Commission Decision (EU) 2020/1012 of 24 February 2020 on State aid SA.48394 2018/C (ex 2017/N) which Romania has partly implemented in favour of National Uranium Company (CNU) (notified under document C(2020) 1069) (Only the Romanian text is authentic) (Text with EEA relevance)

COMMISSION DECISION (EU) 2020/1012

of 24 February 2020

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to the Treaty establishing the European Atomic Energy Community,

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

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

Whereas:

1. PROCEDURE

(1) On 30 September 2016, the Commission decided not to raise objections on State aid in the form of a six-month rescue loan amounting to RON 62 million (ca. EUR 13,1 million[2]) that Romania planned to grant to National Uranium Company (CNU)[3]. In this decision ('the rescue aid decision'), the Commission considered that the State aid was compatible with the internal market pursuant to the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (the 'R&R Guidelines')[4]. As recorded in the rescue aid decision, the Romanian authorities had committed to provide the Commission, within six months of the loan approval, with a restructuring plan as set out in section 3.1.2 of the R&R Guidelines (see recital 42 of the rescue aid decision).

(2) On 12 June 2017, Romania transmitted a restructuring plan for CNU (the 'initial restructuring plan'), notifying also its intention to grant restructuring aid amounting to RON 441 million (EUR 93 million) to CNU. Several exchanges and

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requests for information from the Commission and answers by the Romanian authorities took place between 9 August 2017 and 13 December 2017.

(3) By letter dated 8 May 2018, the Commission informed Romania that it had decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union (TFEU) in respect of that aid.

(4) The Commission decision to initiate the procedure (the 'Opening Decision') was published in the *Official Journal of the European Union*[(5)] on 19 June 2018. The Commission invited interested parties to submit their comments on the aid but none was received.

(5) The Romanian authorities sent their observations on the Opening Decision and a new restructuring plan (hereafter, the 'second restructuring plan') by letter dated 7 August 2018.

(6) In a videoconference held on 3 December 2018, the Commission requested further clarifications from the Romanian authorities on the plan submitted on 7 August 2018.

(7) The Romanian authorities provided the Commission with further comments and information on 20 December 2018, 14 February 2019, 20 March 2019 as well as a new restructuring plan on 19 April 2019 (hereafter, the 'third restructuring plan').

(8) The Commission also met the Romanian authorities at their request on 24 and 25 June 2019.

2. DETAILED DESCRIPTION OF THE AID

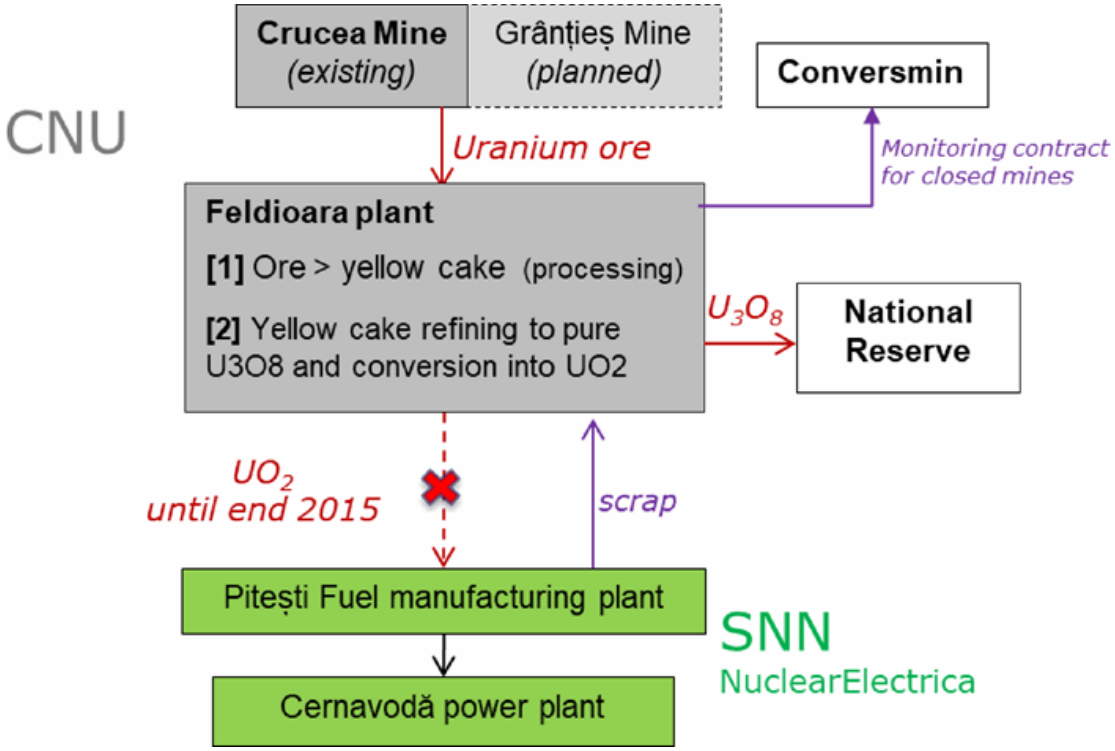
2.1. The beneficiary

2.1.1. *CNU's activities*

(9) CNU is a Romanian company, headquartered in Bucharest, which exploits uranium mines and produces raw material for nuclear power generation in Romania. CNU extracts uranium ore, processes it into yellow cake, refines it into pure uranium octoxide (U_3O_8) and then finally transforms it into uranium dioxide (UO_2). CNU was established in 1997 as a limited liability company, fully owned by the State. In 2017, CNU had 772 employees.

(10) CNU has two operating sites. The uranium mining site, located in Crucea-Botușana (Suceava County, North-East region), employed 346 persons in 2017 while the processing and refining plant, located in Feldioara (Brașov County, Centre region), employed 350 persons. The following chart displays the main sources of revenue in recent years:

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(11) CNU traditionally had two customers, the State-owned National Society Nuclearelectrica S.A. (further referred to as 'SNN') purchasing UO_2 to produce fuel for its Cernavodă Nuclear Power Plant and the National Administration of State Reserve and Special Problems (further referred to as 'ANRSPS') purchasing U_3O_8. Together these two buyers used to account for 95 % of CNU's revenues.

(12) SNN was set up in 1998 following the restructuring of the Romanian energy system and is listed on the Bucharest Stock Exchange since 2013. SNN generates electric and thermal power using nuclear power through the Cernavodă Nuclear Power Plant, and it manufactures nuclear fuel through FCN – Nuclear Fuel Plant in Pitești. SNN's capital structure is, according to the latest reports the following: 82,49 % the Romanian State, through the Ministry of Energy, 7,05 % Fondul Proprietatea SA, 5,6 % other legal entities and 4,8 % natural persons.

(13) The main corporate governance body of SNN is the General Shareholders Meeting, which decides on strategic matters, including the appointment and dismissal of the Board of Directors by simple majority, the adoption of the annual budget, the approval of the development strategy and policy, as well as investments and other transactions above EUR 50 million[6]. The executive body tasked with the management of SNN is the Board of Directors, which has seven members out of which at least four must be independent administrators. Decisions on contracts with uranium suppliers below the EUR 50 million threshold fall under the responsibility of the Board.

2.1.2. *Causes of CNU's difficulties*

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(14) CNU customer base is not diversified and is heavily dependent on two buyers, out of which prominently SNN which accounts for more than 80 % of sales. CNU lost its two key customers as of 2016, when SNN contracted with CNU's competitor and ANRSPS did not conclude any supply contract. In December 2015, SNN decided to award its UO_2 supply contract through a tender procedure between its two registered and approved suppliers, CNU and the Canadian supplier Cameco, which ultimately won the contract. CNU found no alternative buyer and was consequently no longer able to sell its production.

(15) Table 1 below, provided by the Romanian authorities, contains the various price offers made (between 2016 and 2018) by CNU and Cameco, through the various rounds of the tender procedure organised by SNN. When SNN decided to sign the first contract with Cameco, the offer made by CNU was 72 % higher. All subsequent offers from CNU were also at substantially higher prices than the ones of Cameco, varying between + 39 % and + 99 %, which lead SNN repeatedly signing supply contracts with Cameco.

Table 1

Summary table of SNN's procurement procedures for 120 tons UO_2 (required for 6 months) for the period 2016 – 2018

	Date of signature of the contract by SNN	Date of first delivery for each contract	Offer from Cameco	Offer from CNU	Price difference offer CNU versus offer Cameco
1	29.1.2016	4.3.2016	USD […][a] (≈ RON […])	RON […]	+ 72 %
2	8.7.2016	15.9.2016	USD […] (≈ RON […])	RON […]	+ 39 %
3	23.12.2016	15.2.2017	USD […] (≈ RON […])	RON […]	+ 52 %
4	6.6.2017	21.8.2017	USD […] (≈ RON […])	RON […]	+ 85 %

a Confidential information.

Source: Answer submitted by Romania on 20 December 2018.

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Table 1

Summary table of SNN's procurement procedures for 120 tons UO_2 (required for 6 months) for the period 2016 – 2018

5	5.1.2018	26.2.2018	USD […] (≈ RON […])	RON […]	+ 77 %
6	19.7.2018	17.9.2018	USD […] (≈ RON […])	RON […]	+ 99 %

a Confidential information.

Source: Answer submitted by Romania on 20 December 2018.

(16) Accordingly, CNU's revenue stemmed only from minor side activities, such as a service contract with SNN for its waste treatment and fell significantly. As shown in Table 2, the total revenue of the company decreased from RON 110,8 million (EUR 23,4 million) in 2015 to RON 15,2 million (EUR 3,2 million), which was insufficient to cover CNU's expenditure in 2016.

(17) Before the abrupt fall of sales revenues in 2016, CNU had already posted relatively important operating losses in 2014 and 2015. The gradual exhaustion of uranium resources in the Crucea-Botușana mine partly explains CNU's poor operating results. CNU's mining operations incur high exploitation costs as it lacks funds for the maintenance of transport routes, transport distances increase due the deposit being depleted and lack of underground retrofitting.

(18) CNU also lacks financial resources to exploit a new uranium ore deposit identified in Tulgheș-Grinties as well as to upgrade its Feldioara plant.

(19) Lastly, CNU also faces increasing utility costs, mining fees and additional taxes (environmental tax).

Table 2

Selected financial data according to the first restructuring plan from 2014 to 2023

(in million RON)

	2014 to 2016			**Restructuring period**					**Post-restructuring**	
Indicator	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Total revenue	142,9	110,8	15,2	210,0	193,9	193,9	193,9	193,9	196,8	196,8