over their lifetime are sufficiently justified and satisfactorily substantiate the resulting calculation of the funding gap made by the Romanian authorities.
- (141) According to point 381 CEEAG, the introduction of monitoring and claw-back mechanisms may be necessary where there is a risk of windfall profits, e.g. when the aid is close to the maximum allowed, while keeping incentives for the beneficiaries to minimise their costs and develop their business in a more efficient manner over time. The development of market revenue for electricity storage technologies is difficult to predict. In case of increased market volatility with significantly higher differences between maximum and minimum hourly electricity prices within one day, for instance, market revenues of storage operators may be significantly higher compared to the assumptions of the funding gap analysis. This is addressed by the mechanism to avoid overcompensation described in section 2.6.2.
- (142) The Commission notes that the budget of the measure is limited, the aid is granted through a competitive bidding process and the maximum aid amount is capped based on the funding gap of the reference project and the individual project. Furthermore, given that the aid is granted as investment aid only and future market revenues are uncertain (as they depend on the general development of market prices (spread peak-off peak on spot markets, prices for ancillary services) as well as on the development of competing storage or other flexibility options), there is a significant downside risk for investors, which have no certainty to achieve the intended rate of return on their investment. Therefore, the Commission considers that a claw back is not required in this particular measure.
- (143) The Commission notes that Romania confirmed that the measure would not be cumulated with other forms of support to cover the same eligible costs (see recitals (70) and (71)).
- (144) In view of the above considerations, the Commission concludes that the measure is proportionate.

3.3.3.1.4. Transparency

- (145) Romania submitted to comply with the transparency requirements laid down in points 58 to 61 CEEAG (see recital (72)). The relevant data of the measure will be published on a national website that will link to the Commission's transparency register.

⁽³³⁾ See for instance Commission decision of 20 December 2021 in State Aid SA.57473 (2021/N) – Greece - RRF - Pumped Hydro plant – Amfilochia, page 9, or Commission decision of 24 November 2021 in State Aid SA.60064 (2021/N) – Greece - Greek RES and heCHP scheme 2021-2025, page 19.

3.3.3.2. Avoidance of undue negative effects on competition and trade

- (146) In line with point 382(a) CEEAG, the Commission will generally consider that aid for energy infrastructure that is subject to full internal market regulation does not have undue distortive effects. In the present case, the storage facilities will indeed be subject to full internal market regulation (see recital (35)).
- (147) According to point 382(d) CEEAG, for support to electricity storage facilities, the Commission will in particular assess the risks of distortion of competition which may arise in related services markets as well as on other energy markets.
- (148) The Commission notes that only limited battery storage facilities have been installed in Romania so far (see recital (16)(15)). In addition, Romania considers the measure as a pilot project to incentivise investments in storage capacities. Romania argues that only battery storage facilities are sufficiently developed to be expected to provide the needed flexibility in the short available time at competitive cost. The Commission has no indication that opening the measure formally to other storage technologies would enable the realisation of projects using other than battery storage technology.
- (149) Furthermore, the storage capacity to be supported by the measure contributes to addressing the mid-term needs of the Romanian electricity system up to 2030, as described in Romania's NECP target for additional storage capacity (see recital (9)).
- (150) In addition, competition will also be fostered by ensuring that a sufficient number of projects belonging to independent entities will eventually be operating in the market. This will be enabled through the EUR 15 million cap in the tender (see recital (51)). The Commission further notes, that Romania considers this first tender a pilot project to collect experience for further storage projects, if required (see recital (33)).
- (151) Since, once awarded, the support is independent from market revenues, there is a clear incentive to maximise market revenues also compared to other storage installations. Combined with the EUR 15 million cap applied in the tender, the measure is expected to incentivise several market participants to actively compete on the Romanian balancing services markets. Battery storage is technically in a very competitive position on balancing markets in several Member States and the creation of battery storage facilities in Romania is thus expected to result in a significant increase in the number of total facilities capable of competing on the balancing market and other system services markets⁽³⁴⁾. There is currently virtually no battery storage in Romania, and very limited storage in hydro-pumped units (see recital (15)). The measure is thus expected to improve rather than reduce competition on the concerned services markets.

⁽³⁴⁾ Report from the Commission on the Implementation of the Strategic Action Plan on Batteries: Building a Strategic Battery Value Chain in Europe 2019, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1571912028148&uri=CELEX:52019DC0176>.

(152) Currently, there are no other remunerated system services for storage projects in Romania (see recital (16)) and the measure does not seem to negatively impact the development of future and yet uncertain system services markets.

(153) In view of the above, it can be concluded that the risk of undue negative effects on competition and trade from the measure is limited.

3.3.4. Weighing the positive effects of the aid against the negative effects on competition and trade

(154) A carefully designed aid measure should ensure that the overall balance of the effects of the measure is positive in terms of avoiding adversely affecting trading conditions to an extent contrary to the common interest.

(155) As shown in section 3.3.2, the aid will facilitate the development of storage facilities, thereby contributing to the development of economic activities of electricity storage and, moreover, to the smooth and effective transition to clean RES energy of the Romanian power system. The aid will also lead to benefits for the Romanian electric system.

(156) Furthermore, the Romanian authorities have designed the measure in such a way as to minimise the potential distortion of competition arising from the measure.

(157) Therefore, the positive effects of the measure outweigh any potential negative effects on competition and trade. On balance, the measure is in line with the objectives of Article 107(3)(c) TFEU as it facilitates the development of electricity storage in Romania, where such aid does not adversely affect competition to an extent contrary to the common interest.

(158) The Commission takes note that projects will need to demonstrate how they comply with the requirements of the “do no significant harm principle” in their application, in accordance with the model declaration provided as Annex 6 to the Specific Guide. In addition, the Commission takes note that this measure is approved as part of the RRP and in line with point 72 CEEAG and in particular footnote 50, compliance of such measures with the “do no significant harm” principle is considered fulfilled. The negative effects of the measure on competition between storage facilities are limited by the competitive selection process and limits to prevent overcompensation, and on the other hand outweighed by the positive contribution of battery storage facilities to the integration of renewable energies in the system, the development of competition on balancing and other service markets, system stability and security of energy supplies.

3.3.5. Companies in difficulty and under recovery order

(159) As explained in recital (75), Romania committed not to grant aid under the measure to undertakings in difficulty and undertakings subject to an outstanding recovery order. Therefore, the Commission concludes that the measure complies with points 14 and 15 CEEAG.

3.3.6. Conclusion on the compatibility of the measure

(160) The Commission concludes that the aid under the measure facilitates the development of an economic activity and does not adversely affect trading

conditions to an extent contrary to the common interest. Therefore, the Commission considers the aid compatible with the internal market based on Article 107(3)(c) TFEU and on the relevant points of CEEAG.

4. AUTHENTIC LANGUAGE

(161) As mentioned in recital (3) above, the Romanian authorities have 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