

# Executive summary

State-owned enterprises (SOEs) play an important role in the Romanian economy – in terms of their overall volume, but even more so because of their role in systemically important sectors such as energy and transportation. The total SOE sector is valued at approximately USD 19 billion and employs around 183 000 people. Compared with other post-transition economies, Romania has a relatively large portfolio of listed SOEs, which have played a significant role in developing the stock market. Eighteen majority-owned SOEs are traded on the stock exchange, the largest and most valuable of which are concentrated in the energy sectors (i.e. hydrocarbons and electricity). Overall, however, there is high heterogeneity in the performance of SOEs. While the state's portfolio has showed positive returns on equity and assets in recent years (albeit significantly less than private firms), this is entirely attributable to the five most profitable SOEs without which the aggregate operating result would be sharply negative. Further, while the median SOE is slightly larger than the median non-SOE in terms of asset size, SOEs underperform significantly compared to non-SOEs both in terms of sales and profitability.

To address concerns regarding the inefficiency of SOEs, the Romanian Government has undertaken important reform efforts to improve the governance and performance of its SOEs. Starting in 2011, it adopted GEO no. 109/2011, later amended and approved by Law no. 111/2016 and supplemented with GD no. 722/2016, which provides for a strong legal and regulatory framework for the ownership and corporate governance of SOEs, and brought forward important institutional and procedural changes. Most notably, ownership arrangements were streamlined in order to delineate state ownership from regulatory functions, with the establishment of 'corporate governance structures' within line ministries, and a co-ordination function attributed to the Ministry of Finance. Transparent selection procedures for board and executive members were also introduced with the aim of professionalising SOE boards and improving their operational autonomy, and a clear objective-setting and performance monitoring framework for SOEs was adopted.

However, significant implementation shortcomings exist. As both legislations were adopted under the influence of international financial institutions in 2011 and 2016, implementation efforts seem to have stalled once the respective reform projects were terminated, which may signal a lack of sufficient political will to ensure continued implementation of the provisions of the legal framework. In some cases, ownership practices seem to have regressed towards earlier practices of excessive political influence in the more economically important companies.

The professionalism and autonomy of boards of directors of Romanian SOEs are of particular concern, with actual selection practices of SOE board and executive members significantly departing from the framework envisaged by the law. Indeed, the law currently allows for the appointment – and reappointment – of 'interim directors' at the discretion of the state if no adequate directors can be identified via the prescribed nomination procedures. At present, a majority of SOEs operate with such interim boards, which may be politically connected. This is also detrimental for the objective-setting framework for SOEs, as key performance indicators are intertwined with the directors' employment terms, which in turn materially weakens the exercise of financial and non-financial controls over individual companies. In addition, non-compliance with financial and non-financial disclosure requirements remains high across SOEs, especially

with regard to the disclosure of annual financial statements, audit reports, the annual directors' reports, board and executive remuneration, and the resolutions of general meetings of SOEs, which raises concerns about their accountability and oversight.

Further, the ownership framework remains widely decentralised across line ministries, and the co-ordination functions that are vested in the Ministry of Finance appear limited. In particular, its sanctioning powers, while frequently employed, are not strong enough to deter widespread cases of non-compliance with corporate governance provisions. Moreover, corporate governance structures of line ministries are sometimes lacking resources and expertise to effectively exercise their ownership rights and are not effectively insulated from ministerial regulatory and policy making functions in some instances. In addition, although a state ownership policy was issued at the same time as important amendments to the legal framework on SOEs in 2016, it appears that it is not well known among the main stakeholders and is not actively implemented.

The maintenance of a level playing field between SOEs and private companies is another potential area of concern. Although Romania abides by the state aids provisions of the EU Single Market, several areas of concern remain. These include the existence of "autonomous administrations" (i.e. SOEs with non-standard forms of incorporatisation); low and non-market consistent profitability requirements of a number of companies; and the exemption from insolvency procedures of debt owed by distressed SOEs to the state. Moreover, while Romania's practice of listing minority stakes in SOEs in stock markets should be considered as a good practice, questions remain about the treatment of minority investors in companies that retain important public policy objectives.

Going forward, Romania should seek to design adequate mechanisms to ensure and oversee the continued implementation of existing corporate governance provisions applicable to SOEs. It should however be noted that these challenges are also subject to the reform commitments undertaken by the Romanian authorities in the context of the European Union's Recovery and Resilience Plan.





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