

REGULATION CONCERNING TRAINING AID

Pursuant to Article 27 (1) and (2) of the Competition Law no. 21/1996, with the subsequent amendments and article 30 of the State Aid Law no. 143/1999, the Competition Council adopts the present Regulation.

Introduction

Drafting a legal framework regulating the state aid discipline stands for the continuation of the harmonization process of the Romanian legislation with the European legislation, which is part of Romania's accession process to the European Union.

The purpose of the state aid control exerted by the public authorities or any other bodies administering resources on behalf of the state aims at assessing the compatibility of a state aid with a normal competitive environment within a market economy where the supply and demand determine the prices of the goods and services.

Any intention to grant a new state aid or to alter an existing aid must be notified to the Competition Council. Without the Competition Council's authorization neither state aid can be granted.

Training usually has positive external effects for society as a whole since it increases the pool of skilled workers from which other firms may draw, improves the competitiveness of national industry and plays an important role in employment strategy. In view of the fact that enterprises generally under-invest in the training of their workers, State aid might help to correct this market imperfection and therefore can be considered under certain conditions to be compatible with the home market.

CHAPTER I GENERAL PROVISIONS

Scope

Art. 1 – (1) This Regulation applies to aid in all sectors and individual aid granted for training in all sectors.

(2) This Regulation should only apply to training measures which constitute State aid within the meaning of Article 2 (1) of the Law no. 143/1999 on State Aid. Many training measures are not caught by Article 2 (1) of the Law no. 143/1999 on State Aid, but constitute general measures because they are open to all enterprises in all sectors without discrimination and without discretionary power for the authorities applying the measure, e.g. general tax incentive schemes open to all firms investing in employee training. Other training measures do not fall within the scope of Article 2 (1) of the Law no. 143/1999 on State Aid, because they directly benefit people everywhere and do not grant an advantage to certain enterprises or sectors, such as: schooling and initial training; the training or re-training of unemployed people, including traineeships in enterprises; measures directly targeted at workers or even at

certain categories of workers, affording them the opportunity of receiving training unconnected with the firm or industry in which they work.

Definitions

Art. 2 - For the purpose of this Regulation:

I. "small and medium-sized enterprises" are defined according to the Regulation on state aid for small and medium-sized enterprises, enforced by the President of the Competition Council no. 55/2004, published in the Romanian Official Gazette, Part I, no. 340 of the 19th of April 2004.

II. "large enterprises" shall mean enterprises not coming under the definition of SME in point I;

III. "specific training" shall mean training involving tuition directly and principally applicable to the employee's present or future position in the assisted firm and providing qualifications which are not or only to a limited extent transferable to other firms or fields of work;

IV. "general training" shall mean training involving tuition which is not applicable only or principally to the employee's present or future position in the assisted firm, but which provides qualifications that are largely transferable to other firms or fields of work and thereby substantially improve the employability of the employee. Training shall be considered "general" if, for example, it is jointly organized by different independent enterprises, or if employees of different enterprises may avail themselves of the training, or if it is recognized, certified or validated by public authorities or bodies or by other bodies or institutions on which State has conferred the necessary powers.

V. "aid intensity" shall mean the gross aid amount expressed as a percentage of the project's eligible costs. All figures used shall be taken before any deduction for direct taxation. Where aid is awarded in a form other than a grant, the aid amount shall be the grant equivalent of the aid. Aid payable in several installments shall be discounted to its value at the time of granting. The interest rate to be used for discounting purposes and for calculating the aid amount in a soft loan shall be the reference rate applicable at the time of grant;

VI. "disadvantaged worker" shall mean:

a) any young person under 25 who has not previously obtained his first regular paid employment;

b) any person with serious disabilities which result from physical, mental or psychological impairments and yet capable of entering the labour market;

c) any migrant worker who moves or has moved or becomes resident in Romania to take up work and who needs professional training, including training for learning the Romanian language;

d) any person wishing to re-enter working life after a break of at least three years, and particularly any person who gave up work on account of the difficulty of reconciling his working life and family life, for the first six months after recruitment;

e) any person older than 45 who has not attained an upper secondary educational qualification or its equivalent;

f) any person who was without work for 12 consecutive months, for the first six months after recruitment.

CHAPTER II

TRAINING AID RULES

Training aid authorisation conditions

Art. 3 - According to this regulation, the Competition Council shall authorise any individual aid and any aid schemes fulfilling all the conditions laid down in Articles 4-6.

Aid intensity

Art. 4 – (1) The intensity of the aid granted for specific training shall not exceed 35 % for large enterprises and 45 % for small and medium-sized enterprises.

(2) The intensity of the aid granted for general training shall not exceed 60 % for large enterprises and 80 % for small and medium-sized enterprises.

(3) The maximum intensities referred to in paragraph 1 and 2 shall be increased by 10 percentage points if the training is given to disadvantaged workers.

(4) In cases where the aid project involves both specific and general training components which cannot be separated for the calculation of the aid intensity, and in cases where the specific or general character of the training aid project cannot be established, the intensities applicable to specific training pursuant to paragraph 1 shall apply.

(5) Where the aid is granted in the maritime transport sector, it may reach an intensity of 100 %, whether the training project concerns specific or general training, provided that the following conditions are met:

(a) the trainee shall not be an active member of the crew but shall be supernumerary on board, and

(b) the training shall be carried out on board ships entered on Romania registers.

Eligible costs

Art. 5 – (1) The eligible costs of a training aid project shall be:

(a) trainers' personnel costs,

(b) trainers' and trainees' travel expenses,

(c) other current expenses such as materials and supplies,

(d) depreciation of tools and equipment, to the extent that they are used exclusively for the training project,

(e) cost of guidance and counselling services with regard to the training project,

(f) trainees' personnel costs up to the amount of the total of the other eligible costs referred to in letter (a) to (e). Only the hours during which the trainees actually participate in the training, after deduction of any productive hours or of their equivalent, may be taken into account.

(2) The eligible costs shall be supported by documentary evidence, which shall be transparent and itemised.

Cumulation of the aid

Art. 6 – (1) The aid ceilings fixed in Article 4 shall apply regardless of whether the support for the project is financed entirely from State resources or is partly financed by State resources.

(2) Training aid shall not be cumulated with any other State aid or with other Community funding, in relation to the same eligible costs, if such cumulation would result in an aid intensity exceeding that fixed by this Regulation.

CHAPTER III

FINAL PROVISIONS

Conditions to be met for the application of this Regulation

Art. 7 – The provisions of this Regulation will be implemented in accordance with the Regulation on the form, content and other details of the state aid notification and with the Regulation on the de minimis rule of state aid which is not covered by the notification obligation, that entered into force through the Order no. 27/2000 by the President of the Competition Council.

State aid falling under this Regulation

Art. 8 – This Regulation applies to State Aids granted for training, which will be notified after it enters into force. Also, the present Regulation applies to state aids which were notified before its entering into force, but the Competition Council decision is subsequent to this date or the Competition Council has not issued a decision yet.

Entering into force

Art. 9 – This Regulation is adopted through Order by the President of the Competition Council and enters into force after six months as of the date of publishing in the Romanian Official Gazette.