



## EUROPEAN COMMISSION

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**Subject: State Aid SA. 42800 (2015/N) – Romania  
Prolongation of aid for exceptional costs for mine closure in  
Romania**

Sir,

#### **1. PROCEDURE**

- (1) By Decision of 22 February 2012 (the "initial Decision"), the Commission approved State aid to the National Hard Coal Company JSC Petroșani<sup>1</sup> on the basis of a closure plan for three hard coal mines in accordance with Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines<sup>2</sup> (the "Council Decision").
- (2) On 4 August 2015, the Romanian authorities notified an amendment to the previously approved aid in accordance with Article 7(3) of the Council Decision.
- (3) The Commission requested additional information on 1 October 2015 which the Romanian authorities answered on 5 October 2015.

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<sup>1</sup> Commission Decision C(2012) 1020 final in case SA. 33033

<sup>2</sup> *OJ L 336, 21.12.2010*

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## 2. DESCRIPTION OF THE AID

### 2.1. The initial scheme

- (4) The Commission approved by the initial Decision State aid for the orderly winding down of mining activities of the Petrila, Paroşeni and Uricani production units belonging at the time to the National Hard Coal Company JSC Petroşani. The mining units were later transferred to the National Company for Mine Closures Jiu Valley SA for the purposes of the implementation of the closure plan. The State aid was to be granted yearly until 31 December 2018.
- (5) The initial Decision approved aid to cover production losses up to the cessation of mining activities in the three production units with a value of 784 mio lei in accordance with Article 3 of the Council Decision and aid to cover exceptional costs with a value of 385 mio lei in accordance with Article 4 of the Council Decision.

### 2.2. The amendments

- (6) The amendments to the initial scheme concern the prolongation of the scheme and the redistribution of the aid amounts to cover exceptional costs linked to the closure of the production units under Article 4 of the Council Decision until, at the latest, 2019.
- (7) The works related to the closure of the underground and mining works as well as safety and surface re-cultivation measures were delayed for various reasons: (i) delays in the creation of the company to take over the implementation of the closure plan and related works, (ii) parts of the technical project for the works had to be redesigned as it was not found appropriate, (iii) issues with the surface real estate rights, (iv) delays in obtaining the relevant administrative permits and approvals and, finally, (v) delays in contracting of works related to the closure of the underground and mining works.
- (8) Due to the delays mentioned above, the underground works could only be commenced at the end of 2013. This also led to a need for maintaining the employment of part of the personnel for a longer period of time leading to a redistribution of the exceptional costs incurred with employees and for social protection. In addition, the amounts earmarked for such costs require adaptation in view of new legislative provisions regarding social protection that have entered into force in the meantime in Romania.
- (9) The new dismissal schedule is as follows:

	Source	2011-2014	2015	2016	2017	2018	2019	Total period 2011-2019
No of employees dismissed for which exceptional costs are	Authorized Decision C(2012) 1020 final	1671	695	262	321	406	0	3.355
	Redistribution	744 (accomplished)	350	145	483	670	30	2.422

incurred								
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*Note: the difference between the totals comes from 900 employees that remained with the company initially holding the mines, the National Hard Coal Company JSC Petroșani, and 33 employees that are no longer with the coal production units due to other causes.*

- (10) The total budget for the aid for exceptional costs remains almost the same (slightly lower from 385 mio lei to 370 mio lei), but is redistributed to cover the costs detailed above.
- (11) Consequently, the Romanian authorities envisage a prolongation and redistribution of the aid for exceptional costs as follows:

Legal basis <i>Annex to the Council Decision</i>	Source	2011- 2014	2015	2016	2017	2018	2019	Total period 2011-2019
<i>Point 1. lit (b) compensatory payments</i>	Authorized	56.521	25.854	9.747	11.941	15.104	0	119.167
	Redistribution	Spent 41.639	21.968	9.329	11.583	64.301	1.974	150.794
<i>Point 1. lit (d) re-adaptation of workers</i>	Authorized	15395	0	0	0	0	0	15.395
	Redistribution	Spent 405	1.000	0	500	1.500	0	3.405
<i>Point 1. lit (e) free coal allowances</i>	Authorized	39.199	0	0	0	0	0	39.199
	Redistribution	Spent 30.270	10.739	9.333	9.425	15.151	2.353	77.271
<i>Point 1. lit (g) underground safety work</i>	Authorized	39.233	11.326	10.926	550	16.013	0	78.048
	Redistribution	Spent 11.237	11.326	10.926	550	16.013	0	50.052
<i>Point 1. lit (i) rehabilitation of former mining sites</i>	Authorized	29787	8667	18339	582	22350	0	79725
	Redistribution	Spent 0	8667	18339	3795	26820	5270	62.891
<i>Point 1. lit (m) surface recultivation</i>	Authorized	37646	4314	5934	472	5245	0	53611
	Redistribution	Spent 0	8794	6464	1552	6295	2550	25.655
<i>Total amounts for which the amendment of</i>	Authorized	217.78 1	50.161	44.946	13.545	58.712	0	385.145
	Redistribution	Spent	62.494	54.391	27.405	130.079	12.14 8	370.068

Legal basis <i>Annex to the Council Decision</i>	Source	2011- 2014	2015	2016	2017	2018	2019	Total period 2011-2019
<i>the aid under Article 4 is requested</i>		<b>83.551</b>						

*Note: all figures are in thousand lei*

- (12) In addition, the Romanian authorities have confirmed that, except for the notified amendment mentioned above, all other provisions of the scheme remain unchanged.
- (13) The Romanian authorities confirmed that they will suspend the payment of the aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission Decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful aid and incompatible aid and the corresponding recovery interest.

### **3. ASSESSMENT OF THE AID**

#### **3.1. Existence of aid**

- (14) The Commission already concluded in its initial Decision that the measure involves State aid within the meaning of Article 107(1) TFEU. The amendment notified by the Romanian authorities which is subject to this decision does not alter that conclusion.

#### **3.2. Legality of the Aid**

- (15) By notifying the proposed change to the scheme set out in section 2.2 above before its implementation, the Romanian authorities have fulfilled their obligation according to Article 108 (3) TFEU.
- (16) In addition, the Romanian authorities have confirmed that the aid will not be granted until an authorising decision by the Commission.

#### **3.3. Compatibility**

- (17) In the initial Decision, the Commission came to the conclusion that the measure was compatible with the internal market on the basis of the Council Decision. The Commission notes that the notified modification does not alter the primary objective of the scheme which is the orderly winding down of mining activities of Petrila, Paroşeni and Uricani production units in the context of a closure plan which provides for the irrevocable closure of the mines. The termination of mining activities remains unaltered as follows:

- Production Unit- Petrila Colliery: 31 December 2015
- Production Unit- Uricani Colliery: 31 December 2017
- Production Unit –Paroşeni Colliery: 31 December 2017

- (18) As regards the extended duration of the aid to cover exceptional costs in accordance with Article 4 of the Council Decision until 31 December 2019, the Commission notes that Romania could not meet the timetable set out in the initial Decision, which sets out the end of 2018 for the last payment.
- (19) In light of the reasons brought forward by Romania as regards the delay for closure and safety works, it is reasonable that Romania amends the timetable for the granting of aid for exceptional costs by extending the timeline for the last payment until 31 December 2019 which is within the validity period of the Council Decision set to expire on 31 December 2027. It is also reasonable that the costs that could not be incurred in earlier years are redistributed to years when the works are envisaged to actually take place.
- (20) The Commission notes that all categories of exceptional costs envisaged to be covered are linked to the closure of the production units and fall under the categories listed in the Annex to the Council Decision.
- (21) The prolongation of the duration and the redistribution of the aid amounts do not result in a change in any other conditions of the measure.
- (22) In light of the above, the Commission finds that the prolongation of the duration and the redistribution of the aid amounts does not change the positive assessment of the compatibility of the measure with the internal market concluded by the Commission in the initial Decision under the rules of the Council Decision.
- (23) It follows that the amended aid measure remains compliant with the relevant conditions laid down in the Council Decision.

#### **4. 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)(c) of the Treaty on the Functioning of the European Union.

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Directorate-General Competition  
State Aid Greffe  
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Yours faithfully  
For the Commission

Margrethe VESTAGER  
Member of the Commission