

# **REGULATION**

## **on the form, content and other details regarding the state aid notification**

Under art. 28 align. 1. in the Competition Law 21/1996, with subsequent modifications and completions, and under art. 22 align.1 of Law 143/1999 on State Aid, with subsequent modifications and completions,

The Competition Council adopts this Regulation,

### **Introduction**

Elaborating a legal framework to regulate the State aid matter stands for the continuous harmonization of the Romanian legislation with the European legislation, which is part of Romania's process of accession to the EU.

The scope of the notification and the authorization of the state aids granted by public authorities or bodies which administer state resources is to seek the extent in which a state aid is compatible with a normal competition environment, in a market economy where prices and tariffs for services are regulated by supply and demand.

Any intention to grant a new state aid or to modify an existent state aid should be notified to the Competition Council. No state aid may be granted without the authorization of the Competition Council. The Competition Council may prohibit a state aid distorting the normal competitive environment and affecting the proper enforcement of the international agreements to which Romania is a party.

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Art. 1. Scope and purpose of the notification**

- (1) Public authorities or any other bodies administering resources on behalf of the state, as grantors and initiators, must notify to the Competition Council any intention to grant a new state aid or to alter an existing aid. The recipients cannot directly contact the Competition Council.
- (2) When a grantor or initiator intends to grant several aids, each state aid must be notified to the Competition Council for authorization.
- (3) The notification of state aid shall enable the Competition Council to analyze its compatibility with a normal competitive environment by assessing the notified measure according to provisions of the Law no.143/1999 regarding state aid, with subsequent modifications and completions, and of secondary regulations issued for the application of the law.

## **Art. 2. Exemptions**

(1) Exempted from the notification obligation are those aids amounting to the threshold stipulated by art.20 of the Law no.143/1999 on State Aid, with subsequent modifications and completions, named from now on *the law*, or is part of one of the categories exempted by one of the regulations adopted based on art.22 align.(1) in the law.

(2) Where the Competition Council has already authorized an aid scheme, the specific aid allocations under the scheme shall be considered as authorized, except of those for which, the Competition Council has imposed, through decision, the notification obligation.

## **CHAPTER II**

### **Notification of the state aid**

#### **Art. 3. State aids deemed to be notified**

(1) Any state aid, irrespective to its form, as provided for in the law, and to its recipient, is deemed to be authorized by, and therefore, must be notified to the Competition Council.

(2) When the grantor or the initiator intends to alter an existing aid, the notification necessary to obtain an authorization decision shall be made as in the case of a new state aid, and the notification must specify that the existing aid is altered.

(3) The state aids, which are not qualified as existing aids under the art. 3(2) of the law and also state aid which fall under the provisions of article 2(2) of the law, must be also notified and authorized by the Competition Council. These are specific aid allocations within an authorized aid scheme for which, the Competition Council expressly requested the notification within its decision authorizing the aid scheme. In this case, the notification shall be made as for an individual state aid.

(4) The grantor shall notify the aid to the Competition Council within a sufficient time period from the date of aid granting, also taking into account the legal deadlines within which the Council has to make a decision.

#### **Art.4. Notification form**

(1) The state aids mentioned above are notified by filing in the notification form, as provided by Annex 1 and, where the case may be, by submitting the specific information on the state aids granted according to the provisions of art. 14 lign.(1) letter a) – j) in the law, as provided by Annex 2-12.

(2) The notification form must be filled in with exact, accurate and complete information to enable the Competition Council to assess the compatibility of state aid for which the authorization under the law was requested. The notification form is to be signed by the grantor's solicitors and will be accompanied by the relevant documents mentioned in the notification form and must be signed by the legal representatives of the state aid's grantor and initiator.

(3) To fill in the notification form, the grantor and the initiator may cooperate with the recipient of state aid.

(4) When a grantor or initiator grants several state aids, he will fill in a notification form for each state aid.

### **Art.5. Sending the notification**

(1) The notification to the Competition Council is effective by submitting in 3 copies the notification form, accompanied by the relevant documents. When sending the notification to the Competition Council, the grantor may choose one of the following modalities:

- In person, against signature (getting a registration number);
- By mail, with confirmation of receipt;
- On electronic form.

2. Additional information, when necessary to complete the notification may be sent by fax. If so, the receiving date to the Competition Council is considered the day when the information was sent.

### **Art. 6. The actual notification procedure**

(1) After the notification form is received, the Competition Council shall examine the relayed information. If they are inexact or incomplete, the Competition Council shall request the notification to be completed within 20 days from receiving the notification.

(2) Notification shall be effective on the date the information are exact and complete. The Competition Council shall inform the grantor and/or initiator in writing with regard to the date on which the notification become effective. As of this moment, the deadlines begin as provided by art.9 of the law, starting with which the Council has to issue a motivated decision.

(3) Whenever necessary, the Competition Council, under art. 11 of the Law no.143/1999, may request the potential recipients or third parties to submit information in order to make a motivated decision.

(4) The date on which the notification becomes effective is the registration date at the Competition Council, provided that the Council did not request the notification to be completed within 20 days after receiving it.

(5) Decision to authorize a state aid shall be annulled by the Competition Council if after authorization, it is found that it was issued based on incorrect information by the grantor and/or initiator. The annulment of the decision is done solely after hearing grantors' and/or initiator's arguments.

### **Art. 7. Modifications**

(1) If after the notification but before making a decision by the Competition Council, the grantor and/or initiator alters the aid granting terms, they have to be immediately brought to the Competition Council's attention in writing. If the changes affect the state aid to the extent it can be qualified as a new state aid, which is different from the initially notified aid, the Competition Council shall inform the grantor and/or initiator on this situation and shall request either to alter the notification form or to submit a new notification.

(2) Provisions of align. 1 are applicable also when altering an existing aid.

### **Art. 8. Withdrawal of notification**

(1) The state aid grantor and/or the initiator may withdraw the notification from the Competition Council when he renounces granting the notified aid. Withdrawal may occur any time, but not later than the moment when the Competition Council issues one of the decisions under art. 12 (2) of the law.

(2) In the situation from align.(1), the Competition Council shall take act of the grantors' will and shall close the action, even when the investigation has been opened through an order give by the president of the Competition Council.

#### **Art. 9. Notifying an illegal state aid**

(1) The grantor and/or the initiator of an illegal state aid granted without being notified may notify it to the Competition Council for authorization.

(2) The Competition Council shall receive and assess the notification of an illegal state aid and this will not prevent the enforcement of art. 17 and 19 align. (1)(b) and align.(2) or continuation of a procedure started based in compliance with these provisions.

#### **Art. 10. Third parties' rights**

(1) Any person with a legitimate interest related to the granting a new aid or altering existing one, upon the Competition Council request or by his own decision shall present his position.

(2) Whenever necessary, the Competition Council shall make public the existing notification intention of granting a new aid or of altering an existing one.

### **CHAPTER III**

#### **Art. 11 Final provisions**

(1) Deadlines shall be calculated as provided by the Civil Code.

(2) The Regulation on Organization, Functioning and Procedures of Competition Council, published in the Official Journal of Romania, Ist Part, no.288 of 01.04.2004, with the subsequent modifications and completions, shall accordingly apply for the decision-making and assessment procedures in case of state aid notification.

(3) Annexes 1 -18 are part of the present Regulation.

(4) The present Regulation abolishes in whole the *Regulation on the form, content and other details regarding the state aid notification*, enforced by the Order of the Competition Council's President no.27/2000, published in Official Journal of Romania, Ist Part, no.125 of 24.03.2000

(5) The present Regulation transposes Annexes I to the Commission Regulation (EC) no.794 of April 21<sup>st</sup>, 2004 implementing Council Regulation (EC) no.659/1999 laying down detailed rules for the application of article 93 of the EC Treaty, OJL 140/1,30.04.2004.