

THE ROLE OF THE ROMANIAN ENVIRONMENTAL FUND IN FINANCING ENVIRONMENTAL PROGRAMMES

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Abstract: *Our country created the Environment Funds, namely an economic-financial tool designated to sustain and develop the environment security projects. The present paper aims to present and analyze the way of creating, managing and using these funds from the perspective of the accomplished goals. So, the following issues are brought into attention: the modalities and income sources of the Environment Funds, the contributions paid to these funds and their payers, and the ways of calculating these payments, as well. The environment security projects financed by these funds, the norms required and the rewarded fields of this domain are also taken into consideration. The paper ends with an evaluation of the sums raised to the Fund and their destinations.*

Law no. 73 in 2000 had set up the Environment Fund as a special fund, outside the budget. The above mentioned law has been subsequently modified and completed by other regulations, namely: Government Emergency Ordinance no. 93/2001, endorsed by Law no. 293/2002, and, after being re-published into issue no. 889/2002 of the Official Gazette of Romania, it was modified and completed by Government Emergency Ordinance no. 86/2003, endorsed by Law no. 333/2004, as well as by Government Emergency Ordinance no. 41/2005.

Law no 73/2000 stipulated that Environmental Fund is meant to support and achieve the priority objectives, of public interest listed in the National Action Plan for environmental protection, according to national and international environmental norms and standards, and, given its generality this approach could have lead to financing a large amount of expenditures, without the Fund achieving its goals.

Another negative aspect essentially as far as the Environment Fund is concerned, referred to establishing the sources of the Environment Fund, but the law didn't mention any quotas.

The law stipulated the income sources for the Environment Fund as it follows:

a) The amounts cashed as taxes by the environmental protection central authority and by the environmental protection territorial authorities, in exchange for issuing the environment agreements and authorizations;

b) The amounts cashed as taxes for exploiting the natural resources, other than those taxed for supporting the special funds;

c) The amounts cashed as taxes for polluting the atmosphere, the surface and subterranean waters, the soil and vegetation, according to the principle saying that “the polluter pays”, as it follows:

- taxes for burning fuels with high concentrations of noxious elements;
- taxes for trading on internal market dangerous substances as well as materials having a high toxicological potential on human health and environment, no matter their source;
- taxes paid by traders for wasting the packages that could be recovered;
- taxes for storing wastes on lands;
- taxes for wasting burnt mineral oils;
- taxes for trading fast moving goods;
- taxes paid by the suppliers for not providing replacement parts in order to allow some

products to function according to their life span;

- taxes for activities generating noise pollution;

d) amounts cashed as taxes for trading on internal market or for exporting some natural resources, biological or mineral, including goods coming from wild flora or fauna, terrestrial and aquatic;

e) amounts cashed on the occasion of different events organized on Environment Fund benefit;

f) state budget subsidies and local budget subsidies, payments, donations, financial support provided by public or private institutions and organizations, by individuals or international organizations and bodies, as well as governments and governmental agencies;

g) sponsorships, as any other sources established by the Govern, following the proposal of the environmental protection central authority, according to the law.

The ways of calculating these payments according to the law, as well as the manners of collecting them were to be established by Governmental Decision.

The subsequent amendments of the law concerned this aspect, thus, Law 73/2000 republished in 2002 has indicated the following incomes sources:

a) a 3% quota of the incomes cashed by entrepreneurs collecting or turning the ferrous and non-ferrous wastes into good accounts;

b) amounts cashed for pollutants emissions in atmosphere affecting the environment;

c) the incomes originated in using new lands for storing recyclable waste;

d) a 3% quota of the packages traded by producers and importers, except for those used for drugs;

e) a 2% quota of the value of dangerous chemical materials traded by producers and importers, as listed in annex 3, except for the materials used to produce drugs;

f) a 0.5% quota of the value of dangerous chemical materials traded by producers and importers in order to be used in agriculture, as listed in annex 4;

g) a 3% quota of the adjudication price for timber brought from National Forest Administration and other wood owners, companies or individuals;

h) a 1,5 % quota of the amounts cashed out of trading tobacco goods;

i) state budget subsidies and local budget subsidies, payments, donations, sponsorships, financial support provided by individuals or companies, both domestic or foreign;

j) amounts cashed as reimbursements of granted loans, interests, other financial operations financed from Environmental Fund financial resources;

k) financial aids from international bodies;

l) amounts cashed on the occasion of different events organized on Environment Fund benefits;

m) taxes cashed by one-stop-offices for issuing the environmental authorization for low impact activities.

The law was also stipulating that in case of industrial companies using recyclable waste and materials in a proportion of at least 50%, the amounts provided at point b) are not to be paid. In addition, if the producers or importers are collecting and recycling the waste listed at point d) the quota to be paid is referring only to the difference between the produced or imported quantities and the collected and recycled ones.

By the end of 2005, Romanian Government issues the Emergency Ordinance no. 196 concerning the Environment Fund that annuls the Law no. 73/2000 as well as its subsequent alterations and completions. Such a decision was based on the following reasons:

a) the necessity of settling the legal framework of the incomes gathered in order to create the Environment Fund as well as the legal framework regarding the tasks of the Environment Fund Administration on declaring, determining, controlling, collecting, solving complaints and the enforcement of the debts owned to the environmental Fund. The new law regulating the

Environment Fund in Romania stipulates the applicability of the Fiscal Procedure Code provisions, settling the matter and provides the Environment Fund managing authority the necessary tools to pursue and recover debts from tax payers.

As the Environment Fund law in force at that moment was not specific about the manner of bringing into operation the provisions of article 9 line (1) regarding the sources of incomes, the changes proposed stipulate, beyond any doubts, the tax payers categories, as well as the ways of calculating these payments as incomes sources for the Environment Fund. The alterations and the amendments proposed are related to the provisions of Government Decision no. 621/2005 concerning packaging and waste package management and to the provisions of Government Decision no. 170/2004 concerning used tires. Both governmental decisions are based on EU aquis.

b) ascertaining the reduction of the incomes raised by the Environment Fund. Such an ascertained fact determined the need to identify other budgetary balancing solutions for the benefit of the Environment Fund Administration by introducing or coming back to certain payments allowing a proper financing of the environment protection projects;

c) the need to cover the financing of environment protection priority projects in order to fulfill the obligations assumed by Negotiation Chapter 22 – Environment, especially those concerning pollution prevention and integrated control and by EC Water and Heavy Firing Plants Framework Directive. For the same purpose, the Environment Found project pipeline has been widened. As far as the project pipeline is concerned, it is connected to the rules and regulations referring to environment protection and water management.¹

According to the present regulations², the Environment Fund is an economic-financial tool meant to sustain and implement environment protection projects complying with the in force regulations referring to environment protection. Based on the European principles saying that “the polluter pays” and “the producer is responsible”, an Environment Fund has been created by setting up a system of taxes and shares related to polluting activities performed by individuals and companies. The resulted amounts are meant to finance environment protection projects as grants (subsidies) or loans. By creating this fund in order to settle environmental protection issues, Romania joins other countries in economical transition owning such a resource assignment tool.

The managing unit for the Environment Fund is the Environment Fund Administration (EFA), legal public entity, coordinated by the national environmental protection authority: Ministry for Environment and Sustainable Development. Completely self-financing its activity EFA has as main tasks: supervising the Environment Fund setting up and management; drawing-up the annual working plan and the incomes and expenditures budget; evaluating, selecting and financing environment protection projects approved to be financed according to legal provisions and procedures listed by the Environmental Fund Operation Manual; monitors and controls the Environment Fund financed projects implementing process; finances works meant to prevent, recover and / or reduce the effects produced by dangerous meteorological phenomena on hydrological harnessing.

The Environment Fund Administration fulfils its tasks by means of its decision-making structures, as it follows:

a) The Endorsing Committee which analyses and endorses by vote: the operation manual including the methodology for project selection, approval and financing; the annual working plan, including eligible categories of projects to be financed; the projects to be financed by the Fund, selected from those proposed by the Managing Board; categories of financial support for the projects and, if needed, the interest rate of the loans;

b) The Managing Board, which, according to article (6) line (3) of Government Emergency

¹ *Fundament Note* for Governmental Emergency Ordinance no. 196/2005 concerning the Environmental Fund, .

² *Governmental Emergency Ordinance no. 196* issued in December 22nd 2005 concerning the Environment Fund, publicized in the Official Gazette of Romania 1193 in December 30 2005, approved with alteration by the Law no. 105 issued in April 25th 2006, publicized in Romanian Official Bulletin 393 in 8th of May 2006, article (1)

Ordinance No. 196/2005 is responsible for: approving the EFA revenues and expenditures budget, as endorsed by central environment protection authority; endorses the operation manual drafted by the specialized units and submits it for approval to the Endorsing Committee; endorses the annual working plan drafted by the specialized units and submits it for approval to the Endorsing Committee; endorses and submits for approval to the Endorsing Committee the projects selected to be financed by the Fund; submits for approval categories of financial support for the projects and, if needed, the interest rate of the loans; approves the financial papers and annual and quarterly budgetary balance sheets and submits this documents to the environment protection central authority; supervises Environment Fund setting up and management; monitors the Environment Fund financed projects implementing process; approves the Funds Annual Management Report and publicize it according to the law.

Setting up a separate unit in order to manage Kyoto Protocol responsibility, namely the green certificates, brought a novelty element to the Fund Administration structure.

In addition, the Environmental Fund spread national wide by setting up regional offices in every Romanian Development Region.

For covering the operational and capital expenditures, FEA uses up to 3% of the Fund incomes.

The financing sources for the Environmental Fund incomes are³:

- a 3 % quota out of the incomes realized by selling ferrous and non ferrous waste by the waste private or organizational owners. The amounts are collected by legally authorized waste collector or valorizing companies by source seizing, and they are compelled to pay the amount to the Fund. For those companies, the authorization is issued according to the rules and regulations concerning the recyclable industrial waste management;

- taxes for polluter's emission into the atmosphere⁴, coming from static and mobile sources, paid by companies for which the amount is listed in Annex 1 enclosed to Governmental Emergency Ordinance no. 196/2005;

- taxes paid by companies using new fields for storing valuable waste, within the limits provided by Annex 2 enclosed to Governmental Emergency Ordinance no. 196/2005;

- a 1 RON tax for every kilogram of package brought on the national market by producers or importers of packaged goods and retail package and a 1 RON tax for every kilogram of tire paid by the producers and importers introducing on the market new tires or used tires meant for reusing⁵;

- a 2% quota of the value of environmental dangerous substances, classified as such by laws, brought on the national market by producers or importers, except for those used for producing drugs and listed by Annex 2, Methodological Normative for putting into force the Governmental Emergency Ordinance no 200/2000 concerning classification, labeling, and packaging dangerous chemical substances and materials, approved by the Governmental Decision no. 490/2002;

- if the owner or the administrator of a forest is selling standing woods or raw timbers, he has to pay a quota to the Fund. The quota is 1% out of selling value and it is paid by the buyer company which is processing the wood⁶;

- a 3% quota of the annual fee for managing the hunting stock, paid by the managers of the hunting stocks;

³ *Governmental Emergency Ordinance no. 196/2005, articles (9-10)* corroborated with the *Law no. 105/2006*

⁴ Such amounts are not to be paid by companies using recyclable industrial waste as secondary raw materials in a proportion of at list 50 percent.

⁵ These taxes have to be paid only in case of failure of the waste package valorization objective and used tires management objective, as they are provided by the laws. The payment is due for the difference between the value of the annual objective and the value of reached objective by the responsible company. The producers and importers of packaged goods and retail package, together with the companies managing used tires must calculate and declare monthly, until the 25th day of the following month for the activities of the last month the difference between the calculated objective by using the legal percentage set as annual valorization objective and the reached objective.

⁶ Such a quota is not to be calculated and paid if the standing woods or timbers are coming form certified woods.

- donations, sponsorships and financial support provided by private or legal national or foreign persons and international organization and bodies;
- amounts cashed as reimbursements of granted loans, interests, penalties, other financial operations financed from Environmental Fund financial resources;
- amounts cashed on the occasion of different events organized on Environment Fund benefit;
- the amounts cashed as taxes in exchange for issuing the environment endorsements, agreements and authorizations;
- interests and penalties⁷ due to be paid by Fund debtors⁸

The owed amounts listed above are to be monthly declared and paid by those legal and private persons who are active in those fields, until the 25th day of the following month for the activities of the last month, except for taxes for polluter's emission into the atmosphere, coming from mobile sources which are to be declared and paid twice a year, until the 25th day of the first month in the next semester for the last semester. The amounts coming from taxes paid by companies using new fields for storing valuable wastes, coming from the tax of 1 RON for every kilogram of package brought on the national market by producers or importers of packaged goods and retail package and a the tax 1 RON for every kilogram of tire paid by the producers and importers introducing new or used tires (for reusing) on the market, as well as the 3% quota of the annual fee for managing the hunting stock, paid by the managers of the hunting stocks, are to be declared and paid annually, until the 25th of January of the next year. The debtors are submitting or sending the fiscal statement to the EFA and the debts are collected into a separate account opened by EFA at the State Treasury.

The incomes supporting the Environmental Fund are, thus, public and consisting in quotas and taxes following the same rules as fiscal taxes, quotas and other amounts owed to the general consolidated public budget, based on the Fiscal Proceedings Code approved by the Government Ordinance no. 92/2003, with all its subsequent alteration and amendments.

The Environmental Fund is a financial instrument for supporting and bringing into operation environmental protection priority project. The annual working plan is providing the categories of eligible projects and is aiming to improve environmental performance on: polluting prevention; reducing the impact on atmosphere, water and soil; reducing the noise levels; using green technologies; waste management, including dangerous waste management; protecting water resources, waste water treatment plant, water purifying plants for local communities, seaside area integrated management; preserving biodiversity; protected natural areas management; environmental protection public education and awareness; increasing reusable energy sources production; reducing green house effect gases emissions; ecological reconstruction and durable management of the forests; forestation of depreciated lands in forest scarce area identified as such according to the law; closing mining mud setting pond; works meant to prevent, recover and / or reduce the effects produced by dangerous meteorological phenomena on hydrological harnessing on state public property.

As far as the projects eligible to be financed from the Environment Fund are concerned, one or another financing manner proposed by the Managing Board and approved by the Endorsement Committee in line with the regulations may be:

- financial support for the projects by entirely financing or co-financing as a grant;
- financial support for the projects by entirely financing or co-financing as a loan;
- totally or partially supporting the interest involved by bank loans contracted for

⁷ If the debtors are not paying in due time to the Environmental Fund, then they are due to pay interests and penalties in the same amount as those owed for not paying in due time the fiscal taxes. If the taxes and quotas owed to the Environmental Fund are not paid in due time then the EFA is bound to recover the amounts by using enforcement procedures.

⁸ The selling value, excluding VAT tax, is the reference value to which the listed quota percentage is applied.

implemented the projects;

- co-financing the projects supported by EU and / or other international funds.

The loans are granted to companies it consists in financially supporting a quota of maximum 75 % out of eligible expenditures of the project. The company has to reimburse the loan under the conditions and within the terms stipulated by the financing contract.

There are no loans for the projects implemented by companies for which the financial support is considered to be regional state aid for investments.

The grants are awarded to:

- companies receiving financial support for maximum 50% of the total eligible costs of the project. If the company is implementing the project in Bucuresti-Ilfov Development Region, the financing quota is of maximum 40 % of the total eligible costs of the project. The beneficiary must contribute with at least 50 % of the total eligible costs of the project.

- local authorities. They are entitled to a financing support percentage of maximum 60% of the total eligible costs of the project.

- for NGOs and schools, the financing support percentage can not exceed 90% of the total eligible costs of the project.

Mixed financing support (grant + loan) is granted only for companies and consists in:

- a maximum 30 % grant of the total eligible costs of the project, with a bonus of 10% for SME if the project implies energy recovering;

- a maximum 40 % loan of the total eligible costs of the project.

We must emphasize that there is no mixed financing for those companies financed as beneficiaries for investment regional state aid.

The approved projects are financed based on financing contracts⁹, which may be annual or multi-annual, bound to the state aid rules and regulations. The analyze, selection, financing, monitoring and control of project implementation are made according to the Environment Fund operation manual and to the rules and regulations meant to put the Emergency Ordinance no 196/2005 into operation, except for projects related to closing mining mud setting pond, to works meant to prevent, recover and / or reduce the effects produced by dangerous meteorological phenomena on hydrological harnessing on state public property. The Environment Fund doesn't financially support the projects initiated by applicant debtors to the state budget and to the Environment Fund as well as projects supporting activities with negative impact on the environment.

Government Emergency Ordinance no 196/2005 has been approved by Law no. 105/2006, by which the number of eligible projects categories increases from 5 to 16, admitting the capacity of the Environment Fund to diversify its coverage.

The Environment Fund became operational in June 2002. Between 2002 and 2003 its activity has been limited to registering declaration and cashing the amounts owed to the Fund, without granting any financial support.

Due to the lack of specialized personnel in the field of tax payers monitoring and control, to lack of specific legislation and lack of a proper IT&C system, the cashing percentage for the Environment Fund incomes has been rather low. This situation determined the EFA to start making a list of the tax payers by the fourth trimester of 2004. For this purpose:

- around 3900 notes have been sent to tax payers who did pay but did not submit any monthly declaration in order to account their payment duties.

- a data base has been got from Romanian Chamber of Commerce and Industry, and it has been used for excerpting a number of 250,000 potential tax payers, companies performing activities in fields considered for paying taxes to the Environment Fund. These companies were listed into an analytical directory of EFA tax payers in order to be monitored.

⁹ Financing contracts together with financing reimbursement guarantying documents are mandatory titles, with no need to be endorsed with other mandatory title.

The situation of Environment Fund tax collection is an effect of above mentioned actions as well as the effect of updating of the structure of the incomes sources, as listed in Table no. 1.

Table no. 1

**The situation of Environment Fund tax collection
- (RON) -**

Year	Total tax collection	% compared to :	
		Previous year	Year 2003
2002	19.025.744	-	-
2003	68.935.332	362,33%	-
2004	90.603.540	131,43%	131,43%
2005	149.241.412	164,72%	216,49%
2006	193.375.706	129,57%	280,52%
Total	521.181.732		

Source: EFA, Reports on Environment Fund management for 2004-2006

The incomes of the Environment Fund for June 2002 to 31 of December 2006 have been valued to 521.181.732 RON. A permanent increase of the incomes of the Environment Fund must be noticed; the increase is exceeding the inflation rate. The noticeable augment in 2005 is due to enforcing debts recovery measures.

The tax collecting percentage between 2004 and 2006 compared to the levels considered by the EFA revenues and expenditures budget is presented in the table no. 2:

Table no. 2

The Environment Fund tax collecting percentage between 2004 and 2006

- (RON) -

	Foreseen incomes	Collected incomes	Collecting percentage (%)
2004	125.560.000	90.603.540	72,16%
2005	119.990.000	149.241.412	124,38%
2006	150.000.000	193.375.706	128,92%

Source: EFA, Reports on Environment Fund management for 2004-2006

As far as the using of Environment Fund is concerned, the first financial aids have been granted in 2004, when a total amount of 206.477.200 RON has been foreseen for supporting priority environment projects. The total contracted amounts for financing these projects was 10.656.361,3 RON, for 2004, the expenses supported was 3.605.556 RON and the difference of 7.050.805,3 RON was to be paid during the year 2005.

In 2005, up to December 31st, an amount of 66.864.140 RON, out of 283.796.760 RON has been paid, meaning 24% of the annual budgetary plans.

The annual budgetary plans and the payments made by the Environment Fund between 2004 and 2006 are presented in table no. 3.

Table no. 3

**The annual budgetary plans and the payments made by the Environment Fund
between 2004 and 2006**

- (RON) -

Year	Budgetary plans for projects support	Payments	Payments / Budgetary plans
2004	206.477.200	3.605.556	1,75%
2005	283.796.760	66.864.140	24%
2006	390.694.800	100.323.135	25,68%

Source: EFA, Reports on Environment Fund management for 2004-2006

Considering the Romania's accession to EU starting with January first 2007 and adopting EU rules on state aid and in order to use the Environment Fund, the EFA draw up ten state aid schemes. Based on these schemes, the Competition Council authorized ten decisions to grant state aids. Also, after January 1st 2007, EFA draw up other 19 state aids schemes, according to Government Emergency Ordinance no. 117/2006 concerning national proceedings for state aid.

EFA plans for 2007 are focusing on continuing to finance environment investments supported also by Foreign Investors Board as immediate solutions for increasing direct foreign investments in Romania.

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