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**Subject: State aid SA.41318 (2015/N) – Romania**  
**Notification of the rescue aid to Complexul Energetic Hunedoara**

Sir,

**1. PROCEDURE:**

- (1) Romania formally notified on 20 March 2015 rescue aid to Complexul Energetic Hunedoara C.E. (hereafter "CE Hunedoara"), registered under number SA. 41318.
- (2) The Commission services requested additional information by letters dated 1 April 2015 and 9 April 2015. Romania replied to these requests by letters dated 8 April 2015, 9 April 2015, 10 April 2015 and 14 April 2015.
- (3) Romania amended its notification on 16 April 2015.
- (4) On 8 April 2015, Romania waived its rights under Article 342 TFEU in conjunction with Article 3 of Regulation (EEC) No 1/1958<sup>1</sup> to have the decision adopted in Romanian and agreed that the decision be adopted in English.

**2. THE BENEFICIARY:**

- (5) CE Hunedoara is a state-owned electricity and heat producer in Romania, headquartered in Petrosani, Hunedoara County. Hunedoara county is an assisted

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<sup>1</sup> Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385, p.58).

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region falling under Article 107(3)(a) in accordance with the Regional Aid Map of Romania<sup>2</sup>.

- (6) CE Hunedoara has a market share of approximately 5% on the Romanian electricity generation market, being the only major producer of electricity in the centre and northwest of Romania.
- (7) CE Hunedoara's energy generation business comprises two thermal power plants, Electrocentrale Deva ("ED") and Electrocentrale Paroşeni ("EP"), which together have an installed capacity of 1225 MW as follows:
  - (i) EP has one power unit (TA4), with an installed capacity of 150MW;
  - (ii) ED has an installed capacity of 1075 MW, consisting of four power units of 210 MW (TA2, TA4, TA5 and TA6) and one unit of 235MW (TA3).
- (8) Currently, all the installed capacity of CE Hunedoara is in operation, and all six power units are available at the request of the National Power Dispatching Centre.
- (9) CE Hunedoara is the largest company in the Hunedoara County and a cessation of its activity would lead to a spike in the unemployment rate in the area. The entire community in the area is dependent on the activity of CE Hunedoara and the economic situation overall of the County would deteriorate if CE Hunedoara would have to close.
- (10) CE Hunedoara uses hard coal to produce electricity and also co-generates heat for the surrounding cities. Approximately 6566 persons are employed, in total, in CE Hunedoara out of which 1922 persons are employed in other activities than the mining activity.
- (11) CE Hunedoara is the only source of heat for the city of Deva and the towns located in the Jiu Valley area. A cessation of the activity of CE Hunedoara would affect the public service obligation of supplying of heat to households formally entrusted to CE Hunedoara.
- (12) CE Hunedoara is using coal from internal production, but is also purchasing coal from the Romanian market and from imports.
- (13) CE Hunedoara was established in November 2012 by merging the two state owned power generating companies, namely EP and ED with a share capital of lei 203.4 million (approx. EUR 45.9 million<sup>3</sup>). In August 2013, CE Hunedoara took over the state owned Societatea Nationala a Huilei (hereafter "SNH") and absorbed the four coal mines in the Jiu Valley owned by SNH, namely Lonea, Livezeni, Vulcan and Lupeni. As a result of the acquisition of SNH the share capital of CE Hunedoara increased to lei 349.8 million (approx. EUR 79 million). At present all three companies (EP, ED and SNH) qualify as branches of CE Hunedoara without legal personality. However, the mines maintained separate accounting records.

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<sup>2</sup> SA.38364 Regional aid map for Romania (2014-2020), [JOCE C/233/2014](#)

<sup>3</sup> On 20 March 2015, the official exchange rate according to European Central Bank was: 1 EUR= 4.43 lei. For information purposes, this exchange rate will be used as reference throughout the decision.

- (14) CE Hunedoara made a profit of lei 37.9 million in 2012 (approx. EUR 8.5 million). However, following the absorption of the coal mines in 2013 CE Hunedoara generated losses in the amount of lei 147.6 million (approx. EUR 33.3 million) in 2013 and lei 354.5 million (approx. EUR 80 million) in 2014<sup>4</sup>. As a result, net assets fell considerably and the debt to equity ratio increased from 0.28 in 2013 to 0.44 in February 2015. The overall debt increased and also its structure deteriorated as a relatively larger portion became due in the short term. The deteriorating financial situation of the Company is reflected in the financial data as summarised in Table 1 below.

Table 1 – Selected financial data of CE Hunedoara in 2013, 2014 and 28 February 2015 (in lei million (EUR million))

<b>Million lei</b>	<b>Audited 2013<sup>5</sup></b>	<b>Provisional 2014</b>	<b>28 February 2015</b>
Revenue	913.2	690.8	123.5
Net loss	-147.6	-354.5	-49.6
Net assets	980.1	627.1	577.5
Short term Debt	482.7	676.1	688.3
Long term Debt (incl. provisions)	300.3	324.3	333.4
Current assets	383.7	213.5	197.4

- (15) CE Hunedoara has positive equity. However, despite the positive equity the banks hesitate to accept the high value fixed assets (power plants and mines) as collaterals for commercial loans because those assets are not easily marketable. As a result and also due to the loss making position of CE Hunedoara, it is not able to obtain the necessary commercial loans to cover its liquidity needs.
- (16) The liquidity indicators calculated for the financial years 2013, 2014 and as of 28 February 2015 show that CE Hunedoara is not able to pay on maturity date its debts. The ratio of current assets to current liabilities which is measuring the liquidity situation fell from 0.80 in 2013 to 0.29 in February 2015.

<b>Liquidity indicators in million lei</b>	<b>Audited 2013</b>	<b>Provisional 2014</b>	<b>28 February 2015</b>
<b>Current ratio indicators</b>			
Current assets (A)	383.7	213.5	197.4
Current debts (B)	482.7	676.2	688.3
(A) / (B)	<b>0.80</b>	<b>0.32</b>	<b>0.29</b>

<sup>4</sup> At the time of this decision, the financial data of 2014 have not been audited and approved by the shareholders.

<sup>5</sup> CE Hunedoara showed internal revenues and internal costs in its 2013 financial data leading to grossed up revenues and costs. Following the auditor's opinion the grossed up 2013 figures were corrected. The table shows the corrected figures.

<b>Quick ratio</b>			
Current assets (A)	383.7	213.5	197.4
Stocks(B)	128.3	52.9	46.9
Current debts (C)	482.7	676.2	688.3
((A) - (B)) / (C)	<b>0.53</b>	<b>0.24</b>	<b>0.22</b>

- (17) The Romanian authorities explained that as a result of its losses, CE Hunedoara is currently facing liquidity problems and it cannot finance its operation from its revenues and equity. Due to its liquidity problems, CE Hunedoara could be placed in collective insolvency under Romanian national law, unless it receives the rescue aid. Therefore, according to the Romanian authorities it qualifies as an undertaking in difficulty according to the 2014 Guidelines on Rescue and Restructuring Aid<sup>6</sup>.

### 3. DESCRIPTION OF THE RESCUE MEASURE:

#### Measure: Loans

- (18) The notified rescue aid consists of dedicated loans that will be granted by the Romanian Ministry of Finance up to an amount of lei 167 000 000 (approx. EUR 37.7 million) in line with the Normative Act pursuant to article 108 of the Constitution of Romania to be adopted as a legal basis for the rescue aid (“the Normative Act”).
- (19) The loans will be granted for a maximum period of six months and will bear an interest of ROBOR 3M + 5%. The loans can be called by CE Hunedoara by way of a single payment or by multiple tranches. The detailed terms and conditions for the loans will be laid out in loan agreements to be concluded with the beneficiary.
- (20) According to the Normative Act the rescue aid is conditional on that CE Hunedoara has to submit a restructuring plan within six month following the granting of the rescue aid. The restructuring plan shall demonstrate that CE Hunedoara will return to viability on the long term and the plan shall be notified to the European Commission. In the case CE Hunedoara would neither submit a restructuring plan, nor repay the rescue aid, CE Hunedoara shall present a liquidation plan.
- (21) In the case the envisaged restructuring plan is not approved by the European Commission, all aid to CE Hunedoara will be recovered by the Ministry of Public Finance, through National Agency for Fiscal Administration.
- (22) The Romanian authorities committed that the mines will be legally split from the power plants as soon as possible.
- (23) The notified draft Normative Act sets the condition that the rescue aid shall not be granted to the four coal mines owned by CE Hunedoara.
- (24) To this end, in the notified draft Normative Act there is an obligation to legally separate the mine activity from the power plants. According to the notified draft Normative Act, CE Hunedoara will continue having separate accounting registers for the coal mines and is obliged to start the legal separation of the mines

<sup>6</sup> Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p. 1–28.

immediately after the enactment of the Normative Act. CE Hunedoara must do its best endeavour to achieve this result within the shortest timeframe. Moreover, the payment of the aid will be conditional on providing all the evidence that the company has indeed undertaken all the necessary steps to achieve the legal separation of the mines within the shortest timeframe. The details with regard to the conditions related to the payment of the aid will be prescribed in the loan agreements.

#### **4. ASSESSMENT OF THE MEASURE**

- (25) The Commission first assesses whether the measure under scrutiny entails State aid to CE Hunedoara under Article 107(1) TFEU, and then whether such aid, if present, is lawful and compatible with the internal market.

##### **4.1. Existence of State aid**

- (26) Under Article 107(1) TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.
- (27) In order to conclude whether State aid is present, the Commission must assess whether the cumulative criteria of Article 107(1) TFEU are met (i.e. transfer of State resources and imputability to the State, selective advantage, potential distortion of competition and affectation of intra-EU trade).
- (28) Prior to examining if the measure involves State aid under Article 107(1) TFEU, the Commission notes that Romania considers that this is the case.
- (29) As regards the State origin of the measure, the Commission observes that the measure is granted by the Romanian Ministry of Finance, which is an administrative public entity of the Romanian State. Given that the notion of Member State includes all levels of public authorities, regardless of whether it is a national, regional or local authority,<sup>7</sup> the Commission concludes that the measure involves State resources and is imputable to the State.
- (30) To be considered State aid, a measure must grant a selective advantage, in that it favours only certain undertakings and/or the production of certain goods. The measure at stake is selective, as the loans will be granted to the benefit of one specific undertaking, i.e. CE Hunedoara. The measure, by allowing CE Hunedoara to finance its liquidity gap, confers an undue advantage to CE Hunedoara that it would not have been able to obtain under normal market conditions.
- (31) The loans to be granted will provide the beneficiary with access to liquidity that it would otherwise not be able to obtain from the market, given its difficult financial situation. This is confirmed by the Romanian authorities who state in the notification that CE Hunedoara is not able to meet its payment obligations on schedule, due to severe liquidity problems. According to Romania, without the rescue aid, the Company would have had to declare insolvency as the commercial banks are not willing to provide financial credits to CE Hunedoara.

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<sup>7</sup> Case C-248/84 *Germany v Commission* [1987] ECR 4013, para.17.

- (32) In view of the above, the Commission concludes that the measure provides the beneficiary with a selective advantage.
- (33) The Commission has also analysed whether the measure distorts or threatens to distort competition and affects intra-EU trade. If aid granted by a Member State strengthens the position of an undertaking compared to other undertakings competing in intra-Union trade, the latter must be regarded as affected by that aid.<sup>8</sup>
- (34) Electricity is traded across borders, thus the measure is liable to improve the competitive position of the beneficiary in relation to its competitors in the internal market. It consequently distorts or threatens to distort competition and is liable to affect trade between Member States.

#### *Conclusion on the existence of aid*

- (35) In light of the above, the Commission concludes that measure involves State aid under Article 107(1) TFEU and will therefore assess its lawfulness and compatibility with the internal market.

### **4.2. Legality of the aid**

- (36) The Commission notes that measure identified was granted to CE Hunedoara observing the stand-still obligations laid down in Article 108(3) TFEU. Thus, the measure granted to CE Hunedoara does not constitute unlawful State aid.

### **4.3. Compatibility of the aid**

- (37) Under Article 107(3)(c) TFEU, the Commission can authorise aid if it is granted to promote the development of certain economic sectors and if this aid does not adversely affect trading conditions to an extent contrary to the common interest. In view of the nature of the measure at stake, the Commission will assess whether the measure complies with the provisions on rescue aid laid down in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty<sup>9</sup> ("R&R Guidelines").

#### *4.3.1. Eligibility*

- (38) In order for an undertaking to be eligible for rescue aid, it must qualify as an undertaking in difficulty pursuant to section 2.2 of the R&R Guidelines. In particular, point 20 of the R&R Guidelines stipulates that an undertaking is considered to be in difficulty when, without intervention by the State, it will almost certainly be condemned to going out of business in the short or medium term. This would be the case when at least one of the circumstances described in point 20 of the R&R Guidelines occurs:

- (a) In the case of a limited liability company, where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the

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<sup>8</sup> See, in particular, Case 730/79 *Philip Morris v Commission* [1980] ECR 2671, para.11; Case C-53/00 *Ferring* [2001] ECR I-9067, para.21; Case C-372/97 *Italy v Commission* [2004] ECR I-3679, para.44.

<sup>9</sup> Communication from the Commission – Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C249, 31.7.2014, p.1.

company) leads to a negative cumulative amount that exceeds half of the subscribed share capital.

- (b) In the case of a company where at least some members have unlimited liability for the debt of the company, where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses.
  - (c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
  - (d) In the case of an undertaking that is not an SME, where, for the past two years: (i) the undertaking's book debt to equity ratio has been greater than 7.5 and (ii) the undertaking's EBITDA interest coverage ratio has been below 1.0.
- (39) CE Hunedoara qualifies as a firm in difficulty according to the 2014 R&R Guidelines since under Romanian national law CE Hunedoara fulfils the criteria for being placed in collective insolvency proceedings at the request of its creditors.
- (40) For the reasons above, the Commission concludes that CE Hunedoara is a firm in difficulty in the sense of point 20(c) of the R&R Guidelines.
- (41) According to point 21 of the R&R Guidelines, a newly created undertaking is not eligible for rescue aid even if its initial financial position is insecure. This applies for instance when a new undertaking emerges from the liquidation of a previous undertaking or merely takes over that undertaking's assets. An undertaking will in principle be considered as newly created during the first three years following the start of operations in the relevant field of activity. Only after that period it will become eligible for aid, provided that: (a) it qualifies as an undertaking in difficulty within the meaning of the R&R Guidelines, and (b) it does not form part of a larger business group except under the conditions laid down in point 22 of the R&R Guidelines.
- (42) CE Hunedoara is a legal successor of two previously existing companies, namely EP and ED and was created as a result of the merger of the two legal entities which existed since 2001 and 2011 respectively. The legal entities EP and ED disappeared as a consequence of the merger.
- (43) In view of the above, the Commission concludes that CE Hunedoara is not a newly created undertaking.
- (44) As detailed in Recitals (22) and (24) the Romanian authorities committed to have the power plants legally separated from the coal mines. In the meantime, the accounts of the mining division remain separated from the accounts for the electricity and heat production. This ensures that it can be proved that no rescue aid is granted to the coal sector in line with recital 18 of the R&R Guidelines

#### *4.3.2. Contribution to an objective of common interest*

- (45) Under point 38(a) of the R&R Guidelines, in assessing whether the rescue aid can be declared compatible with the internal market, the Commission will consider whether the State aid contributes to a well-defined objective of common interest in

accordance with Article 107(3) TFEU. In this respect, the Member State must provide clear evidence showing that the aid aims to prevent social hardship or address market failure.

(46) Under point 44 of the R&R Guidelines, this can be demonstrated in particular by showing that:

- (a) the unemployment rate in the region or regions concerned (at NUTS level II) is either (i) higher than the Union average, persistent and accompanied by difficulty in creating new employment in the region or regions concerned, or (ii) higher than the national average, persistent and accompanied by difficulty in creating new employment in the region(s) concerned;
- (b) there is a risk of disruption to an important service which is hard to replicate and where it would be difficult for any competitor simply to step in (for example, a national infrastructure provider);
- (c) the exit of an undertaking with an important systemic role in a particular region or sector would have potential negative consequences (for example as a supplier of an important input);
- (d) there is a risk of interruption to the continuity of provision of an SGEI;
- (e) the failure or adverse incentives of credit markets would push an otherwise viable undertaking into bankruptcy;
- (f) the exit of the undertaking concerned from the market would lead to an irremediable loss of important technical knowledge or expertise; or
- (g) similar situations of severe hardship duly substantiated by the Member State concerned would arise.

(47) As described above in Recitals (6) to (11), CE Hunedoara is the only major electricity producer in the centre and northwest of Romania and it is formally entrusted with and ensures the public service obligation of providing heat to the city of Deva and the towns located in the Jiu Valley area.

(48) In addition, CE Hunedoara, employing 1922 persons in activities non related to the mining activity, is the largest company in the Hunedoara County, an assisted area falling under Article 107(a) TFEU, and a cessation of its activity would lead to a spike in the unemployment rate in the area due to collateral effects to other businesses. The entire community in the area is dependent on the activity of CE Hunedoara and the economic situation overall in the County would deteriorate if CE Hunedoara would have to close.

(49) The Commission therefore, concludes that without the rescue aid there is a risk of disruption to important services, which are hard to replicate, such as providing district heating (set-up as a service of general economic interest by the Romanian authorities) .

(50) The exit of CE Hunedoara as a legal entity from the market would lead to systemic implications in the Hunedoara County seriously affecting other dependant



businesses and leading to a sudden increase of the unemployment rate in the region.

- (51) In view of the above, the Commission concludes that the information provided by the Romanian authorities demonstrates that points 38(a) and 44(b, c and d) of the R&R Guidelines are respected.

#### *4.3.3. Appropriateness*

- (52) Under point 38(c) of the R&R Guidelines, the Commission will not consider an aid measure to be compatible if other, less distortive measures allow the same objective to be achieved. In this respect, rescue aid must fulfil the conditions laid down in point 55 of the R&R Guidelines:
- (a) it must consist of temporary liquidity support in the form of loan guarantees or loans;
  - (b) the financial cost of the loan or, in the case of loan guarantees, the total financial cost of the guaranteed loan, including the interest rate of the loan and the guarantee premium, must be set at a rate not less than the reference rate set out in the Reference Rate Communication<sup>10</sup> for weak undertakings offering normal levels of collateralisation (currently 1-year IBOR plus 400 basis points);
  - (c) except as otherwise specified in point (d) below, any loan must be reimbursed and any guarantee must come to an end within a period of not more than six months after disbursement of the first instalment to the beneficiary;
  - (d) the Member State must undertake to communicate to the Commission, not later than six months after the rescue aid measure has been authorised or, in the case of non-notified aid, not later than six months after disbursement of the first instalment to the beneficiary: (i) proof that the loan has been reimbursed in full and/or that the guarantee has been terminated; or (ii) a restructuring plan as set out in section 3.1.2 of the R&R Guidelines if the beneficiary qualifies as an undertaking in difficulty (and not only faces acute liquidity needs); or (iii) a liquidation plan setting out in a substantiated way the steps leading to the liquidation of the beneficiary within a reasonable time frame without further aid.
  - (e) Rescue aid may not be used to finance structural measures, such as acquisition of significant businesses or assets, unless they are required during the rescue period for the survival of the beneficiary.
- (53) In the case at hand, the measure consists of loans up to lei 167 000 000 (approx. EUR 37.7 million) that CE Hunedoara will use to finance its liquidity gap for the period of April to September 2015. The interest rate charged is ROBOR 3M plus 500 basis points: at present, the ROBOR 3M is 1.36%, which makes a total interest rate of 6.36%. This rate corresponds to the reference rate set out in the Reference

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<sup>10</sup> Communication from the Commission on the revision of the method for setting the reference and discount rates, OJ C 14, 19.1.2008, p. 6.

Rate Communication for weak undertakings offering normal levels of collateralisation.

- (54) Romania commits that the loans will come to an end within six months after the disbursement of the first instalment to CE Hunedoara, i.e. before October 2015. Romania also undertakes to communicate to the Commission, not later than six months after the rescue aid measure has been authorised, a restructuring plan as set out in section 3.1.2 of the R&R Guidelines. Finally, the Commission observes that Romania commits that CE Hunedoara will not use the rescue aid to finance structural measures nor the activity of the coal mines..
- (55) In view of the information provided by Romania, the Commission concludes that the condition laid down in points 38(c) and 55 of the R&R Guidelines is met and therefore the form of the aid allows rescuing CE Hunedoara in the least distortive way.

#### *4.3.4. Proportionality of the aid / aid limited to the minimum*

- (56) Under point 38(e) of the R&R Guidelines, aid must not exceed the minimum needed to achieve the objective of common interest. As specified in point 60 of the R&R Guidelines rescue aid must be restricted to the amount needed to keep the beneficiary in business for six months. In determining that amount, the Commission will take into account the outcome of the formula set out in Annex I of the R&R Guidelines. The Commission will authorise any aid exceeding the result of that calculation only if it is duly justified by the provision of a liquidity plan setting out the beneficiary's liquidity needs for the coming six months.
- (57) Based on the provisional financial reports of CE Hunedoara for 2014, *i.e.* the year before notifying the aid, the Commission has identified the following elements to be taken into account in the formula for the case of CE Hunedoara:
- EBIT in 2014: minus lei 347.3 million.
  - Depreciation in 2014: lei 115 million.
  - Working capital for 2014: minus lei 461.8 million (current assets: lei 214.3 million, minus current liabilities: lei 676.1 million).
  - Working capital for 2013: minus lei 98.1 million (current assets: lei 384.6 million, minus current liabilities: current liabilities lei 482.7 million).
- (58) The outcome of the application of the formula is therefore minus lei 297.87 million.
- (59) Romania has estimated the funding need for the coming 6 months for CE Hunedoara excluding the funding need of the mines in order to avoid that the funding need of the mines would be taken into account. The cash-flow estimate shows that CE Hunedoara needs lei 167.8 million to cover its liquidity gap.
- (60) On the basis of the information provided by the Romanian authorities, the liquidity needs stem from the activity of the company and do not take into account the liabilities stemming from the obligation to repay illegal and incompatible aid granted in the past.

- (61) The Commission first notes that the outcome of the application of the formula in the case of CE Hunedoara is negative. Secondly, the amount of the rescue aid (lei 167 000 000) is lower than the maximum resulting from the application of the formula. The Commission therefore concludes that the rescue aid is indeed restricted to a minimum amount, in line with point 60 of the R&R Guidelines.

#### *4.3.5. Negative effects*

- (62) Under point 38(f) of the R&R Guidelines, the negative effects of the aid on competition and trade between Member States must be sufficiently limited, so that the overall balance of the measure is positive.
- (63) In the case SA 33475 the Commission has adopted a decision which finds that CE Hunedoara, can be considered the economic successor of the company that previously owned the assets of EP, i.e. Termoelectrica S.A., the legal successor of EP and the legal and economic successor of ED. As the Commission found in the same decision that ED and Termoelectrica S.A. have illegally received State aid that is not compatible with the internal market and should be recovered and given the legal and economic continuity established, the Commission considered that the recovery obligations vis-à-vis ED and Termoelectrica S.A. is extended to CE Hunedoara.
- (64) In light of the Deggendorf principle<sup>11</sup> and of the cumulated effect of the aid, the Commission takes note of the commitment from Romania that the notified rescue aid measure will not be implemented before the aid declared incompatible by the Commission in case SA 33475 has been recovered. This will avoid that CE Hunedoara unduly benefits from the repeated grant of State aid.
- (65) Moreover, in accordance with the information provided by the Romanian authorities the calculated liquidity needs of CE Hunedoara do not include the debt from the repayment of the incompatible aid. The Commission furthermore notes that the notified rescue aid measure is below the maximum aid amount calculated on the basis of the formula in Annex I of the R&R Guidelines.

#### *4.3.6. Conclusion on the compatibility of the aid*

- (66) In the light of the findings above, the Commission concludes that the measure meets the compatibility conditions of the R&R Guidelines. The Commission therefore considers the rescue aid compatible with the internal market.
- (67) In addition, the Commission reminds Romania of its obligation to submit annual reports to the Commission, in accordance with point 131 of the R&R Guidelines. The Commission further notes that Romania committed to legally separate the coal mines from the power generation in the shortest timeframe possible in line with the national legislation. Romania also committed to submit the loan agreements signed with the aid beneficiary.
- (68) The Commission also reminds Romania to notify a restructuring plan for CE Hunedoara as soon they have indications that the rescue aid cannot be reimbursed by CE Hunedoara within the set timeframe.

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<sup>11</sup> Joined Cases T-244/93 and T-486/93 *TWD Deggendorf v Commission* [1995] ECR II-2265, para. 56.

## 5. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

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Yours faithfully  
For the Commission

Margrethe VESTAGER  
Member of the Commission

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