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State-aid schemes for funding investments
in ports (public funding)

Work Package 3

Activity 3.3 State-aid schemes for funding investments in ports

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1 Scope of the document

The objective of work package 3 of DAPhNE Project is to adopt a joint harmonized approach in regards to legal port issues in order to apply the Same River, Same Rules principle. In the long run, this will secure a balanced development of Danube ports as buzzing economic centers. To this end, the representatives from the private and public port sector all along the Danube (RO, HR & BG Ministries of Transport, port administrations and port associations) join forces to investigate the issues regarding port legislation & public funding.

The scope of the document is to identify the role of public funding in relation *to inland cargo port investments in the Danube region*. Thus, development of maritime ports, river ports other than Danube, as well as port developments financed solely by private entities are not the scope of the project. If a port is both maritime and inland cargo port, the activities shall be split between the inland and maritime port functions in this document.

1.1 General terms

1.1.1 State aid and non-state aid

In principle based on Article 107 (1) of the Treaty on the Functioning of the European Union (TFEU), any aid granted by a Member State or through state resources in any form is generally prohibited. The reason of the prohibition is that state aid distorts or threatens to distort competition in the internal market. Favouring certain undertakings or the production of certain goods through state funds that can be either direct i.e. grants provided or indirect, e.g. exemptions from any payment obligations to the state budget is deemed to have an adverse effect on the trade between Member States.

A measure shall be considered as state aid if involving all the following attributes:

- transfer of state resources;
- economic advantage: the aid reduces the costs normally borne in the budgets of the beneficiary undertakings;
- selectivity: the aid favors certain undertakings or the production of certain goods;
- distortion of competition, and
- affect on trade between the Member States.

Transfer of state resources means the use of funds belonging to, or being controlled by and imputed to public authorities. The form in which this transfer takes place is irrelevant from state aid perspective.

The private investor test is to assess whether there is an economic advantage involved for the beneficiary. This means that the economic advantage shall be established of the state did not act in the same way as a private investor would have acted.

Where aid benefits only products which are not subject to inter-state trade or where trade is affected only at a purely national level, the measure will not fall within the scope of prohibited state aid. This does not mean that only measures relating to exports or imports from a Member State to another are affected by Article 107 (1) TFEU. It may be that several circumstances in which aid is granted will lead to affecting the trade between Member States. When for instance aid strengthens the position of an undertaking compared with others competing in intra-Union trade, the latter shall be affected by the aid even if the beneficiary itself is not involved directly in exporting or importing goods.¹

Despite the general prohibition of State aid, in some circumstances government interventions are necessary for a well-functioning and equitable economy. Certainly, there are exemptions from the principle of state aid prohibition. First there are exemptions where the aid shall be considered to be compatible with the internal market and thus involving no competition distortions. Then there are aid measures that, under certain conditions, might be compatible with the approach of the internal market.

The measures qualified as compatible by the TFEU are of a social and reparative nature, i.e. (1) social aid, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned; (2) aid to restore damages caused by natural disasters or exceptional occurrences; (3) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany.

The following may be considered to be compatible with the internal market:

- aid to promote the economic development of the seriously underdeveloped areas;
- aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition.

Apart from the above, other categories of aid may be specified and deemed compatible by decision of the Council.

1.1.2 Port and port infrastructure²

Port

¹ Case 730/79 Philip Morris v Commission [1980] ECR 2671

² Definitions are taken from the 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

'Port' means an area of land and water made up of such infrastructure and equipment, so as to permit the reception of waterborne vessels, their loading and unloading, the storage of goods, the receipt and delivery of those goods and the embarkation and disembarkation of passengers, crew and other persons and any other infrastructure necessary for transport operators in the port.

Maritime port

'Maritime port' means a port for, principally, the reception of sea-going vessels.

Inland port

'Inland port' means a port other than a maritime port, for the reception of inland waterway vessels.

Port infrastructure

'Port infrastructure' means infrastructure and facilities for the provision of transport related port services, for example berths used for the mooring of ships, quay walls, jetties and floating pontoon ramps in tidal areas, internal basins, backfills and land reclamation, alternative fuel infrastructure and infrastructure for the collection of ship-generated waste and cargo residues.

1.1.3 Specific terms and types of public funding

The importance of public funding in port development varies from country to country and as well as the relevant public aid scheme.

In order to analyze the public funding practice of the Danube Region countries, it is necessary to clarify the key concepts and definitions of public funding. The common understanding of the following terms is very important to fill in the attached Excel-sheet with information on public granted port developments.

Individual aid

'Individual aid' means:

- (i) ad hoc aid; and
- (ii) awards of aid to individual beneficiaries on the basis of an aid scheme.³

Aid scheme

"Aid scheme" means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount⁴.

³ Definition of the article 2 (14) of Commission regulation (EU) No 651/2014 (GBER regulation)

⁴ Definition of the article 2 (15) of Commission regulation (EU) No 651/2014 (GBER regulation)

Aid intensity

"Aid intensity" means the aid amount expressed as a percentage of the eligible costs.

Aid category

'State aid' and 'non-state aid' categories according to Article 107 (1) TFEU, (e.g. de minimis or aid for local infrastructures⁵).

⁵ Aid categories are detailed in Commission Regulation No 651/2014

2 Overall presentation of Danube Ports in Romania

2.1 General information of Danube ports

The Romanian ports, along the Danube, selected for analysis are Drobeta-Turnu Severin, Giurgiu, Braila, Galati, Tulcea, including the port of Constanta which is the “maritime gate” for all Danube ports.

2.1.1 Port of Drobeta-Turnu Severin

The Port of Drobeta-Turnu Severin is placed on the left side of the Danube, between km 930-934 (in the proximity of the Hydroelectric and Navigation Complex “Portile de Fier”/Iron Gate 2). It has a strategic location and acts as a transshipment point for traffic to west and northwest Romania.

The port infrastructure is state public property granted to N.C. Administration of Danube River Ports Co. Giurgiu, through a concession contract signed in 2008. The Ministry of Transport is the owner of 80% shares of the Company, while the rest is owned by Fondul Proprietatea (Property Fund).

The port land owner is the state. The port authority is N.C. Administration of Danube River Ports Co. Giurgiu. The port is made up of three areas consisting a total surface of about 13.76 hectares, of which 7.26 are for commercial activities, 4.40 are for passengers and 2.10 for project cargo ramp.

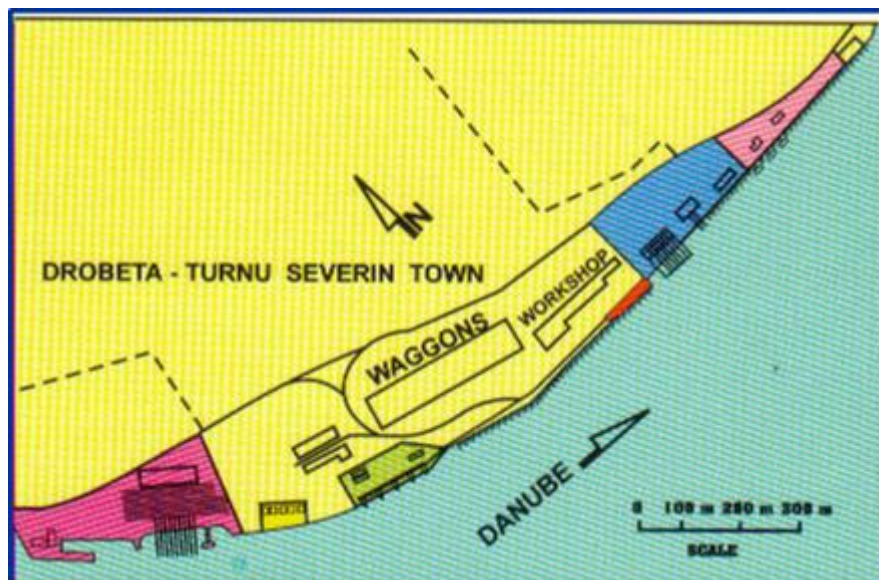


Figure 1: Port of Drobeta-Turnu Severin

(Source: www.apdf.ro)

Drobeta Turnu Severin is placed on the Orient-East Med Corridor, as was defined by the EU guidelines for the development of the trans-European transport network⁶. Connection with the port is provided by two roads with single lane each way and the city of Drobeta is connected to various national roads and European road E70. The port is connected also through rail, being connected to railway corridor 900 Bucuresti-Caransebes-Timisoara.

The general strategies developed by local authorities take into account the position of the city on a European main transport corridor, as well as the connection on rail and road with the region.

The maximum theoretical capacity of the port is 500,000 tons. In 2017 the Drobeta port had a traffic of 1,161,000 tons⁷.

2.1.2 Port of Giurgiu

The Port of Giurgiu is placed on the left side of the Danube, between km 489-497. The port infrastructure is state public property granted to N.C. Administration of Danube River Ports Co. Giurgiu, through concession contract signed in 2008. The Ministry of Transport is the owner of 80% shares of the Company, while the rest is owned by Fondul Proprietatea (Property Fund).

In 1996 the Free Zone Administration was established, to help developing international trade and the use of local resources. Until 2004 The Free Zone was under the Ministry of Transport and since 2004 it became a joint stock company owned by the Giurgiu County Council. Later on, in 2008, it became fully owned by Local Council Giurgiu.

The Port of Giurgiu is one of the ports within TEN-T central network, located on the Danube River and Corridor IX (Rhine-Danube) and provides a North-South link to Bulgaria. It is one of the important crossing points for rail freight transport between Romania and Bulgaria. The connection to national road network is ensured through European road E70.

Being a port very close to Bucharest (64 km), it has a geographical significance, thus focusing on the cargo destined for the capital as well as other transit cargo. A new trimodal terminal will be developed through the project *High Performance Green Port Giurgiu - Stage II* which will provide the connections with road, rail and inland waterway networks.

Although Giurgiu County is not one of the developed ones and even if it was recorded as having the worst evolution in Romania in the last few years, new investments in the area are expected, and also in Ilfov-Bucharest region, the most dynamic one in the country.

⁶ Regulation no. 1315/2013 of the European Parliament and of the Council on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU.

⁷ Source: National Institute of Statistics (INS)

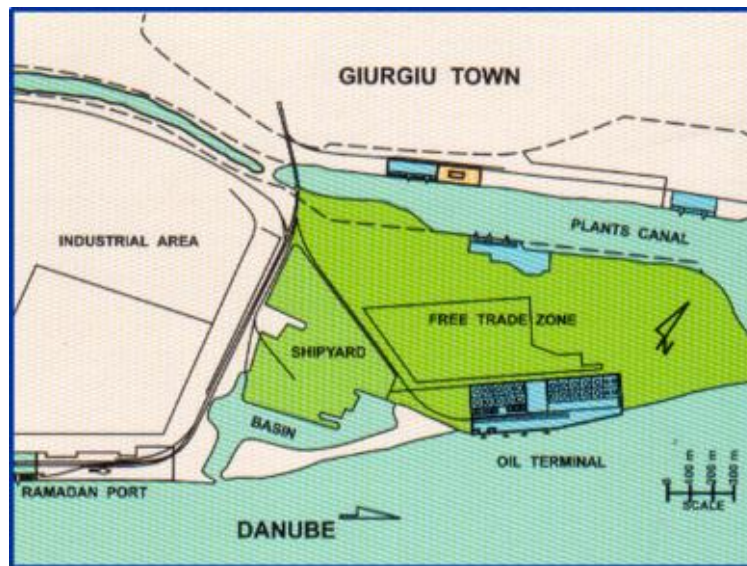


Figure 2: Port of Giurgiu
 (Source: www.apdf.ro)

The estimation of port total capacity is 2,500,000 tones. In 2017 registered traffic was 603,000 tons⁸.

2.1.3 Port of Braila

The Port of Braila is placed on the left bank of the Danube River, between km 175 - 167 and it is the second river-maritime port after Galati. Land and infrastructure are owned by the Romanian state. The governance and the administrative obligations are performed made by the National Company – Maritime Danube Ports Administration Co. Galati (CN APDM SA Galati), based on a concession contract signed in 2008.



Figure 3: Port of Braila
 (Source: APDM)

⁸ Source: INS

The entire available storage areas, warehouses, platforms within the Port of Braila are rented to private operators. It is the sole responsibility of the operators with their applied business strategies to increase the traffic of goods and to generate a larger traffic flow in the port. All the port platforms are owned by the private port operators.

The port of Braila has a total surface of about 398,630 sqm which includes cargo storing facilities, grain silos, a grain terminal, a Free Zone, shipyard and many other facilities available for the vessels. The port receives vessels ranging from 500 dwt. up to 9.000 dwt. maritime vessels. The depths around the merchant port sector are enough to accommodate a wide range of vessels, but the draft is limited by the Sulina Bar to 7.01 m.

The port has connection to hinterland by railway and road connection.

The agricultural land is one of the most important resource available to the county which led for the grains to be one of the main goods to be handled in Braila port. Other goods handled, which played a major role in the total handled goods are mineral products, wood products and fertilizers.

In 2017 registered traffic was 1,606,000 tons, down from 2013 when the port registered a traffic of 2,356,000 tons⁹.

2.1.4 Port of Galati

The Port of Galati is placed on the Danube River, between km 160 – NM 76, both banks and it is the largest Romanian sea-river port and the second important port, having the possibility to connect to maritime transport through Black Sea. Land and infrastructure are owned by the Romanian state. The governance and the administrative obligations are performed by the National Company – Maritime Danube Ports Administration Co. Galati (CN APDM SA Galati) which carries out the role of Port Authority and Port Administrator within the sea-river Romanian ports of the Danube based on a concession contract signed with the Ministry of Transport in 2008.

The port of Galati has a total surface of 864,131 sqm which includes cargo storing facilities, parking places for trucks, grain terminal and silos, port equipment for vessel operation, a Free Zone, container terminal, shipyard, oil terminal and many other facilities available for vessels. The port receives a wide range of river vessels and also seagoing vessels up to 25,000 dwt.

Being one of the most important commercial traffic hubs in Romania, the port of Galati is connected to main European channels. Available railways allow the transfer from European standard gauge to broad gauge used in the former Soviet Union countries. The access to Rhine-Main-Danube is done by waterway. There is also available access to national road.

⁹ Source: APDM



Figure 4: Port of Galati
(Source: APDM)

In the county there is a high percentage of trading activities, but a low number of units which carry out activities such as industry, construction and agriculture. The main industrial sectors are metallurgy and naval constructions which are generating cargo traffic in port, but the situation varies from year to year. Although there is a vast type of cargo handled, the lack of multimodal facilities creates a major difficulty to align the port logistics to international transport flows. The port infrastructure is old and marshalling yards are scarce for modern logistical needs and the links to national roads and rail, although are available, are quite slow and impaired.

The highest value annual cargo throughput of the port was about 10,000,000 tons more than 10 years ago. In 2017 traffic registered in Port of Galati port was 4,406,000 tons¹⁰.

2.1.5 Port of Tulcea

The Port of Tulcea is placed on the Danube River, between NM 42 and 34, both banks, being one of the most important maritime-river ports. Land and infrastructure are owned by the Romanian state. The governance and the administrative obligations are performed by the National Company – Maritime Danube Ports Administration Co. Galati (CN APDM SA Galati) based on a concession contract signed with the Ministry of Transport in 2008.

The entire available storage areas, warehouses, platforms within Tulcea Port are rented to private operators. It is the responsibility of the operators with their applied business strategies to increase the traffic of goods and to generate a larger traffic flow in the port.

¹⁰ Source: APDM

The Port of Tulcea has a total surface of 82,762 sqm, which includes cargo storing facilities, port equipment for vessel operation, industrial terminal, grain silos, passenger terminal, shipyard and other facilities available for vessels. The port received a wide range of river vessels and also maritime vessels of more than 15,000 dwt.



Figure 5: Port of Tulcea
(Source: APDM)

The port is connected to hinterland through railway and road networks. The distance to highway A2 is around 100 km.

In 2017 registered traffic was 1,939,000 tons, decreasing compared to 2016 when 2,161,000 tones were recorded¹¹.

2.1.6 Port of Constanta

The Port of Constanta is located on the Western coast of the Black Sea. The Danube River connects with the port through Danube-Black Sea Canal, which is a part of the Rhine-Danube Corridor, thus linking the east to the west across all Europe.

The Port of Constanta infrastructure is owned by the Romanian State and was granted through a concession contract to the port administration N.C. "Maritime Ports Administration" Co. Constanta, which is a joint stock company (80% Ministry of Transport, 20% Proprietatea Fund). NC "Maritime Ports Administration" Co. Constanta, has the role of port authority. Based on the administration model – landlord port, the port infrastructure is leased to private operators.

The beneficiaries of the Port of Constanta can be divided into three major groups. The first group of direct beneficiaries is represented by terminal operators who use the port infrastructure and receive direct benefit from new cargo being handled. The second group of

¹¹ Source: APDM

port users are the ship operators and the third the related companies providing different connected services for cargo and ships.

The Port of Constanta has a total surface of 3,926 hectares of which 1,313 are land area and 2,613 are water area. The port has a maximum draft allowed of 19 m and a minimum water depth of 7 m. The maximum cargo handling capacity is about 100 million tons per year which includes dry bulk, liquid bulk, general cargo, containers and Ro-Ro.



Figure 6: Port of Constanta
(Source: www.constantza-port.ro)

The port is very well connected to hinterland. The connection to national and European road network is done by 10 gates. The port is direct connected to A2 highway, which is linking Constanta to Bucharest.

The railway infrastructure is made of six rail gates and nine rail tracks, assuring a connection with Europe, Caucasus and Central Asia. So, the port is connecting Romania with the rest of the countries through Corridor IV (rail and road), Corridor VII – Danube (inland waterways) being linked by the Danube-Black Sea Canal and Corridor IX (road).

As mentioned earlier, the total capacity estimation of the Port of Constanta is 106,641,000 tons and the maximum throughput of slightly over 60,000,000 tons was reached in 2008. Since then, a throughput of 50 to 60,000,000 tons has been maintained, representing a utilization rate of 50-60% of the capacity. In 2017 registered traffic was 49,436,000 tons¹².

¹² Source: INS



Figure 7: Rail network in the Port of Constanta
 (Source: www.constantza-port.ro)

2.2 Waterborne freight statistics 2010-2017

2.2.1 Port of Drobeta-Turnu Severin freight statistic

According to the data provided by the National Institute of Statistics, the average annual traffic of the last 5 years was about one million tons, in 2017 being recorded a value of 1,161,000 tons, the highest of this period.

The dominant freight traffic volumes are generated by grains, oil products, fertilizers and metal products. Grains exported through the IWW are registering an annual traffic of about 25,000 tons but are facing a decrease in the last years to about 15,000 tons. Oil products registered a high of 326,312 tons in 2010 and showed also a decrease in amount to a value of 186,755 tons in 2016.

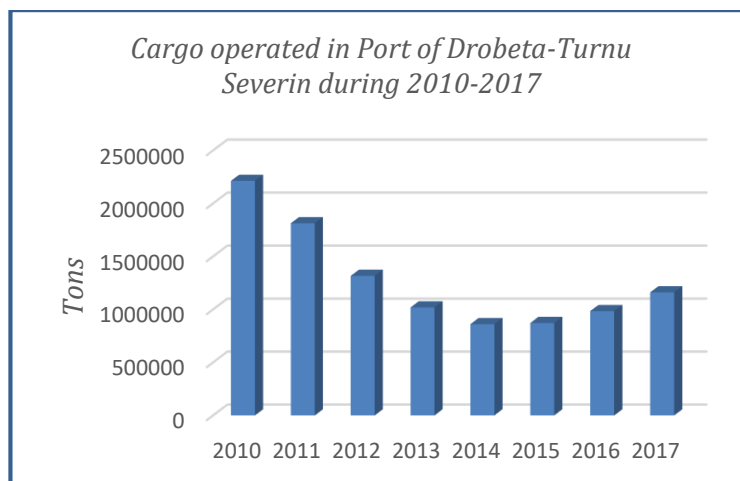


Figure 8: Cargo statistic in the Port of Drobeta Turnu Severin 2010-2017
 (Source: INS)

2.2.2 Port of Giurgiu freight statistic

Due to the economic crisis in 2009-2012, the operated cargo through the port showed a decline which recovered constantly the following years, reaching a throughput of 543.000 tons in 2016 and 603.000 in 2017¹³.

The investments attracted in the Free Zone generated an increase of traffic. The main cargoes which had an increased traffic are oil products (126,644 tons in 2016), grains (217,037 in 2016) and fabricated metal products (125,897 tons in 2016).

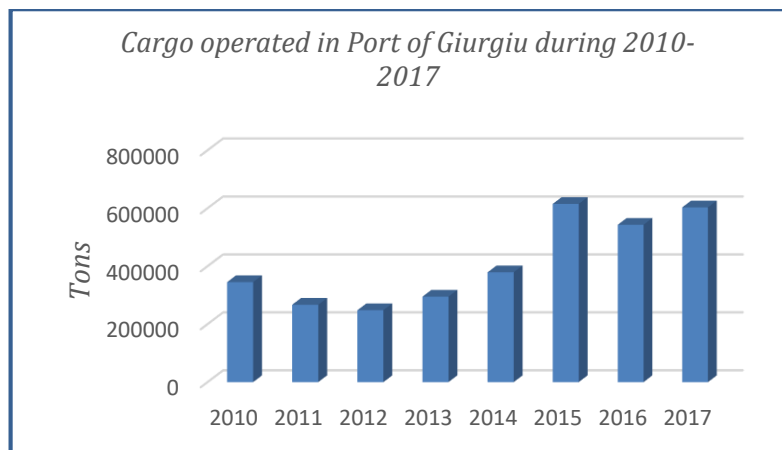


Figure 9: Cargo statistic in the Port of Giurgiu 2010-2017
(Source: INS)

2.2.3 Port of Braila freight statistic

The main cargoes operated in Braila Port were mineral products, cereals, wood products and fertilizers. Traffic has been decreasing from 2,977,000 tonnes in 2010 to 1,606,000 tonnes in 2017. Figure 10 shows the quantities of goods operated during 2010-2017¹⁴.

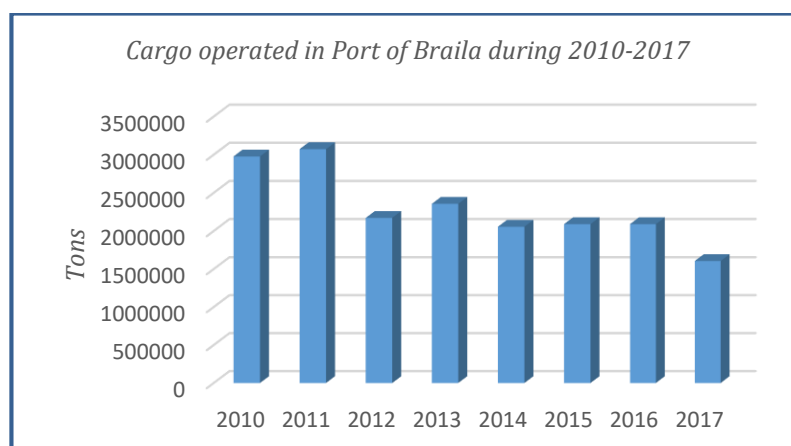


Figure 10: Cargo statistic in the Port of Braila 2010-2017 (Source: APDM)

¹³ Source: INS

¹⁴ Source: APDM

2.2.4 Port of Galati freight statistic

Port of Galati has the capacity to operate grains, steel, iron ore, coal and scrap iron. Due to the lack of multimodal facilities, the port faces restrictions to align the port logistic to the needed internal and international transport flows. Port infrastructure is quite old for the modern logistical needs and the links to national road and rail networks, although they exist, are slow and inefficient.

The average annual traffic in the last 5 years of the goods operated in Galați port was approximately 4,100,000 tons, 2017 being 4,606,000 tons. Figure 11 shows the quantities of goods operated during 2010-2017¹⁵.

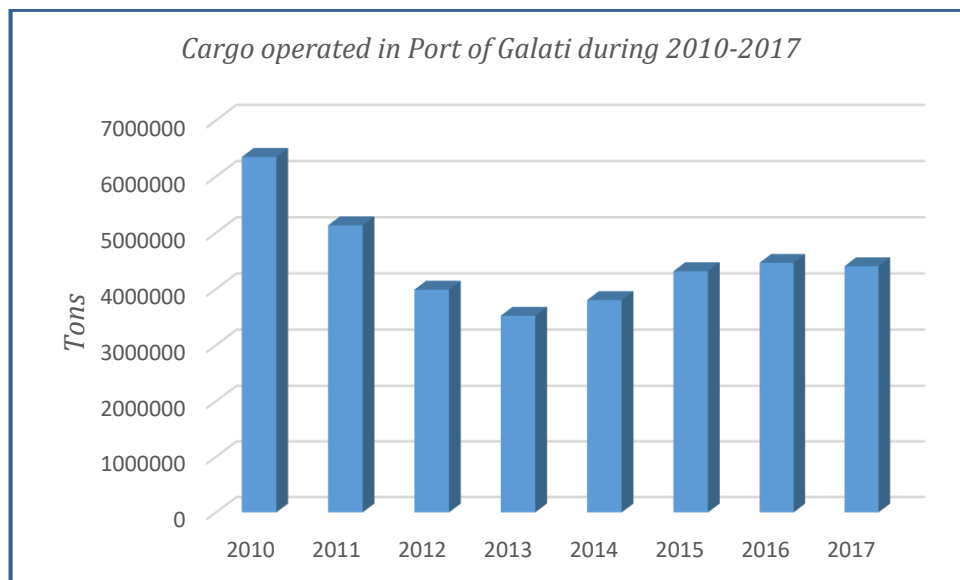


Figure 11: Cargo statistic in the Port of Galati 2010-2017
(Source: APDM)

2.2.5 Port of Tulcea freight statistic

The Port of Tulcea operates mainly mineral products (broken stone, grit, slag, salt) and as well in supplying material to construction sector. Raw materials in bulk operated are manganese, bauxite, iron ore, limestone, alloys from river vessels as well as sea-going vessels.

Annual average traffic in the last 5 years was about 2,150,000 tonnes, with a volume of 1,939,000 tonnes in 2017. Figure 12 shows the quantities of goods operated during 2010-2017¹⁶.

¹⁵ Source: APDM

¹⁶ Source: APDM

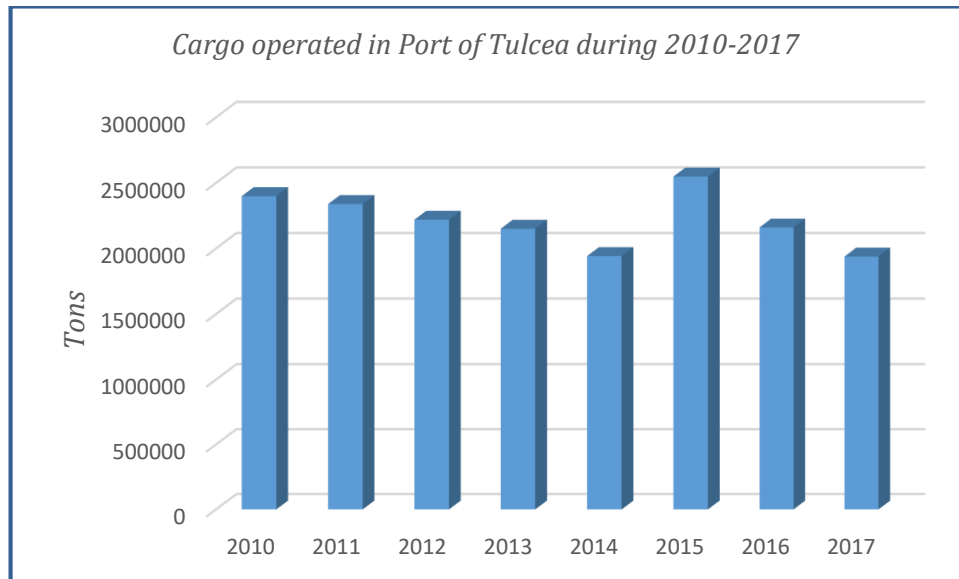


Figure 12: Cargo statistic in the Port of Tulcea 2010-2017
 (Source: APDM)

2.2.6 Port of Constanta freight statistic

According to the data provided by the National Institute of Statistics, during the last 5 years, the quantity operated was 47,000,000 - 50,000,000 tons, in 2017 being 49,463,600 tons.

Data provided by NC Maritime Ports Administration Co. Constanta shows that the crude oil products had an almost constant traffic throughput recording a value of 7,352,164 tons in 2017.

The iron ore and scrap commodities showed a constant increase in traffic from 2011 to 2013, with a peak year in 2013. Later on there was a decrease to almost 50%, followed by a constant increase, reaching a value of 3,924,125 tons in 2017.

The volume of grain used declined slightly in 2017 to 17,891,285 tonnes, from about 20 million tonnes in 2016.

The natural and chemical fertilizer traffic has had a rather constant trend throughput over the years. More than half of the fertilizers used in Romania are imported through the Port of Constanta and in 2017 the total amount reached a value of 3,094,332 tons.

Machinery and equipment, office machinery and computers, electrical machinery and apparatus n.e.c., radio, television and communication equipment and apparatus, medical, precision and optical instruments, watches and clocks throughput has showed a constant traffic in the last years, having 337,910 tons in 2017.

Textiles and textile products, leather and leather products were not operated in the Port of Constanta during years 2014-2016, but year 2017 showed an amount of 553 tons.

Wood and cork products had a constant amount of operated cargo with an amount of about 1,000,000 tons between years 2010-2014. Unfortunately, the following years led to a constant decrease, reaching a value of 416,751 tons in 2017.

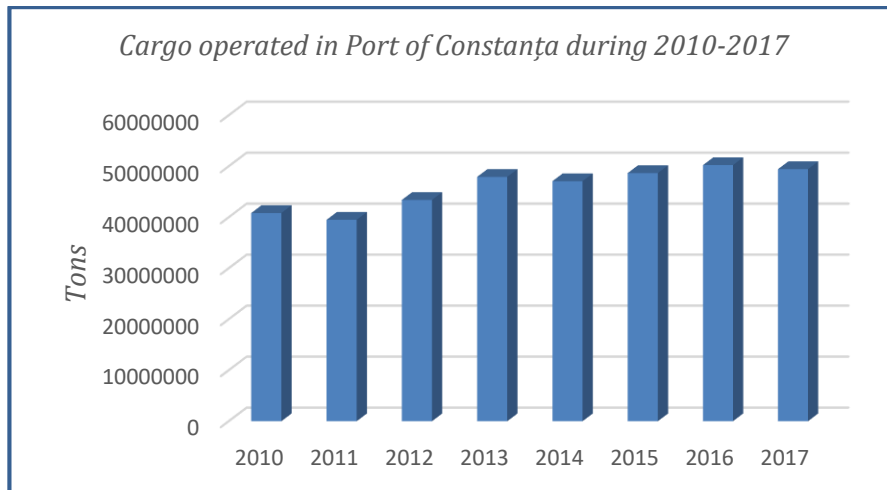


Figure 13: Cargo statistic in the Port of Constanta 2010-2017
 (Source: INS)

2.3 Development of ports 2010-2017

2.3.1 Objective of port developments

The Port of Drobeta Turnu Severin, being part of the TEN-T central network and also classified by AECOM as the first port of national interest on the route from Central Europe to Romania, has a strategic position for transshipment of cargo for the cities located in the north-west part of Romania and other around, such as Craiova.

For the objectives to become effective, to be able to handle a larger amount of cargo, infrastructure must be developed, especially for the handling of containers. The possible solution is to build a trimodal terminal. In this way, the intermodal existing facilities will make the most of the advantages of the port location.

The only implemented project in the last 5 years in Port of Drobeta Turnu-Severin has been “System for taking over and processing of residues from ships and for intervention in case of pollution on the Danube sector managed by CN APDF SA Giurgiu”, financed under POS-T programme. For a detailed description of the project, please see Port of Giurgiu below.

Presently, there are no on-going projects in the Port of Drobeta-Turnu-Severin.



Figure 14: Residues receiving system in the Port of Drobeta Turnu-Severin

The Port of Giurgiu is considered a main port of TEN-T central network, being at the crossroads between Danube River and Corridor IX. Giurgiu is the Danube closest port (64 km) serving Bucharest.

During 2012-2015 the project “System for receiving and processing of residues from ships and for intervention in case of pollution on the Danube sector managed by CN APDF SA Giurgiu”, financed under POS-T program was implemented in the Port of Giurgiu.

The objective of the project was to increase the quality of services for the collection and processing of ship waste and pollution intervention by acquiring ships, installations and equipments, as well as for carrying out the infrastructure works necessary for taking / processing the residues from the river ships through the ports of Moldova Veche, Orsova, Drobeta Turnu-Severin, Giurgiu, Calarasi, Cernavoda being under CN APDF SA Giurgiu administration.

Within the project the following were purchased:

- 4 multipurpose collector vessels, having the ports of residence Cernavoda, Calarasi, Giurgiu and Drobeta Turnu Severin;
- 3 compact water treatment systems consisting of bilge and household wastewater treatment plants located in the ports of Cernavoda, Calarasi and Drobeta Turnu Severin;
- Containers for solid wastes in the ports of Cernavoda, Calarasi, Giurgiu, Drobeta Turnu Severin, Orsova, Moldova Veche;
- 3 access towers and 3 pontoons (including quay accessories) procured and assembled to be used in the ports of Cernavoda, Calarasi and Drobeta Turnu Severin.



Figure 15: Equipment used for the compact wastewater treatment plant (Giurgiu)
 (Source: www.apdf.ro)

The project (05/2015-03/2018), “*High Performance Green Port Giurgiu*”, funded under TEN-T programme (stage 1 feasibility study), is aiming to transform Port of Giurgiu Free Zone into a High Performance Green Port. The objectives of the project are¹⁷:

- Upgrading key infrastructure by building an all-weather intermodal terminal and by rehabilitating roads, railways and key infrastructure enabling to provide logistics
- Connecting inland waterways with the road and rail networks, thus permitting quicker transfer times and creating cost-effective intermodal logistics chains
- Stimulating inland waterways transportation and related intermodal transportation thus reducing specific greenhouse gas emissions associated to road transportation as well as operation of outdated port equipment
- Stimulate regional economic growth by facilitating high performance logistics services for the entire region.



Figure 16: 3D Model for trimodal logistic center to be developed in Giurgiu through High Performance Green Port Giurgiu Project
 (Source: www.ilr.com.ro)

¹⁷ www.danube-navigation.eu

The Port of Braila is the second largest river-maritime port in Romania. Although it is a high capacity port, the Port of Braila has a large number of berths that must be modernised and the road and railway connections are facing traffic congestions. The upgrading of berths and port infrastructure will help in improving the port capacity, which in time, will reduce the congestion.

Between 2010-2013, through the Sectoral Operational Program Transport, was implemented the project "Port Infrastructure Works – Quay-berth 23 and 25 partially from the port of Braila"

The main objective of the project was to contribute to the modernizing and developing of Braila port, being one of the most important Danube River ports. Specific objectives of the project refer to:

- Increase of handling cargo capacity by building new berth for mooring/cargo handling (berth 23) upstream of the existing berth 24 and by building a new berth for waiting vessels (berth 25) downstream of the existing berth 24
- Creating a safe working environment for the port operators which are carrying out activities on the new berths
- To protect the Danube River bank from erosion around the new berth.

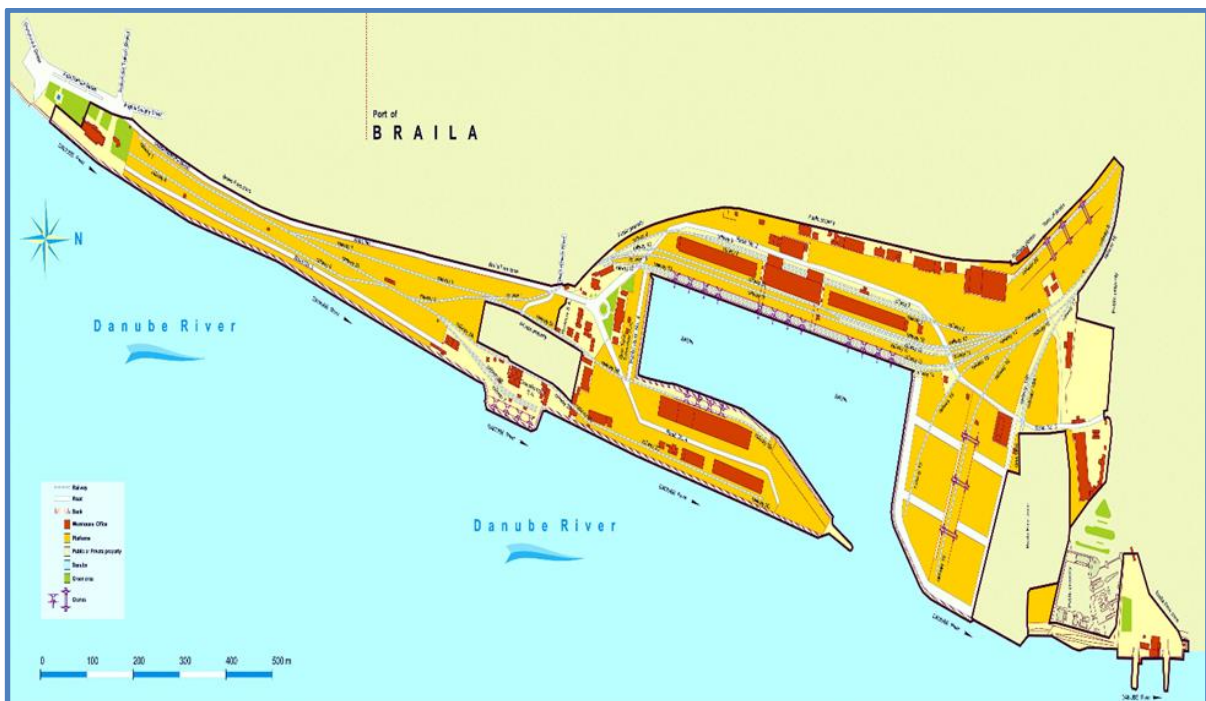


Figure 17: Layout of the Port of Braila
 (Source: APDM)

The Port of Galati is the largest river-maritime port and the second important port in Romania. The port has road and railway connections to hinterland (Rhin-Danube Corridor and Corridor IX PAN-EU), including connection with Republic of Moldova and Ukraine, being the only port that can operate transshipment from river and maritime vessels to standard gauge railway or broad-gauge railway.

Despite of good geographical position and available facilities within port, unfortunately there are not enough intermodal facilities or where they exist they are old and inefficient, which are limiting the operating volume of cargo. A new trimodal terminal would facilitate direct transshipment of containers between vessels, trains and trucks. The terminal should have also Ro-Ro facilities and logistic services.

Despite its high potential, Port Galați is facing several problems, the main one being port infrastructure.

Up to now, sources of funding for port infrastructure modernization to adapt to market requirements for the type of goods and ships have been provided only from the state budget (but their level is insufficient) and from European funds.

As in other ports, another problem faced by Galati port is the slow development of investment by private operators. Thus, although Galati port currently carries out a port infrastructure modernization project, in order to ensure the economic feasibility of these investments, it is also necessary to involve port operators more actively in the development of some investment projects that support the increase of the traffic.

Co-financed by the Sectorial Operational Programme-Transport 2007-2013, a strategic development plan for the port of Galati was developed.

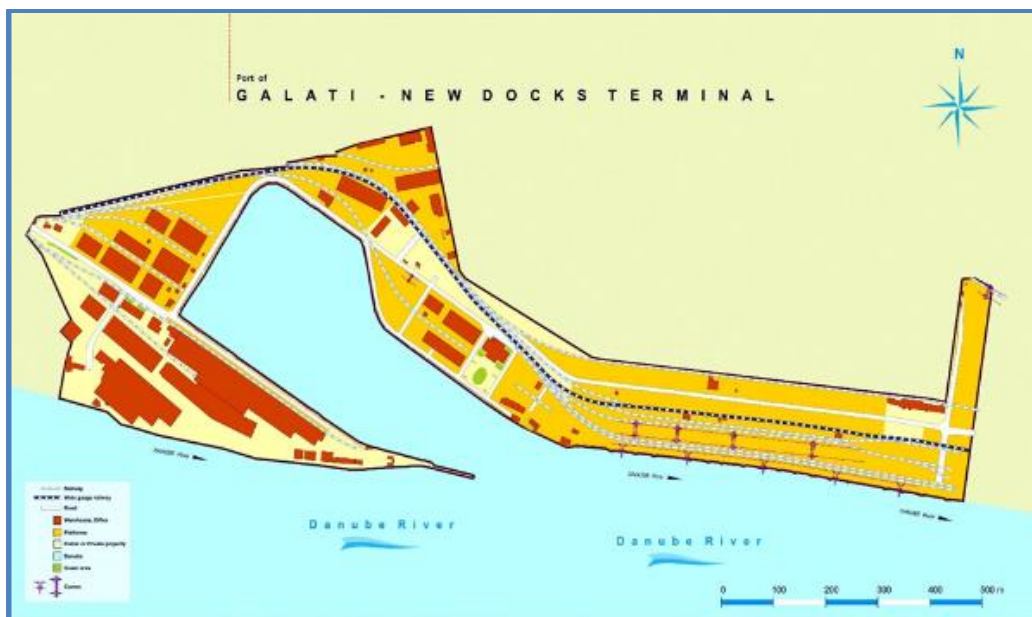


Figure 18: New basin terminal in the Port of Galati
 (Source: APDM)

Specific objectives for developing the Port of Galati are also found in the General Master Plan of Transport of Romania approved in 2016 by the Romanian Government.

The Port of Tulcea is considered a port of the global TEN-T network. The port is a gate to the Danube Delta region and owns passenger vessels and serves also the local industry.

The port has berths to operate bulk cargoes and general cargo, but there is no specialised terminal for operation of a certain category, such as grains. Around the city of Tulcea there is a lot of agricultural land where grains are grown. Because of the lack of port infrastructure, when there is a large flow of grains, they are transported by trucks on the road network to Constanta.

Developing of a general cargo terminal through modernizing of the infrastructure and building of dedicated berths for handling grains would allow the whole production within the area to be handled in the port and transported by waterways to export. Having a terminal able to handle general cargo will increase his flexibility and the chances of higher profit of the Port of Tulcea.

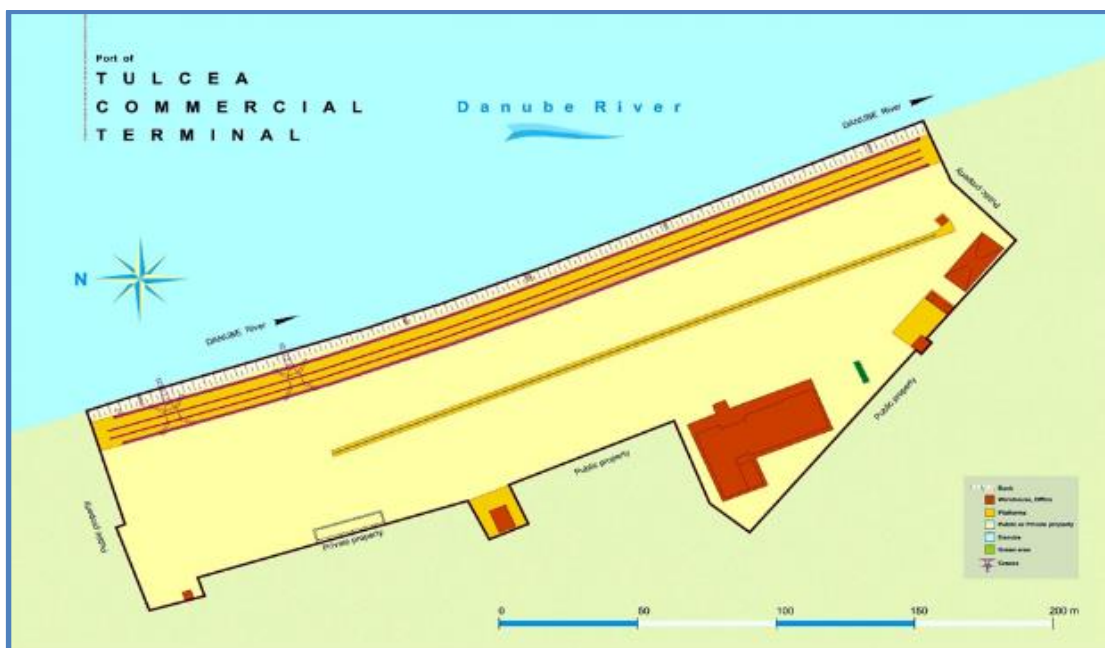


Figure 19: Tulcea Commercial terminal
(Source: APDM)

Also, the passenger terminal can be extended to handle better the internal and international river traffic, especially for tourist attraction generated by the Danube Delta.

The port has funds through the Integrated Territorial Investment tool to rehabilitate and modernize the port, as described above.

The Port of Constanta has connection with the Danube River through the Danube-Black Sea Canal, ending the Rhine-Danube Corridor, which provides the main east-west link across Continental Europe.

During the last years, the Port of Constanta has completed a number of infrastructure development projects, presented in Table 1.

Table 1: Completed infrastructure development projects in the Port of Constanta in the last five years (source: NC Maritime Ports Administration Co. Constanta)

No.	Project name	Project description
1	Road bridge at km 0+540 of the Danube-Black Sea Canal and the works related to the road and access infrastructure for the Port of Constanta	The works were related to the building of a bridge over the Danube-Black Sea Canal as well as to the various access roads, ramps and passageways related to the bridge.
2	Development of the railways capacity in the river-maritime area of the Port of Constanta	The project aimed to build a complex railways system (railroad yard) in the river-maritime sector to supply optimal and uniform services for current and future port operators.
3	Completion of the North breakwater in the Port of Constanta	The completion of the last 1050m of the northern sector breakwater will have positive effects in terms of safe operations in the southern port, such as: <ul style="list-style-type: none"> • Decreasing the waves in the port to an acceptable level to ensure the safe operation of vessels; • Decreasing the destructive effects of the waves on the infrastructure within the port; • Smooth access of vessels to the entry into the port • Decreasing the sediments in the waters by guiding the currents further away.
4	Masterplan of the Port of Constanta	The objective of this project was the carrying out of a medium and long-term port strategic planning (until the year 2040) under the provision of a continuous port development and efficient use of the existing resources and infrastructure, directed towards the real needs of the market, deemed as being a priority for the Port of Constanta Administration. The new Master Plan will stand

		as the basis for the Port of Constanta development strategy within the period 2012-2040, as well as for the decisions regarding the optimum planning of investments in the port, in a global and harmonized vision to approach the port's projects and its development areas in such a way that the Port of Constanta should be able to equally serve the national needs and those of its hinterland within the context of high efficiency, competition with other ports and globalization.
5	Southern extension of Berth D-GABARE	The project was carried out under Sectorial Operational Programme-Transport 2007-2013. The main objective was to improve the port infrastructure and port operations. Thus, it was extended the port area with 10,900 sqm which allows for further suprastructure works. The berthing area with a total length of 171 m (85 m on the south side and 86 m on the east-west side) was also extended

Presently, in the Port of Constanta there are infrastructure development projects under implementation, presented in Table 2.

*Table 2: Ongoing infrastructure development projects in the Port of Constanta in the last five years
(source: NC Maritime Ports Administration Co. Constanta)*

No.	Project name	Project description
1	Capital dredging plan for the Port of Constanta (S1 Master Plan)	In order to ensure safe navigation conditions for ships in Constanta port, APM Constanța promoted an investment through which a capital dredging will be made to deepen the basins and access routes in Constanța port at the design depth.
2	Implementation of Deep Water Specialized Berth (Berth no. 80) (S2 Master Plan)	The project contributes to: <ul style="list-style-type: none"> •Boost the competitiveness of the Port and increasing its capacity for dry bulk (grain) handling; •Establish the basis for increasing cargo flow and for developing the current position of the Port of Constanta as an export hub for grains

		<ul style="list-style-type: none"> •Maximum utilization of existing port infrastructures •Avoid under-utilization of coal and ore terminal as a result of increasing ample capacities for this commodity in future
3	Expansion of road between Gates 7 and the junction with "Road bridge at km 0+540 of the Danube Black Sea Canal" [...] (S8 Master Plan)	The existing road connecting the Bypass of the Constanta city and the Gates no.7 and 9 has only two traffic lanes and has already reached its capacity limit. In addition, the road is in a poor technical condition, being insufficiently designed for heavy traffic from the Norther area of the Port of Constanta which runs mostly through Gate 7.
4	Expansion to 4 lanes of the road between Gate no. 10 bis and Gate no. 10 (S10 Master Plan)	The main objective of the project is to ensure a continuous traffic flow of the four lanes road inside Constanta South Port after the access of the trucks through the new access Gate no.10 bis to the junction with the actual access point from the Gate no.10. Considering the fact that after the completion of the projects "Bypass of the Constanta City" and "Road Bridge on Km 0+540 of Danube Black Sea Canal", each of them having four road lanes up to the access point from Gate no. 10bis and starting from this point, the actual connection road to the Gate 10 has only 2 (two) lanes.
5	Upgrade of infrastructure and environmental protection of the port of Constanta - PROTECT	The proposed Action entails upgrading basic port infrastructure, constructing a new on-shore waste collection facility, upgrading the signalling system in the port basin and the fairway, and purchasing five technical vessels. In addition, it foresees elaborating studies for: proper waste management in the oil terminal; generation and distribution of renewable energy in the port area and related public-private partnership potential; and evaluation of the port infrastructure's resilience to climate change. Training on waste handling, pollution and fire prevention is as well foreseen. The Action is embedded in the master plan for the port of Constanta, elaborated with EU funding, but not finalised yet.

2.3.2 Port development expenditures

In the **Port of Drobeta-Turnu Severin**, presently, there are no on-going projects.

Financed under POS-T program, the project “System for receiving and processing of residues from ships and for intervention in case of pollution on the Danube sector managed by CN APDF SA Giurgiu” was implemented which had the objective to increase the quality of services for the collection and processing of ship waste and pollution intervention in the Lower Danube ports of Moldova Veche, Orsova, Drobeta-Turnu Severin, Giurgiu, Calarasi, Cernavoda. The project budget was 43,847,353 RON, as follows:

EU Funds: 30,118,523 Ron

Contribution from State Budget: 5,315,033 Ron

Ineligible costs: 8,413,797

Presently, in the **Port of Giurgiu**, the project “*High Performance Green Port Giurgiu*” is under implementation. The project beneficiaries are ILR Logistica Romania SRL (project leader), Giurgiu Municipality and Giurgiu Free Zone Administration having as target groups the shipping companies, port operators, industry.

Table 3: Financing of project “High Performance Green Port Giurgiu”

Project Partners (PP)	Budget per PP [EUR]	CEF Contribution [EUR]	PP's own contribution [EUR]
ILR Logistica Romania SRL	12,963,802.15	11,019,231.7	1,944,570.45
Giurgiu Free Zone Administration	548,478.3	466,206.3	82,272
Giurgiu Municipality	2,081,782.55	1,769,515.55	312,267
Total	15,594,063	13,254,953.55	2,339,109.4

In the **Port of Braila**, between 2010-2013 was carried out under Sectorial Operational Programme-Transport 2007-2013 the the project "Port infrastructure works – Quay- Berth 23 and 25 partly in the port of Braila”.

The total value of the project was 42,214,800 RON, as follows:

- Co-financing from European Funds of Regional Developments: 22,973,961 RON
- Contribution from the State Budget: 4,054,229 RON
- Ineligible costs: 15,186,610 RON

In the **Port of Galati**, within the Sectorial Operational Programme-Transport 2007-2013, priority axis 2: “Modernization and development of national transport infrastructure outside priority TEN-T axis” it was carried out a program for developing of transport infrastructure, which had a total value of 1,952,410 RON, as follows:

- EU Funds: 1,396,121 RON
- Contribution from the State Budget: 246,375 RON
- Ineligible costs: 309,914 RON

The Port of Constanta has completed projects and some are still in progress for the modernisation of the port and its infrastructure. In table 4 detailed information is available.

Table 4: Financing of Constanta Port projects

Project name	EU Funds (RON)	State Budget (RON)	Ineligible Costs (RON)	Total Value (RON)
Road bridge at km 0+540 of the Danube-Black Sea Canal and the works related to the road and access infrastructure for the Port of Constanta	86,042,942	15,184,048	90,570,122	191,797,112
Completion of the North breakwater in the Port of Constanța	303,956,966	53,639,465	258,507,981	616,104,412
Southern extension of Berth D-GABARE	10,567,666	1,864,882	12,064,271	24,496,819
Development of the railways capacity in the river-maritime area of the Port of Constanta	51,006,418	9,001,133	34,771,593	94,779,144

3 Public funded investments in inland cargo ports of the Danube Region

3.1 Introduction of public funded investments

Up to now, no state aid schemes for port infrastructure development have been used in Romania. A State aid scheme for such financing is defined by the Order of the Minister of Transport no. 1532 of 2017. This is detailed below.

The elements that have been taken into account when defining this scheme are:

- Commission Regulation (EU) No. 1084/2017/14 June 2017 amending Regulation (EU) No. 651/2014 with respect to aid for port and airport infrastructures, notification thresholds for crop and for heritage conservation, aid for sport infrastructure and multifunctional leisure facilities, as well as regional operating aid schemes for the outermost regions and amending Regulation (EU) No. 702/2014 as regards the calculation of eligible costs;
- Regulation (EU) No.1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund as well as for laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and abrogating Regulation (EC) No. Council Regulation 1083/2006;
- Large Infrastructure Operational Program 2014-2020, approved by European Commission Decision No. C (2015) 4823 of 9.07.2015;
- Government Decision No. 399/2015 on eligibility rules for expenditure under operations financed by the European Regional Development Fund, the European Social Fund and the Cohesion Fund 2014-2020;
- Government Emergency Ordinance no. 77/2014 on the national procedures in the field of state aid, as well as for amending and completing Competition Law no. 21/1996, approved with amendments and completions by Law no. 20/2015, with subsequent amendments;
- Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market pursuant to Articles 107 and 108 of the Treaty;

In 2017 the Ministry of Transport issued Order no. 1532/2017 regarding the approval of the State aid scheme for investments in the port infrastructure and in the intermodal / multimodal

local infrastructure related to the Large Infrastructure Operational Program (POI 2014-2020), priority axis 1, the specific objective 1.3 - Increasing the use of waterways and ports on the central TEN-T network, and Priority Axis 2 - Developing a multimodal, quality, sustainable and efficient transport system, specific objective 2.4 - Increasing the volume of goods transited through intermodal terminals and ports.

By means of Order 1532/2017 a transparent state aid scheme for investments in the infrastructure of the maritime and inland ports and in the intermodal / multimodal local infrastructure is established, in order to improve the quality of the infrastructure, increase the safety of the river and sea transport and the uninterrupted operation throughout the year, as well as to make investments in local infrastructure specific to intermodal terminals, resulting in increased intermodal transport attractiveness, the integration of ports into efficient transport and logistics chains, increased volume of goods handled in units intermodal ports and ports, in order to contribute to economic growth and more efficient use and operation of the trans-European transport network.

The State aid scheme to which reference is made does not fall under the obligation of notification to the European Commission (Commission) 108 par. (3) of the Treaty, on the basis of Art. 56b, art. 56c and art. 56 of Regulation (EU) No. 651/2014, as amended and supplemented by Regulation (EU) No. 1084/2017.

The objective and the aim of the scheme

The objective of the scheme is to provide state aid for investment in maritime and inland ports as well as intermodal/multimodal terminals located in locations other than ports in order to achieve the objectives undertaken by Romania under Priority Axes 1 and 2 of under the Large Infrastructure Operational Program 2014-2020. The scheme aims at:

- a) Modernization and development of the port infrastructure in the Romanian maritime and inland (river) ports,
- b) modernization/development of the access infrastructure in Romanian maritime and inland (river) ports,
- c) dredging activities in the Romanian maritime and inland (river) ports,
- d) construction/modernization of intermodal and multimodal terminals at the priority sites through the Master Plan of Transport.

The implementation of the scheme will help achieve the operating target of 32.20 million tons/year of goods on inland waterways and a volume of 70.000 TEU through intermodal/multimodal terminals located on the territory of Romania.

The scope

The state aid scheme applies to investments for the construction and modernization of local intermodal/multimodal terminals, in accordance with the provisions of art. 56 of Regulation (EU) No. 651/2014, with its subsequent amendments and completions, and for the modernization and development of the maritime and inland ports in Romania, under the conditions of art. 56b and art. 56c of Regulation (EU) No. 651/2014, as amended and supplemented by Regulation (EU) No. 1084/2017.

Definitions

For the purpose of the scheme, the following terms are defined as follows:

- a) **commencement of work** - means either the begin of construction works within the investment or the first legally binding commitment to order equipment or any other commitment by which the investment becomes irreversible, whichever occurs first. Purchase of land and preparatory works, such as obtaining permits and carrying out feasibility studies, are not considered to be the commencement of works;
- b) **operating profit** - is the difference between the current income and the present value of operating costs over the economic life of the investment, in case that the difference is positive. Operating costs include costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, but exclude depreciation costs and financing costs if they have been covered by investment aids. Updating revenue and operating costs with the appropriate update rate allows for a reasonable profit;
- c) **port infrastructure**: infrastructure and facilities for the provision of transport-related port services such as berthing docks, quay walls, jetties and floating pontoons in tidal areas, internal basins, backfills and reclaimed waters, alternative fuel infrastructure, the infrastructure for the collection of ship-generated waste and cargo residues;
- d) **port superstructure** - means surface arrangements (such as for storage), fixed equipment (such as warehouses and terminal buildings) as well as mobile equipment (such as cranes) located in a port for the provision of transport related port services;
- e) **access infrastructure** - any type of infrastructure necessary in order access and entry of users to maritime or inland ports from land, sea or waterway such as access roads, railways, railways, approach channels and locks;
- f) **dredging** - removal of sediments from the bottom of the approach waterway into a port, or in a port to allow ships to have access to the port, activities carried out during a calendar year;
- g) **port** - means an area of land and water made up of such infrastructure and equipment, so as to permit the reception of vessels, their loading and unloading, the storage of goods, the receipt and delivery of those goods and the embarkation and disembarkation of passengers, crew and other persons and any other infrastructure necessary for transport operators in the port;
- h) **port maritim** - a port for, principally, the reception of sea-going vessels;
- i) **port interior** - a port other than a maritime port, for the reception of inland waterway vesselsun port, altul decât un port maritim, destinat primirii navelor de navigație interioară;
- j) **undertaking in difficulty** - a company which is in at least one of the following situations:

- (i) in the case of a limited liability company¹⁸ (other than an SME that has been there for at least three years) when more than half of its subscribed share capital has disappeared due to the accumulated losses. This situation occurs when the deduction of accumulated losses from reserves (and from all other items generally considered as part of the company's own funds) leads to a negative result that exceeds half of the subscribed share capital;
- (ii) in the case of a trading company in which at least some of the shareholders have unlimited liability for the company's debts¹⁹ (other than an SME that has been there for at least three years) when more than half of the equity as shown in the company's book-keeping has disappeared because of the accumulated losses;
- (iii) when the enterprise is subject to collective insolvency proceedings or fulfills the criteria provided by internal law for collective insolvency proceedings to be commenced at the request of its creditors;
- (iv) when the enterprise has received rescue aid and has not yet paid back the loan or the guarantee has not yet expired or it has received restructuring aid and is still the subject of a restructuring plan;
- (v) in the case of an enterprise that is not an SME, when, over the past two years: 1. the enterprise's debt / equity ratio has been greater than 7.5; and 2. the covering interest rate capability based on EBITDA is below 1.0;
- k) **date of aid granting** - the date on which the legal entitlement to the aid is granted to the beneficiary in accordance with the applicable national legal system, i.e. the date of signing the financing agreement;
- l) **gross grant equivalent** - the amount of the aid in case this were granted in the form of a grant to the beneficiary before any deduction of tax or any other charge;
- m) **state aid provider** - MDRAPFE - Ministry of Regional Development, Public Administration and European Funds;
- n) **Scheme Administrator** - Ministry of Transport, as Intermediate Body for Transport of the Large Infrastructure Operational Program;
- o) **intermodal/multimodal terminal** - a space designed for logistics activities in which transfer is made between several modes of transport, such as rail/road including the use of intermodal transport units;
- p) **aid intensity** is the gross amount of aid expressed as a percentage of the eligible costs, before deduction of taxes or other charges.

Beneficiaries of investments in port infrastructure

Potential beneficiaries of state aid for investments in port infrastructure are:

¹⁸ It concerns in particular the types of companies listed in [Annex I](#) to Directive 2013/34 / EU (1), and "share capital" includes, as appropriate, any additional capital.

¹⁹ It concerns in particular those types of companies listed in [Annex II](#) to Directive 2013/34 / EU.

- a) national companies managing the maritime and river port infrastructure;
- b) local authorities managing the port infrastructure located in the ports prioritized by the Master Plan of Transport of Romania.

If the beneficiaries carry out other activities in addition to those mentioned above, they must prove either the separation of activities or a distinction between costs so that activities carried out in sectors not eligible under the Regulation do not benefit from State aid granted under the scheme.

It is specified that beneficiaries will submit their projects individually.

Potential beneficiaries of state aid for investments in intermodal/multimodal local infrastructure are: local authorities managing intermodal multimodal terminals located in locations prioritized²⁰ by the Master Plan of Transport of Romania.

If the beneficiaries carry out other activities, they must prove either the separation of activities or a distinction between costs so that activities carried out in sectors not eligible under the Regulation do not benefit from State aid granted under the scheme.

Eligibility conditions for beneficiaries

In order to receive funding within the scheme, beneficiaries must fulfill the following conditions:

- a) not to be an enterprise in difficulty;
- b) not be the subject of a recovery order issued following a previous Commission decision whereby the aid granted has been declared unlawful and incompatible with the internal market, unless that order has been executed or the aid has been repaid, including the pertaining interest;
- c) has fulfilled its obligations to pay taxes, charges and social security contributions to the competent budgets of the general consolidated budget and to the local budget in accordance with the legal provisions in force in Romania;
- d) the legal representative has not been definitively convicted due to professional conduct against the law by a sentence pronounced by a res judicata court;
- e) was not the subject of a res judicata judgment for fraud, corruption, involvement in criminal organizations or other illegal activities to the detriment of the financial interests of the European Community;
- f) the legal representative of the applicant is not the subject of a conflict of interests as defined by national law;
- g) the applicant demonstrates (technical and administrative) implementation capacity;
- h) the applicant demonstrates their capacity to, and the co-financing of the project.

²⁰ These are not related to seaports and inland ports.

Eligibility conditions for projects

- (1) The project is implemented on the territory of Romania, in the development regions: West, North-West, North-East, South-East, South, South-West, Center.
- (2) The project shall contribute to the achievement of the objectives set out in the Scheme.
- (3) The infrastructure/land on which the investments will be built/developed/rehabilitated is/are made available to the project.
- (4) The activities carried out under the project must comply with national/Community legislation and rules on equal opportunities, sustainable development, public procurement (including activities started prior to the submission of the project), information and publicity and state aid.
- (5) The project for which funding is requested has not benefited from public funding for the last 5 years before the grant application date, except for preliminary studies (pre-feasibility studies, geo-topographic analysis, feasibility studies).
- (6) State aid is granted if it has an incentive effect. To this end, the beneficiary must submit an application for aid before commencing work on the project and demonstrate, through the documentation submitted, that one or more of the following criteria are met:
 - a) a substantial increase in the scope of the project/activity following the granting of the aid;
 - b) a substantial increase in the total cost incurred by the beneficiary for the purpose of the project activity following the aid granting;
 - c) a substantial increase in the pace of completion of the project/activity concerned.
- (7) The aided infrastructure must be made available to interested users on an equal and non-discriminatory basis, under market conditions.
- (8) The project also fulfills other requirements specified in the call for projects and the Applicant's Guide, which do not affect the state aid provisions.

Duration

The Schedule shall enter into force on the date of its publication in the Official Gazette of Romania, Part I and shall apply until December 31, 2020, whereas the last day of payment of the aid being 31.12.2023.

The budget of the scheme and the estimated number of beneficiaries

The estimated total budget of the scheme allocation for port infrastructure investments is 647,360,001 EUR (equivalent in RON) and represents European non-reimbursable funds provided through the Cohesion Fund (288,000,000 EUR) and the European Regional Development Fund (120,000,000 EUR) and public co-financing funds provided from the state budget/local budget (239.360.001 EUR).

The budget breakdown by year is as follows:

<i>Year</i>	<i>Breakdown by year (euro)</i>
2017	79,080,318
2018	177,214,805
2019	191,768,371
2020	199,296,507
Total	647,360,001

The amounts not used in one year shall be carried forward to the following year. If the submitted projects allow the use of amounts in subsequent years, the budget is used in advance. The budget of the scheme reflects the amounts allocated and also includes the amounts from over-contracting.

The execution of the financial operations determined by the use of the funds is performed in compliance with the provisions of Government Emergency Ordinance no. 40/2015 on the financial management of European funds for the 2014-2020 programming period, approved with amendments and completions by Law no. 105/2016, as amended and supplemented.

The estimated number of beneficiaries of State aid for investment in port infrastructure under the scheme is 6.

The total estimated budget of the scheme allotted for investments in the local intermodal/multimodal infrastructure is EUR 40,000,000 (equivalent in RON) and European funds are provided by European Regional Development Fund (30,000,000 EUR) and funds provided by public financing from the state budget/local budget (10,000,000 EUR).

The budget breakdown by year is as follows:

<i>Year</i>	<i>Breakdown by year (euro)</i>
2017	4,426,372
2018	10,101,997
2019	11,115,330
2020	14,356,301
Total	40,000,000

The amounts not used in one year shall be carried forward to the following year. If the submitted projects allow the use of amounts in subsequent years, the budget is used in advance. The budget of the scheme reflects the amounts allocated and also includes the amounts from over-contracting.

The execution of the financial operations determined by the use of the funds is performed in compliance with the provisions of Government Emergency Ordinance no. 40/2015 on the financial management of European funds for the 2014-2020 programming period, approved with amendments and completions by Law no. 105/2016, as amended and supplemented.

The estimated number of beneficiaries of State aid for investments in local intermodal/multimodal infrastructure under the scheme is 4.

The method of granting the state aid

State aid is granted in the form of non-reimbursable financial allocations from Community and national funds.

Maximum amount of non-refundable financing (State aid intensity)

Under the scheme, the maximum eligible costs of a port investment project may not exceed:

- a) for aid to maritime ports: eligible costs of EUR 130 million per project or EUR 150 million per project in a seaport included in the core network corridor (TEN-T Core) referred to in Article 47 of Regulation (EU) No. 1315/2013 of the European Parliament and of the Council;
- (b) for aid to inland (inland) ports: eligible costs of EUR 40 million per project or EUR 50 million per project in an inland port included in the core network corridor work plan in accordance with Regulation (EU) No. 1315/2013 of the European Parliament and of the Council.

The maximum intensity of state aid granted under the scheme for a project consisting of the construction, replacement or upgrading of seaport infrastructure shall not exceed:

- a) 100% of the eligible costs when the total eligible costs of the project do not exceed EUR 20 million;
- b) 90% of the eligible costs when the total eligible costs of the project exceed EUR 20 million but not more than EUR 50 million;
- c) 70% of the eligible costs when the total eligible costs of the project exceed EUR 50 million but not more than EUR 130 million;
- d) 70% of the eligible costs when the total eligible costs of the project exceed EUR 50 million but not more than EUR 150 million for the seaports included in the core network corridor work plan as referred to in Article 47 of Regulation (EU) No. 1315/2013.

The maximum aid intensity for a project consisting of the construction, replacement or upgrading of infrastructure in inland ports, (maritime/inland) port access infrastructure or dredging in the (maritime/inland) port area may not exceed 100% of the eligible costs and the above-mentioned limits can not be exceeded.

The amount of state aid granted may not exceed the difference between the eligible costs and the investment or dredging-related operating profit. Operating profit is deducted from the ex-

ante eligible costs by mean of financial analysis of the project²¹, in accordance with the relevant provisions of the Applicant's Guide for Specific Objectives 1.3 - Increase in the degree of use of waterways and ports on the central TEN-T network and 2.4 - Increase in the volume of goods transited via intermodal terminals and ports.

For seaport investment aids not exceeding EUR 5 million and EUR 2 million respectively for inland (river) ports, the maximum aid amount may be set at 80% of the eligible costs.

The difference up to the total value of the project is covered by the beneficiary, who has to make their own financial contribution to the financing of eligible costs, either from own resources or from attracted sources, in a form which is not the subject of any public aid.

Under the scheme, the maximum amount of individual aid granted to a beneficiary in the case of investments in intermodal/multimodal local infrastructure may not exceed EUR 10,000,000 per project and the total project costs shall not exceed EUR 20 million.

The amount of the aid must not exceed the difference between the eligible costs and the investment-pertaining operating profit. Operating profit is deducted from the ex-ante eligible costs by financial analysis of the project²², in accordance with the relevant provisions of the Applicant's Guide to Specific Objectives 1.3 - Increase in the degree of the use of waterways and ports on the central TEN-T network and 2.4 - Increase in the volume of goods transited via intermodal terminals and ports.

The difference up to the total value of the project is covered by the beneficiary, who has to make their own financial contribution to the financing of eligible costs, either from own resources or from attracted sources, in a form which is not the subject of any public aid.

Eligible costs

In the case of port infrastructure investments, access and dredging infrastructure, eligible costs are the investment costs, including planning costs for:

- a) construction or upgrading/development of maritime and inland (river) port infrastructure;
- b) construction or upgrading/development of maritime and inland (river) port area access infrastructure;
- c) dredging activities carried out during a calendar year.

In the case of port investment, investment costs related to non-transport activities, including industrial production facilities operating within the port area, offices or shops, or the costs for superstructures are not eligible.

The above-mentioned eligibility conditions are cumulative with the specific ones in the Applicant's Guide for Specific Objectives 1.3 - Increase in the degree of the use of waterways and ports on the central TEN-T network and 2.4 - Increase in the volume of goods transited via intermodal terminals and ports, without prejudice to State aid rules.

²¹ Ex-ante deduction of operating profit from eligible costs is based on reasonable estimates or by means of a recovery mechanism.

²² Ex-ante deduction of operating profit from eligible costs is based on reasonable estimates or by means of a recovery mechanism.

In the case of investments in intermodal/multimodal local infrastructure, eligible costs are the costs of investing in tangible and intangible fixed assets related to the construction or upgrading/development of intermodal terminals.

The above-mentioned eligibility conditions are cumulative with the specific ones in the Applicant's Guide for Specific Objectives 1.3 - Increase in the use of waterways and ports on the central TEN-T network and 2.4 - Increase in the volume of goods transited via intermodal terminals and ports, without prejudice to State aid rules.

Rules on the use of port infrastructure and intermodal/multimodal local infrastructure

Any concession or other assignment contract to a third party for the construction, upgrading, operation or rental of the port infrastructure and the intermodal/multimodal facilities benefiting from the aid shall be attributed in an open, transparent and non-discriminatory manner, with due regard to the applicable procurement rules at the time of the assignment.

The duration of concession or other types of assignment contracts to a third party for the rental or operation of the aided port and intermodal/multimodal infrastructure may not exceed what the time span the third party needs, according to reasonable estimates, to recover the investments made for the infrastructure operation and obtain a return on the invested capital, taking into account the investments necessary to achieve the specific contractual objectives.

The infrastructure benefiting from State aid must be made available to interested users in an open, transparent and non-discriminatory manner.

The price charged for the use of the infrastructure or for selling it must correspond to the market price.

Rules on Cumulation of State Aid

State aid granted under the scheme for a specific project may be cumulated with other State aids as long as said measures cover differently identifiable eligible costs and are not higher than the maximum intensity or maximum aid threshold that may be granted based on the scheme.

Scheme progress

The State Aid Scheme Administrator launches the call for proposals, verifies fulfilment of the conditions set out in the State aid scheme and those specified in the Applicant's Guide for the specific objectives 1.3 - Increase in the degree of use of waterways and ports on the TEN network -T center and 2.4 - Increase in the volume of goods transited via intermodal terminals and ports and, if they find that conditions are fulfilled, they sign the financing contracts with the state aid beneficiaries.

The scheme implementation and progress procedure is carried out in accordance with the provisions of the Applicant's Guide for specific objectives 1.3 - Increase in the use of

waterways and ports on the central TEN-T network and 2.4 - Increase in the volume of goods transited via intermodal terminals and ports.

The provider shall pay the state aid after the scheme administrator has signed the grant agreements with the beneficiary.

If it is ascertained that the beneficiary did not comply with the grant conditions provided by the Scheme, the provider shall proceed to the ceasing/recovery, as appropriate, of the state aid in accordance with the provisions of Government Emergency Ordinance no. 77/2014 on national procedures in the field of state aid, as well as for amending and completing the Competition Law no. 21/1996, approved with amendments and completions by Law no. 20/2015, as amended.

State aid to be repaid or recovered includes the pertaining interest due from the date of payment until the date of recovery or full reimbursement. The applicable interest rate is that established under the provisions of Regulation (EU) No. 1589/2015 laying down detailed rules for the implementation of Article 108 of the Treaty on the Functioning of the European Union.

Rules on the publication, information, reporting and monitoring of State aid

In order to ensure transparency and effective control of state aids, the scheme administrator applies the provisions regarding the information and advisory procedure provided in Government Emergency Ordinance no. 77/2014, approved with amendments and completions by Law no. 20/2015, as amended.

After obtaining the endorsement from the Competition Council, the text of the scheme and the normative act for its approval shall be published on the official website of the Ministry of Transport at www.mt.ro and the Ministry of Regional Development, Public Administration and European Funds at www.fonduri-ue.ro

The State Aid Administrator shall submit to the Competition Council a summary of the information on the Scheme, as set out in Annex II of the Regulation, for submission to the European Commission no later than 20 working days after the adoption of the Scheme.

Beneficiaries are bound to report, in compliance with the provisions of the grant agreement, on the status of the investment work until the project is finalized, as well as provide further additional information at the request of the State aid provider/scheme administrator.

The reporting and monitoring of the state aid granted under the scheme is carried out in accordance with the provisions of Government Emergency Ordinance no. 77/2014 on national procedures in the field of state aid, as well as for amending and completing the Competition Law no. 21/2006, approved with amendments and completions by Law no. 20/2015, as amended, respectively of the Regulation on State aid monitoring procedures, implemented by the Order of the President of the Competition Council no. 175/2007, or any regulation that amends/complements them.

The State Aid provider/Scheme Administrator is bound to keep all the information on aid granted thereunder (justifying documents on state aid granted) for a period of 10 years from the date of the last aid, but not less than a period ending 5 years after the formal or partial

closure of the Large Infrastructure Operational Program, in order to demonstrate that all the exemption conditions provided by the Regulation have been observed.

The State aid beneficiary must keep, for a period of at least 10 fiscal years from the granting date of the last specific allocation, all documents related to the state aid received under the scheme and submit to the scheme supplier/administrator or to the Competition Council within the deadlines provided by them all the information necessary for carrying out the national and Community procedures in the field of the state aid.

On the basis of a written application, the administrator/provider shall submit to the European Commission via the Competition Council within 20 working days or within the deadline set in the application all the information that the European Commission deems necessary to assess compliance with the terms of the State aid scheme.

The provider has the obligation to submit to the Competition Council, in the form and within the deadline stipulated by the Regulation on state aid monitoring procedures, implemented by the Order of the President of the Competition Council no. 175/2007, all the data and information needed to monitor State aid at a national level.

The provider or, as the case may be, the state scheme administrator has the obligation, according to the provisions of art. 29 of the Regulation on the State Aid Register, implemented by Order of the President of the Competition Council no. 437/2016, to upload the data and information regarding the state aid scheme within a maximum of five (5) days from its entry into force in the Electronic State Register of State Aid granted in Romania (RegAS).

Funding contracts, aid granting documentation, payments, aid recovery obligations, and effective reimbursement of such obligations under this measure shall be uploaded in the Registry within a maximum of seven (7) days as of signing the contract/act or of their publication in the Official Gazette of Romania, as appropriate, or from the date of the establishment of payments, recovery obligations or the effective reimbursement of the respective obligations respectively.

The Scheme Administrator shall ensure information disclosure under Art. 9 par. (1) letter c) of Regulation (EU) No. 651/2014 of 17 June 2014 on declaring certain categories of aid compatible with the internal market pursuant to Art. 107 and 108 of the Treaty, concerning each individual aid granted under the State aid scheme exceeding EUR 500,000.

4 Recommendations

On March 27, 2018, a national workshop on financing of port investment was organized in Constanta, which had as a main theme the use of state aid schemes.

The event was attended by representatives of all interested parties, including partners from the DAPhNE project as well as institutions, port operators, universities, etc.

The presentations made by the participants included general and specific aspects of Romanian ports regarding state aid (Competition Council), POIM 2014-2020, the field of intervention for the improvement of the navigation conditions, the development of the port infrastructure and of the intermodal / multimodal local infrastructure - beneficiaries public and private (MT - DGOIT), on-going infrastructure projects in inland waterways and ports in Romania (MT - DTN), private investment in ports (ADM and ILR - High Performance Green Port Giurgiu) and initial draft of this report.

Subsequent debates were held on the presentations, including the report on investment in ports. The following are recommendations that resulted from workshop debates and feedback from participants or other stakeholders:

1. Development of the state aid scheme for investments in ports, approved by the Order of the Minister of Transport no. 1532 of 2017, presented in Chapter 3, is seen as an important opportunity to develop port infrastructure, but at this time, although both the Ministry of Transport and the Competition Council are proactive in dissemination, as appreciated by all stakeholders, the level of knowledge of this scheme is still not high enough and is to be upgraded by future communications at events organized specifically for this purpose. It was noted that the participants in the workshop were invited to such an event organized by the Competition Council.
2. Due to the fact that the port infrastructure is the subject of discussion, the state aid scheme referred to above addresses public organizations. It is important to take steps to seek opportunities to involve private investors in the development of the infrastructure addressed by this scheme through partnerships.
3. Many of the participants' expressed during the debates the need to be developed a new State aid scheme to address the private organizations and port superstructure development.

Is important to observe here the *Study on supporting private investment in the maritime sector*²³, which identified the following areas that are recommended to be subject to investment support:

- Expansion / modernization / rehabilitation of the warehouses;
- Purchase of equipment for loading / unloading goods;
- Construction / extension / consolidation / modernization of port platforms;
- Equipment for transfer between modes of transport;

²³ *The study on supporting private investment in the maritime sector*, carried out in March 2018 by Egis for the European Investment Bank - PASSA, having as beneficiary the Ministry of Transport

- Providing utilities.
4. When the concepts of state aid in the field of port infrastructure development are applied it is important to analyze the particularities generated by the Romanian practice of using the land concession rarely used in other EU countries and to observe the possible situations when the activities identified at European level as being the subject of State aid for the port area are not fully applicable in Romania.
 5. Having in view the lack of experience in Romania in the development and application of state aid schemes in the development of port infrastructure, it is important for all stakeholders to show an increased concern in analyzing their specificities. In this respect, it is recommended to use the results of this project, which will highlight the practices in the field in all partner countries. It is also necessary to observe the practices of the other European countries with experience in this area.

5 Conclusions

Up to now, no state aid schemes for port infrastructure or superstructure development have been used in Romania.

Subject to compliance with Commission Regulation (EU) No. 651/2014 of 17 June 2014 on declaring certain categories of aid compatible with the internal market pursuant to Articles 107 and 108 of the Treaty, as amended and supplemented and to Regulation (EU) No. 1084/2017 of 14 June 2017 amending Regulation (EU) No. 651/2014 regarding aid for port and airport infrastructures and other relevant regulations in the field Order no. 1532/2017 was adopted with regard to the approval of the State aid scheme for port infrastructure and intermodal/multimodal local infrastructure investments pertaining to the Large Infrastructure Operational Program (POI 2014-2020), priority axis 1, the specific objective 1.3 - Increase in the use of waterways and ports on the central TEN-T network and Priority Axis 2 - Developing a multimodal, quality, sustainable and efficient transport system, specific objective 2.4 - Increase in the volume of goods transiting via intermodal terminals and ports.

This regulation establishes a transparent State aid scheme for investments in the infrastructure of maritime and inland ports and in the intermodal/multimodal local infrastructure in order to improve the infrastructure quality, increase the safety of the river and maritime transport and its uninterrupted duration for the entire year, and for the purpose of investing in local infrastructure specific to intermodal terminals, meant to result in increased intermodal transport attractiveness, the integration of ports into efficient transport and logistics chains, the increase in the volume of goods handled in intermodal units and ports in order to contribute to the economic growth and a more efficient use and operation of the trans-European transport network.

The possible beneficiaries of state aid for port infrastructure investments are national companies managing maritime and river port infrastructure and local authorities managing port infrastructure located in ports prioritized by the Master Plan of Transport of Romania.

The State aid scheme shall apply until 31 December 2020 and has an estimated total budget of 647,360,001 EUR (equivalent in RON) which represents European non-reimbursable funds provided through the Cohesion Fund (288,000,000 EUR) and the European Regional Development Fund (120,000,000 EUR) and public co-financing funds provided from the state budget/local budget (239.360.001 EUR).

The estimated number of beneficiaries of State aid for investment in port infrastructure under the scheme is 6.

The total estimated budget allotted for investments in the local intermodal/multimodal infrastructure is EUR 40,000,000 (equivalent in RON) and represents non-reimbursable European funds provided by the European Regional Development Fund (30,000,000 EUR) and co-financing funds provided by public financing from the state budget/local budget (10,000,000 EUR) with an estimated number of 4 beneficiaries.

Interested parties in the field of port infrastructure development in Romanian ports are still concerned with the appropriate definition of state aids and the correlation of terms with those used at a European level, as well as with the harmonised development of practices regarding the application thereof.

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