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THE LEGAL NATURE OF ROMANIA'S ENVIRONMENTAL FUND AS A SPECIAL BUDGETARY FUND: PRACTICAL IMPLICATIONS

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Abstract: The Environmental Fund plays a central role in financing Romania's environmental policies, yet its legal nature remains insufficiently clarified in both legislation and the Romanian financial law doctrine. Although Government Emergency Ordinance No. 196/2005 comprehensively regulates the establishment, administration, and allocation of the Fund's financial resources, it does not expressly define its legal status, giving rise to interpretative uncertainties concerning the legal regime governing its revenues, budgetary claims, and expenditures. This study aims to demonstrate that the Environmental Fund constitutes a *special budgetary fund* integrated into Romania's system of public finances, rather than merely an administrative mechanism for financing environmental policies. The research is theoretically grounded in the principles of public financial law and employs a systematic and teleological interpretation of Government Emergency Ordinance No. 196/2005, in conjunction with Law No. 500/2002 on Public Finance and the fundamental principles governing public budgeting, including legality, earmarking, annuality, and budgetary discipline. The analysis demonstrates that the Fund's revenues qualify as budgetary claims administered through mechanisms specific to fiscal law, while its financial resources are managed through the State Treasury and allocated exclusively to projects serving the public interest. From a theoretical perspective, the study contributes to clarifying the legal nature of the Environmental Fund and enriches the Romanian doctrine of public financial law regarding special budgetary funds. From a practical perspective, the findings provide a coherent framework for interpreting and applying the legal rules governing the administration of the Fund's revenues and expenditures, supporting its classification as a special budgetary fund within Romania's public finance system.

Keywords: Environmental Fund; public financial law; special budgetary fund; budgetary claims; public budget; environmental governance.

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1. Introduction

The Environmental Fund should not be regarded solely as an instrument of environmental protection policy, but also as an institution of public financial law (Omodero, 2023). Although its primary purpose is environmental protection (Duțu & Duțu, 2014), its legal structure is that of a public budget (Oneț, 2018; Trăilescu & Popa, 2021), more specifically, a special budgetary fund (Parliament of Romania, 2002). The term is used to refer to a public fund financed through earmarked revenues (OECD, 2021; Rosen & Gayer, 2014) and forming an integral part of the Romanian public budgetary system under Romanian public financial law.

Determining the legal nature of the Environmental Fund constitutes one of the fundamental issues arising from the interpretation of Government Emergency Ordinance No. 196/2005 on the Environmental Fund (Government of Romania, 2005). Although the Ordinance comprehensively regulates both the Fund's sources of financing and the mechanisms governing the administration and use of its financial resources, it neither expressly defines the Fund's legal nature nor explicitly establishes its position within the architecture of Romania's public finance system. In the absence of such a legislative qualification, the applicable legal regime must be identified through a systematic interpretation of the provisions governing the generation of revenues, the administration of budgetary claims, the execution of expenditures, and the mechanisms designed to protect the Fund's public financial assets.

The significance of this qualification extends well beyond the interests of theoretical classification. The legal nature of the Environmental Fund determines the legal regime applicable to the contributions payable thereto, the administration and enforcement of pecuniary obligations, the legal characterization of claims arising under Government Emergency Ordinance No. 196/2005, and the scope of legal protection afforded to the financial resources administered by the Environmental Fund Administration. Likewise, this qualification has important implications for the interpretation of the legal provisions governing the financial guarantees established in connection with extended producer responsibility, as well as for determining the legal nature of the mechanisms through which the legislature seeks to safeguard the financial interests associated with public environmental policies.

In the legal scholarship, the Environmental Fund has generally been examined from the perspective of environmental law (Oneț, 2017), with emphasis placed on its role in financing environmental protection policies and ensuring Romania's compliance with obligations arising under European Union law. While this approach is undoubtedly justified, it does not exhaust the legal issues raised by the institution. Beyond its environmental purpose, the Environmental Fund also constitutes a

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mechanism for the generation, administration, and allocation of financial resources governed by the specific rules of public financial law. Accordingly, its legal nature should be assessed not only in light of the objectives of environmental policy but also by reference to the criteria that define special budgetary funds within public financial law (Costaș & Tofan, 2025).

This study proceeds from the hypothesis that the Environmental Fund is neither a mere administrative mechanism for financing environmental programmes nor a segregated pool of assets administered by a public institution, but rather a genuine special budgetary fund (S. Gherghina, 2019) integrated into the system of public finances (Oneț, 2020). The central thesis advanced is that this qualification does not derive from any single statutory provision but emerges from a systematic analysis of the legal regime established by Government Emergency Ordinance No. 196/2005, which reproduces all the essential components of the budgetary cycle: revenue generation, the administration of budgetary claims, the protection of public financial assets, the execution of expenditures, and the integration of financial resources into the public budgetary system (Bouvier, Esclassan & J.P. Lassale, 1998; L. Saidj, 1997).

To test this hypothesis, the study employs the methods of systematic and teleological interpretation of the provisions of Government Emergency Ordinance No. 196/2005 in conjunction with the principles of public financial law and the general legal framework governing public finances. The analysis seeks to identify the normative elements that characterize the existence of a special budgetary fund and to assess the extent to which these elements are reflected in the legal regime governing the Environmental Fund. To this end, the study successively examines the legal provisions concerning revenue generation, the administration of budgetary claims, the execution of expenditures, transfer mechanisms to local budgets, and the financial guarantees established to protect the Fund's public financial assets.

The present study aims to demonstrate that Government Emergency Ordinance No. 196/2005 does not merely regulate a financing mechanism for environmental policies (OECD, 2007) but establishes a distinct subsystem within the framework of public finances. Considered as a whole, the provisions governing the generation of financial resources, the administration and enforcement of budgetary claims, the allocation of financial resources, and the protection of public financial assets reveal all the defining characteristics of a special budgetary fund. From this perspective, the Environmental Fund reproduces the complete budgetary cycle, performing the constitutive, redistributive, and public financial asset protection functions that are characteristic of public financial law.

Accordingly, demonstrating that the Environmental Fund constitutes a special budgetary fund is not merely an exercise in doctrinal classification. Rather, it constitutes the necessary premise for the coherent interpretation of the entire legal regime governing the revenues, budgetary claims, financial guarantees, and expenditures administered within the Fund, while ensuring the effective protection of the public financial interests that the legislature intended to safeguard.

2. Literature Review

2.1. The Legal Regime Governing the Revenues of the Environmental Fund: An Expression of Its Nature as a Special Budgetary Fund

While the legal regime governing expenditures demonstrates that the Environmental Fund performs the function of a public financing instrument, an examination of the manner in which its revenues are generated and administered leads to the same conclusion from a complementary perspective. In public financial law, budgetary revenue is not defined solely by the fact that it finances a public budget, but also by the legal mechanisms governing the creation, declaration, administration, enforcement, and protection of the corresponding claim (Bouvier et al., 1998; Costaș & Tofan, 2025; Gherghina, 2019; Oneț, 2018). From this perspective, Articles 10–12 of Government Emergency Ordinance No. 196/2005 establish a legal regime that almost entirely replicates the framework applicable to budgetary claims under the general law of public finance (Government of Romania, 2005; Parliament of Romania, 2002).

The first defining characteristic of the Environmental Fund's revenues derives from the very manner in which the payment obligation arises. Pursuant to Article 10 of Government Emergency Ordinance No. 196/2005, the pecuniary obligations owed to the Fund do not originate in contractual relationships, nor do they constitute compensation for damage suffered by a private rights holder. Rather, they arise directly by operation of law as a consequence of the failure to comply with statutory obligations of public interest concerning the collection, recycling, or recovery of waste (Government of Romania, 2005). Accordingly, the payment obligation is neither civil compensation nor contractual consideration, but instead represents an expression of the State's sovereign authority to transform the non-performance of a statutory obligation into a pecuniary claim payable to a fund administered under public law. It is precisely this statutory origin of the obligation that constitutes one of the defining characteristics of budgetary revenues (Barbu, 2017; Hada et al., 2020).

The same conclusion is confirmed by the identity of the creditor. The amounts due are not intended to compensate individual harm and are not payable to persons affected by breaches of environmental obligations; rather, they are paid exclusively

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into the financial assets of the Environmental Fund. The beneficiary of the claim is therefore a public fund administered by a public institution, rather than a private creditor. Under civil law, the non-performance of an obligation generally gives rise to the creditor's right to damages. By contrast, under the mechanism established by Government Emergency Ordinance No. 196/2005, the failure to fulfil statutory environmental obligations gives rise to a claim in favour of the Environmental Fund, thereby aligning this mechanism closely with the logic of tax and parafiscal revenues.

The public nature of these revenues is further evidenced by the manner in which they are assessed and administered. The regulatory framework establishes a genuine system of self-assessment, characteristic of tax law, whereby liable persons calculate the assessment base, declare the amounts due, and make payment, while the Environmental Fund Administration subsequently exercises its powers of verification and control (Costaș & Tofan, 2025; Costea et al., 2025). The obligations concerning declaration, periodic reporting, and record-keeping established under Article 10 reproduce the mechanism employed in relation to taxes, duties, and fiscal contributions, whereby the claim is initially individualized through the taxpayer's declaration and subsequently verified by the competent authority. Such a legislative technique is characteristic exclusively of the administration of public revenues and cannot be found in proprietary relationships governed by private law.

The legal significance of this mechanism is reinforced by the terminology employed by the legislature. Article 10(7) provides that the Environmental Fund Administration shall annually publish the list of economic operators registered as taxpayers to the Environmental Fund. This legislative qualification is of particular significance, since the concept of *taxpayer* belongs to the technical vocabulary of public financial law and designates a person who, by virtue of statutory provisions, is obliged to pay budgetary claims. The legislature does not employ concepts characteristic of private law, such as contracting party, participant, or creditor, but expressly adopts terminology firmly established in tax legislation. The existence of taxpayers necessarily presupposes the existence of a public budget and corresponding budgetary revenues; consequently, this terminological choice itself constitutes compelling evidence of the public-law nature of the Environmental Fund (Bouvier et al., 1998; Saidj, 1997).

The administration of the Fund's revenues is supported by a comprehensive set of legal and technical instruments intended to ensure the accuracy of declarations and to safeguard the financial interests of the State. The Waste Traceability Information System (SIATD), regulated by Article 10(8)–(15), is not merely an information technology application used in the field of environmental protection but performs

the function of a genuine infrastructure for the administration of public claims. Through this system, the existence of declared transactions, the traceability of waste (OECD, 2019), and the quantities recovered or recycled are verified; these elements constitute the factual basis for the pecuniary obligations owed to the Fund. Where the system determines that certain quantities cannot be validated, those quantities are disregarded for the purpose of assessing compliance with statutory targets, resulting in the corresponding payment obligation. The function of SIATD is therefore comparable to that of tax registers and information systems employed in the administration of tax claims, being specifically designed to prevent the unlawful reduction of public revenues and to safeguard the public financial assets administered by the State (Costea et al., 2025; Costaș & Tofan, 2025).

The same concern for protecting public financial resources is reflected in the principle of traceability (OECD, 2019) underlying the entire mechanism established by Article 10. The legislature seeks to prevent fictitious reporting and eliminate the possibility of declaring non-existent transactions that would result in a reduction of the amounts owed to the Fund. From this perspective, the rules governing record-keeping, verification, and data validation perform not merely an administrative function but also constitute legal instruments designed to safeguard budgetary revenues, comparable to tax registers and fiscal declarations employed in the administration of taxes and duties (Costea et al., 2025; Costaș & Tofan, 2025).

The structure of the legal relationship established by Article 10 likewise confirms its place within the sphere of public financial law. The provision expressly identifies the persons liable for payment, establishes the assessment bases, specifies declaration deadlines, regulates verification procedures, and determines the conditions under which the pecuniary obligation becomes due and payable. All these elements constitute the classical components of a fiscal legal relationship, in which the payment obligation arises directly by operation of law, is individualized through administrative mechanisms, and is enforced in accordance with the legal regime governing budgetary claims (Dumiter & Jimon, 2018).

The public-law nature of these revenues is affirmed even more explicitly by Article 11 of Government Emergency Ordinance No. 196/2005. The entire provision is structured according to the classical model governing the administration of tax claims: identification of the taxpayer, determination of the fiscal period, declaration of the obligation, payment thereof, issuance of the administrative act individualizing the claim, and enforcement of the obligation. This procedural sequence faithfully reproduces the framework established under the general law governing budgetary claims and demonstrates that the revenues of the Environmental Fund are administered through mechanisms characteristic of fiscal authorities.

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Particularly significant is the fact that the payment of obligations is made into a revenue account of the Environmental Fund budget, separately maintained within the State Treasury. From a legal perspective, this formulation constitutes one of the clearest legislative qualifications contained in Government Emergency Ordinance No. 196/2005. The legislature refers not to an asset account or an operational account, but specifically to a budgetary revenue account administered through the State Treasury, an institution that is integral to the execution of the public budget. Within the Romanian system of public financial law, the management of financial resources through the State Treasury constitutes one of the strongest indicators of the public-law nature of the funds concerned.

The same conclusion is reinforced by Article 11(4), which expressly refers to the "administration of claims owed to the budget of the Environmental Fund." The significance of this wording cannot be overstated. By employing simultaneously the concepts of *budget* and *claims owed to the budget*, the legislature directly characterizes the legal relationships under consideration as belonging to the sphere of public financial law. This is no longer merely an interpretative inference derived from the structure of the legal provisions, but an explicit legislative qualification (Costaș & Tofan, 2025; Oneț, 2018).

The same legislative approach is reflected in the provisions conferring upon the Environmental Fund Administration the authority to establish certain obligations through administrative decisions and in those providing that declarations and administrative decisions determining such claims constitute instruments of title and become enforceable upon maturity. These legal institutions are characteristic exclusively of public law. In civil matters, a creditor must ordinarily obtain an enforceable title through judicial proceedings. By contrast, with respect to claims owed to the Environmental Fund, the law confers upon the taxpayer's declaration and the administrative act issued by the Environmental Fund Administration the legal status of enforceable instruments of title, a mechanism traditionally employed in tax law to safeguard the financial interests of the State.

Taken as a whole, Articles 10–12 of Government Emergency Ordinance No. 196/2005 demonstrate that the revenues of the Environmental Fund possess all the defining characteristics of the revenues of a special budgetary fund. The payment obligations arise directly by operation of law; the creditor is a public fund; the revenues are administered through mechanisms of self-assessment, declaration, and control characteristic of tax law; they are recorded in budgetary revenue accounts maintained within the State Treasury; and they give rise to claims individualized through enforceable public-law instruments. Read together with Article 12, which subjects these claims to the legal regime applicable to budgetary claims, and Article

13[1], which integrates the Fund's resources into the public budget execution process, these provisions establish a coherent legal framework characteristic of the administration of public finances (Gherghina, 2019; Oneț, 2018; Trăilescu & Popa, 2021). Consequently, the revenues of the Environmental Fund cannot be regarded as mere proprietary resources administered by a public institution; rather, they constitute genuine earmarked budgetary revenues dedicated to the implementation of public environmental policy, thereby providing further confirmation of the Environmental Fund's legal nature as a special budgetary fund (Barbu, 2017; Hada et al., 2020).

2.2. The Role of Financial Guarantees in Protecting the Public Financial Assets of the Environmental Fund

An analysis of the legal nature of the Environmental Fund cannot be confined to an examination of the revenues and expenditures that comprise its budget. A public fund is defined not only by the mechanisms governing the generation and allocation of its financial resources but also by the legal instruments designed to preserve and protect the financial assets dedicated to the pursuit of the public interest. From this perspective, the financial guarantees established under Articles 12[1]–12[3] of Government Emergency Ordinance No. 196/2005 constitute an essential component of the legal architecture of the Environmental Fund, as they are intended not to protect the proprietary interests of a particular legal entity, but rather to ensure the continuity of financing for public environmental policies and to preserve the financial resources of a special budgetary fund.

This conclusion follows, first and foremost, from the legal function assigned to these guarantees by the legislature. Under private law, real and personal guarantees are designed to protect the proprietary interests of a creditor and to secure the performance of obligations arising from civil or commercial legal relationships. The beneficiary of such a guarantee is the creditor, and its enforcement serves to satisfy the creditor's proprietary claim. The legal regime established by Government Emergency Ordinance No. 196/2005, however, clearly departs from this model. The guarantees provided by producers of electrical and electronic equipment and by organizations implementing extended producer responsibility obligations (OIREPs) are not intended to protect the assets of the Environmental Fund Administration as the holder of a private right, but rather to secure compliance with statutory obligations of public interest relating to the collection, transportation, treatment, and recycling of waste (Duțu & Duțu, 2014; Oneț, 2017).

The public-law character of these guarantees is further confirmed by the circumstances triggering their enforcement. Their execution is not prompted merely by the non-payment of a pecuniary obligation, but by the occurrence of situations

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that jeopardize the implementation of the public policy governing waste management. Insolvency, liquidation, withdrawal of an operating licence, or the inability of a collective compliance organization to fulfil its statutory obligations affect not only the legal relationship between the operator and the Environmental Fund Administration, but also create the risk that the national recycling and recovery targets undertaken by the Romanian State will not be achieved. In this context, the financial guarantee performs not the function of a traditional civil-law security, but rather that of a mechanism ensuring the continuity of the performance of statutory obligations serving the public interest.

This function is also reflected in the destination of the amounts obtained through the enforcement of the guarantee. The legislature does not seek merely to recover a financial claim but uses the resulting resources to finance the activities that must be carried out in place of the operator that has failed to perform its statutory obligations. In the field of waste electrical and electronic equipment, the amounts realized through enforcement are allocated to financing the collection, transportation, treatment, and recycling of waste and expressly become revenues of the Environmental Fund. From a legal perspective, this transformation is particularly significant. It demonstrates that the enforcement of the guarantee does not merely extinguish an individual obligation but also contributes financial resources to a public fund dedicated to the implementation of public policy. Consequently, the guarantee becomes an instrument for both the generation and the protection of public financial resources.

This legislative approach brings the guarantees established under Government Emergency Ordinance No. 196/2005 into close alignment with other mechanisms characteristic of public law, such as performance guarantees in administrative contracts, guarantees required for activities having an environmental impact, or guarantee funds established to protect collective interests (Duagi, 2019; Lefter & Duagi, 2016). In all these cases, the ultimate economic beneficiary is not the public authority itself, but the general interest whose protection justifies the establishment of the guarantee mechanism. Accordingly, the guarantees under consideration cannot be equated with those typically found in private-law relationships, since they are designed not to protect individual proprietary interests but to preserve the financial resources necessary for the performance of a public function.

From the perspective of public financial law, these guarantees perform an additional function, namely the protection of public financial assets. As demonstrated in the preceding sections, the contributions owed to the Environmental Fund constitute budgetary revenues administered under a public-law regime, while the resulting financial resources are earmarked by law for the financing of specific public

expenditures. It follows that the guarantees established under Government Emergency Ordinance No. 196/2005 are intended to preserve the integrity of those public financial assets. They protect not only the Fund's current revenues but also its future capacity to finance the public programmes and projects for which it was created. Within this framework, damage resulting from the fraudulent circumvention of the guarantee mechanism affects not merely the assets of a public institution but also the financial interests of the State and its capacity to fulfil its obligations in the field of environmental protection (Bostan & Dascălu, 2016; Duțu & Duțu, 2014).

This conclusion is of particular practical significance in relation to the protection of public financial interests. Insofar as the contributions owed to the Environmental Fund constitute budgetary claims and the guarantees serve to secure the performance of statutory obligations of a public-law nature, the submission of false information or the artificial reduction of the amount of a guarantee produces legal effects comparable to the unlawful reduction of a budgetary obligation. From this perspective, the guarantee cannot be analyzed in isolation but must instead be regarded as an integral component of the legislative mechanism designed to safeguard the revenues of a special public fund.

Significantly, Article $12^{1}(1)$ provides that the amounts obtained through the enforcement of guarantees are deposited into a separate account administered by the Environmental Fund Administration within the State Treasury. This legislative choice is likewise of considerable legal significance. The management of these amounts through the State Treasury and their transformation into revenues of the Environmental Fund confirm their integration into the system of public finances and preclude their characterization as mere proprietary assets administered in accordance with the rules of private law.

Taken as a whole, Articles 12^{1}–12^{3} complete the legal architecture of the Environmental Fund by establishing a mechanism for protecting the public financial assets dedicated to the implementation of public environmental policies. While the Fund's revenues express the function of generating financial resources and its expenditures reflect their redistributive function, the financial guarantees constitute the legal instrument through which the legislature ensures the preservation and continuity of this financial cycle. These guarantees are not civil or commercial securities but public financial guarantees dedicated to the protection of a special budgetary fund. In the case of organizations implementing extended producer responsibility obligations (OIREPs), the guarantee essentially performs the function of a mandatory financial assurance mechanism securing compliance with statutory environmental obligations, established for the benefit of the public interest and the State's public financial assets (Duțu & Duțu, 2014; Oneț, 2017; Barbu, 2017).

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2.3. The Public Budget Function of the Environmental Fund as Reflected in the Legal Regime Governing Its Expenditures

In public financial law, the legal nature of a public fund cannot be determined solely by examining the revenues that finance it. Equally important is the legal regime governing expenditures, as this reflects the economic and legal function of the resources collected. A fund may be classified as a budgetary fund only where its resources are allocated through a budgetary procedure for the purpose of satisfying public interests and in accordance with the principles governing budget execution.

From a methodological perspective, the legal classification of a public fund administered by the State must first be undertaken by reference to the general rules governing public finances, and only subsequently through an examination of the special provisions establishing its particular legal regime (S. Gherghina, 2019). Accordingly, the legal nature of the Environmental Fund must be assessed in light of the principles enshrined in Law No. 500/2002 on Public Finances, which constitutes the general legal framework governing the organization and execution of the public budget.

These principles are not merely technical rules concerning the preparation and execution of public budgets; rather, they embody the fundamental requirements that every public fund must satisfy in order to be integrated into the system of public finances (Rosen & Gayer, 2014). From this perspective, assessing the Environmental Fund's conformity with the principles of budgetary law provides an objective and generally applicable basis for determining its legal nature (Gherghina, 2019; Oneț, 2018; Bostan & Dascălu, 2016).

A first point of reference is the principle of budgetary legality, according to which both the generation of revenues and the authorization of public expenditures must have an explicit statutory basis. Within public financial law, administrative authorities possess no general competence to administer public financial resources but act exclusively within the powers and purposes determined by the legislature. Applied to the Environmental Fund, this principle demonstrates that all essential components of its legal regime are prescribed by law, including the categories of revenues financing the Fund, the purposes for which its resources may be used, the financing mechanisms, the categories of eligible beneficiaries, and the powers vested in the Environmental Fund Administration. Consequently, the activities of this institution do not represent the exercise of proprietary autonomy but rather the performance of administrative powers strictly defined by law.

Of particular significance in determining the legal nature of the Environmental Fund is the principle of budgetary earmarking (OECD, 2021). Under this principle, revenues and expenditures approved through the budget are allocated to specific

purposes and may not be used for objectives other than those authorized by law. Budgetary earmarking guarantees that the legislative intent expressed through the budgetary act will be respected throughout budget execution and prevents the discretionary use of public resources. The legal regime governing the Environmental Fund constitutes one of the clearest applications of this principle. Article 13 of Government Emergency Ordinance No. 196/2005 exhaustively specifies the categories of programmes and projects eligible for financing, while certain categories of revenue are expressly earmarked for mandatory purposes, including green investments and information and research programmes relating to climate change. This statutory earmarking of financial resources is precisely the element distinguishing special budgetary funds from the general pool of budgetary resources and justifying the existence of a distinct financial mechanism.

The principle of budgetary unity must likewise be considered in this context. The general rule of public financial law requires that all State revenues and expenditures be incorporated into a single budgetary framework in order to facilitate parliamentary oversight and ensure a comprehensive overview of public finances. Special budgetary funds, however, constitute a traditional exception to this principle, justified by the need to dedicate specific financial resources to clearly defined public objectives. The existence of the Environmental Fund therefore does not undermine the principle of budgetary unity but rather confirms the operation of the exceptional mechanism expressly recognized by budgetary law. The Fund's distinct character does not place it outside the public finance system but instead individualizes it within that system as a budget with a specific statutory purpose (Parliament of Romania, 2002; Oneț, 2018).

The same conclusion follows from the application of the principle of annuality. Under the general law governing public finances, revenues and expenditures are authorized for each budgetary year, thereby enabling the periodic reassessment of financial priorities and the effective supervision of public resource allocation. The Environmental Fund operates within the same framework, with the Environmental Fund Administration preparing an annual revenue and expenditure budget and expenditures being authorized only after approval of that budget and within the limits of the appropriations approved therein. The existence of such a procedure demonstrates that the administration of the Fund is subject to the same legal requirements that govern the execution of any public budget.

Complementing these principles, the principle of budgetary balance adds a further dimension to the legal regime governing the Environmental Fund. Although special budgetary funds enjoy a certain degree of financial autonomy, their resources must be utilized within the limits of available revenues and in compliance with the requirements of budgetary discipline. In this respect, the requirement that

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expenditures may be incurred only within approved budget appropriations reflects the application of mechanisms characteristic of public financial responsibility and precludes any discretionary use of the resources administered.

Finally, the principles of transparency and budgetary publicity complete the legal framework within which the Environmental Fund operates. The preparation and approval of its annual revenue and expenditure budget, the publication of the normative acts governing its financing programmes, and the subjection of the Environmental Fund Administration to administrative, financial, and judicial oversight all demonstrate the Fund's integration into the general system of public finances and exclude its characterization as an autonomous pool of assets administered under the rules of private law (Bostan & Dascălu).

A combined analysis of these principles demonstrates that the legal regime governing the Environmental Fund reproduces the defining characteristics of every special budgetary fund. The generation and allocation of financial resources are governed by the principle of legality; their destination is determined through the application of the principle of budgetary earmarking; the Fund operates as a justified exception to the principle of budgetary unity; its financial execution is subject to the principles of annuality and budgetary discipline; and its administration is carried out under conditions of transparency and public accountability. Taken together, these elements demonstrate that the Environmental Fund is not merely a financial structure administered by the State but possesses all the legal characteristics of a special budgetary fund integrated into the public finance system and governed by the general principles of public financial law (Barbu, 2017; Hada et al., 2020).

As previously demonstrated, in public financial law the legal classification of a fund depends not only upon the origin of its revenues but also upon the body of legal rules governing their administration and use. The statutory allocation of financial resources, the public nature of the interests pursued, the existence of a budgetary procedure authorizing expenditures, and the subjection of financial execution to the principles of budgetary law constitute the criteria distinguishing public funds from other legal mechanisms for the administration of financial resources. From this perspective, Article 13 of Government Emergency Ordinance No. 196/2005 provides decisive arguments in support of classifying the Environmental Fund as a genuine special budgetary fund (Government of Romania, 2005).

The first defining characteristic derives from the statutory purpose assigned to the Fund's financial resources. Pursuant to Article 13(1), the Environmental Fund is used to finance projects and pilot programmes intended to achieve the environmental protection objectives established by law. Such wording is characteristic of budgetary legislation and reflects one of the fundamental principles of public financial law,

according to which financial resources collected by public authorities are dedicated to satisfying collective needs identified by the legislature. Unlike private-law mechanisms, where assets are administered for the proprietary benefit of their owner, the Environmental Fund does not seek to return or redistribute the collected amounts to those required to contribute to its financing. Contributions, charges, and all other revenues financing the Fund lose their individual proprietary character upon collection and become integrated into a financial pool dedicated exclusively to the achievement of objectives serving the public interest. Accordingly, the legal function of the Environmental Fund is not the administration of private proprietary interests but rather the provision of the financial instrument through which the State implements its environmental policy (Duțu & Duțu, 2014; Oneț, 2017).

The public nature of the Fund is further demonstrated by the manner in which the legislature determines the purposes of its expenditures. Article 13 exhaustively specifies the categories of projects and programmes eligible for financing, thereby excluding any discretionary use of the Fund's resources. Atmospheric protection, waste management, biodiversity conservation, afforestation, the development of renewable energy sources, improvements in energy efficiency, climate change adaptation, the development of environmental infrastructure, and environmental education are not merely matters of administrative discretion but areas in which the State pursues public interests recognized under both domestic law and European Union law (European Commission, 2021). The exhaustive enumeration of these purposes demonstrates that the Fund's resources may not be used to finance general public expenditures but only those categories of expenditure that the legislature has considered indispensable for the implementation of the national environmental policy.

This normative link between a specific category of revenues and a corresponding category of expenditures constitutes one of the defining characteristics of special budgetary funds. In the theory of public finances, statutory earmarking represents the legal mechanism through which the legislature departs from the principle of budgetary unity by dedicating specific financial resources exclusively to expressly defined public objectives (Bouvier et al., 1998; Costaș & Tofan, 2025; Gherghina, 2019). The Environmental Fund clearly falls within this category, since its revenues are not absorbed into the general State budget and cannot be redistributed according to the overall needs of budget execution, but remain permanently allocated to the implementation of a distinct public policy. Accordingly, the Environmental Fund is neither a mere accounting account nor a segregated pool of assets within the meaning of private law, but rather constitutes a specialized public budget dedicated exclusively to financing State intervention in the field of environmental protection.

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The same conclusion follows from the nature of the legal interests served by the Fund's expenditures. The objectives financed by the Fund seek to protect values recognized at both constitutional and statutory level, including environmental protection, the conservation of natural resources, the protection of public health through pollution reduction, the mitigation of climate change, and the fulfilment of Romania's obligations under European Union law and international treaties. Although the immediate recipients of financial support may include individuals, economic operators, or other private entities, this circumstance does not alter the legal nature of the expenditure. In public financial law, the decisive criterion is not the identity of the immediate beneficiary but the public interest pursued through the allocation of public resources. Consequently, programmes such as *Rabla* ("Vehicle Scrappage Programme"), *Casa Verde* ("Green House Programme"), and other financing mechanisms administered by the Environmental Fund Administration are not intended to confer proprietary benefits upon individual recipients for their own sake but to encourage economic and social behaviour consistent with the objectives of environmental policy (Jans & Vedder, 2012; Krämer, 2022). The proprietary benefit received by the beneficiary merely constitutes the legal instrument through which the legislature seeks to achieve collective benefits, including reduced pollutant emissions, increased energy efficiency, and the expanded use of renewable energy sources (Barbu, 2020; Hada et al., 2020).

Accordingly, the expenditures made from the Environmental Fund possess all the characteristics of functional public expenditures. They are not directed toward the satisfaction of individual interests but instead constitute an expression of the State's financial intervention in pursuit of objectives serving the general interest. From a legal perspective, this public function of expenditures constitutes one of the strongest arguments supporting the classification of the Environmental Fund as a special budgetary fund, as it demonstrates that the resources administered are not used in connection with proprietary relationships between contributors and the Fund's administrator but exclusively for the performance of the State's responsibilities in the field of environmental protection.

The analysis of Article 13(2)–(3) of Government Emergency Ordinance No. 196/2005 further reinforces this conclusion by demonstrating that the legislature regulates not only the general purposes of the Fund's resources but also the legal mechanisms through which those resources may be utilized. From this perspective, the legal regime governing financing provided by the Environmental Fund reproduces mechanisms characteristic of budget execution and excludes any characterization of the Fund as a mere segregated pool of assets or a financial

instrument administered under private-law rules (Costaș & Tofan, 2025; Gherghina, 2019; Trăilescu & Popa, 2021).

The law accordingly provides that projects and programmes may be supported through non-reimbursable financing, co-financing, or participation in the financing of projects implemented with European Union funds or other international financial resources, including those financed under the LIFE Programme. These forms of financial intervention constitute classical instruments of public financial law through which the State encourages the attainment of objectives serving the public interest. They do not establish reciprocal contractual obligations and do not require the provision of an individualized consideration in favour of the financing authority, thereby fundamentally distinguishing them from mechanisms characteristic of private-law legal relationships.

The budgetary character of these operations is further emphasized by the fact that financing is granted exclusively in light of the public objective pursued by the project concerned. Legally, the subject matter of the financial relationship is not the proprietary interest of the beneficiary but the achievement of a public interest determined by the legislature. The beneficiary acquires no subjective right to the Fund's resources by virtue of its own status but only insofar as the proposed project contributes to the implementation of public environmental policies. From this perspective, such financing constitutes a public expenditure implemented through the provision of financial assistance rather than a proprietary transaction characteristic of private law.

The same legal rationale underlies Article 13(2^1) and (2^2), under which the legislature establishes mandatory statutory purposes for certain categories of revenues administered by the Fund. Pursuant to these provisions, 98% of the relevant amounts must be allocated to green investments, while the remaining 2% is earmarked for information and awareness campaigns and for research relating to climate change. The law further defines green investments as investments financing projects that contribute to the reduction of greenhouse gas emissions.

The significance of these provisions extends beyond the mere accounting organization of financial resources. In reality, they embody one of the fundamental principles of budgetary law—the principle of budgetary earmarking—according to which each category of revenue must be allocated to a purpose expressly established by law, precluding its use for any other objective. Consequently, the Fund administrator's discretion concerns only the practical implementation of objectives already determined by the legislature, not the determination of the purposes for which financial resources are to be used. Accordingly, the Environmental Fund Administration does not enjoy the discretion of a private asset manager but exercises powers characteristic of the administration of public funds within the strict limits

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established by law and by the approved budget (Government of Romania, 2005; Oneț, 2018; Trăilescu & Popa, 2021).

Nor does the broad range of eligible beneficiaries undermine the public character of the Environmental Fund. On the contrary, the fact that financial assistance may be granted to public-law entities, private legal persons, local administrative-territorial units, public institutions, economic operators, non-governmental organizations, individuals, and other eligible beneficiaries demonstrates that the legislature pursues the public interest by mobilizing a broad spectrum of social and economic actors. The decisive criterion for granting financing is not the legal status of the beneficiary but the capacity of the proposed project to contribute to the implementation of public environmental policy objectives. From this perspective, the identity of the beneficiary is irrelevant to the legal characterization of the expenditure, which in every case retains its nature as public expenditure.

The budgetary character of the Environmental Fund is further confirmed by the rules governing its administration and financial execution. The Fund is administered by the Environmental Fund Administration, a public institution entrusted with responsibility for managing its financial resources and preparing its annual revenue and expenditure budget, while its President exercises the powers of a genuine authorizing officer. The institution of the authorizing officer constitutes one of the fundamental concepts of public financial law, reflecting the mechanism through which the legislature organizes the commitment, verification, authorization, and payment of public expenditures. This institutional framework is incompatible with private-law mechanisms and confirms the integration of the Environmental Fund into the public budget execution system.

The same interpretation follows from Article 13¹(2), under which the Environmental Fund Administration may conclude delegation agreements only after approval of its annual revenue and expenditure budget and exclusively within the limits of the authorized budget appropriations. This provision is of particular importance because it reflects the application of the principle of budgetary authorization, one of the fundamental principles of public financial law. Within the system of public finances, no expenditure may be committed or incurred without prior budgetary authorization, and the limits established by the approved budget constitute legal limits upon the authority to incur expenditure. Unlike private-law entities, which exercise their proprietary capacity under the general rules of private law, the Environmental Fund Administration acts exclusively within the scope of the powers and budget appropriations approved by law.

This conclusion is reinforced by the legislature's express prohibition on the use of the Fund's revenues for speculative investments or financial operations. Such a

limitation is not merely a rule of financial management but reflects the exclusively public purpose of the resources administered. Public funds are not intended to generate proprietary profit but to enable the State to perform its statutory functions and satisfy public interests established by law (Bouvier et al., 1998; Saidj, 1997). The prohibition of speculative use therefore excludes any interpretation according to which the Environmental Fund could operate as an autonomous investment fund managed for commercial purposes.

Taken together, Articles 13 and 13¹ of Government Emergency Ordinance No. 196/2005 establish a legal regime reproducing all the defining characteristics of a special budgetary fund. The statutory and exhaustive determination of expenditure purposes, the use of financing instruments characteristic of public finance, the existence of statutory earmarking, the administration of the Fund by a public institution through an authorizing officer, the subjection of financial operations to the principle of budgetary authorization, and the prohibition of speculative use of the Fund's resources all demonstrate that the Environmental Fund is neither a mere segregated pool of assets nor a separate account administered by the State. Rather, all these elements converge upon the same conclusion: the Environmental Fund constitutes a genuine special budgetary fund integrated into the public finance system and governed by the rules of public financial law (Oneț, 2018; Trăilescu & Popa).

While the analysis of the provisions governing the generation of revenues and the allocation of expenditures reveals the defining characteristics of a special budgetary fund, Article 13¹ of Government Emergency Ordinance No. 196/2005 provides further compelling evidence of the Fund's integration into the general system of public finances. From the perspective of public financial law, the significance of these provisions lies not merely in regulating financing mechanisms but in establishing legal relationships characteristic of budget execution and expressly providing for the circulation of the Fund's resources within the national budgetary system.

A first argument in this regard is provided by the mechanism governing transfers of financial resources to the budgets of local administrative-territorial units. Pursuant to Article 13¹(3), the Environmental Fund Administration transfers certain amounts to local administrative-territorial units, where such amounts are recorded under a distinct revenue heading within local budgets. The legal significance of this provision extends beyond the mere transfer of funds between two public entities. The concept of a "distinct revenue heading" belongs to the technical vocabulary of budgetary law and designates a category of financial resources incorporated into the revenue structure of a public budget (Costea & Ilucă, 2024; Costaș & Tofan, 2025).

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Accordingly, the legislature regulates not a simple proprietary or contractual transaction but expressly provides for the incorporation of amounts originating from the Environmental Fund into the budgetary system of local administrative-territorial units. Such a legislative solution is incompatible with the proposition that the Environmental Fund administers private resources. From the standpoint of budgetary law, only public financial resources may be recorded as revenues of a local budget and participate in the mechanisms of budget execution governed by public financial law.

The budgetary nature of these transfers is further confirmed by Article 13¹(5), which provides that amounts allocated to local budgets and remaining unspent at the end of the budgetary year shall be reflected in the local budget surplus. From the standpoint of determining the legal nature of the Environmental Fund, this provision is of particular significance. The concepts of "local budget," "budget surplus," and "budget execution" belong exclusively to the field of public finances and designate legal institutions specific to the budgetary process.

The fact that amounts originating from the Environmental Fund influence the outcome of local budget execution demonstrates that the legislature treats them as public financial resources. Absent such a characterization, their inclusion in the budget surplus of a local administrative-territorial unit would lack any legal basis. A budget surplus represents the outcome of the execution of a public budget and reflects the difference between realized budgetary revenues and expenditures during a financial year. Consequently, the inclusion of amounts originating from the Environmental Fund in the mechanism governing the formation of the local budget surplus constitutes an implicit yet unequivocal recognition of their public-law character.

The significance of these provisions is further reinforced by the fact that Article 13¹(5) expressly derogates from Article 58 of Law No. 273/2006 on Local Public Finances. From a methodological perspective, this legislative choice is highly significant. The legislature does not derogate from provisions of civil law or rules governing the administration of private assets but from one of the fundamental statutes of Romanian public financial law. Such a derogation from the legal regime governing local public finances is meaningful only if the sums concerned are themselves regarded as public financial resources subject to the rules governing budget execution.

In the theory of public financial law, derogating provisions are justified only within the same legal system. In other words, the legislature may establish special rules governing the administration of particular categories of public resources precisely because those resources form part of the public finance system. If the amounts

originating from the Environmental Fund possessed the character of private or merely proprietary resources, any reference to the legal regime established by Law No. 273/2006 would be devoid of legal relevance or normative justification (Oneț, 2018; Trăilescu & Popa, 2021).

The same legal rationale is reflected in the provisions governing the repayment of unused funds. Pursuant to Article 13¹(6), amounts not used in accordance with their statutory purpose must be returned to the account of the Environmental Fund Administration. This mechanism is characteristic of earmarked budgetary transfers and reflects the application of the principle of budgetary earmarking. In public financial law, funds allocated for a specified purpose do not lose their legal earmarking merely because they have been transferred to the final beneficiary. On the contrary, they remain dedicated to the statutory objective established by the legislature and must be returned if not used for the purpose for which they were granted.

Accordingly, the repayment obligation does not arise from an ordinary contractual relationship but constitutes the consequence of the continuing public-law character of the transferred financial resources. The applicable legal regime is analogous to that governing conditional budgetary transfers, public subsidies, and European Union funds administered by public authorities, where the use of financial resources remains permanently subordinated to the statutory purpose for which they were allocated (Onofrei et al., 2021).

The strongest argument in support of the public-law nature of these resources, however, is provided by Article 13¹(7), which stipulates that the recovery of allocated amounts shall be effected through the recovery of "budgetary claims." From the perspective of determining the legal nature of the Environmental Fund, this formulation is of particular importance. The legislature does not refer to civil claims, contractual obligations, or proprietary debts but expressly employs the concept of a *budgetary claim*, a technical term firmly established in public financial and tax law (Costaș & Tofan, 2025; Costea et al., 2025).

Within the Romanian legal system, a budgetary claim represents a public-law legal relationship and denotes the right of a public authority to require payment of an amount owed to a public budget. The legislature's use of this terminology cannot be regarded as accidental. On the contrary, it reflects an explicit legislative choice to integrate these legal relationships into the sphere of public finances and to subject the recovery of such amounts to the legal regime governing budgetary claims. From this perspective, the express characterization of recoverable amounts as budgetary claims constitutes one of the strongest legislative confirmations of the public-law nature of the financial resources administered by the Environmental Fund.

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Considered together, the provisions of Article 13[1] demonstrate that the Environmental Fund operates not merely as a financial mechanism administered by a public institution but as a genuine instrument for the redistribution and allocation of resources within the public finance system. Transfers made to local administrative-territorial units become integrated into the structure of local budgetary revenues, influence the outcome of budget execution, are governed by the special rules applicable to local public finances, and, where recovery is required, give rise to budgetary claims (Costea & Ilucă, 2024; Costea et al., 2025; Parliament of Romania, 2002). All these elements demonstrate that the Environmental Fund's resources participate fully in the State's public financial system and are governed by the rules of public financial law.

3. Conclusions and practical implications

A systematic analysis of the provisions of Government Emergency Ordinance (GEO) No. 196/2005**,** conducted in light of the general principles of public financial law and the criteria defining special budgetary funds, leads to a clear and coherent conclusion: *the Environmental Fund cumulatively exhibits all the legal characteristics of a special budgetary fund integrated into Romania's system of public finances.*

This conclusion does not derive from any express legal qualification assigned by the legislature to the Environmental Fund, but rather from an examination of its overall legal regime. The legal nature of a legal institution is determined not solely by the terminology employed by the legislature, but by the body of legal rules governing its organization, operation, and purpose. A comprehensive interpretation of the provisions of GEO No. 196/2005 demonstrates the existence of a normative framework that faithfully reproduces the institutional mechanisms characteristic of public financial law.

With regard to the generation of financial resources, the Ordinance establishes revenues arising directly from statute, legally prescribed pecuniary obligations, and mechanisms for declaration, assessment, administration, and enforcement that traditionally belong to tax law. The legal relationships arising from these obligations are structured around institutions specific to public financial law, including the taxpayer, the enforceable assessment instrument, claims owed to the Environmental Fund budget, revenue accounts maintained with the State Treasury, and the enforcement of budgetary claims. These elements demonstrate that the Fund's revenues are not merely financial assets administered by a public institution but constitute genuine budgetary revenues allocated to a specific statutory purpose.

The legal regime governing expenditures confirms the same conclusion. The Fund's resources are used exclusively to pursue public-interest objectives expressly established by law through mechanisms characteristic of budgetary execution, including non-reimbursable financing, co-financing of European programmes, and financing of green investments. The legally prescribed allocation of these resources reflects the application of the principle of budgetary specialty and illustrates the redistributive function inherent in every public fund, whereby resources collected from specific categories of contributors are redistributed, according to legislative policy choices, to beneficiaries and programmes serving public policy objectives.

Likewise, Article 13[1] demonstrates that the Environmental Fund operates within a genuine system of budgetary execution. The existence of an annual revenue and expenditure budget, its approval and implementation in accordance with the rules of public financial law, transfers to local government budgets, the integration of transferred amounts into the revenue structure of local budgets, and the inclusion of unspent balances in local budget surpluses all constitute manifestations of an inherently public financial cycle. Furthermore, the legislature's express characterization of recoverable amounts as budgetary claims confirms that the resources administered by the Fund form part of the public financial patrimony and are subject to the legal regime governing public finances.

The analysis of financial guarantees further reinforces this conclusion. The guarantees established under GEO No. 196/2005 are not designed to protect the proprietary interests of the Environmental Fund Administration as an ordinary creditor but rather to preserve the financial patrimony allocated to the implementation of public environmental policy. They ensure the continuity of statutory waste-management obligations, while amounts recovered through their enforcement become revenues of the Environmental Fund and are used to finance obligations that economic operators have failed to perform (Government of Romania, 2005; Lefter & Duagi, 2016; Duagi, 2019). By virtue of their function, these guarantees belong to the category of legal mechanisms intended to safeguard public financial interests and differ fundamentally from guarantees governing private-law relationships.

Taken together, these elements do not constitute isolated arguments but rather components of a coherent legal architecture. GEO No. 196/2005 does not merely regulate the financing of environmental policies; it establishes a comprehensive financial mechanism organized according to the logic of public financial law. The Environmental Fund possesses statutorily established revenues, budgetary claims administered under public-law procedures, an independent budget executed through the State Treasury, expenditures allocated to objectives of public interest, and specific mechanisms for safeguarding and protecting its financial patrimony.

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Collectively, these features constitute the legal architecture of a special budgetary fund.

From this perspective, the central conclusion emerging from the present analysis is that the Environmental Fund reproduces the complete budgetary cycle of a public fund. The generation of revenues, administration of budgetary claims, protection of financial assets, execution of expenditures, and integration of resources into the State's budgetary system are not autonomous mechanisms but successive stages of a single public financial process. Articles 9–13[1] of GEO No. 196/2005 collectively establish a coherent framework in which financial resources are generated, administered, safeguarded, and utilized in accordance with the general principles of public financial law.

Viewed in this light, the Environmental Fund performs more than the administration of earmarked revenues. It embodies the three fundamental functions of public financial law. First, it performs a *constitutive function* through the establishment and administration of budgetary revenues and claims. Second, it performs a *redistributive function* by allocating resources to finance programmes and investments serving the public interest and through transfers to local government budgets. Third, it performs a *protective function* by establishing financial guarantees and mechanisms for the control, enforcement, and recovery of budgetary claims designed to preserve the integrity of the financial resources dedicated to public environmental policy.

In our view, this systemic perspective provides the key to interpreting GEO No. 196/2005. Although an article-by-article analysis reveals individual legal institutions characteristic of public financial law, only their examination as an integrated whole makes it possible to identify the normative architecture created by the legislature. That architecture demonstrates that the Environmental Fund is not merely an administrative mechanism for collecting and distributing financial resources but rather a genuine subsystem of Romania's public finances, organized according to the general principles of budgetary law and dedicated to the implementation of a national public policy.

Accordingly, we submit that the legal nature of the Environmental Fund should be determined primarily by reference to the principles of public financial law rather than exclusively through the lens of environmental law. From this perspective, the Environmental Fund constitutes a *special budgetary fund*, while the contributions and other statutory obligations owed to it possess the legal nature of *budgetary claims* governed by the legal regime applicable to public finances. *Such a qualification is not merely a matter of doctrinal consistency but constitutes the necessary premise for a coherent interpretation of the rules governing revenue*

administration, enforcement of financial obligations, protection of the State's financial interests, and the proper application of the institutions specific to public financial law.

Correctly determining the legal nature of the Environmental Fund has significant practical implications. It would help prevent future erroneous judicial interpretations, including those adopted by Romania's High Court of Cassation and Justice (Decision No. 9, 2020), and eliminate the risk that revenues allocated to this public budget could fall outside the scope of the legal protection provided by tax evasion legislation (Oneț, 2020; Dumiter et al., 2026).

The classification of the Environmental Fund as a special budgetary fund is of particular significance from the perspectives of both public financial law and environmental law, as it explains the specific legal regime governing the financial resources administered by the Environmental Fund Administration and justifies the derogation from certain traditional principles of public finance. Although Government Emergency Ordinance No. 196/2005 does not expressly employ the term *special budgetary fund*, instead defining the Environmental Fund as an "economic and financial instrument intended to support and implement environmental protection projects and programmes," an analysis of its legal characteristics reveals the defining features of this category of public funds. These include statutorily established earmarked revenues, the exclusive allocation of those revenues to a specific public purpose, administration by a specialized public authority, and integration into the Romanian public finance system.

The principal advantage of this legal status lies in ensuring a permanent and dedicated source of funding for environmental public policies. Unlike expenditures financed exclusively from the state budget, which are subject to annual competition with other areas of public expenditure, the Environmental Fund's resources are allocated solely to the financing of environmental programmes and projects. Such earmarking ensures financial stability and continuity for investments that, by their very nature, require long-term planning and sustained financial resources. Programmes supporting energy efficiency, the promotion of renewable energy sources, waste management, the afforestation of degraded land, and the reduction of greenhouse gas emissions all involve multiannual investments that are incompatible with the uncertainty inherent in the annual budget allocation process. Consequently, the existence of a special budgetary fund establishes a predictable financial framework conducive to the implementation of coherent and sustainable environmental policies (Barbu, 2017, 2020; Hada et al., 2020; Onofrei et al., 2021; Samusevych et al., 2024).

A further advantage derives from the effective implementation of the polluter pays principle, a fundamental principle recognized in both European Union

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environmental law (Speck, 2010) and Romanian environmental legislation. Within the framework of the Environmental Fund, contributions are primarily levied on natural and legal persons whose activities have an environmental impact or who place on the market products capable of generating adverse environmental effects. The revenues thus collected are subsequently redistributed to finance measures aimed at preventing, reducing, or remedying environmental damage. From an economic perspective, this mechanism enables the internalization of environmental externalities by shifting a significant proportion of environmental protection costs to those responsible for creating environmental risks, rather than to society as a whole through general taxation. In this way, a direct link is established between the financial obligations imposed and the public purpose for which they are used, thereby enhancing both the legitimacy and the efficiency of the financing system.

Furthermore, the Environmental Fund constitutes a justified exception to the principle of the non-earmarking of public revenues, a fundamental principle of public financial law according to which public revenues are not ordinarily allocated to predetermined categories of expenditure but instead form part of the general pool of budgetary resources. In the case of special budgetary funds, however, such a derogation is justified by the need to guarantee the financing of policy areas regarded as priorities of public interest. The exclusive allocation of contributions to the financing of environmental protection projects enhances the transparency of public expenditure and enables contributors to identify the specific public purpose served by the financial obligations they bear.

The legal status of the Environmental Fund as a special budgetary fund also enhances financial predictability and facilitates the implementation of complex investment programmes. Many projects financed through the Environmental Fund Administration involve multiannual contractual commitments and require the co-financing of investments undertaken in partnership with local public authorities or within programmes supported by European Union funds. The availability of dedicated financial resources allows public authorities to undertake medium- and long-term budgetary commitments, thereby reducing the risk of interruptions in funding caused by changes in annual budgetary priorities.

Another significant advantage is the existence of a specialized administrative structure. The Environmental Fund is administered by the Environmental Fund Administration, a specialized public institution entrusted with responsibilities relating to the collection of contributions, verification of fiscal obligations, evaluation of funding applications, monitoring of project implementation, and recovery of improperly used financial resources. The concentration of these responsibilities within a single administrative authority fosters the development of

technical and legal expertise specific to environmental protection, thereby improving the efficiency of financial resource management and enabling administrative procedures to be tailored to the particular characteristics of environmental investment projects.

At the same time, the existence of a special budgetary fund facilitates the absorption of European Union funds. Numerous programmes financed through the European Structural Funds and other EU financial instruments require national co-financing or pre-financing. Owing to the stability of its revenues and the flexibility of its financing mechanisms, the Environmental Fund is capable of fulfilling this function more effectively than the general state budget (Barbu, 2020; Onofrei et al., 2021; Hada et al., 2020).

Finally, the existence of a special budgetary fund enables fiscal policy to operate as an instrument of environmental policy. Contributions payable to the Environmental Fund are intended not only to generate financial resources but also to influence behaviour by discouraging environmentally harmful activities and encouraging the adoption of cleaner technologies and more sustainable practices. Fiscal policy and environmental policy therefore complement one another, transforming the Environmental Fund into an effective instrument for achieving the objectives of sustainable development (Duțu & Duțu, 2014; Oneț, 2017; Barbu, 2017).

Notwithstanding these advantages, the legal status of the Environmental Fund as a special budgetary fund also entails a number of inherent risks and limitations.

The first of these concerns the reduction of budgetary flexibility. The earmarking of revenues for a specific purpose restricts the ability of public authorities to reallocate financial resources to other priority areas in response to changing economic and social needs. Consequently, even where the Environmental Fund generates substantial budgetary surpluses, these resources cannot be freely redirected to finance other public policies, potentially leading to the inefficient use of available public funds.

Closely related to this issue is the risk of fragmentation of the public finance system. The proliferation of special budgetary funds creates distinct financial circuits, each administered according to its own legal framework and intended to achieve specific policy objectives. Although such an organizational structure may enhance administrative efficiency in certain areas, it undermines the unity of the budgetary system and may complicate the coordination of fiscal and budgetary policies at the national level.

Another disadvantage is the possibility of accumulating financial surpluses as a result of insufficient administrative capacity to utilize the available resources effectively. In certain periods, the Fund's revenues may exceed the pace at which eligible projects are assessed, approved, and implemented. Under such

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circumstances, the existence of substantial financial reserves fails to produce the economic and environmental outcomes envisaged by the legislature, as the available resources remain temporarily unused.

Moreover, the financial stability of the Environmental Fund depends directly on the level of revenues generated by the specific statutory contributions established by law. These revenues are influenced by a variety of economic and legislative factors, including changes in consumption patterns, technological developments, the adaptation of economic operators' behaviour, and amendments to European Union policies on environmental taxation. Consequently, the Fund's revenues may fluctuate significantly, thereby affecting the planning and continuity of investment programmes.

An additional risk arises from the continuing expansion of the range of programmes financed through the Environmental Fund. As environmental public policies become increasingly diversified, there is a growing tendency for the Fund to support an ever-wider range of programmes, some of which are only indirectly related to the fundamental objectives of environmental protection. Such a development may result in the dispersion of financial resources and a corresponding reduction in their overall effectiveness.

Furthermore, the administration of a special budgetary fund requires a complex administrative structure responsible not only for collecting revenues but also for evaluating funding applications and monitoring the implementation of financed projects. These activities entail high administrative costs and require highly qualified legal, economic, and technical personnel. In the absence of an efficient administrative organization, such requirements may adversely affect the effective use of the Fund's financial resources.

Finally, although the Fund's revenues are legally earmarked for a specific purpose, the determination of concrete funding priorities remains subject to the policy choices of the competent public authorities. Depending on governmental priorities, certain programmes may receive increased financial support, whereas others may be postponed or scaled back, thereby affecting the continuity and coherence of environmental public policies.

In conclusion, the classification of the Environmental Fund as a special budgetary fund reflects a financing model based on the allocation of earmarked revenues to the pursuit of a clearly defined public interest. This legal framework offers undeniable advantages in terms of funding stability, the implementation of the polluter pays principle, the predictability of investment programmes, and the efficient allocation of financial resources for environmental protection. At the same time, it gives rise to a number of specific challenges, including reduced budgetary flexibility,

fragmentation of the public finance system, dependence on earmarked revenues, and the need for specialized and efficient administration. From this perspective, the effectiveness of the Environmental Fund depends not only on the existence of a distinct financial mechanism but also on maintaining an appropriate balance between its functional autonomy and compliance with the fundamental principles of public financial law, thereby ensuring that the resources collected are managed in a transparent, efficient, and publicly accountable manner.

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