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Contents

[1] Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) 2019/289

of 19 February 2019

amending Regulation (EU) No 702/2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid ([1]), and in particular Article 1(1)(a) and (b) thereof,

Having published a draft of this Regulation in accordance with Article 6 and Article 8(2) of Regulation (EU) 2015/1588 ([2]),

After consulting the Advisory Committee on State aid,

Whereas:

(1) Commission Regulation (EU) No 702/2014 ([3]) declares that certain categories of aid are compatible with the internal market and exempted from the requirement that they must be notified to the Commission before they are granted.

(2) The State aid rules laid down in Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union ('the Treaty') apply to support provided for under Regulation (EU) No 1305/2013 of the European Parliament and of the Council ([4]), with the exception of payments and additional national financing falling within the scope of Article 42 of the Treaty.

(3) By virtue of Article 42 of the Treaty, State aid rules thus do not apply to rural development support related to the production, processing and marketing of agricultural products.

(4) However, State aid rules apply to rural development support for activities which do not fall within the scope of Article 42 of the Treaty, as regards both the part co-financed by the European Agricultural Fund for Rural Development (EAFRD) and the additional national financing.

(5) The provisions of Regulation (EU) No 702/2014 were therefore aligned with those of Regulation (EU) No 1305/2013 in the context of the latest Union State aid review in 2014, so as to facilitate the State aid procedures applicable to rural development support for the forestry sector and for non-agricultural activities in rural areas.

([1]) OJ L 248, 24.9.2015, p. 1.
([2]) OJ C 421, 21.11.2018, p. 1.
([3]) Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1).
([4]) Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

(6) The alignment of rules between Regulation (EU) No 702/2014 and Regulation (EU) No 1305/2013 is affected by the entry into force on 1 January 2018 of Regulation (EU) 2017/2393 of the European Parliament and of the Council ([5]), which amended some of the provisions of Regulation (EU) No 1305/2013 that are reflected in Regulation (EU) No 702/2014.

(7) As a result, the conditions for exempting State aid under Articles 32, 33, 35, 38 to 41 and 44 to 48 of Regulation (EU) No 702/2014 no longer fully correspond to the provisions laid down in Regulation (EU) No 1305/2013. It is therefore appropriate to adapt those rules in as far as this is necessary to maintain the possibility to exempt rural development support from notification in the same way as heretofore.

(8) Article 1(5)(a) and (b) should be aligned to Article 1(4)(a) and (b) of Commission Regulation (EU) No 651/2014 ([6]), as amended by Regulation (EU) 2017/1084 ([7]).

(9) Regulation (EU) No 702/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 702/2014 is amended as follows:

(1) in Article 1(5), points (a) and (b) are replaced by the following:

'(a) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State illegal and incompatible with the internal market;

(b) ad hoc aid to an undertaking referred to in point (a)';

(2) in Article 6(5), the following point (j) is added:

'(j) aid for the participation of active farmers in quality schemes for cotton and foodstuffs where the conditions laid down in Article 48 are fulfilled';

(3) Article 32 is amended as follows:

(a) in paragraph 8, in the first subparagraph, the introductory wording is replaced by the following:

'Save where support is provided in the form of financial instruments, aid for afforestation and the creation of woodland related to investment operations shall cover the following eligible costs:';

(b) in paragraph 9, the following second subparagraph is added:

'The first subparagraph shall not apply to aid which is granted in the form of financial instruments.';

(4) Article 33 is amended as follows:

(a) in paragraph 4, the first subparagraph is replaced by the following:

'The aid for agroforestry systems shall cover the costs of establishment, regeneration or renovation and an annual premium per hectare.';

(b) in paragraph 5, in the first subparagraph, the introductory wording is replaced by the following:

'Save where support is provided in the form of financial instruments, the aid for agroforestry systems related to investment operations shall cover the following eligible costs:';

([5]) Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material (OJ L 350, 29.12.2017, p. 15).

([6]) Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

([7]) Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs (OJ L 156, 20.6.2017, p. 1).

(c) in paragraph 6, the following second subparagraph is added:

'The first subparagraph shall not apply to aid which is provided in the form of financial instruments.';

(d) paragraph 7 is replaced by the following:

'7. The following costs for establishment, regeneration or renovation of the agroforestry system may be eligible:

(a) the costs for planting trees, including the costs of the plantation material, the plantation, the storing and the treatments of seedlings with the necessary prevention and protection materials;

(b) the costs for converting existing forests or other wooded land, including the costs for felling trees, thinning and pruning and protection against grazing animals;

(c) other costs directly linked to the establishment, regeneration or renovation of an agroforestry system, such as costs for feasibility studies, establishment plan, soil examination, soil preparation and protection;

(d) the costs of silvopastoral, namely, grazing system watering and protective facilities;

(e) the costs of the necessary treatment connected to the establishment, regeneration or renovation of an agroforestry system, including watering and cutting;

(f) the costs for replanting during the first year after the establishment, regeneration or renovation of an agroforestry system.';

(e) in paragraph 9, the introductory wording is replaced by the following:

'Member States shall determine the minimum and maximum number of trees per hectare, taking account of the following:';

(f) in paragraph 11, point (a) is replaced by the following:

'(a) 80 % of the eligible costs for investment operations and of the costs for establishment, regeneration or renovation referred to in paragraphs 5 and 7; and';

(5) Article 35 is amended as follows:

(a) in paragraph 5, the following second subparagraph is added:

'The first subparagraph shall not apply to aid which is provided in the form of financial instruments.';

(b) in paragraph 6, in the first subparagraph, the introductory wording is replaced by the following:

'Save where support is provided in the form of financial instruments, the aid shall cover the following eligible costs:';

(c) in paragraph 7, the first subparagraph is replaced by the following:

'Save where support is provided in the form of financial instruments, costs other than those referred to in paragraph 6(a) and (b) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.';

(6) Article 38(2) is amended as follows:

(a) in the first subparagraph, the following second sentence is added:

'Infrastructure installed as a result of demonstration may be used after the operation is completed.';

(b) the following fourth subparagraph is added:

'Aid for demonstration projects which is co-financed under the EAFRD or granted as additional national financing to such aid, and which is provided in the form of financial instruments, may cover eligible costs other than those referred to in paragraph 3(b), provided that the costs are fully eligible under Regulation (EU) No 1305/2013 and that the aid is identical to the underlying measure included in the rural development programme approved under that Regulation.';

(7) in Article 39(4), the following third subparagraph is added:

'Aid which is co-financed under the EAFRD, or granted as additional national financing to such co-financed aid, may be paid to the Managing Authority referred to in point (a) of Article 65(2) of Regulation (EU) No 1305/2013.';

(8) Article 40 is amended as follows:

(a) in paragraph 4, the following second subparagraph is added:

'The first subparagraph shall not apply to aid which is provided in the form of financial instruments.';

(b) in paragraph 6, the introductory wording is replaced by the following:

'Save where support is provided in the form of financial instruments, the aid shall cover the following eligible costs:';

(c) in paragraph 7, the first subparagraph is replaced by the following:

'Save where support is provided in the form of financial instruments, costs other than those referred to in paragraph 6(a) and (b) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.';

(9) Article 41 is amended as follows:

(a) in paragraph 4, the following second subparagraph is added:

'The first subparagraph shall not apply to aid which is provided in the form of financial instruments.';

(b) in paragraph 6, the introductory wording is replaced by the following:

'Save where support is provided in the form of financial instruments, the aid shall cover the following eligible costs:';

(c) in paragraph 7, the first subparagraph is replaced by the following:

'Save where support is provided in the form of financial instruments, costs other than those referred to in paragraph 6(a) and (b) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.';

(d) in paragraph 9, the second, third and fourth subparagraphs are replaced by the following:

'Save where support is provided in the form of financial instruments, the following conditions shall apply:

(a) the investments in renewable energy infrastructure that consume or produce energy shall comply with minimum standards for energy efficiency for, where such standards exist at national level;

(b) investments in installations, the primary purpose of which is electricity production from biomass, shall not be eligible for aid unless a minimum percentage of heat energy, to be determined by the Member States, is utilised;

(c) aid to bioenergy investment projects shall be limited to bioenergy meeting the applicable sustainability criteria laid down in Union legislation, including in Article 17(2) to (6) of Directive 2009/28/EC.';

(10) Article 44 is amended as follows:

(a) in paragraph 5, the following second subparagraph is added:

'The first subparagraph shall not apply to aid which is provided in the form of financial instruments.';

(b) in paragraph 7, the introductory wording is replaced by the following:

'Save where support is provided in the form of financial instruments, the aid shall cover the following eligible costs:';

(c) in paragraph 8, the first subparagraph is replaced by the following:

'Save where support is provided in the form of financial instruments, costs other than those referred to in paragraph 7(a) and (b) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.';

(11) Article 45 is amended as follows:

(a) in paragraph 6, the following third subparagraph is added:

'The business plan shall have a maximum duration of five years.';

(b) in paragraph 7, the first paragraph is replaced by the following:

'The aid shall be paid in at least two instalments.';

(12) in Article 46(5), the second sentence is replaced by the following:

'The aid shall be paid to the provider of the advisory services or to the Managing Authority referred to in point (a) of Article 65(2) of Regulation (EU) No 1305/2013.';

(13) Article 47(3) is amended as follows:

(a) in the first subparagraph, the following second sentence is added:

'Infrastructure installed as a result of demonstration may be used after the operation is completed.';

(b) the following third subparagraph is added:

'Aid for demonstration projects which is provided in the form of financial instruments may cover other eligible costs than those referred to in point (b) of paragraph 4, provided that the costs are fully eligible under Regulation (EU) No 1305/2013.';

(14) Article 48 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Aid for new participation, or participation in the five preceding years, of active farmers and groups of farmers that operate as SMEs, in quality schemes for cotton and foodstuffs shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty and shall be exempted from the notification requirement of Article 108(3) thereof where it fulfils the conditions laid down in paragraphs 2 to 7 of this Article and in Chapter I of this Regulation.';

(b) in paragraph 6, the following second subparagraph is added:

'If the initial participation in the quality scheme started before the application for support, the maximum period of five years shall be reduced by the number of years which have elapsed between that initial participation and the time of the application for support.'.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 February 2019.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2019/290

of 19 February 2019

establishing the format for registration and reporting of producers of electrical and electronic equipment to the register

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) ([1]), and in particular Article 16(3) thereof,

Whereas:

(1) A harmonised data structure and format for the registration and reporting of producers of electrical and electronic equipment (EEE) for all Member States will reduce the administrative burden for producers operating at Union level or at the level of several Member States.

(2) To harmonise the practices applied by the Member States for registration and reporting, the format for registration and reporting should be used by all producers, including producers supplying EEE by means of distance communication or, where appointed, by authorised representatives, and by all registers drawn up in the Member States pursuant to Article 16(1) of Directive 2012/19/EU.

(3) The format for registration and reporting should set out the key information elements to be requested pursuant to Article 16(2) and Annex X of Directive 2012/19/EU for the registration and reporting by producers or, where appointed, by authorised representatives. It should also allow for limited additional information elements to be requested by the Member State where the producer is registered and reports to. To avoid additional administrative burden, such additional information requirements should only relate to entries previously identified as such in the format itself.

(4) While Part B.5 of Annex X to Directive 2012/19/EU also requires each producer or, where appointed, each authorised representative to report on WEEE separately collected, recycled (including prepared for re-use), recovered and disposed of within the Member State or shipped within or outside the Union, the corresponding information to be reported to the Commission is collected in the Member States from different sources. In this respect, harmonisation of the reporting formats would increase the administrative burden for producers, while at the same time not be necessary with regard to the objective of the current Implementing Regulation.

(5) The provisions of this Regulation should apply from a date that allows for the necessary practical arrangements to be made for registers and for the producers or their authorised representatives, and should start from the beginning of a calendar year.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 39 of Directive 2008/98/EC of the European Parliament and Council ([2]),

HAS ADOPTED THIS REGULATION:

Article 1

Format for registration

1. Member States shall ensure that the registers drawn up pursuant to Article 16(1) of Directive 2012/19/EU:

(a) use the format set out in Annex I, Part A, for the registration of producers;

(b) use the format set out in Annex I, Part B, for the registration of authorised representatives.

([1]) OJ L 197, 24.7.2012, p. 38.
([2]) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

2. Member States shall require the key information elements identified as such in the formats set out in Annex I.

Member States may require additional information elements identified as such in the formats set out in Annex I.

Article 2

Format for reporting to the register of a Member State on data related to EEE placed on its market

1. Member States shall ensure that the registers drawn up pursuant to Article 16(1) of Directive 2012/19/EU use the format set out in Annex II for reporting by producers or their authorised representatives, where appointed under Article 17 of Directive 2012/19/EU, to the register on the data related to EEE placed on their markets.

2. Member States shall require the key information elements identified as such in the format set out in Annex II.

Member States may require additional information elements identified as such in the format set out in Annex II.

Article 3

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 February 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

Format for registration in a Member State

Key information elements are marked with 'M'.

Filter-dependent information elements marked with 'F' are part of key information elements but only apply when a specific response under a previous information element is selected.

Additional information elements are marked with 'M*'.

PART A

Format for registration of a producer

Information element	Description	Type of information element
Name of producer:	Official name of the producer linked to the national tax number or to the identification code/number provided when registering in the business register in the Member State.	
— If the producer is a legal person (company), provide the name of the company		F
— If the producer is a natural person, provide: — First name — Last name		F
Trading name of producer	Name the producer uses for advertising and sales purposes, which is different from the legal name in its articles of incorporation or other official documents.	M*
Legal address of producer:	Official address of the producer.	
— Street name		M
— Street number		M
— Postal code		M
— Location		M
— Province		M*
— Municipality		M*
— Website address (if a website address exists)		M
Categories of annual turnover of EEE	Indication of the producer's annual turnover. Member States requesting this information element must provide different 'categories of annual turnover of EEE' so that the producer can choose the relevant category.	M*
Contact person of producer	Person associated with the producer as point of contact. It is an individual who is selected as the initial or regular contact point for that producer.	
— First name		M
— Last name		M

Information element	Description	Type of information element
— Phone number	Business phone.	M
— Email address	Business email address.	M
— Address	Business address of the contact person.	
— Street name		M
— Street number		M
— Postal code		M
— Location		M
— Province		M*
— Municipality		M*
National identification code/business registration code	For producers that are legal persons, the identification code/number provided when registering in the business register in the Member State.	F
National tax number	Tax number of the producer in the Member State.	M*
Other identification information	For producers established in third countries, an official registration number/code.	F
Category/categories of EEE	Description of the category or categories of EEE that the producer places on the market of the Member State by number pursuant to Annex III to Directive 2012/19/EU.	M
Sub-category/sub-categories of EEE	Description of the sub-category or sub-categories of EEE that the producer places on the market of the Member State as applied in the Member State.	M*
Type of EEE (household or other than household equipment)	For each one of the categories or, if applicable, the sub-categories of EEE that the producer places on the market of the Member State, indication of 'household' or 'other than household' equipment.	M*
Brand name of EEE	For each one of the categories or, if applicable, the sub-categories of EEE that the producer places on the market of the Member State, the arbitrarily adopted name that is given by a producer to the EEE to distinguish it as produced or sold by that producer and that may be used and protected as a trademark.	M*
Producer responsibility	Information on how the producer meets the responsibilities set out in Directive 2012/19/EU in the Member State. If the same producer has set up an individual compliance scheme for certain categories of EEE and has joined a collective compliance scheme for others, both should be indicated.	
The producer has set up an individual compliance scheme. Yes/No		M
If the answer is 'Yes', provide additional information about the individual compliance scheme.	Description of additional information that the producer shall submit in relation to the individual compliance scheme.	M*

Information element	Description	Type of information element
The producer has joined collective compliance scheme(s). Yes/No		M
Financing responsibility:	Information on the form of the guarantee that each producer provides when placing a product on the market of the Member State pursuant to Article 12 of Directive 2012/19/EU.	
The producer participates in one or more collective compliance schemes. Yes/No		M
The producer provides a recycling insurance. Yes/No		M
The producer provides a blocked bank account. Yes/No		M
Other (please specify)	If the financial guarantee in a Member State does not have any of the forms mentioned above, the producer shall describe the form of the guarantee.	F
Distance selling:		
The producer uses distance selling to sell EEE directly to private households or to users other than private households in another Member State. Yes/No	The producer established in the Member State shall indicate if, at the time of registration, it also sells EEE by means of distance communication directly to private households or to users other than private households in another Member State.	M
List of Member State(s) in which the producer sells EEE by distance selling	If the producer established in the Member State sells EEE by means of distance communication directly to private households or to users other than private households in another Member State, it must provide the name of the Member State(s).	F
Name of the authorised representative in the Member State(s) in which the producer sells EEE by distance selling	If the producer established in the Member State sells EEE by means of distance communication directly to private households or to users other than private households in another Member State, it must provide the name of the authorised representative in that Member State(s).	F
Declaration *'I/We declare that the information provided is true and provides accurate information on the above-named producer and an accurate reflection of the type of electrical and electronic equipment placed on the market of* _____ (add the name of the Member State*) by the above-named producer.'*	Declaration of the producer or, where applicable, of the third party acting on behalf of the producer that the information provided is true and accurate. In case of electronic forms, this declaration shall be marked (check box).	M

PART B

Format for registration of an authorised representative

Information element	Description	Type of information element
Name of authorised representative:	Official name of the authorised representative linked to the national tax number or to the identification code/number provided when registering in the business register in the Member State.	
— If the authorised representative is a legal person (company), provide the name of the company		F
— If the authorised representative is a natural person, provide: — First name — Last name		F
Legal address of authorised representative:	Official address of the authorised representative. The authorised representative shall be established on the territory of the Member State.	
— Street name		M
— Street number		M
— Postal code		M
— Location		M
— Province		M*
— Municipality		M*
— Website address (if a website address exists)		M
Contact person of authorised representative:	Person associated with the authorised representative as point of contact. It is an individual who is selected as the initial or regular contact point for that authorised representative. The contact person shall be established on the territory of the Member State.	
— First name		M
— Last name		M
— Phone number	Business phone.	M
— Email address	Business email address.	M
— Address	Business address of the contact person.	
— Street name		M
— Street number		M
— Postal code		M
— Location		M
— Province		M*
— Municipality		M*
National identification code/business registration code	For authorised representatives that are legal persons, the identification code/number provided when registering in the business register in the Member State.	F

Information element	Description	Type of information element
National tax number	Tax number of the authorised representative in the Member State.	M*
Name of the represented producer(s): — If the producer is a legal person (company), provide the name of the company — If the producer is a natural person, provide: — First name — Last name	Official name of the producer(s) represented by the authorised representative as linked to the national/European tax number of the producer or to the identification code/number provided when registering in the business register in the country where the producer is established. If the authorised representative represents more than one producer and the Member State provides for the authorised representative to be registered once, the authorised representative shall indicate separately the name and the contact details of each one of the represented producers.	M
Contact details of the represented producer(s):	Official contact details of the producer(s) represented by the authorised representative.	
— Phone number		M
— Email address		M
— Address		M
— Street name		M
— Street number		M
— Postal code		M
— Location		M
— Country		M
— Website address (if a website address exists)		F
Categories of the represented producer's annual turnover of EEE	Indication of the represented producer's annual turnover. Member States requesting this information element must provide different 'categories of annual turnover of EEE' so that the represented producer can choose the relevant category. If the authorised representative represents more than one producer and the Member State provides for the authorised representative to be registered once, the authorised representative shall indicate separately, for each one of the represented producers, the category of annual turnover of EEE.	M*
Category/categories of EEE	Description of the category or categories of EEE that the represented producer places on the market of the Member State by number pursuant to Annex III to Directive 2012/19/EU. If the authorised representative represents more than one producer and the Member State provides for the authorised representative to be registered once, the authorised representative shall describe separately the categories of EEE that each one of the represented producers places on the market of the Member State.	M

Information element	Description	Type of information element
Sub-category/sub-categories of EEE	Description of the sub-category or sub-categories of EEE that the producer places on the market of the Member State as applied in the Member State. If the authorised representative represents more than one producer and the Member State provides for the authorised representative to be registered once, the authorised representative shall describe separately the sub-categories of EEE that each one of the represented producers places on the market of the Member State.	M*
Type of EEE (household or other than household equipment)	For each one of the categories or, if applicable, the sub-categories of EEE that the represented producer places on the market of the Member State, indication of 'household' or 'other than household' equipment.	M*
Brand name of EEE	For each one of the categories or, if applicable, the sub-categories of EEE that the represented producer places on the market of the Member State, the arbitrarily adopted name that is given by a producer to the EEE to distinguish it as produced or sold by that producer and that may be used and protected as a trademark.	M*
Producer responsibility:	Information on how the represented producer meets the responsibilities set out in Directive 2012/19/EU in the Member State. If the same producer or the authorised representative on behalf of the producer has set up an individual compliance scheme for certain categories of EEE and has joined a collective compliance scheme for others, both should be indicated. If the authorised representative represents more than one producer and the Member State provides for the authorised representative to be registered once, the authorised representative shall indicate separately how each one of the represented producers meets the responsibilities set out in Directive 2012/19/EU in the Member State.	
The producer or the authorised representative on behalf of the producer has set up an individual compliance scheme in the Member State. Yes/No		M
If the answer is 'Yes', provide additional information about the individual compliance scheme.	Description of additional information that the producer or the authorised representative on behalf of the producer shall submit in relation to the individual compliance scheme.	M*
The producer or the authorised representative on behalf of the producer has joined collective compliance scheme(s) in the Member State Yes/No		M

Information element	Description	Type of information element
Financing responsibility:	Information on the form of the guarantee that each represented producer provides when placing a product on the market of the Member State pursuant to Article 12 of Directive 2012/19/EU.	
The producer or the authorised representative on behalf of the producer participates in one or more collective compliance schemes. Yes/No		M
The producer or the authorised representative on behalf of the producer provides a recycling insurance. Yes/No		M
The producer or the authorised representative on behalf of the producer provides a blocked bank account. Yes/No		M
Other (please specify)	If the financial guarantee in a Member State does not have any of the forms mentioned above, the authorised representative shall describe the form of the guarantee.	M
Declaration *'I/We declare that the above-named authorised representative has been appointed with a written mandate by the represented producer(s) pursuant to Article 17(3) of Directive 2012/19/EU on waste electrical and electronic equipment.'*	Declaration of the authorised representative or, where applicable, of the third party acting on behalf of the authorised representative that the authorised representative has been appointed by written mandate according to Article 17(3) of Directive 2012/19/EU on waste electrical and electronic equipment. In case of electronic forms, this declaration shall be marked (check box).	M
Declaration *'I/We declare that the information provided is true and provides accurate information on the above-named authorised representative and an accurate reflection of the type of electrical and electronic equipment placed on the market of* _____ (add the name of the Member State) *by the producer(s) represented by the above-named authorised representative.'*	Declaration of the authorised representative or, where applicable, of the third party acting on behalf of the authorised representative that the information provided is true and accurate. In case of electronic forms, this declaration shall be marked (check box).	M

ANNEX II

Format for reporting to the register of a Member State on EEE placed on its market

Key information elements are marked with 'M'.

Filter-dependent information elements marked with 'F' are part of the key information elements but only apply when a specific response under a previous information element is selected.

Additional information elements are marked with 'M*'.

Information element	Description	Type of information element
Name of producer or authorised representative or organisation implementing extended producer responsibility obligations on behalf of producers:	Official name of the producer or authorised representative or organisation implementing extended producer responsibility obligations on behalf of producers linked to the national tax number or to the identification code/number provided when registering in the business register in the Member State.	
— If the producer or authorised representative is a legal person (company), provide the name of the company		F
— If the producer or authorised representative is a natural person, provide: — First name — Last name		F
— If a Member State allows for the report to be submitted by an organisation implementing extended producer responsibility obligations on behalf of producers, provide the name of this organisation and the names of the producers and/or authorised representatives on whose behalf the information is provided.		F
National identification code/business registration code	For producers or authorised representatives that are legal persons or organisations implementing extended producer responsibility obligations on behalf of producers, the identification code/number provided when registering in the business register in the Member State.	F
National tax number	Tax number of the producer or authorised representative or of organisation implementing extended producer responsibility obligations on behalf of producers in the Member State.	M*
Reporting period	The producer or authorised representative or, where applicable, the organisation implementing extended producer responsibility obligations on behalf of producers shall specify the relevant reporting period.	M

Information element	Description	Type of information element
Contact person for reporting:	Person associated with the producer or authorised representative or, where applicable, the organisation implementing extended producer responsibility obligations on behalf of producers who is selected as the initial or regular contact point for reporting to the register.	
— First name		M
— Last name		M
— Phone number	Business phone.	M
— Email address	Business email address.	M
Quantity of EEE placed on the market of the Member State (in tonnes):	Each producer or each authorised representative shall report the weight of EEE placed on the market of the Member State in tonnes as defined in Article 2(a) of Commission Implementing Regulation (EU) 2017/699. Where the Member State allows for an organisation implementing extended producer responsibility obligations on behalf of producers to provide this information, it is to be specified whether this information shall be reported for each represented producer and authorised representative individually or in total, for all represented producers and authorised representatives.	
per category of EEE	The weight of EEE that the producer places on the market of the Member State per category of EEE pursuant to Annex III to Directive 2012/19/EU, with photovoltaic panels to be reported separately.	M
per sub-category of EEE	The weight of EEE that the producer places on the market of the Member State per sub-category of EEE as applied in the Member State.	M*
per type of EEE (household or other than household equipment)	The weight of EEE that the producer places on the market of the Member State per type of equipment ('household' or 'other than household' equipment).	M*
Declaration *'I/We declare that the information provided in this document is true and provides an accurate reflection of the type and quantity of electrical and electronic equipment placed on the market of* _____ (add the name of the Member State) *by the above-named producer(s).'*	Declaration of the producer or authorised representative or, where applicable, the third party acting on the behalf of the producer or authorised representative that the information provided is true and accurate. In case of electronic forms, this declaration shall be marked (check box).	M

COMMISSION IMPLEMENTING REGULATION (EU) 2019/291

of 19 February 2019

amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances 1-naphthylacetamide, 1-naphthylacetic acid, acrinathrin, azoxystrobin, fluazifop p, fluroxypyr, imazalil, kresoxim-methyl, oxyfluorfen, prochloraz, prohexadione, spiroxamine, tefluthrin and terbuthylazine

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ([1]), and in particular the first paragraph of Article 17 thereof,

Whereas:

(1) Part B of the Annex to Commission Implementing Regulation (EU) No 540/2011 ([2]) sets out the active substances approved under Regulation (EC) No 1107/2009.

(2) The approval periods of the substances 1-naphthylacetamide, 1-naphthylacetic acid, acrinathrin, azoxystrobin, fluazifop p, fluroxypyr, imazalil, kresoxim-methyl, oxyfluorfen, prochloraz, prohexadione, spiroxamine, tefluthrin and terbuthylazine will expire on 31 December 2021.

(3) Applications for the renewal of the approval of the active substances included in this Regulation were submitted in accordance with Commission Implementing Regulation (EU) No 844/2012 ([3]). However, the approval of those substances is likely to expire for reasons beyond the control of the applicant before a decision has been taken on the renewal of their approval. It is therefore necessary to extend their approval periods in accordance with Article 17 of Regulation (EC) No 1107/2009.

(4) In view of the time and resources necessary for completing the assessment of the applications for the renewal of approval of a large number of active substances the approvals of which will expire between 2019 and 2021, Commission Implementing Decision C(2016) 6104 ([4]) established a work programme grouping together similar active substances and setting priorities on the basis of safety concerns for human and animal health or the environment as provided for in Article 18 of Regulation (EC) No 1107/2009.

(5) The presumed low risk substances should be prioritised in accordance with Implementing Decision C(2016) 6104. The approval of those substances should therefore be extended by a period as short as possible. Taking into account the distribution of responsibilities and work among the Member States acting as rapporteurs and co-rapporteursand the available resources necessary for assessment and decision-making, that period should be of one year for the active substance prohexadione.

(6) For the active substances which do not fall in the prioritised categories in Implementing Decision C(2016) 6104, the approval period should be extended by either two or three years, taking into account the current date of expiry, the fact that in accordance with Article 6(3) of Implementing Regulation (EU) No 844/2012, the supplementary dossier for an active substance is to be submitted no later than 30 months before the expiry of the approval, taking into account the need to ensure a balanced distribution of responsibilities and work among the Member States acting as rapporteurs and co-rapporteurs and the available resources necessary for assessment and decision-making. It is therefore appropriate to extend the approval periods for the active substances 1-naphthylacetamide, 1-naphthylacetic acid, acrinathrin, fluazifop p, prochloraz and spiroxamine by two years, and to extend the approval periods of the active substances azoxystrobin, fluroxypyr, imazalil, kresoxim-methyl, oxyfluorfen, tefluthrin, terbuthylazine by three years.

([1]) OJ L 309, 24.11.2009, p. 1.
([2]) Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).
([3]) Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).
([4]) Commission Implementing Decision of 28 September 2016 on the establishment of a work programme for the assessment of applications for the renewal of approvals of active substances expiring in 2019, 2020 and 2021 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council (OJ C 357, 29.9.2016, p. 9).

(7) In view of the aim of the first paragraph of Article 17 of Regulation (EC) No 1107/2009, as regards cases where no supplementary dossier in accordance with Implementing Regulation (EU) No 844/2012 is submitted no later than 30 months before the respective expiry date laid down in the Annex to this Regulation, the Commission will set the expiry date at the same date as before this Regulation or at the earliest date thereafter.

(8) In view of the aim of the first paragraph of Article 17 of Regulation (EC) No 1107/2009, as regards cases where the Commission will adopt a Regulation providing that the approval of an active substance referred to in the Annex to this Regulation is not renewed because the approval criteria are not satisfied, the Commission will set the expiry date at the same date as before this Regulation or at the date of the entry into force of the Regulation providing that the approval of the active substance is not renewed, whichever date is later. As regards cases where the Commission will adopt a Regulation providing for the renewal of an active substance referred to in the Annex to this Regulation, the Commission will endeavour to set, as appropriate under the circumstances, the earliest possible application date.

(9) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 February 2019.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Part B of the Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

(1) in the sixth column, expiration of approval, of row 4, Azoxystrobin, the date is replaced by '31 December 2024';

(2) in the sixth column, expiration of approval, of row 5, Imazalil, the date is replaced by '31 December 2024';

(3) in the sixth column, expiration of approval, of row 6, Prohexadione, the date is replaced by '31 December 2022'

(4) in the sixth column, expiration of approval, of row 7, Spiroxamine, the date is replaced by '31 December 2023';

(5) in the sixth column, expiration of approval, of row 8, Kresoxim-methyl, the date is replaced by '31 December 2024';

(6) in the sixth column, expiration of approval, of row 9, Fluroxypyr, the date is replaced by '31 December 2024';

(7) in the sixth column, expiration of approval, of row 10, Tefluthrin, the date is replaced by '31 December 2024';

(8) in the sixth column, expiration of approval, of row 11, Oxyfluorfen, the date is replaced by '31 December 2024';

(9) in the sixth column, expiration of approval, of row 12, 1-naphthylacetamide, the date is replaced by '31 December 2023';

(10) in the sixth column, expiration of approval, of row 13, 1-naphthylacetic acid, the date is replaced by '31 December 2023';

(11) in the sixth column, expiration of approval, of row 15, Fluazifop P, the date is replaced by '31 December 2023';

(12) in the sixth column, expiration of approval, of row 16, Terbuthylazine, the date is replaced by '31 December 2024';

(13) in the sixth column, expiration of approval, of row 19, Acrinathrin, the date is replaced by '31 December 2023';

(14) in the sixth column, expiration of approval, of row 20, Prochloraz, the date is replaced by '31 December 2023'.

DECISIONS

COUNCIL DECISION (EU) 2019/292

of 12 February 2019

on the authorisation to release EU classified information to third States and international organisations

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information ([1]), and in particular Article 13 thereof and Annex VI thereto,

Whereas:

(1) The European Union concludes agreements on security procedures for exchanging and protecting classified information with third States and international organisations.

(2) The Secretary-General, on behalf of the General Secretariat of the Council, may enter into administrative arrangements with third States and international organisations on security procedures for the exchange of classified information.

(3) Pursuant to paragraph 37 of Annex VI to Decision 2013/488/EU, the Council is to take a decision to authorise the Secretary-General to release EU classified information to third States or international organisations under agreements on security procedures for exchanging and protecting classified information or administrative arrangements on security procedures for the exchange of classified information,

HAS ADOPTED THIS DECISION:

Article 1

1. Where an agreement on security procedures for exchanging and protecting classified information ('security of information agreement') between the Union and a third State or international organisation is in force, and in accordance with Decision 2013/488/EU, the Secretary-General of the Council shall be authorised to release, in accordance with the principle of originator's consent, to that third State or international organisation EU classified information falling under the scope of the security of information agreement, up to the level determined by the Council Security Committee pursuant to paragraph 11 of Annex VI to Decision 2013/488/EU. The decision to release EU classified information to a third State or international organisation under a security of information agreement shall be taken by the Secretary-General on a case-by-case basis.

2. Where the Secretary-General of the Council has, upon approval by the Council and in accordance with Decision 2013/488/EU, entered into an administrative arrangement on security procedures for the exchange of classified information ('administrative arrangement') with a third State or international organisation, the Secretary-General of the Council shall be authorised to release, in accordance with the principle of originator's consent, to that third State or international organisation EU classified information falling under the scope of and up to the level specified in the administrative arrangement. The decision to release EU classified information to a third State or international organisation under an administrative arrangement shall be taken by the Secretary-General on a case-by-case basis.

3. The Secretary-General of the Council may delegate the authority referred to in paragraphs 1 and 2 to senior officials of the General Secretariat of the Council.

Article 2

This Decision shall repeal and replace the following Decisions:

(1) Council Decision of 20 June 2011 on the release of information under permanent agreements with third States or international organisations on security procedures for exchanging classified information;

(2) Council Decision of 20 June 2011 on the release of information under administrative arrangements with international organisations on security procedures for exchanging classified information.

([1]) OJ L 274, 15.10.2013, p. 1.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 12 February 2019.

For the Council
The President
E.O. TEODOROVICI

COMMISSION DECISION (EU) 2019/293

of 8 November 2018

on the State aid SA.43785 (2018/C) (ex 2015/PN, ex 2018/NN) implemented by Romania for restructuring Complexul Energetic Hunedoara

(notified under document C(2018) 7308)

(Only the Romanian text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provision(s) cited above ([1]),

Whereas:

1. PROCEDURE

(1) By letter dated 12 March 2018, the Commission informed Romania that it had decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union ('TFEU') ('the opening decision') in respect of the restructuring aid for Complexul Energetic Hunedoara S.A. ('CE Hunedoara'). The opening decision followed earlier notifications and contacts between the Commission and Romania concerning State aid to CE Hunedoara or its predecessors, as further described in the opening decision and section 2.1 below.

(2) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* ([2]). The Commission invited interested parties to submit their comments thereon.

(3) On 15 May 2018, Romania provided comments on the opening decision. The Commission did not receive comments from interested parties. In addition to the comments received on 15 May 2018, the Commission also held a video conference with the Romanian authorities on 31 July 2018.

2. DETAILED DESCRIPTION OF THE AID

2.1. Earlier decisions concerning CE Hunedoara

(4) On 22 February 2012, the Commission had decided not to raise objections on the planned aid totalling RON 1 169 million (ca. EUR 251,3 million) for the closure of three out of the seven coal mines exploited by the National Hard Coal Company JSC Petrosani ([3]) ('Decision regarding the first aid to coal mines'). In that decision, the Commission found that the planned aid was compatible with the internal market pursuant to Council Decision 2010/787/EU ([4]) ('the Council Decision on aid to coal mines').

(5) On 20 April 2015, the Commission had considered that Electrocentrale Paroșeni and Electrocentrale Deva, two electricity generation companies that had been merged into CE Hunedoara in 2012, had received between 2009 and 2011 operating State aid which was incompatible with the internal market. In its decision ([5]) ('the Decision regarding the incompatible aid'), the Commission requested Romania to recover the aid and interest from

([1]) OJ C 158, 4.5.2018, p. 47.
([2]) Cf. footnote 1.
([3]) OJ C 23, 25.1.2013, p. 3.
([4]) Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive mines (OJ L 336, 21.12.2010, p. 24).
([5]) Commission Decision (EU) 2015/1877 of 20 April 2015 on tariffs charged by S.C. Hidroelectrica SA of Romania to S.C. Termoelectrica SA and S.C. Electrocentrale Deva SA — SA.33475 (12/C) (OJ L 275, 20.10.2015, p. 46), recitals 117 to 124.

CE Hunedoara as the successor company of the two electricity generation companies, in case the beneficiaries failed to repay. On 10 June 2015, the Romanian authorities provided information showing that the amount of RON 34 785 015,45 (approx. EUR 7,48 million) covering the aid amount to be recovered and the recovery interest was transferred from CE Hunedoara to the Romanian Ministry of Energy, thereby implementing the recovery decision.

(6) On 21 April 2015, the Commission decided not to raise objections on State aid planned to be granted to CE Hunedoara in the form of dedicated loans up to RON 167 million (approx. EUR 37,7 million) ([6]) ('the rescue aid decision') ([7]). In that decision the Commission found that the loans constituted rescue aid to CE Hunedoara and declared that the aid was compatible with the internal market pursuant to the Guidelines on State aid for rescuing and restructuring of non-financial undertakings in difficulty ('the R&R aid Guidelines') ([8]), taking into account a number of commitments provided by Romania (see recitals 120 and 123 below).

(7) On 21 October 2015, six months after the rescue aid decision, Romania transmitted a restructuring plan for CE Hunedoara ('the first restructuring plan') ([9]). The aim of Romania was to extend the period of reimbursement of the rescue loan, which was the subject of the rescue aid decision and to grant restructuring aid to CE Hunedoara to finance costs included in the first restructuring plan. By letter transmitted on 3 December 2015, Romania communicated its intention to provide information on the restructuring aid four weeks later. The following day, the Commission administratively opened case SA.43785 (2015/PN) concerning the restructuring aid to CE Hunedoara.

(8) On 8 January 2016, Romania pre-notified its intention to grant restructuring aid to CE Hunedoara on the basis of a new restructuring plan, modified as compared to the first restructuring plan ('the amended restructuring plan') and submitted additional supporting information, further complemented on 11 January 2016. On 12 January 2016, a meeting was held with the Romanian authorities regarding the information submitted.

(9) On 15 January 2016, Romania was informed that significant modifications of the envisaged restructuring aid and the first restructuring plan would be advisable before Romania proceeded with a formal notification. Romania did not provide any new restructuring plan thereafter.

(10) In January 2016, CE Hunedoara entered into formal insolvency proceedings under Romanian law, which however was later on dismissed by a national court.

(11) Thereafter, Romania considered that, whilst CE Hunedoara would eventually be liquidated, it would be necessary to temporarily keep in operation some of the power generation units along with some coal mines and related coal preparation services supported with a compensation for generation costs. Based on those considerations and new plans as to possible future successor(s) of CE Hunedoara operating with part of the latter's assets, on Commission's request, the Romanian authorities submitted information on 12 May 2016, during a video-conference on 18 May 2016, on 9, 25 and 29 August 2016, during a meeting on 12 October 2016, as well as on 9 November 2016, 17 May 2017 and 1 September 2017. The information supplied on 17 May 2017 included, in particular, a timeline for the eventual liquidation of CE Hunedoara.

(12) On 24 November 2016, based on a separate notification, the Commission decided not to raise objections on RON 447,8 million (ca. EUR 96,2 million) planned to be granted to CE Hunedoara for the closure of two out of the four coal mines still operated by CE Hunedoara which were not the subject of the Decision regarding the first aid to coal mines ([10]) ('Decision regarding the second aid to coal mines'). In that decision the Commission found that the planned aid was compatible with the internal market pursuant to the Council Decision on aid to coal mines.

2.2. **The beneficiary: CE Hunedoara**

(13) CE Hunedoara is a vertically integrated power generation company headquartered in Petrosani, Hunedoara County. Its shares are fully owned by the Romanian State. CE Hunedoara uses mainly indigenous coal, which it

([6]) The exchange rate used for information in this decision is RON/EUR = 0,215 (31 January 2018).
([7]) Commission Decision of 21 April 2015, SA.41318 (2015/N) — Romania — Notification of the rescue aid to Complexul Energetic Hunedoara (OJ C 203, 19.6.2015, p. 5).
([8]) OJ C 249, 31.7.2014, p. 1.
([9]) That plan was also discussed at a meeting with the Romanian authorities on 23 October 2015.
([10]) Authorisation for State aid pursuant to Articles 107 and 108 of the Treaty on the Functioning of the European Union — Cases where the Commission raises no objections (OJ C 127, 21.4.2017, p. 1).

extracts from its coal mines, to produce electricity heat for the surrounding cities. Its two power plants, Deva ([11]) and Paroseni ([12]), have a total installed nominal capacity of 1 225 MW. CE Hunedoara produces approximately 4,2 % of the electricity consumed in Romania, where it is the only major producer of electricity in the centre and northwest areas. The company employs approx. 6 600 people, of which 1 750 jobs relate to power generation and 4 700 to mining activities.

(14) CE Hunedoara was established in November 2012 by merging two previously failing and now liquidated State owned companies, Electrocentrale Paroseni and Electrocentrale Deva ('the predecessor companies'). Following the liquidation of the National Hard Coal Company JSC Petrosani, there were four coal mines planned to remain in operation and not planned to receive closure aid under the Decision regarding the first aid to coal mines. These were merged into CE Hunedoara together with the power generation units and related administrative staff and real estate of Electrocentrale Paroseni and Electrocentrale Deva, since virtually all of the coal supplied by the four coal mines was used by Electrocentrale Paroseni and Electrocentrale Deva as fuel for power generation and heat supply. In particular:

— CE Hunedoara initially took over production assets and liabilities from the predecessor companies. Both companies were consistently unable to sell electricity at competitive market prices in Romania and received incompatible operating aid in the amounts of RON 22,62 million and RON 3,65 million between 2009 and 2011 (ca. EUR 5,6 million in total), which the Commission ordered Romania to recover with interest from CE Hunedoara in the Decision regarding the incompatible aid, because of the economic and legal continuity with the beneficiaries ([13]).

— Subsequently, in August 2013, CE Hunedoara took over four of the seven coal mines from the National Hard Coal Company JSC Petrosani. Earlier, by 2011, National Hard Coal Company JSC Petrosani was operating seven mines; three of them received aid to closure under the Decision regarding the first aid to coal mines. The other four mines later incorporated into CE Hunedoara were allegedly viable. These four coal mines and other productive assets were transferred to CE Hunedoara net of any liability, in particular regarding ca. EUR 1,2 billion debts previously accumulated towards the State or other public bodies, mainly stemming from unpaid taxes and contributions. The debts accumulated had not been taken into account when evaluating the viability of the four mines. The Commission noted the commitment of Romania to notify under State aid rules, if necessary, any State measure concerning the debts towards the State. Romania did not notify the process ([14]) whereby the four coal mines were transferred free of debt to CE Hunedoara.

2.3. **The operational and financial performance of CE Hunedoara**

2.3.1. *The operational performance*

(15) According to the Romanian Energy Regulator ([15]), the share of net electricity generation of CE Hunedoara between 2013-2015 was as follows:

Table 1

Total electricity feed-in 2013-2015 by CE Hunedoara compared to total production

Generator	Capacity used (MW)			Total electricity generated (TWh)		
	2013	2014	2015	2013	2014	2015
CE Hunedoara	1 110 (6 %)	998 (5 %)	1 063 (5 %)	3 (5 %)	2,7 (4 %)	1,84 (2,9 %)
Market volume	18 142 (100 %)	18 448 (100 %)	19 086 (100 %)	55,8 (100 %)	62 (100 %)	62,6 (100 %)

([11]) Commissioned in two stages, the first one between 1969 and 1971 and the second one between 1977 and 1980 — see the *GMC Insolvency Consulting* report of March 2016, page 37, cigmc.ro/files/Raport%20art.%2097.pdf

([12]) Commissioned in two stages, the first one between 1956 and 1959 and the second one between 1962 and 1964 — see publicly available information at https://uzinaparoseni.wordpress.com/.

([13]) Decision regarding the incompatible aid adopted on 20 April 2015, recitals 84, 88 to 90, 98 and 117 to 124. Rescue aid decision of 21 April 2015, recitals 13 and 63.

([14]) Decision regarding the first aid to coal mines adopted on 22 February 2012, recitals 4 to 10.

([15]) ANRE Annual reports for 2013, 2014 and 2015, available at: http://www.anre.ro/en/about-anre/annual-reports-archive. See also Transelectrica data on total and available installed generation capacity for each dispatchable unit, per primary sources of energy, available at: http://transelectrica.ro/web/tel/productie.

(16) In Romania, electricity is generated by various types of power plants with varying generation costs. As of July 2012, electricity is traded at wholesale level through the exchange, i.e. spot and forward markets of the Romanian Power Exchange ('OPCOM').

(17) An important criterion for a power plant operation is a comparison of the day-ahead market price and the marginal costs for electricity generation in that power plant. In case of thermal power plants, the main marginal costs are fuel costs, the costs of CO_2 emission certificates and operational marginal costs.

(18) CE Hunedoara registered an average production cost of 274,27 RON/MWh (approx. 59 EUR/MWh) in 2013 310,19 RON/MWh (approx. 67 EUR/MWh) in 2014 and 358,90 RON/MWh (approx. 77 EUR/MWh) in 2015. Moreover, the average cost of the hard coal (the fuel) extraction within CE Hunedoara was around 126 RON/MWh (approx. 27 EUR/MWh), compared to the price of the hard coal on the market of about 40 RON/MWh (approx. 9 EUR/MWh) ([16]).

(19) However, the weighted average annual price of electricity on the day-ahead market on OPCOM was 165,06 RON/MWh (approx. 35 EUR/MWh) in 2013, 158,93 RON/MWh (approx. 34 EUR/MWh) in 2014 and 166,35 RON/MWh (approx. 36 EUR/MWh) in 2015. Also, on the bilateral centralised market of OPCOM the average annual price of electricity price varied between 182,94 RON/MWh (approx. 39 EUR/MWh) and 162,41 RON/MWh (approx. 35 EUR/MWh) during 2013 to 2015 ([17]). In other words, between 2013 and 2015 when the loans at issue were granted, the average production costs of CE Hunedoara were between 66 % to 116 % higher than the prices at which electricity was traded on the day ahead market and between 50 % and 121 % higher than the prices on the bilateral centralised market of the Romanian power exchange.

(20) It can be noted that under such market prices CE Hunedoara could not operate profitably on a lasting basis because the day-ahead prices and forward prices were below the production costs of CE Hunedoara. In a competitive electricity market, one would expect any production to be sold at a price above its marginal costs to attain a margin of profit. However, CE Hunedoara was manifestly unable to do so as from its establishment other than occasionally, as evidenced by the failure of CE Hunedoara to set aside sufficient operating revenues to purchase the CO_2 emission certificates needed in 2014 and 2015. Coal fired power plants usually operate as baseload operating power plants with load factor of 70 % or higher ([18]). However, it can be seen from the electricity generation data in Table 1 that the load factor of CE Hunedoara was 30,8 % in 2013 and 2014 dropping below 20 % in 2015. This can be explained by the fact that the productive assets in the form of coal mines and the two power generation plants which merged into CE Hunedoara in November 2012 were the same as those operated by the failed predecessor companies previously, without any significant productive or technological improvement aiming to lower production costs. As a result, CE Hunedoara sold its production at an average price of 199,22 RON/MWh (approx. 43 EUR/MWh) in 2013, 167,68 RON/MWh (approx. 36 EUR/MWh) in 2014 and 181,52 (approx. 39 EUR/MWh) in 2015 ([19]) and, like its predecessors, was unable to generate sufficient profits to meet both operating costs and debt, including debt to public entities, as shown in table 2 below.

2.3.2. *The financial performance*

(21) As shown in Table 2 below, in 2012, the first year of operation, CE Hunedoara made a profit (net earnings) of RON 37,9 million (approx. EUR 8,1 million). However, as from 2013 when the four coal mines and the related coal preparation unit were transferred, CE Hunedoara started to generate increasing losses amounting to RON 147,6 million (EUR 31,7 million) in 2013 and RON 352,3 million (EUR 76 million) in 2014, whilst showing deteriorating financial indicators as to operating income, debt to equity and liquidity. By the end of 2015, CE Hunedoara had negative equity of RON 1 082,6 million (EUR 232,7 million). By the end of 2017, negative equity had doubled to RON 2 842,7 million (EUR – 611,18 million). As from 2013, the operating result was negative, and the company had no free cash flows to service financial debt reimbursement and payments, not including additional debt owed to the State non-commercial bodies, like for example the tax authorities.

([16]) CE Hunedoara, Reports issued by the Board of Administration for 2013, 2014 and 2015, available at: http://www.cenhd.ro/index.php/situatii-financiare/

([17]) OPCOM annual reports for 2013, 2014 and 2015, available at: https://www.opcom.ro/compania/compania.php?lang=ro&id=6

([18]) See for example the load factors reported in Decision SA.38760 (2016/C) (OJ C 46, 5.2.2016, p. 19).

([19]) http://www.cenhd.ro/images/File/Situatii%20financiare/2013/Raportul%20administratorilor%20-%202013.pdf, page 3.
http://www.cenhd.ro/images/File/Situatii%20financiare/2014/Raportul%20administratorilor%20-%202014.pdf, page 3.
http://www.cenhd.ro/images/File/Situatii%20financiare/2015/Raportul%20administratorilor%20-%202015.pdf, page 11.

Table 2

Financial results of CE Hunedoara 2012-2017

Million RON	2012	2013	2014	2015	2016	2017
Total revenues	249,4	1 061,1	691,5	574,74	448,4	568,7
Operating Profit/Loss (EBITDA)	20,2	– 167,1	– 341,7	– 1 647,6	– 838,2	– 744,6
Net Earnings/Loss	37,9	– 147,6	– 352,3	– 1 661,6	– 858,4	– 768,8
Share capital	203,4	349,8	354,5	354,5	354,5	354,5
Equity	678,7	980,1	629,3	– 1 082,6	– 2 071,3	– 2 842,7
Long term Debt	170,0	269,5	258,7	270,5	245,4	237,4
Other current debt including taxes	72,3	243,2	371,6	726,7	922,2	1 099,1

Source: www.cenhd.ro, according to publicly available financial reports accessed in June 2018

(22) By April 2015 at the latest, CE Hunedoara met the criteria for being subject to collective insolvency proceedings under Romanian law ([20]). In January 2016, CE Hunedoara was temporarily subject to an insolvency proceeding. In March 2016, the insolvency administrator of CE Hunedoara published a report ('the report of the insolvency administrator') containing information about the liabilities of the company, from which it transpired that CE Hunedoara owed around RON 2 360 million (ca. EUR 507,4 million) to various State bodies. This amount referred among others to the loans covered by the present decision as well as to fines charged by the Environment Agency for failure to acquire carbon allowances, green certificates and other debts to the State and to the Social Security budget. According to Romania, the Environment Agency also requested the payment of amounts owed to it by CE Hunedoara, similarly to other private creditors.

(23) As the equity position of CE Hunedoara shows, the company is technically bankrupt but continues to operate on the expense of not paying the majority of its debts and its fiscal liabilities. According to the information provided by Romania, in line with applicable national rules, the process of liquidation of CE Hunedoara could last a minimum of three years if initiated by the Romanian State in its capacity as shareholder and main creditor of CE Hunedoara. So far the insolvency requests filed at the national Company Court have not led to the declaration of permanent insolvency of CE Hunedoara.

2.4. **The loans provided to CE Hunedoara**

(24) In the opening decision, the Commission examined five publicly financed or supported loans granted to or benefitting CE Hunedoara for its current electricity generation business and which, by 30 June 2016 amounted to debt outstanding to the Romanian State for a total amount of RON 337 107 835 (approx. EUR 72,48 million), including outstanding principal, interest, interest for late payments and other costs. Table 3 below shows Romania's updated information regarding the outstanding capital of those loans, as of 31 March 2018.

(25) Following the opening decision, the Romanian authorities provided the loan contracts according to which the main initial terms and conditions of the loans were as follows:

(a) International Bank for Reconstruction and Development ('IBRD') loan guaranteed by the Romanian State through the Ministry of Public Finances — 'IBRD loan'

(26) This loan concerned the project of rehabilitation and modernisation of the energetic block No 3 at CET Mintia.

(27) For this purpose, in August 1995, the Autonomous Direction for Electric Energy 'RENEL' (Regia Autonomă de Electricitate) contracted a loan from the World Bank in the amount of USD 110 000 000 out of which an amount of USD 33 500 000 was later cancelled, in February 2001. By 17 May 2001, when the agreement was suspended by IBRD, drawdowns had been made in a total amount of USD 10 930 016.

([20]) Rescue aid decision of 21 April 2015, recitals 14, 16 and 17.

(28) On 31 May 2002 IBRD resumed the loan agreement with Electrocentrale Deva. This agreement was guaranteed by the Romanian Government and foresaw that Electrocentrale Deva could dispose of a maximum amount of USD 69 908 805 (out of which an amount of USD 1 162 752 was later cancelled, in February 2005).

(29) The maturity date of the loan was 1 November 2015 and the payment schedule foresaw a reimbursement in biannual instalments (payable in May and November) over 14 years, starting from 2002.

(30) The interest rate equals the cost of the qualified loans and is determined on the basis of the previous semester plus a half of percentage point; additionally, for amounts in respect of which no drawdowns had been made, Electrocentrale Deva was also due to pay a commitment fee of 0,25 %.

(b) Romanian Commercial Bank ('BCR') loan contracted by the Ministry of Finance for the benefit of CE Hunedoara — 'BCR loan'

(31) This loan was contracted for financing 25 % of a greater project named 'Centrala Electrica Paroseni' regarding the installation of waste gas desulphurisation and the changing of the technology for collecting, transporting and depositing slag and ash. The financing of the other parts was assured by a BRD loan (covering 25 % of the total costs — information on this loan is provided under letter (d) below) and a European Investment Bank ('EIB') loan (for 50 % of the total costs; this loan is not covered by the opening decision).

(32) By way of a loan contract entered into on 3 December 2013 between BCR and the Ministry of Public Finances, an investment loan was granted by the bank to the borrower, which then subsequently granted it further to CE Hunedoara by way of a subsidiary loan agreement entered into on 5 December 2013.

(33) The loan contract and the subsidiary loan agreement both concerned the same principal amount of RON 83 485 450 (i.e. EUR 17 950 000) which was initially granted by the bank to the Ministry of Public Finances and thereafter by the latter to CE Hunedoara.

(34) The maturity of the loan was 15 years, with a grace period of 3 years. The payment schedule foresaw a reimbursement by way of 25 equal biannual instalments. The interest rate was set at 4,20 % per year.

(35) The collaterals related to this BCR loan, but serving as collaterals also for the BRD loan of EUR 14 700 000 (i.e. RON 68 369 000) dealt with under letter (d) below as well as for a related EIB loan of EUR 32 650 000 (i.e. RON 151 855 150) not dealt with in the opening decision, were established by way of a mortgage over the real estate and moveable assets of CE Hunedoara with a total value of EUR 93 323 204 (i.e. RON 417 481 353,09).

(36) In relation to this BCR loan, CE Hunedoara was also due to pay the Ministry of Public Finances a 2,5 % risk commission, i.e. EUR 448 750 divided in 8 equal tranches, for the 'Fund of risk for public government debt'.

(c) Romanian Development Bank ('BRD') loan contracted by the Ministry of Finance and subordinated to CE Hunedoara — 'BRD loan'

(37) This loan was contracted for financing the 'Centrala Electrică Paroșeni' project.

(38) By way of a financing contract entered into on 19 May 2014 between BRD and the Ministry of Public Finances, a loan was granted by the bank to the borrower, which then subsequently granted it further to CE Hunedoara by way of a subsidiary loan agreement entered into on 5 June 2014.

(39) The above-mentioned financing contract and the subsidiary loan agreement both concerned the same principal amount of RON 68 371 170 (approx. EUR 14 700 000) which was initially granted by the bank to the Ministry of Public Finances and thereafter by the latter to CE Hunedoara.

(40) The maturity of the loan was 15 years, with a grace period of 3 years. The payment schedule foresaw a reimbursement by way of 25 equal biannual instalments. The interest rate was set at 3,79 % per year.

(41) The collaterals related to this BRD loan, but serving as collaterals also for the BCR loan of EUR 17 950 000 (approx. RON 83 485 450) dealt with under letter (c) above as well as for a related EIB loan of EUR 32 650 000 (approx. RON 151 855 150) not dealt with in the opening decision, were established by way of mortgage over real estate and moveable assets with a total value of EUR 93 323 204 (approx. RON 417 481 353,09).

(42) In relation to this BRD loan, CE Hunedoara was also due to pay the Ministry of Public Finances a 2,5 % risk commission, i.e. EUR 367 000 divided in 8 equal tranches, for the 'Fund of risk for public government debt'.

(43) The BRD loan and the BCR loan financed investments for environmental compliance in the Paroseni plant (EU standards set in the Industrial Emissions Directive). Such investments could not generate additional output or reduce production costs allowing additional operating revenues to reimburse the loans. They were only a pre-condition for the plant to continue operating. Actually, the recourse to private loans granted to and subsequently by the Romanian State in order to finance environmental compliance in 2013-2014 followed a case in which Romania had provided grants for the same type of installation (flue gas desulphurisation) for other thermal power plants in 2010 (CE Turceni) and in 2011 (CE Craiova II) and in which exchanges took place with the Romanian authorities in 2012 ([21]). It seems therefore appropriate to consider that the BRD loan and the BCR loan transferred by the State and financing environmental compliance were *de facto* grants, like the predecessors for other power plants in 2011 and 2012.

(d) Loan provided for the payment of the incompatible aid requested to be recovered by the Decision regarding the incompatible aid; capital and interest — 'the loan to repay the incompatible aid'

(44) On the basis of the Government Emergency Ordinance No 11 of 13 May 2015 regarding the granting of a loan to CE Hunedoara S.A., a loan convention was entered into on 9 June 2015 between the Ministry of Public Finances, CE Hunedoara and the Ministry of Energy, SMEs and Business Environment.

(45) The above-mentioned loan convention granted CE Hunedoara a loan in the principal amount of RON 34 785 015 (approx. EUR 7 478 778). This loan was used to repay the incompatible aid referred to in recital 5.

(46) The maturity of the loan was 90 days and was hence due on 8 September 2015. The agreed interest rate of the loan was set at the value of ROBOR at 3 months plus 5 % i.e. 6,27 % per year and was set to remain fixed throughout the loan period.

(47) In accordance with art. 2(2) of the above-mentioned Government Emergency Ordinance No 11 of 13 May 2015, collaterals were established at the value of RON 49 380 000 (approx. EUR 10 616 700), i.e. 120 % of the loan.

(e) Loan representing aid granted in accordance with the rescue aid decision and interest — 'the rescue aid loan'

(48) On the basis of Government Emergency Ordinance No 22 of 24 June 2015 regarding the granting of a loan to CE Hunedoara S.A., a loan convention was entered into on 14 July 2015 between the Ministry of Public Finances, CE Hunedoara and the Ministry of Energy, SMEs and Business Environment.

(49) The above mentioned loan convention foresaw the granting of a principal amount of RON 167 000 000 (approx. EUR 35 905 000) to CE Hunedoara, divided into two tranches; the first tranche amounting to RON 98 476 900 (approx. EUR 21 172 533) was granted on 20 July 2015, while the second tranche of RON 68 523 100 (approx. EUR 14 732 466) was no longer granted as CE Hunedoara failed to reimburse another loan, which was granted on the basis of Government Emergency Ordinance No 11/2015 and which related to the repayment of the Decision regarding the incompatible aid (see point (d) above).

(50) The maturity of the rescue aid loan was 6 months i.e. for the period April — September 2015; however, due to the reasons explained above, CE Hunedoara only received the first tranche of the loan.

(51) The agreed interest rate of the loan was set at the value of ROBOR 6 months plus 5 %, i.e. 6,57 % per year and was set to remain fixed throughout the loan period.

(52) In accordance with Article 3(3) of the above mentioned Government Emergency Ordinance No 22 of 24 June 2015, collaterals were established at the value of RON 123 960 000, (approx. EUR 26 651 400) i.e. 120 % of the loan.

2.5. **Grounds for initiating the procedure**

(53) In the opening decision the Commission preliminarily found that the five publicly financed or supported loans granted to or benefitting CE Hunedoara could constitute State aid within the meaning of Article 107(1) TFEU still outstanding for an amount of 337 million RON (approx. EUR 73 million) in total as of 30 June 2016.

([21]) SA. 33812 (2012/NN) — Romania — Unlawful State aid for mandatory environmental projects.

(54) In the opening decision the Commission also raised doubts if the conditions for compatibility with the internal market under Article 107(3)(c) TFEU for restructuring aid set out in the R&R aid Guidelines were met. The Commission pointed out that the Romanian authorities had not submitted a valid restructuring plan or a clear liquidation plan under a reasonable timeline for the company, and no identifiable and valid contribution by CE Hunedoara to the restructuring costs, nor measures limiting distortions of competition could be identified, which are conditions for compliance of the restructuring aid with the R&R aid Guidelines. Finally, CE Hunedoara had not repaid neither the rescue aid nor the loan, which allowed it to repay past incompatible aid.

(55) In the opening decision, in order to allow an assessment of whether the loans at issue would have been available to CE Hunedoara on the financial markets and were granted at market conditions, the Commission requested Romania to submit

— the considerations as to creditworthiness, market benchmarks and ratings of CE Hunedoara which the Romanian authorities took into account in order to set and establish the conditions of their support, as documented by evidence contemporary with the dates of granting, subordinating or guaranteeing each loan;

— evidence of offers of loans to CE Hunedoara made by market financial institutions or banks between 2012 and 2016, specifying whether a State or public guarantee was requested, and

— all information which may help to assess the five loans.

3. COMMENTS FROM ROMANIA

(56) In its comments on the Commission's opening decision, Romania submits information and a number of observations, as follows.

3.1. Comments concerning the outstanding capital and amounts due on the five loans

(a) The IBRD loan

(57) Starting with the instalment due in November 2014, due to its financial difficulties, CE Hunedoara was no longer able to undertake payments and asked its guarantor, the Ministry of Public Finances, to pay the remaining instalments instead.

(58) The Ministry of Public Finances, as CE Hunedoara's guarantor, disbursed the 3 remaining instalments (i.e. November 2014, May 2015 and November 2015) and calculated penalties and late payment interest owed to it by CE Hunedoara. The outstanding debt of CE Hunedoara towards the Ministry of Public Finances (comprising the three instalments and their corresponding penalties and interest) amounted to EUR RON 60 711 568 (approx. EUR 13 052 987) on 31 March 2018.

(b) The BCR loan

(59) As of October 2015, due to its financial difficulties, CE Hunedoara informed the Ministry of Public Finances that it can no longer honour its payments. At 31 December 2017 CE Hunedoara owed to the Ministry of Public Finances EUR 5 343 411 (approx. RON 24 853 078) corresponding to the amounts due as principal, interest and risk commission, plus an additional EUR 564 163 (approx. RON 2 763 553) in the form of late payment interest and penalties.

(60) On 31 March 2018, out of the principal amount of EUR 17 950 000 (approx. RON 83 485 450), the amount of EUR 2 154 000 had been reimbursed (approx. RON 10 018 254) and hence EUR 15 796 000 (approx. RON 73 467 196) was still owed.

(c) The BRD loan

(61) As of February 2016, due to its financial difficulties, CE Hunedoara informed the Ministry of Public Finances that it can no longer honour its payments. At 31 March 2018 CE Hunedoara owed to the Ministry of Public Finances EUR 3 000 357 (approx. RON 13 955 150) corresponding to the amounts due as principal, interest and risk commission, and late payment interest and penalties.

(62) On 31 March 2018, out of the principal amount of EUR 14 700 000 (approx. RON 68 371 170), the amount of EUR 1 764 000 had been reimbursed (approx. RON 8 204 364) and hence EUR 12 936 000 (approx. RON 60 166 806) was still owed.

(d) The loan to repay the incompatible aid

(63) On 8 September 2015, when the loan became due and was not paid, late payment interest had been calculated and accrued by the Ministry of Public Finances for each day of delay. On 31 March 2018 the outstanding debt of CE Hunedoara related to this loan amounted to RON 42 339 794,26 (approx. EUR 9 103 055), consisting in the principal amount of RON 34 785 015 (approx. EUR 7 478 778), loan interest of RON 545 255,11 (approx. EUR 117 229) and late payment interest of RON 7 009 525,58 (approx. EUR 1 507 048)

(e) The rescue aid loan

(64) Out of the amount of RON 98 476 900 (approx. EUR 21 172 533) representing the first tranche, CE Hunedoara utilised only RON 93 450 841,17 (approx. EUR 20 091 930) and returned the difference of RON 5 026 058,86 (approx. EUR 1 080 602) to the Ministry of Public Finances. On 31 March 2018 the outstanding debt of CE Hunedoara related to this loan amounted to RON 112 579 946,05 (approx. EUR 24 204 688), consisting of the principal amount of RON 93 450 841,17 (approx. EUR 20 091 930) and loan interest of RON 3 306 854,30 (approx. EUR 710 973) and late payment interest of RON 15 822 250,68 (approx. EUR 3 401 783).

Table 3

Romania's information regarding, as of 31 March 2018, the outstanding capital and amounts due concerning the five loans

	IBRD loan	BCR credit	BRD credit	Loan to repay incompatible aid	Rescue aid loan
Date of granting	31.5.2002	5.12.2013	5.6.2014	9.6.2015	14.7.2015
Original capital	USD 68,75 million	EUR 17,95 million	EUR 14 million	RON 34,8 million	RON 98,5 million
Outstanding loan principal as of 31.3.2018	0	EUR 15,79 million (RON 73,5 million)	EUR 12,9 million (RON 60,1 million)	RON 34,8 million	RON 93,4 million
Due to the Ministry of Finance as of 31.3.2018 capital, penalty & interest	RON 60,7 million (EUR 13,1 million)	EUR 5,3 million (RON 24,9 million)	EUR 3,0 million (RON 13,9 million)	RON 42,3 million	RON 112,6 million

3.2. **Other comments**

(65) First, Romania offered a clarification with respect to the rescue aid loan approved by Commission decision of 21 April 2015. As also indicated in the opening decision, at the time the rescue loan was approved Romania had committed to submitting, within maximum six months from the date of the rescue aid decision, either: (i) the proof that the loan was reimbursed, or (ii) a valid restructuring plan or (iii) a substantiated liquidation plan setting out the steps leading to the liquidation of CE Hunedoara within a reasonable time frame, without further aid. In this respect, Romania confirmed that it has indeed opted for the alternative of restructuring CE Hunedoara.

(66) Second, with regard to the opening decision, Romania submitted that, in its opinion, the rescue aid loan approved by the rescue aid decision granted no real economic advantage to the beneficiary (i.e. to CE Hunedoara). Romania claimed, that the loan was granted in line with existing conditions on the banking market i.e. on the basis of an economic-financial analysis performed by EximBank; additionally, the guarantees imposed by the National Tax Administration Authority took into account the market value of the collateral, which covered at least 120 % of the loan value.

(67) Third, regarding the liquidation process of CE Hunedoara and the legal separation between the coal mining business and the electricity generation business, Romania explained that: (i) the lack of financial resources, (ii) the fact that CE Hunedoara temporarily entered into insolvency upon the request of the Company twice in 2016 and was then subsequently taken out of insolvency each time, as well as (iii) the fact that the national courts had at the time of Romania`s submission still not taken a decision on another request to open insolvency proceedings, all constitute reasons that prevented the legal separation of the coal mining from the electricity generation.

(68) Romania explained that the legal separation requires the observance of certain legally foreseen procedural steps and that, absent any interventions from interested third parties, the process would normally last between 6 and 9 months. Romania furthermore stressed that separate accounts are nevertheless held for the coal mining and the power generation activities, and that the rescue aid would be used exclusively for the energy business, as it had been also presented in the rescue aid notification.

(69) Fourth, with regard to the opening decision concerning the conditions for aid to providers of services of general economic interest ('SGEI'), Romania submitted that CE Hunedoara would be the provider of indispensable services for the functioning of the national electric energy system, which would in fact entitle CE Hunedoara to receive compensation, according to legal provisions in force ([22]). In this respect, Romania added that information necessary for defining the SGEI, its entrustment, calculation of the compensation and duration started to be provided to the Commission since 2016 and would be near completion.

(70) Fifth, Romania also submitted that according to studies undertaken by the National Company of Electric Energy Transport Transelectrica S.A., the discontinuance of the two power generation plants Mintia and Paroseni would negatively influence the functioning of the national electric energy system.

(71) Sixth, according to Romania's estimations, other electric energy producing units would be expected to become unavailable in the very near future due to the entry into force of the Commission Implementing Decision (EU) 2017/1442 ([23]).

(72) However, Romania has not provided any information evidencing *ex ante* assessment by the Romanian authorities or market players prior to the granting of the loans, and did not provide supporting evidence for the compatibility of the loans with State aid rules.

(73) In its comments on the opening decision Romania did not dispute that the rescue aid loan, the loan granted to repay the incompatible aid, and the three other loans represent State resources and are imputable to the State.

4. **ASSESSMENT OF THE AID**

(74) The present decision concerns the five publicly financed or supported loans described in section 2.4.

(75) The present decision is without prejudice to the assessment of any other support measures granted to CE Hunedoara. This includes, in particular, the postponement or cancellations of debt by public bodies for CE Hunedoara's direct benefit, as referred to in the opening decision as well as earlier cancellations or abandonment of public debts owed by National Hard Coal Company JSC Petrosani before its liquidation, should CE Hunedoara be held to be the economic successor of the latter company.

(76) The Commission will first examine whether the five measures at hand involve State aid within the meaning of Article 107(1) TFEU. The Commission will then examine whether the aid was already implemented and whether such aid might be compatible with the internal market.

(77) As a preliminary observation, the Commission disagrees with Romania's comments as to the BCR and BRD loans. First, while Romania did actually pay a part of the principal amount towards BCR and BRD respectively (in its quality of borrower), this does not hold true for CE Hunedoara, as the latter did not pay any part of the principal (of the subordinated loans) towards the Romanian State so that in reality the whole original capital (of the subordinated loans) and not just a part of it remains still outstanding. Second, the Commission also disagrees with Romania's comments as to the sums due to the Ministry of Finance as of 31 March 2018 for these two loans; indeed, as it shall be explained below, the Commission considers that the whole principal amounts of the (subordinated) BCR and BRD loans (and not just the principal instalments payable by 31 March 2018 according to the payment schedule) are already due in their entirety by CE Hunedoara to the Romanian State.

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

(78) By virtue of Article 107(1) TFEU '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.'

([22]) Government Emergency Ordinance No 26/2018 and Government Decision No 760/2017.
([23]) Commission Implementing Decision (EU) 2017/1442 of 31 July 2017 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for large combustion plants (OJ L 212, 17.8.2017, p. 1).

(79) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.

4.1.1. *State resources and imputability to the State*

(80) As has been stated by the Court ([24]), for measures to be qualified as State aid within the meaning of Article 107(1) TFEU, (a) they have to derive from the State's resources, either directly or indirectly by any intermediary body acting by virtue of powers conferred on it and (b) they have to be imputable to the State. The notion of Member State includes all levels of public authorities, regardless of whether it is a national, regional or local authority ([25]).

(81) Concerning the IBRD loan, Romania explained that this loan was the outcome of an agreement signed on 31 May 2002 between IBRD and Electrocentrale Deva, the legal predecessor of CE Hunedoara. This loan agreement was guaranteed by the Romanian Government. According to the case law ([26]), the creation of a concrete risk of imposing an additional burden on the State in the future, by a guarantee or by a contractual offer, is sufficient for the purposes of Article 107(1) TFEU. As such, the IBRD loan guarantee involved resources from the State budget.

(82) Concerning the BCR loan, Romania confirmed that this loan was a result of a contract entered into on 3 December 2013 between BCR and the Ministry of Public Finances to fund one quarter of investment project 'Centrala Electrică Parașeni'. This loan was then subsequently granted further to CE Hunedoara by way of a subsidiary loan agreement entered into on 5 December 2013. As such, the subsidiary loan agreement (related to the BCR loan contracted by the Romanian State) was offered to CE Hunedoara out of resources stemming from the State budget.

(83) Concerning the BRD loan, Romania confirmed that this loan was the outcome of an agreement signed on 19 May 2014 between BRD and the Ministry of Public Finances. This loan was granted by the bank to the borrower who then subsequently granted it further to CE Hunedoara by way of a subsidiary loan agreement entered into on 5 June 2014 to fund another quarter of the 'Centrala Electrică Parașeni'. As such, the subsidiary loan agreement (related to the BRD loan contracted by the Romanian State) was offered to CE Hunedoara out of resources stemming from the State budget.

(84) The rescue aid loan, including the prolonged and not repaid portion of it, and the loan to repay the incompatible aid involve State resources, since they were provided from funds set aside in and stemming from the State budget.

(85) The various acts by which the Ministry of Finance contracted, subordinated or guaranteed loans to CE Hunedoara, whether of its own motion, by virtue of the State powers vested on it or instructed by the Council of Ministers of Romania, are imputable to the Romanian State.

(86) Based on the above, the Commission concludes that the five loans in question involve State resources and they are imputable to the Romanian State.

4.1.2. *Economic advantage*

(87) Article 107(1) TFEU requires that a measure, in order to be defined as State aid, favours certain undertakings or the production of certain goods. Loans or guarantees provided by the State directly or indirectly, may favour the beneficiary undertaking when they provide funding which the beneficiary would not find on financial markets at the same conditions, if at all. In order to verify whether an undertaking has benefited from an economic advantage the Commission applies the criterion of the 'market economy operator principle' ('MEO principle'). According to this principle, the assessment focuses on the transaction from the perspective of a hypothetical prudent private creditor/investor, in a situation as close as possible to that of the State ([27]).

(88) In the case at hand, the Romanian State is both a creditor and the main shareholder of CE Hunedoara. In such setting, Romania could provide or guarantee a MEO-compliant loan or a guarantee on a stand-alone basis if the terms at which the loan is granted are in line with market conditions, provided that there is likelihood of repayment or increased return to the shareholder in a different form.

([24]) See Case C-482/99 *France v Commission (Stardust Marine)*, ECLI:EU:C:2002:294.
([25]) Case C-248/84 *Germany v Commission*, ECLI:EU:C:1987:437, paragraph 17.
([26]) Judgment of the Court of Justice of 19 March 2013, *Bouygues and Bouygues Télécom* v *Commission and Others*, Joined Cases C-399/10 P and C-401/10 P, ECLI:EU:C:2013:175, paragraphs 137, 138 and 139.
([27]) Case C-300/16P *Commission v Frucona Košice*, ECLI:EU:C:2017:706, paragraph 28.

(89) Therefore, the assessment of the conditions at which loans are granted by a shareholder needs to take into account the possible returns from the stake that the shareholder may reasonably expect in its capacity as shareholder. In the present case, it is manifest in light of (i) the financial figures of CE Hunedoara portrayed in Table 2 above, (ii) the substantially higher marginal production costs of CE Hunedoara compared to market prices, and (iii) the history of the predecessor companies, that the Romanian State, or any market investor in a similar position as the State, could not expect any possible return in the form of dividends or capital gain from its shareholding in CE Hunedoara as from 2013.

(90) First, for the three IBRD, BCR, and BRD loans contracted or guaranteed by the Romanian Ministry of Finance for the benefit of CE Hunedoara, the financial situation of the company and the history of its predecessors must be taken into account for the assessment, as it would have been examined by any prudent market lender or investor. Even before April 2015 when CE Hunedoara was reportedly unable to access finance at market terms, the company was consistently loss making as from its first year of full operation encompassing coal mines and power generation under the same company.

(91) Second, as regards the loan to repay the incompatible aid, the opening decision noted that, an economic advantage of a similar nature (as the one related to the rescue loan) was conferred on CE Hunedoara as successor company operating the power generation assets of Electrocentrale Paroșeni and Electrocentrale Deva through the State aid which was the subject of the Decision regarding the incompatible aid adopted on 20 April 2015 and, by way of inference, through the public loan granted to CE Hunedoara to repay it. The loan to repay the incompatible aid was granted at a time when, according to Romania, CE Hunedoara fulfilled the criteria for being subject to insolvency proceedings under Romanian law and, accordingly, it can be excluded that the company could have found such finance at market terms.

(92) Third, regarding the rescue aid loan, as pointed out in the opening decision, the Romanian authorities declared that CE Hunedoara was unable to obtain it from commercial banks and, more generally, they acknowledged that it was providing a (selective) advantage ([28]). The prolonged and still not repaid portion of the rescue aid loan kept by CE Hunedoara also entails an economic advantage that the company could not possibly obtain at market conditions, e.g. by refinancing and repaying the non-repaid portion with a loan from a commercial bank.

(93) In its comments on the opening decision, Romania argued that it had indeed intended to restructure CE Hunedoara and turn the rescue loan to part of a restructuring aid. The Commission notes however, that Romania has not submitted a valid restructuring plan in accordance with the R&R aid Guidelines and the mere intention to restructure does not take away the advantage granted by the rescue aid loan as the loan has not been repaid in six months following the granting of the aid.

(94) Romania furthermore argued in its comments to the opening decision that the rescue loan was granted at 'existing conditions at the banking market' following the analysis by EximBank and it was collateralised. This claim is however proven wrong by the simple fact that CE Hunedoara was not able to obtain the loan from commercial banks as pointed out in recitals 100 and 101 of this decision. Furthermore, Romania has not provided the credit risk analysis of the EximBank.

(95) Fourth, also CE Hunedoara's predecessor companies were unable to honour their liabilities of which more than EUR 1,2 billion were left unpaid in liquidation. As a recently created company, despite being cleansed of most of the liabilities of Electrocentrale Paroșeni and Electrocentrale Deva and of the National Hard Coal Company JSC Petroșani, CE Hunedoara had no reliable and solid credit history, absent which market lenders are reluctant to finance operations. Indeed, the five loans which are the subject of the present proceedings were all granted out of resources belonging to the State budget (see 4.1.1 above). By contrast, there is no evidence of any private market creditor having provided loans to CE Hunedoara to any comparable extent. Despite the invitation to Romania in the opening decision to provide evidence of offers of loans to CE Hunedoara made by market financial institutions or banks between 2012 and 2016, specifying whether a State or public guarantee was requested, no such offers or evidence of positive appraisals by market lenders has been provided.

(96) Fifth, as explained in recital 20 above, CE Hunedoara's productive assets were also those operated by the predecessor companies before without any significant productive or technological improvement allowing stakeholders to reasonably expect better or more remunerative sales of electricity and heat on the Romanian electricity market. The Romanian authorities, with full ownership of CE Hunedoara and predecessors, whilst

([28]) Rescue aid decision of 21 April 2015, recitals 30 and 31.

being also its main creditor, could not ignore the structural inability of CE Hunedoara to generate enough operating profits to meet its liabilities. They provided with public finance the funds, which CE Huneadoara would have been unable to obtain in the financial market at any rate.

(97) All five abovementioned facts influence the creditworthiness of CE Hunedoara and make it implausible that without State intervention, CE Hunedoara would have found willing lenders at market terms trusting that CE Hunedoara would repay the loans. Likewise, it is unlikely that Romania could anticipate returns from its shareholding in CE Hunedoara and, in particular, from revenues foregone when granting loans to CE Hunedoara below market terms.

(98) In conclusion, the loans in question appear to have favoured CE Hunedoara. Indeed, CE Hunedoara was a borrower with a poor credit history of its insolvent and liquidated predecessors, and had no credit history in 2012-2013 when the company was established. CE Hunedoara had increasing operating losses not allowing to meet debt service as from 2013-2014 and actually defaulted in meeting liabilities causing the company to be potentially subject to insolvency proceedings as from 2015. Moreover, there is no indication that the Romanian authorities have taken any timely steps that a diligent creditor would take to recover its claims, such as summoning the borrower to repay the loans or requesting forced execution of payments for defaulted reimbursements. Although in January 2016 the claim for insolvency against CE Hunedoara was filed (see recital 22 above), it has not produced any effective recovery to date. Owing to the difficult financial situation of the company and the low likelihood of repayment when the loans were granted or prolonged, the loans in question conferred an economic advantage to CE Hunedoara in the form of finance and funds, which it would not have been able to obtain on the market.

(99) Regarding the quantification of this economic advantage, in recital 34 of the opening decision, the Commission referred to the General Court's judgment in Larko ([29]) that in circumstances where the borrower is in a delicate financial situation characterised notably by decreasing turnover, negative equity, and inability to reimburse loans from its own funds, the economic advantage embedded on a loan may equal the total amount of the funds borrowed, even if the State only guarantees the loan. The Romanian authorities have not provided any evidence that CE Huneadoara had access to market finance at market conditions, indicating that CE Hunedoara tried, let alone succeeded in, borrowing from the market without State support.

(100) As noted in recital 43, the BRD loan and the BCR loan transferred by the Romanian State in order to finance environmental compliance in 2013-2014 follows instances were Romania had provided grants for the same type of installation (flue gas desulphurisation) for other thermal power plants in 2010 (CE Turceni) and in 2011 (CE Craiova II) and decided to discontinue the practice of providing such grants as aid instrument. However, given the characteristics, purpose and financial situation of CE Hunedoara, it seems therefore appropriate to consider that the BRD loan and the BCR loan transferred by the State and financing environmental compliance were de facto grants, despite their legal qualification of loans.

(101) In the meantime, the recourse to the Romanian State transferring the loans it was granted by BDR and BCR shows that these private banks did not wish to take any liquidity risk on CE Hunedoara as they considered the default on repayment virtually certain.

(102) As such, based on the above, the Commission concludes that the five loans granted to CE Hunedoara provided an economic advantage and considers this advantage to equal the total amount of the loans' principal when granted.

4.1.3. *Selectivity*

(103) Article 107(1) TFEU requires that a measure, in order to be defined as State aid, favours *certain undertakings or the production of certain goods*. The Commission notes that the five loans were provided on an ad hoc basis to CE Hunedoara to support its continued operation in specific situations requiring investments for environmental compliance, operating costs or repayment of incompatible aid and were not part of a broader measure of general economic policy to provide support to undertakings, in a comparable legal and economic situation, active in the electricity generation or other economic sectors. Therefore, the Commission concludes that these loans are selective within the meaning of Article 107(1) TFEU.

([29]) Case T-423/14, *Larko Geniki Metalleftiki kai Metallourgiki AE v Commission*, ECLI:EU:T:2018:57, paragraph 193 and case law cited.

4.1.4. *Effect on trade and distortion of competition*

(104) When aid granted by a Member State strengthens the position of an undertaking compared to other undertakings competing in intra-Union trade, the latter must be regarded as affected by that aid ([30]). It is sufficient that the recipient of the aid competes with other undertakings on markets open to competition ([31]).

(105) CE Hunedoara supplies electricity and heat in Romania. Pursuant to the applicable Union rules on the internal electricity market ([32]), electricity suppliers can freely establish operations and seek customers in Romania. Indeed a variety of competitors from Romania (e.g. SN Nuclearelectrica, SN Hidroelectrica) or other Member States (e.g. CEZ, Alpiq) have actually done so. The Commission notes that the Romanian electricity system is at present interconnected with the electricity systems of Bulgaria and of Hungary, so that flows of electricity are produced in and traded between those Member States.

(106) Therefore, the Commission concludes that the loans under scrutiny are liable to affect EU trade and to distort or threaten to distort competition in the internal market.

4.1.5. *Conclusion on the presence of aid*

(107) The Commission concludes based on the arguments presented above that the IBRD loan guaranteed by the Romanian State for CE Hunedoara, the BCR and BRD loans contracted for the benefit of CE Hunedoara, the loan granted to repay earlier incompatible aid, and the rescue aid loan, including the prolonged and not repaid portion of it, constitute State aid within the meaning of Article 107(1) TFEU.

4.2. **Lawfulness of the aid**

(108) The State-guaranteed IBRD loan agreement benefiting CE Hunedoara was signed on 31 May 2002 with Electrocentrale Deva, one of the legal predecessors of CE Hunedoara, so before the accession of Romania to the European Union in 2007; as such the IBRD loan was not unlawful, even if it were to be established that the loan involved State aid. Therefore, the payments by the State as a guarantor, even though occurring post-accession, represent existing aid and are not, as such, unlawful, without prejudice to the qualification under State aid rules of a possible future failure of the State subsequently exercising its recourse right against CE Hunedoara.

(109) However, the BCR loan, the BRD loan and the loan granted to repay the incompatible aid, constitute State aid within the meaning of Article 107(1) TFEU and, since they have been disbursed in violation of Article 108(3) TFEU, they constitute unlawful State aid.

(110) The rescue aid loan on which the Commission raised no objections by its rescue aid decision of 21 April 2015 was not put into effect before the Commission decision and was therefore not unlawful State aid. However, its excessive prolongation and non-repayment well beyond the six-month period for which it was granted render the prolongation unlawful.

4.3. **Compatibility of the aid and the legal basis for the assessment**

(111) The Commission must assess if the aid measures identified above can be found compatible with the internal market. According to the case law of the Court, it is up to the Member State to invoke possible grounds of compatibility, and to demonstrate that the conditions for such compatibility are met ([33]). Except initially for the rescue aid loan and its prolongation after six months from the Commission decision of 21 April 2015 and the IBRD loan which was not notifiable since it was granted before the accession of Romania to the Union, Romania has not notified the loan granted to repay the incompatible aid, the BCR loan and the BRD loan nor invoked possible grounds of compatibility with the internal market.

(112) On the basis of the information available and, as noted in the opening decision, the Commission considers that the sole possible compatibility basis for the measures under assessment would be the R&R aid Guidelines. These Guidelines provide rules and conditions for the purposes of the compatibility assessment of rescue and restructuring aid to undertakings in difficulty pursuant to Article 107(3)(c) TFEU.

([30]) See, in particular, Case 730/79 *Philip Morris v Commission*, ECLI:EU:C:1980:209, paragraph 11; Case C-53/00 *Ferring*, ECLI:EU:C:2001:627, paragraph 21; Case C-372/97 *Italy v Commission*, ECLI:EU:C:2004:234, paragraph 44.
([31]) Case T-214/95 *Het Vlaamse Gewest v Commission*, ECLI:EU:T:1998:77.
([32]) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).
([33]) See Case C-364/90, *Italy v Commission*, ECLI:EU:C:1993:157, paragraph 20.

4.3.1. *Applicability of the R&R aid Guidelines*

(113) According to points 137 and 138 of the R&R aid Guidelines, '[t]he Commission will examine the compatibility with the internal market of any rescue or restructuring aid granted without its authorisation and therefore in breach of Article 108(3) [TFEU] on the basis of these guidelines if some or all of the aid is granted after their publication in the *Official Journal of the European Union*' and '[i]n all other cases it will conduct the examination on the basis of the guidelines which applied at the time the aid was granted'.

(114) The rescue aid loan and the loan granted to repay the incompatible aid were granted after the entry into force of the R&R aid Guidelines on 1 August 2014. Therefore, the R&R aid Guidelines are applicable to these two loans.

(115) In addition, the BCR and the BRD loans were not notified to the Commission, in breach of Article 108(3) TFEU. It follows that even if these two loans had been granted before 1 August 2014, insofar as they must be assessed jointly as part of a single operation providing aid to a company in difficulty, the R&R aid Guidelines also apply to the BCR and BRD loans.

4.3.2. *Application of the R&R aid Guidelines*

(116) Only undertakings in difficulty as defined in point 20 of the R&R aid Guidelines and not active in the coal, steel and financial sectors as defined in point 16 thereof can benefit from rescue or restructuring aid. As noted in the rescue aid decision, CE Hunedoara fulfilled already in April 2015 the criteria for being placed in collective insolvency proceedings set out in point 20(c) of the R&R aid Guidelines and, indeed, in January 2016, the company entered into such proceedings (see recital 22 above). Therefore, CE Hunedoara can be considered a firm in difficulty in the sense of the R&R aid Guidelines.

(117) The Commission first notes that Romania has not provided any evidence on possible compliance with the conditions for compatibility for rescue or restructuring aid set out in the R&R aid Guidelines.

(118) As regards, the BCR loan, the BRD loan, and the loan granted to repay the incompatible aid the Commission will in the following assess them jointly because they were granted to a company in difficulty as investment or operating aid allowing CE Hunedoara to meet its costs in the absence of access to financial markets (see recital 99). On this basis, the Commission considers that the compatibility conditions for restructuring aid laid down in the R&R aid Guidelines are not met, because (i) the restructuring plan (submitted in October 2015 and amended in January 2016) was not valid at the outset insofar as it could not ensure the long term viability of CE Hunedoara without further continuous aid and has not been pursued, (ii) there is no discernible own contribution of CE Hunedoara in line with points 62 to 64 of the R&R aid Guidelines, and (iii) no measures limiting distortions of competition in line with points 74 to 86 of the R&R aid Guidelines could be identified.

(119) Regarding points 99 to 103 of the R&R aid Guidelines, even though they provide for specific conditions for aid to SGEI providers in difficulty, the Commission comes to the view that the loans under assessment cannot be assessed or taken into account as a compensation for the provision of such services as referred to in point 100 of the R&R aid Guidelines. First, it is not claimed nor established that CE Hunedoara has been operating on the basis of valid entrustment acts singling out any justifiable difference with the production of electricity by other electricity generators active in Romania; according to established case law of the European Court of Justice ([34]), the presence of a valid entrustment act is an essential condition for state aid to be considered as valid compensation of a Service of General economic Interest. Second, the loans at issue were *ad hoc* loans for specific purposes and have not been granted with regard to identifiable and justified extra costs of service provision.

([34]) Judgment of the Court of Justice of 24 July 2003, *Altmark Trans and Regierungspräsidium Magdeburg*, C-280/00, ECLI:EU:C:2003:415.

Third, the loan amounts have not been set, individually or cumulatively, on the basis of objective parameters set out in advance and calibrated specifically for the determined costs of the SGEI taking into account all revenues and costs of Hunedoara. Therefore, the Commission cannot, under points 100 and 101 of the R&R aid Guidelines, consider that the loans in question should be regarded as valid compensations under the SGEI Decision ([35]) or the SGEI Framework ([36]).

(120) Romania has also failed to meet its commitment to legally separate the coal mines from the power generation within CE Hunedoara, which was a commitment it made at the time the rescue aid was approved and which, according to its submissions, could take between six and nine months. Two coal mines are receiving operating aid for closure pursuant to the Decision regarding the second aid to coal mines (recital 12 above). Romania has argued in its comments to the opening decision that separate accounts are held for the mining and electricity generation activities; however, separate accounts themselves do not prevent cross-financing of the mining activity. Romania did not demonstrate that cross-financing does not occur by e.g. presenting evidence that the use of the State aid only benefits the electricity generation activity. Absent this necessary evidence, it cannot be excluded that some of the loans covered by the present decision have benefitted directly or indirectly the coal mines of CE Hunedoara, in violation of point 16 of the R&R aid Guidelines which exclude the coal sector from R&R aid.

(121) Finally, it is worth noting that the proceeds from loan granted to repay the incompatible aid remain available to CE Hunedoara. In light of the Deggendorf principle ([37]), the accumulation of a non-repaid loan granted to repay earlier incompatible aid with the other three loans, does not allow considering that the possible restructuring aid to CE Hunedoara is compatible with the internal market on the basis of point 94 of the R&R aid Guidelines. Yet, whilst benefitting from State aid in the form of the loans at issue to the extent that they have not been repaid, CE Hunedoara continues to operate at the detriment of competitors.

(122) In conclusion, based on the above, the Commission considers that the BCR and BRD loans contracted for the benefit of CE Hunedoara, jointly assessed with the excessive prolongation of the rescue aid loan transforming it into a restructuring loan and the loan granted to repay the incompatible aid, are incompatible with the internal market.

(123) As regards the rescue aid loan, in line with point 55(d) of the R&R aid Guidelines, Romania committed to submitting, within maximum six months from the date of the rescue aid decision or the disbursement of the first instalment (recital 54 of the rescue aid decision), either proof that the loan was reimbursed, or a valid restructuring plan, or a substantiated liquidation plan setting out the steps leading to the liquidation of CE Hunedoara within a reasonable time frame, without further aid. Romania did not meet this commitment, since (i) the rescue loan has not been fully reimbursed and (ii) Romania was informed that the restructuring plan (submitted by Romania in October 2015 and amended in January 2016) did not ensure that CE Hunedoara could reach long term viability without further continuous aid.

(124) In addition to the above, the Commission notes that the timeline for the liquidation of CE Hunedoara with a minimum duration of three years, as submitted by Romania in May 2017 (that is 1,5 years after the deadline of October 2015, i.e. six months after granting the rescue aid approved by the rescue aid decision), appears to be rather long.

(125) From the above the Commission concludes that the prolongation of the rescue aid loan is incompatible with the internal market.

([35]) Commission Decision of 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3).

([36]) Communication from the Commission, European Union framework for State aid in the form of public service compensation (2011) (OJ C 8, 11.1.2012, p. 15).

([37]) Cases T-244/93 and T-486/93 *TWD Deggendorf v Commission*, ECLI:EU:T:1995:160, paragraph 56.

5. **RECOVERY**

(126) According to the TFEU and the Court's established case-law, the Commission is competent to decide that the Member State concerned must abolish or alter aid when it has found that it is incompatible with the internal market. ([38]) The Court has also consistently held that the obligation on a Member State to abolish aid regarded by the Commission as being incompatible with the internal market is designed to re-establish the previously existing situation ([39]).

(127) In this context, the Court has established that this objective is attained once the recipient has repaid the amounts granted by way of unlawful aid, thus forfeiting the advantage which it had enjoyed over its competitors on the market, and the situation prior to the payment of the aid is restored ([40]).

(128) In this regard, Article 16(1) of Council Regulation (EU) 2015/1589 ([41]) states that 'where negative decisions are taken in cases of unlawful aid, the Commission shall decide that the Member State concerned shall take all necessary measures to recover the aid from the beneficiary […]'.

(129) Thus, (i) the BCR loan (ii) the BRD loan, (iii) the loan to repay the incompatible aid and (iv) the rescue aid loan — which became unlawful as from the moment when the rescue aid was not repaid within six months after its granting and/or disbursement- were implemented in violation of Article 108(3) TFEU, and are to be considered as unlawful and incompatible aid, they must be recovered in order to re-establish the situation that existed on the market prior to their granting. Recovery should cover the time from when the advantage accrued to the beneficiary, that is to say when the aid in the form of principal amount of loans was unlawfully put at the disposal of the beneficiary, until effective recovery, and the sums to be recovered should bear interest until effective recovery. The recovery interest is distinct from the contractual interest, the interest for late payments or other related sums related to the loans at issue owed by Hunedoara to the State.

(130) In accordance with established case-law, the insolvency of the beneficiary and its inability to repay the aid do not constitute a valid reason for exempting it from its obligation to reimburse the aid ([42]). In this case, restoring the situation prior to the payment of the aid and removing the distortion of competition can in principle be achieved by registering the liability relating to the repayment of the aid in the schedule of liabilities as part of the court-supervised liquidation procedure. Where the Member State is unable to recover the full amount of aid, registration of the liability can meet the recovery obligation provided that the insolvency proceedings result in the winding up of the undertaking which received the unlawful aid, that is to say, in the definitive cessation of its activities ([43]). The liquidation of CE Hunedoara in case of non-recovery of the rescue aid within six-months from its approval or disbursement is also contemplated in the R&R aid Guidelines, in the rescue aid decision (recitals 20, 21 and 52, point (d).

(131) The Commission takes note of the recent discussions with Romania in which it was established that the winding up of CE Hunedoara may lead to its assets being liquidated and sold in order to meet liabilities, including those arising from the implementation of recovery imposed on Romania as a result of this Decision. In any case, the Romanian authorities confirmed the existence of legal provisions in the national legislation that would ensure the continuity of operation and mentioned in this respect Law No 123 of 10 July 2012 of electric energy and natural gas, notably the provisions concerning energy security and safety.

(132) In the context of a liquidation and considering its legal obligation to ensure continuity of supply, Romania may plan to adopt measures aiming to avoid abrupt disruptions of the supply of electricity and heat for the region in which CE Hunedoara operates and supplies services. However, such measures have to be proportionate, reasonable, and limited in time and scope to what is indispensable to maintain the value of the power generation assets. In enforcement of the present Decision, the Commission must be informed in advance and be in a position to verify that these conditions are met. Consequently, this decision is generally without prejudice to such appropriate measures and to the process concerning the transfer of power generation assets.

([38]) See Case C-70/72 *Commission v Germany*, ECLI:EU:C:1973:87, paragraph 13.
([39]) See Joined Cases C-278/92, C-279/92 and C-280/92 *Spain v Commission* ECLI:EU:C:1994:325, paragraph 75.
([40]) See Case C-75/97 *Belgium v Commission* ECLI:EU:C:1999:311, paragraphs 64 and 65.
([41]) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).
([42]) Judgment of the Court of Justice of 29 April 2004, *Germany* v *Commission*, C-277/00, ECLI:EU:C:2004:238, paragraph 85; Judgment of the Court of Justice of 15 January 1986, *Commission* v *Belgium*, C-52/84, ECLI:EU:C:1986:3, paragraph 14; Judgment of the Court of Justice of 21 March 1990, *Belgium* v *Commission*, C-142/87, ECLI:EU:C:1990:125, paragraphs 60 to 62.
([43]) Judgment of the Court of Justice of 11 December 2012, *Commission* v *Spain*, C-610/10, ECLI:EU:C:2012:781, paragraph 104.

(133) Furthermore, as evoked during the videoconference held on 31 July 2018 (see recital 3 above), Romania expressed its intention to take an appropriate measure to proceed with the process regarding the transfer of power generation assets from CE Hunedoara to a New Company (NewCo) still to be incorporated. This is planned to take the form of a Government Emergency Ordinance by way of which a three-stage *transfer in lieu of payment* (in Romanian '*dare în plată*') would occur with regard to the power generation assets only, i.e. without the mines. As per the minutes agreed with Romania, this process should involve:

(i) First, the preparation of a mandatory evaluation report to determine the value of the power generation assets (currently pledged by the Ministry of Finance) and the amount of the debt owed by CE Hunedoara;

(ii) Second, these pledged assets would be transferred to the Ministry of Finance and then further on to the Ministry of Energy;

(iii) Third, these pledged assets would be transferred to a new company, and the latter would then be entrusted with the provision of a Service of General Economic Interest.

(134) This decision is without prejudice to such asset transfer via the planned Government Emergency Ordinance, provided that the above envisaged transfer is conducted by the Romanian authorities in line with the legal requirements, including, in particular, a proper valuation of these assets.

6. **CONCLUSION**

(135) The Commission accordingly concludes that Romania has granted to CE Hunedoara unlawful State aid which is incompatible with the internal market and which should be recovered.

HAS ADOPTED THIS DECISION:

Article 1

The International Bank for Reconstruction and Development loan (IBRD loan) guaranteed by the Romanian State and for which CE Hunedoara became the successor beneficiary was not unlawfully granted to CE Hunedoara, in breach of Article 108(3) of the Treaty on the Functioning of the European Union.

Article 2

The following loans in favour of CE Hunedoara and in the amounts set out in points (a) to (d), constitute State aid which was unlawfully granted (or not reimbursed as regards point (d)) by Romania, in breach of Article 108(3) of the Treaty on the Functioning of the European Union and are incompatible with the internal market:

(a) Romanian Commercial Bank loan contracted by the Ministry of Finance and further made available to CE Hunedoara by way of subsidiary loan agreement (BCR loan) — RON 83 485 450.

(b) Romanian Development Bank loan contracted by the Ministry of Finance and further made available to CE Hunedoara by way of subsidiary loan agreement (BRD loan) — RON 68 371 170.

(c) loan provided for the payment of the incompatible aid requested to be recovered by the Decision regarding the incompatible aid (the loan to repay the incompatible aid) — RON 34 785 015.

(d) loan representing aid granted in accordance with the rescue aid decision and interest (the rescue aid loan) — as effectively disbursed for the amount of RON 98 476 900 and not reimbursed after six months of disbursement.

Article 3

1. Romania shall recover the incompatible aid, referred to in Article 2 from the beneficiary.

2. The actual sums to be recovered shall equal the amounts effectively disbursed to the beneficiary and not reimbursed by the latter to the Romanian State; these sums shall also bear interest from the date on which they were put at the disposal of the beneficiary until their actual recovery.

3. The interest shall be calculated on a compound basis in accordance with Chapter V of Commission Regulation (EC) No 794/2004 ([44]).

4. Romania shall cancel all outstanding payments of the aid referred to in Article 2 with effect from the date of adoption of this decision.

Article 4

1. Recovery of the aid referred to in Article 2 shall be immediate and effective, without prejudice of appropriate measures which Romania may adopt with a view to preserving the continued operation of electricity generation assets which are necessary to supply electricity and heating, provided such measures are proportionate, reasonable, and limited in time and scope to what is indispensable to maintain the value of the assets.

2. Romania shall ensure that this Decision is implemented within four months following the date of notification of this Decision.

Article 5

1. Within two months following notification of this Decision, Romania shall submit the following information to the Commission:

(a) the total amount (principal and recovery interests) to be recovered from the beneficiary;

(b) a detailed description of the measures already taken and planned to comply with this Decision;

(c) a detailed description of the measures already taken and planned to preserve the continued operation of electricity generation assets;

(d) documents demonstrating that the beneficiary has been ordered to repay the aid.

2. Romania shall keep the Commission informed of the progress of the national measures taken to implement this Decision until recovery of the aid referred to in Article 2 has been completed. It shall immediately submit, on simple request by the Commission, information on the measures already taken and planned to comply with this Decision. It shall also provide detailed information concerning the amounts of aid and recovery interest already recovered from the beneficiary.

Article 6

This Decision is addressed to Romania.

Done at Brussels, 8 November 2018.

For the Commission
Margrethe VESTAGER
Member of the Commission

([44]) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).

COMMISSION IMPLEMENTING DECISION (EU) 2019/294

of 18 February 2019

laying down the list of territories and third countries authorised for imports into the Union of dogs, cats and ferrets and the model animal health certificate for such imports

(notified under document C(2019) 1059)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC ([1]), and in particular the introductory phrase and point (b) of the first subparagraph of Article 17(2), point (a) of Article 17(3) and Article 19 thereof,

Whereas:

(1) Directive 92/65/EEC lays down the animal health requirements governing trade in and imports into the Union of certain animals. It provides that the import conditions for dogs, cats and ferrets are to be at least equivalent to the relevant conditions provided for in Regulation (EU) No 576/2013 of the European Parliament and of the Council ([2]).

(2) Regulation (EU) No 576/2013 provides that where the number of dogs, cats or ferrets moved for non-commercial purposes during a single movement exceeds five, those pet animals are to comply with the animal health requirements laid down in Directive 92/65/EEC for the species concerned, except for certain categories of animals for which a derogation is provided for in Article 5(2) of Regulation (EU) No 576/2013 under certain conditions.

(3) Directive 92/65/EEC provides that dogs, cats and ferrets are to be imported into the Union only from a third country which is on a list drawn up in accordance with the procedure referred to in that Directive. In addition, such animals are to be accompanied by a health certificate corresponding to a specimen drawn up in accordance with the procedure referred to therein.

(4) Commission Implementing Decision 2013/519/EU ([3]) establishes the common model health certificate for imports into the Union of dogs, cats and ferrets and provides that the territories or third countries they come from and any territories or third countries they transit must be listed in Annex I to Commission Decision 2004/211/EC ([4]), Part 1 of Annex II to Commission Regulation (EU) No 206/2010 ([5]), or Annex II to Commission Implementing Regulation (EU) No 577/2013 ([6]).

(5) Since Decision 2004/211/EC was repealed and replaced by Commission Implementing Regulation (EU) 2018/659 ([7]) on 1 October 2018, it is necessary to refer to the list of third countries and parts of the territory of third countries for the entry into the Union of consignments of equidae and of semen, ova and embryos of

([1]) OJ L 268, 14.9.1992, p. 54.
([2]) Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003 (OJ L 178, 28.6.2013, p. 1).
([3]) Commission Implementing Decision 2013/519/EU of 21 October 2013 laying down the list of territories and third countries authorised for imports of dogs, cats and ferrets and the model health certificate for such imports (OJ L 281, 23.10.2013, p. 20).
([4]) Commission Decision 2004/211/EC of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC (OJ L 73, 11.3.2004, p. 1).
([5]) Commission Regulation (EU) No 206/2010 of 12 March 2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements (OJ L 73, 20.3.2010, p. 1).
([6]) Commission Implementing Regulation (EU) No 577/2013 of 28 June 2013 on the model identification documents for the non-commercial movement of dogs, cats and ferrets, the establishment of lists of territories and third countries and the format, layout and language requirements of the declarations attesting compliance with certain conditions provided for in Regulation (EU) No 576/2013 of the European Parliament and of the Council (OJ L 178, 28.6.2013, p. 109).
([7]) Commission Implementing Regulation (EU) 2018/659 of 12 April 2018 on the conditions for the entry into the Union of live equidae and of semen, ova and embryos of equidae (OJ L 110, 30.4.2018, p. 1).

equidae set out in Annex I to that Regulation. However, it should be clarified that the import of dogs, cats and ferrets from third countries listed in that Annex should be authorised only if the third country concerned is listed without time limit indicated in column 16 of Annex I to Implementing Regulation (EU) No 2018/659.

(6) This Decision should therefore provide that imports of dogs, cats or ferrets into the Union are authorised only from territories and third countries listed in Part 1 of Annex II to Regulation (EU) No 206/2010, in Annex II to Implementing Regulation (EU) No 577/2013, or listed without time limit in Annex I to Implementing Regulation (EU) 2018/659.

(7) Regulation (EU) No 576/2013 provides that dogs, cats and ferrets are not to be moved into a Member State from a territory or a third country other than those listed in Annex II to Implementing Regulation (EU) No 577/2013 unless they have undergone a rabies antibody titration test that complies with the validity requirements set out in Annex IV to Regulation (EU) No 576/2013.

(8) Those requirements include the obligation to perform that test in a laboratory approved in accordance with Council Decision 2000/258/EC ([8]) which provides that the Agence française de sécurité sanitaire des aliments (AFSSA) in Nancy, France (integrated since 1 July 2010 in the Agence nationale de sécurité sanitaire de l'alimentation, de l'environnement et du travail, ANSES) is to appraise the laboratories in Member States and third countries for the purposes of their authorisation to carry out serological tests to monitor the effectiveness of rabies vaccines in dogs, cats and ferrets.

(9) The common model health certificate for imports into the Union of dogs, cats and ferrets set out in Part 1 of the Annex to Implementing Decision 2013/519/EU is also applicable to the imports of dogs, cats and ferrets for bodies, institutes and centres approved in accordance with Directive 92/65/EEC. Because vaccination against rabies may not have been applied to such animals, this Decision should therefore provide that imports into the Union of dogs, cats or ferrets destined for bodies, institutes and centres approved in accordance with Directive 92/65/EEC are authorised only from territories and third countries listed in Annex II to Implementing Regulation (EU) No 577/2013.

(10) Council Directive 96/93/EC ([9]) lays down the rules to be observed in issuing the certificates required by veterinary legislation to prevent misleading or fraudulent certification. It is necessary to ensure that rules and principles at least equivalent to those laid down in that Directive are applied by official veterinarians of third countries when they issue health certificates.

(11) In addition, following the mandatory review of Commission Delegated Regulation (EU) No 1152/2011 ([10]), the Commission adopted Delegated Regulation (EU) 2018/772 ([11]) which lays down, inter alia, the rules for the categorisation of Member States, or parts thereof, in view of their eligibility to apply preventive health measures for the control of *Echinococcus multilocularis* infection in dogs. That Regulation repealed Delegated Regulation (EU) No 1152/2011 with effect from 1 July 2018.

The list of Member States complying with the rules for categorisation laid down in Delegated Regulation (EU) 2018/772 for the whole of their territory or parts thereof is set out in the Annex to Commission Implementing Regulation (EU) 2018/878 ([12]). It is therefore appropriate to replace the references to Delegated Regulation (EU) No 1152/2011 by references to Delegated Regulation (EU) 2018/772 and to Implementing Regulation (EU) 2018/878 in the model health certificate.

(12) This Decision should therefore establish the new list of territories and third countries from where imports into the Union of dogs, cats or ferrets are authorised and a common model health certificate for imports into the Union of such animals. Decision 2013/519/EU should therefore be repealed.

([8]) Council Decision 2000/258/EC of 20 March 2000 designating a specific institute responsible for establishing the criteria necessary for standardising the serological tests to monitor the effectiveness of rabies vaccines (OJ L 79, 30.3.2000, p. 40).

([9]) Council Directive 96/93/EC of 17 December 1996 on the certification of animals and animal products (OJ L 13, 16.1.1997, p. 28).

([10]) Commission Delegated Regulation (EU) No 1152/2011 of 14 July 2011 supplementing Regulation (EC) No 998/2003 of the European Parliament and of the Council as regards preventive health measures for the control of Echinococcus multilocularis infection in dogs (OJ L 296, 15.11.2011, p. 6).

([11]) Commission Delegated Regulation (EU) 2018/772 of 21 November 2017 supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to preventive health measures for the control of Echinococcus multilocularis infection in dogs and repealing Delegated Regulation (EU) No 1152/2011 (OJ L 130, 28.5.2018, p. 1).

([12]) Commission Implementing Regulation (EU) 2018/878 of 18 June 2018 adopting the list of Member States, or parts of the territory of Member States, that comply with the rules for categorisation laid down in Article 2(2) and (3) of Delegated Regulation (EU) 2018/772 concerning the application of preventive health measures for the control of Echinococcus multilocularis infection in dogs (OJ L 155, 19.6.2018, p. 1).

(13) In order to avoid any disruption of imports into the Union of consignments of dogs, cats or ferrets, it is necessary to provide for a transitional period until 31 December 2019 in order to allow, subject to certain conditions, for the use of model animal health certificates issued in accordance with Union rules applicable before the date of application of this Decision.

(14) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

List of territories or third countries from which dogs, cats or ferrets are authorised to be imported in accordance with Directive 92/65/EEC

1. Consignments of dogs, cats or ferrets which are subject to the provisions of Directive 92/65/EEC shall only be imported into the Union provided that the territories or third countries they come from and any territories or third countries they transit are included in one of the lists set out in:

(a) Part 1 of Annex II to Regulation (EU) No 206/2010;

(b) Annex II to Implementing Regulation (EU) No 577/2013;

(c) Annex I to Implementing Regulation (EU) 2018/659, except those third countries for which a time limit is indicated in column 16 of the table in that Annex.

2. By way of derogation from paragraph 1, consignments of dogs, cats or ferrets destined for bodies, institutes and centres approved in accordance with Directive 92/65/EEC shall only be imported into the Union provided that the territories or third countries they come from and any territories or third countries they transit are included in the list referred to in paragraph 1(b).

Article 2

Animal health certificate for imports from territories or third countries

Member States shall only authorise imports of dogs, cats or ferrets, which comply with the following conditions:

(a) they are accompanied by an animal health certificate drawn up in accordance with the model set out in Part 1 of the Annex and completed and signed by an official veterinarian in accordance with the explanatory notes set out in Part 2 of the Annex;

(b) they comply with the requirements of the animal health certificate referred to in point (a) in respect of the territories or third countries that they come from and any territories or third countries they transit, as referred to in paragraphs 1(a), (b) and (c) of Article 1.

Article 3

Repeal

Implementing Decision 2013/519/EU is repealed.

References to Implementing Decision 2013/519/EU shall be construed as references to this Decision.

Article 4

Transitional provisions

For a transitional period until 31 December 2019, Member States shall authorise imports into the Union of dogs, cats and ferrets which are accompanied by a health certificate issued not later than 30 November 2019 in accordance with the model set out in Part 1 of the Annex to Implementing Decision 2013/519/EU.

Article 5

Applicability

This Decision shall apply from 1 July 2019.

Article 6

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 18 February 2019.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

PART 1

Model animal health certificate for imports into the Union of dogs, cats and ferrets

COUNTRY: **Veterinary certificate to EU**

Part I: Details of dispatched consignment

I.1. Consignor Name Address Country Tel.	I.2. Certificate reference No	I.2.a.
	I.3. Central competent authority	
	I.4. Local competent authority	
I.5. Consignee Name Address Country Tel.	I.6.	
I.7. Country of origin ISO code I.8.	I.9. Country of destination ISO code	I.10. Region of destination Code
I.11. Place of origin Name Approval number Address Name Approval number Address Name Approval number Address	I.12. Place of destination Name Approval number Address	
I.13. Place of loading	I.14. Date of departure	
I.15. Means of transport Aeroplane ☐ Ship ☐ Railway wagon ☐ Road vehicle ☐ Other ☐ Identification Documentary references	I.16. Entry BIP in EU	
	I.17.	
I.18. Description of commodity	I.19. Commodity code (HS code) **010619**	
	I.20. Quantity	
I.21.	I.22. Number of packages	
I.23. Seal/Container No	I.24.	

I.25. Commodities certified for: Others ☐		Pets ☐	Approved bodies ☐
I.26.		I.27. For import or admission into EU ☐	
I.28. Identification of the commodities			
Species (Scientific name)	Identification system	Identification number	Date of birth [dd/mm/yyyy]

COUNTRY **Imports into the Union of dogs, cats, ferrets**

II. Health information	**II.a. Certificate reference No**	**II.b.**

Part II: Certification

I, the undersigned official veterinarian of ..... (*insert name of third country*) certify that the animals described in Box I.28:

II.1. come from holdings or businesses described in Box I.11 which are registered by the competent authority and are not subject to any ban on animal health grounds, where the animals are examined regularly and which comply with the requirements ensuring the welfare of the animals held;

II.2. showed no signs of diseases and were fit to be transported for the intended journey at the time of examination by a veterinarian authorised by the competent authority within 48 hours prior to the time of dispatch;

([1]) *either* [II.3. are destined for a body, institute or centre described in Box I.12 and approved in accordance with Annex C to Council Directive 92/65/EEC, and come from a territory or third country listed in Annex II to Commission Implementing Regulation (EU) No 577/2013.]

([1]) *or* [II.3. were at least 12 weeks old at the time of vaccination against rabies and at least 21 days have elapsed since the completion of the primary anti-rabies vaccination ([2]) carried out in accordance with the validity requirements set out in Annex III to Regulation (EU) No 576/2013 of the European Parliament and of the Council, and any subsequent revaccination was carried out within the period of validity of the preceding vaccination ([3]), and

([1]) *either* [they come from, and in case of transit are scheduled to transit through, a territory or third country listed in Annex II to Commission Implementing Regulation (EU) No 577/2013 and details of the current anti-rabies vaccination are provided in columns 1 to 7 in the table below;]

([1]) *or* [they come from or are scheduled to transit through, a territory or third country listed in Part 1 of Annex II to Commission Regulation (EU) No 206/2010 or listed without time limit in Annex I to Commission Implementing Regulation (EU) 2018/659, and

— details of the current anti-rabies vaccination are provided in columns 1 to 7 in the table below, and

— a rabies antibody titration test ([4]), carried out on a blood sample taken by the veterinarian authorised by the competent authority not less than 30 days after the preceding vaccination and at least three months prior to the date of issue of this certificate, proved an antibody titre equal to or greater than 0,5 IU/ml ([5]) and any subsequent revaccination was carried out within the period of validity of the preceding vaccination, and the date of sampling for testing the immune response are provided in column 8 in the table below:]

Transponder or tattoo		Date of vaccination [dd/mm/yyyy]	Name and manufacturer of vaccine	Batch number	Validity of vaccination		Date of blood sampling [dd/mm/yyyy]
Alphanumeric code of the animal	Date of implantation and/or reading ([6]) [dd/mm/yyyy]				From [dd/mm/yyyy]	to [dd/mm/yyyy]	
1	2	3	4	5	6	7	8

([1]) *either* [II.4. the consignment includes dogs destined for a Member State listed in the Annex to Commission Implementing Regulation (EU) 2018/878 and those dogs have been treated against *Echinococcus multilocularis*, and the details of the treatment carried out by the administering veterinarian in accordance with Article 6 of Commission Delegated Regulation (EU) 2018/772 ([7]) ([8]) are provided in the table below:

COUNTRY **Imports into the Union of dogs, cats, ferrets**

II. Health information		**II.a. Certificate reference No**	**II.b.**
Transponder or tattoo alphanumeric code of the dog	Anti-Echinococcus treatment		Administering veterinarian
	Name and manufacturer of the product	Date [dd/mm/yyyy] and time of treatment [00:00]	Name in capitals, stamp and signature
			]

([1]) *or* [II.4. the dogs forming part of the consignment have not been treated against Echinococcus multilocularis.]

Notes

This certificate is valid for 10 days from the date of issue by the official veterinarian. In the case of transport by sea, that period of 10 days is extended by an additional period corresponding to the duration of the journey by sea.

Part I:

Box I.11: Place of origin: name and address of the dispatch establishment. Indicate approval or registration number.

Box I.12: Place of destination: mandatory where the animals are destined for a body, institute or centre approved in accordance with Annex C to Council Directive 92/65/EEC.

Box I.25: Commodities certified for: indicate

— 'Pets' where dogs (Canis lupus familiaris), cats (Felis silvestris catus) or ferrets (Mustela putorius furo) are moved in accordance with Article 5(4) of Regulation (EU) No 576/2013 of the European Parliament and of the Council;

— 'Approved bodies' where dogs, cats or ferrets are moved in accordance with Article 13 of Council Directive 92/65/EEC to an approved body, institute or centre as defined in Article 2(c) of that Directive;

— 'others' where dogs, cats or ferrets are moved in accordance with Article 10 of Council Directive 92/65/EEC.

Box I.28: Identification system: select transponder or tattoo.

Identification number: indicate the transponder or tattoo alphanumeric code.

Part II:

([1]) Keep as appropriate.

([2]) Any revaccination must be considered a primary vaccination if it was not carried out within the period of validity of a previous vaccination.

([3]) A certified copy of the identification and vaccination details of the animals concerned shall be attached to the certificate.

([4]) The rabies antibody titration test referred to in point II.3:

— must be carried out on a sample collected by a veterinarian authorised by the competent authority, at least 30 days after the date of vaccination and three months before the date of import;

— must measure a level of neutralising antibody to rabies virus in serum equal to or greater than 0,5 IU/ml;

COUNTRY **Imports into the Union of dogs, cats, ferrets**

II. **Health information**	**II.a.** **Certificate reference No**	**II.b.**

— must be performed by a laboratory approved in accordance with Article 3 of Council Decision 2000/258/EC (list of approved laboratories available at http://ec.europa.eu/food/animals/pet-movement/approved-labs_en);

— does not have to be renewed on an animal, which following that test with satisfactory results, has been revaccinated against rabies within the period of validity of a previous vaccination.

A certified copy of the official report from the approved laboratory on the result of the rabies antibody test referred to in point II.3 shall be attached to the certificate.

([5]) By certifying this result, the official veterinarian confirms that he has verified, to the best of his ability and where necessary with contacts with the laboratory indicated in the report, the authenticity of the laboratory report on the results of the antibody titration test referred to in point II.3.

([6]) In conjunction with footnote (3), the marking of the animals concerned by the implantation of a transponder or by a clearly readable tattoo applied before 3 July 2011 must be verified before any entry is made in this certificate and must always precede any vaccination, or where applicable, testing carried out on those animals.

([7]) The treatment against *Echinococcus multilocularis* referred to in point II.4 must:

— be administered by a veterinarian within a period of not more than 120 hours and not less than 24 hours before the time of the scheduled entry of the dogs into one of the Member States or parts thereof listed in the Annex to Commission Implementing Regulation (EU) 2018/878;

— consist of an approved medicinal product which contains the appropriate dose of praziquantel or pharmacologically active substances, which alone or in combination, have been proven to reduce the burden of mature and immature intestinal forms of *Echinococcus multilocularis* in the host species concerned.

([8]) The table referred to in point II.4 must be used to document the details of a further treatment if administered after the date the certificate was signed and prior to the scheduled entry into one of the Member States or parts thereof listed in the Annex to Commission Implementing Regulation (EU) 2018/878.

Official veterinarian

Name (in capital letters): Qualification and title:

Date: Signature:

Stamp:

PART 2

Explanatory notes for completing the animal health certificate

(a) Where the certificate states that certain statements shall be kept as appropriate, statements which are not relevant may be crossed out and initialled and stamped by the official veterinarian, or completely deleted from the certificate.

(b) The original of each certificate shall consist of a single sheet of paper, or, where more text is required it must be in such a form that all sheets of paper required are part of an integrated whole and indivisible.

(c) The certificate shall be drawn up in at least one of the official languages of the Member State of the border inspection post of introduction of the consignment into the Union and of the Member State of destination. However, those Member States may authorise the certificate to be drawn up in the official language(s) of another Member State, and accompanied, if necessary, by an official translation.

(d) If for reasons of identification of the items of the consignment (schedule in point I.28 of the model animal health certificate), additional sheets of paper or supporting documents are attached to the certificate, those sheets of paper or documents shall also be considered as forming part of the original of the certificate by the application of the signature and stamp of the official veterinarian, on each of the pages.

(e) When the certificate, including additional sheets or documents referred to in point (d), comprises more than one page, each page shall be numbered (page number of total number of pages) at the end of the page and shall bear the certificate reference number that has been designated by the competent authority at the top of the pages.

(f) The original of the certificate shall be completed and signed by an official veterinarian of the exporting territory or third country. The competent authority of the exporting territory or third country shall ensure that rules and principles of certification equivalent to those laid down in Directive 96/93/EC are followed.

(g) The colour of the signature shall be different from that of the printing. This requirement also applies to stamps other than those embossed or watermarked.

(h) The certificate reference number referred to in Boxes I.2 and II.a shall be issued by the competent authority of the exporting territory or third country.

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