



No. 221186/CGC/20.05.2025

To,

THE MINISTRY OF ENERGY

Mr. Minister, Sebastian – Ioan BURDUJA

Following your address no. 764/SIB/30.04.2025, registered with the Agency for Monitoring and Assessment of the Performance of Public Enterprises (Ro. AMEPIP) under no. 4057/30.04.2025, by which it was requested the prior approval for the Key Performance Indicators (KPIs) for non-executive administrators and directors with mandate contract of the company CONPET S.A., we communicate the following:

From the submitted documents, it appears that the procedure for the selection of the members of the Board of Directors has been carried out in accordance with the provisions of Government Decision no. 722/2016 for the approval of the Methodological norms for the application of some provisions of GEO no. 109/2011 on the corporate governance of public enterprises, thus having the obligation to comply with **the provisions of art. VII Para. (1) of Law no. 187/2023** for amending and supplementing GEO no. 109/2011, according to which **the public supervisory authority shall amend and supplement, as the case may be, the ongoing mandate contracts, by concluding Addenda**, in compliance with the provisions of Government Decision no. 639/2023 for the approval of the methodological norms for the application of GEO no. 109/2011, in conjunction with Art. IV of GEO no. 117/2023 for the amendment and supplementation of GEO no. 109/2011, as well as for amending and supplementing Law no. 187/2023 which provides that: "Mandate contracts of permanent administrators, referred to in Art. VII Para (1) of Law no. 187/2023 shall be amended in order to include performance indicators."

Regarding the key performance indicators, we note that **AMEPIP has decided the minimum level of the financial and non-financial indicators by Order of AMEPIP president no. 651/2024** published in the Official Gazette Part I, no.187 of March 4, 2025 and on AMEPIP website at: <https://amepip.gov.ro/wp-content/uploads/2025/03/OPAMEPIP-651-Annex.pdf>.

We mention that, according to Art. 2 Para. (4) of Order of the President of AMEPIP no.651/2024, the public supervisory authorities and the public undertakings **shall be subject to the same**

minimum level as set out in the Annex also at the time of the key performance indicators' election, establishment or negotiation, as the case may be, in accordance with the obligations related to the key performance indicators provided for in GEO no. 109/2011 on the corporate governance of public enterprises, approved with amendments and completions by Law no. 111/2016, subsequent amendments and completions.

At the same time, we specify that the modification/completion of the mandate contracts with the key performance indicators does not require their approval by AMEPIP according to the provisions of Art. 30 of GEO no. 109/2011, approved with amendments and completions by Law no. 111/2016, subsequent amendments and completions.

Furthermore, please take into account the provisions of **Art. 38 Para. (2)** of the GEO no.109/2011, according to which "The remuneration of directors is made up of a fixed monthly allowance and a variable allowance (...) The variable component will be based on financial and non-financial performance indicators, negotiated and approved by the public supervisory authority, **different from those approved for the non- executive administrators**, (...).

The opportunity to select the key performance indicators from within the indicators listed in Annexes 2a and 2b to Government Decision no. 639/2023, which reflects the expected performance from the administration and management bodies of the public enterprise, **is the responsibility of the public supervisory authority**.

We specify that the responsibility for the legality, exactness and accuracy of the data and information presented in the Administration Plan and in the mandate contracts, as well as the observance of the legal procedures of the approval thereof is the responsibility of the members of the Board of Directors of the public enterprise, of the General Meeting of the Shareholders, the Public Supervisory Authority, as the case may be. We also draw attention to the fact that the administrators are responsible for responsible management and good management of the resources of the public enterprise. Our opinion on how to identify and establish key performance indicators, as well as the level of achievement for each of them, does not cover the decision of the members of the Board of Directors for the good management of the resources of the public enterprise.

At the same time, we mention the fact that the responsibility for the legality, exactness and accuracy of the data and information presented in the submitted documents is the responsibility of the supervisory authority/public enterprise.

We specify the fact that this address does not represent an administrative act, is not enforceable to third parties and does not include interpretations/clarifications, of a generally binding nature of administrative acts, which may be invoked before the court or administrative authorities, and the responsibility for issuing a document or adopting a decision in the sense of what is mentioned herein is exclusively the responsibility of the issuing entity.

To the extent that you deem it appropriate, we are at your disposal for further clarification at the e-mail address contact@amepip.gov.ro, assuring you of our full cooperation in carrying out the necessary steps.

With the chosen consideration,

for Interim President

The Agency for Monitoring and Assessment of the Performance of Public Enterprises

Adrian MIHALCEA

Interim Vicepresident

S.s Illegible