

REPORT
on the fulfillment of the granting conditions
of state aids in deprived areas and the measures taken
against those who didn't respect the granting conditions

According to the provisions of point 4 -The competition policy - from the ANNEX VII at the Treaty regarding the accession to the European Union of The Republic of Bulgaria and Romania, approved by Law no. 157/2005¹, Romania has to send the European Commission information concerning the eligible costs of the investments made, effectively supported by the undertakings, according to the provisions of G.E.O. no.24/1998 regarding the regime of the deprived areas, with the subsequent modifications and amendments, and concerning the total amount of aids received by undertakings.

Thereby, this report illustrates the situation of the aids granted to the undertakings in deprived areas, until the end of 2008, situation elaborated upon the data and information sent by the grantor, respectively the Ministry of Public Finance (M.F.P.).

According to the attributions conferred by the provisions of Law no.143/1999 regarding state aid², the Competition Council has executed until Romania's accession to the European Union, verifications of the undertakings with investor certificates in the deprived areas, in order to evaluate the aids granted, to check the fulfillment of the granting conditions, as well as the evaluation of the their impact upon the level of the social-economic development within the deprived areas.

After the 1st of January 2007, when G.E.O. no.117/2006 regarding the national procedures within the state aid field came into force, approved by

¹ Law no. 157/24 May 2005 for the ratification Treaty between The Kingdom of Belgium, The Czech Republic, The Kingdom of Denmark, The Federal Republic of Germany, The Republic of Estonia, The Hellenic Republic, The Kingdom of Spain, The French Republic, Ireland, The Italian Republic, The Republic of Cyprus, The Republic of Latvia, The Republic of Lithuania, The Grand Duchy of Luxembourg, The Republic of Hungary, The Republic of Malta, The Kingdom of Netherlands, The Republic of Austria, The Republic of Poland, The Portuguese Republic, The Republic of Slovenia, The Slovak Republic, The Republic of Finland, The Kingdom of Sweden, The United Kingdom of Great Britain and Northern Ireland (UE state members), and The Republic of Bulgaria and Romania regarding The Republic of Bulgaria and Romania accessing the UE, signed by Romania at Luxembourg on the 25th of April 2005, published on the 1st of July 2005 in the Official Gazette no. 465.

² Law no 143/1999 on state aid, republished in the Official Gazette no. 744 of August 16th, 2005

Law no. 137/2007, and according to the provisions of article 18(1) of this normative act, the state aid grantors have the task to follow the way in which the aids are being operated, and also, they have to submit to the Competition Council all the data and information required in order to monitor state aids at a national scale.

Thus, the data presented in this Report comprehend the information obtained during the previous actions of control undertaken by the Competition Council, completed with the data sent by the grantor, respectively the Ministry of Public Finance.

There were verified undertakings with investor certificates located in 28 deprived areas whose life period exceeds the year 2007 and the data presented in the evolution contains information about the undertakings in the mining area of Hunedoara in the Hunedoara County, area which lasted until the end of 2005.

The deprived areas which have a life period that exceeds the year 2007 have been grouped as follows:

- 3 deprived areas, whose life period lasted until the end of 2008:
 - The mining area BRAD – Hunedoara County;
 - The mining area VALEA JIULUI – Hunedoara County;
 - The mining area BALAN – Harghita County.
- 22 deprived areas, which have a life period that lasts until the end of 2009:
 - The mining area ALBENI – Gorj County;
 - The mining area SCHELA – Gorj County;
 - The mining area MOTRU-ROVINARI – Gorj County;
 - The mining area STEI-NUCET – Bihor County;
 - The mining area BOROD-SUNCUIUSI-DOBRESTI-VADU CRISULUI – Bihor County;
 - The mining area POPESTI-DERNA-ALESD – Bihor County;
 - The mining area RUSCA-MONTANA – Caras-Severin County;
 - The mining area BOCSA – Caras-Severin County;
 - The mining area MOLDOVA NOUA-ANINA – Caras-Severin County;
 - The mining area IP – Salaj County;

- The mining area HIDA-SURDUC-JIBOU-BALAN – Salaj County;
 - The mining area SARMAŞAG-CHIEJD-BOBOTA – Salaj County;
 - The mining area BAIA MARE – Maramures County;
 - The mining area BORSA-VISEU – Maramures County;
 - The mining area FILIPESTI – Prahova County;
 - The mining area CEPTURA – Prahova County;
 - The mining area COMANESTI – Bacau County;
 - The mining area BUCOVINA – Suceava County;
 - The mining area BARAOLT – Covasna County;
 - The mining area ALDAN TEPE – Tulcea County;
 - The mining area RODNA – Bistrita Nasaud County;
 - The mining area APUSENI – Alba County.
- 3 deprived areas, which have a life period that lasts until the end of 2010:
- The mining area ZIMNICEA – Teleorman County;
 - The mining area COPSA MICA – Sibiu County;
 - The town of CUGIR – Alba County.

The processing and centralization of the data obtained, in order to determine the state aid intensity, have been realized taking into consideration the provisions of the normative acts by which G.E.O. no. 24/1998 was modified and completed, respectively the provisions of Law no. 239/2004 and Law no. 507/2004, for the approval of G.O. no. 94/2004 regarding the regulation of some financial measures.

According to the provisions of the normative acts mentioned above, only the undertakings which have their establishment in the deprived area and operate within that area, and have obtained the investor certificate prior to the 1st of July 2003, can benefit from regional state aid.

Therewith, in order to determine the state aid intensity, it was taken into consideration **the value of the state aid received by undertakings starting with the 2nd of January 2003 and up to the end of the year 2008, while the eligible costs related to the investments were taken into account considering the quantum of the investment realized until the 15th of September 2004**

(according to the provisions of G.O. no.94/2004 with the subsequent modifications and amendments).

During the undertaken actions, besides the specific information regarding state aid monitoring, other additional data and information have been recorded related to: the field of activity of the undertaking, the total number of employees, the recorded turnover, other data required for determining the dimension or the category of the verified undertaking.

Following the processing and centralization of all the data and information obtained, the following aspects have been recorded:

- the vast majority of the deprived areas are all ex mining fields where the mining activity was considerably limited during the last years and as a consequence the unemployment rate is up to 90% of the county unemployment rate;
- generally, the undertakings set up in these areas have focused their activities in the manufacturing industry, respectively wood exploitation and proccession, textiles, pastry, metallic constructions, constructions and installations, trade, etc.

Following the assessments performed, it resulted that the vast majority of the verified undertakings are SMEs.

1. The results of the monitoring activities

The situation of the undertakings verified between June 2005 and June 2009 together with the results of the performed controls, is presented in table no.1.

No.		Number of undertakings verified during the monitoring actions:						
		June 2005	October 2005	June 2006	October 2006	January 2007	June 2008	June 2009
1	Number of verified undertakings	1848	1679	1497	1393	1321	1287	977
2	Undertakings which exceeded the maximum intensity	32	24	6	0	0	74	0
3	Undertakings which reached the maximum intensity	31	37	45	35	50	59	30
4	Undertakings which may further benefit from state aid	1649	1522	1377	1318	1250	971	912

Table no.1 – The situation of the verified undertakings between June 2005 and June 2009

The number of undertakings eligible to receive state aid decreased from one year to the other, mainly because of **the elimination of the undertakings which didn't meet the eligibility conditions in order to further benefit from state aid (passed intensity, maximum limit reached)**, of those which have entered the judicial liquidation procedure, of those which don't operate any longer in the deprived area as well as to the expiring of the deadline for the deprived area (for example, the deprived area of Hunedoara).

The evolution of the verified undertakings and of those which may further benefit from state aid is presented in the following chart:

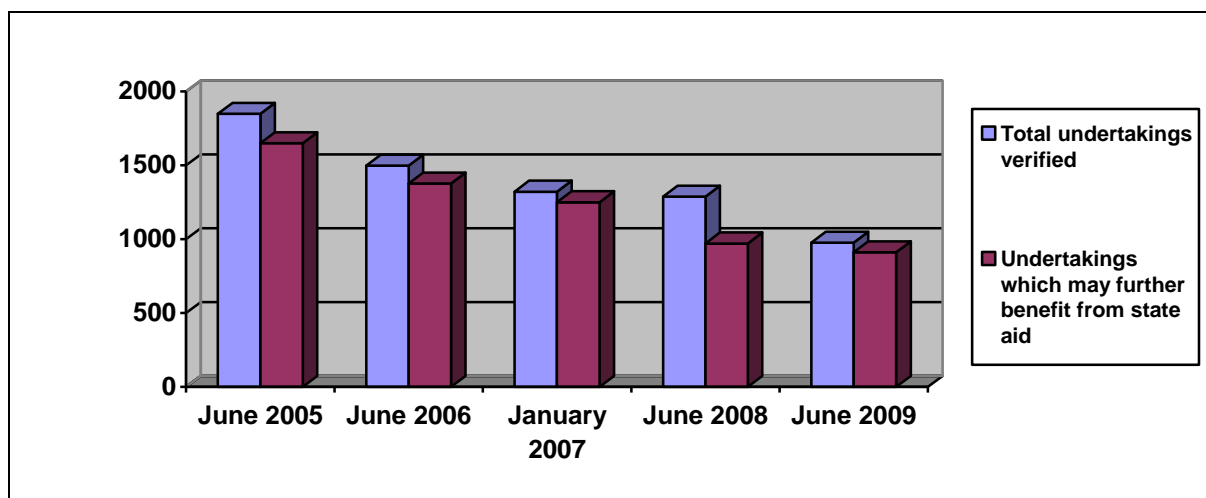


Chart no.1 – The evolution of the number of verified undertakings

The continuous actions of monitoring and dissemination of the competition and state aid regulations led to the undertakings' acknowledgement of state aid rules. Thus, after the moment of reaching the maximum admissible level of state aid intensity, the undertakings became profit tax payers and even voluntarily reimburse the amounts that have exceeded this threshold.

The undertakings identified by the grantor in the monitoring actions undertaken **at the beginning of the year 2009 (after the submission of the balance sheet)**, which have exceeded the maximum admissible level of state aid or have reached that level, will be part of several fiscal inspections, in order to apply the required measures of regaining or stopping the aids, according to the provisions of Order no. 1133/2008 *regarding the approval of the methodological Norms for the application by the Ministry of Public Finance of the provisions of the article 18 from G.E.O. no.117/2006 regarding the national procedures within*

the state aid field, approved with modifications and amendments by Law no.137/2007.

The evolution of these undertakings is illustrated in chart no.2:

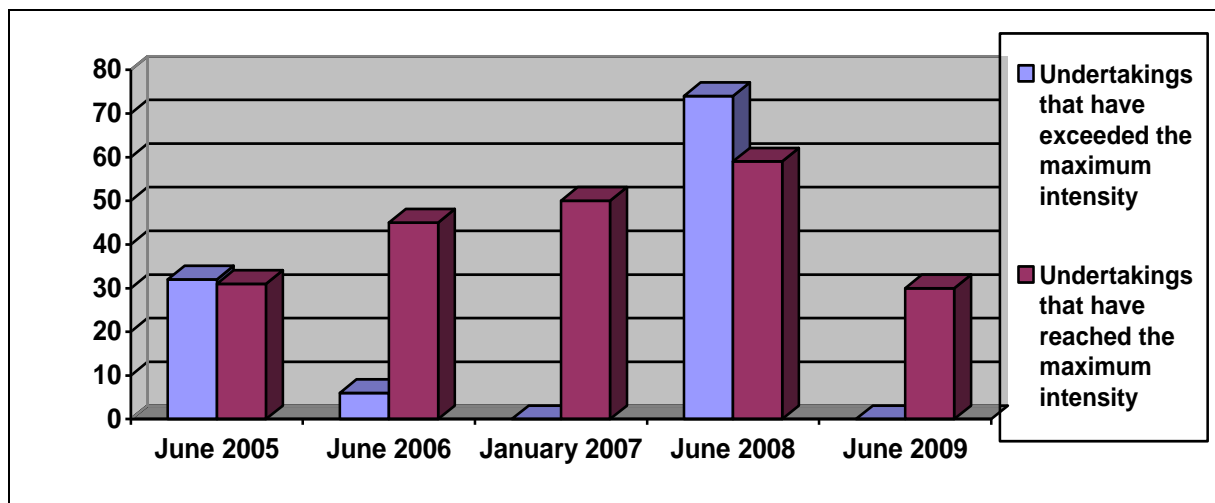


Chart no.2 – The evolution of the undertakings that have exceeded the maximum admissible intensity and of those that have reached the maximum admissible intensity.

Together with the reducing of the number of undertakings which benefitted of state aid, the amount of state aid which may further be granted also diminished. The complete situation of the aids can be fully observed in the Annex 1 at the present report.

The lower values recorded in the month of June 2006 are due, as mentioned before, to the expiring of the declared deadline (2005) for the deprived area of Hunedoara.

We mention that according to the provisions of Law no.507/2004 for the approval of G.O. no.64/2004 regarding the regulation of several financial measures, **the aids for operation have been granted only until the end of February 2005.**

Regarding the investment value, this has a decreasing trend, due both to the decrease in the number of the deprived areas and of the undertakings and also to the fact that some undertakings have alienated the investments made. The comparative situation of the investments, of the aids granted and of those who are still to be granted is shown in Chart no.3.

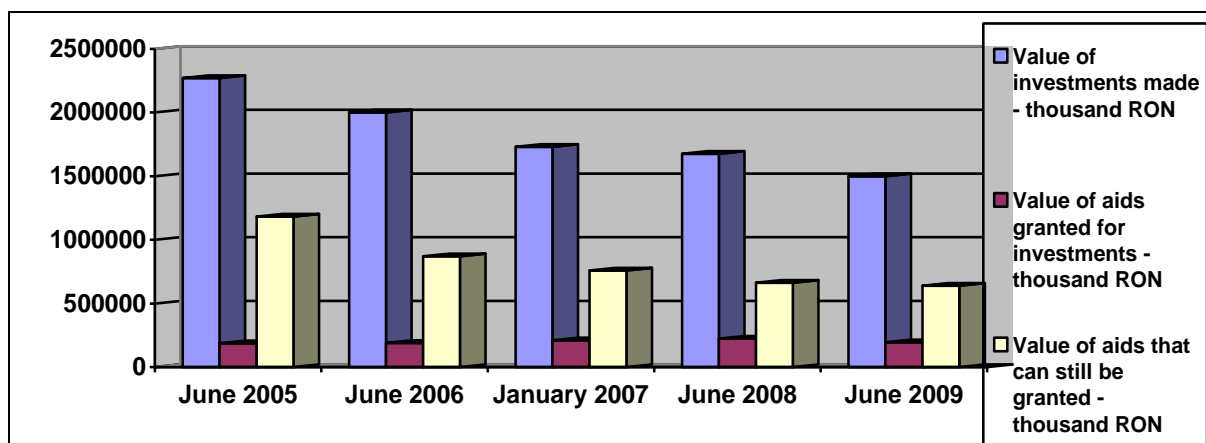


Chart no.3 – The comparative situation between the investments granted and those which can still be granted.

Taking into consideration the total amount of state aids granted for investments recorded at the beginning of 2009, in quantum of 195.921.358 lei and the state's contribution to the non-refundable funds (Phare), in quantum of 762.428 lei, reported to a value of the investments of 1.500.218.885, results a medium intensity of the state aid granted of 13,11%, which is way lower than the maximum admissible level, which demonstrates the necessity of further granting financial support to the undertakings within the deprived areas.

As mentioned above, the period of time for which the Brad and Valea Jiului areas within the Hunedoara County and the Balan area within the Harghita County have been declared deprived areas, expired at the end of 2008. In the following, we show the situation recorded until the beginning of 2009, regarding the value of the investments made, of the state aids granted as well as the number of undertakings eligible for state aid within these areas.

The deprived areas	Number of existing undertakings at the end of 2004	Amount of state aid granted for investments until the end of 2008	Value of the investment made recorded at the end of 2008	Amount of the state aid which could have further been granted until the maximum intensity	Number of eligible undertakings recorded at the end of 2008
Brad Area (Hunedoara County)	89	5.344.017	40.593.061	20.853.510	34
Valea Jiului Area (Hunedoara County)	259	18.091.344	63.222.682	23.005.368	101
Balan Area (Harghita County)	16	1.306.310	5.574.841	2.317.337	4
TOTAL	364	24.741.671	109.390.584	46.176.215	139

Table no. 2 The situation of state aids and investments made in the areas that had been declared deprived until the end of the year 2008

Starting from a total number of 364 undertakings eligible to receive state aid in 2004 (in the 3 deprived areas), at the end of 2008 they were down to less than a half, respectively 139 undertakings that could have still benefitted from state aid within the maximum admissible level of intensity if the declared period of the deprived areas would have continued.

It can be noticed that the value of the state aid granted is very low compared to the value of the investments made, thus resulting in an average state aid intensity of approx. 22,62%. The high value of the investments indicates the efforts made by the state aid beneficiaries in order to realize them. At the same time, the fact that the undertakings, benefitted in average of a reduced percentage of state aid, although the period for which they were declared deprived areas has ended, indicates the low registered profit.

A statistical analysis made for the Hunedoara County³, reveals the fact that the support measures carried out for the deprived areas had a positive influence on the county's social and economic situation.

Therefore, the statistical data indicates (on the whole county) a decrease of the unemployment rate (although it still registers higher values than the entire country average); also the number of the local active units significantly increased compared to the level registered in 2000.

	2000	2001	2002	2003	2004	2005	2006	2007	2008
The unemployment rate in the county	16,4	15,3	9,8	12,5	10,8	9,4	6,7	4,9	n.a.
The unemployment rate in Romania	10,5	8,8	8,4	7,4	6,3	5,9	5,2	n.a.	n.a.
Number of local active units in the county	6.878	7.064	7.275	7.920	8814	9480	9973	10.211	n.a.
GDP* Romania	80.377	116.769	151.475	197.565	246.469	288.176	342.418	404.709	n.a.
GDP* county	1.703	2.468	3.345	4.237	5.265	5.852	6.867	n.a.	n.a.
%	2,12	2,11	2,21	2,14	2,13	2,03	2,00	n.a.	n.a.

* GDP in million RON current prices

Table no. 3 Statistical data on the unemployment rate and GDP registered in Hunedoara County and in the entire country

³ Hunedoara County had 3 deprived areas, respectively Hunedoara (which ended at the end of 2005), Brad and Valea Jiului

In spite of this, it can be noticed that the GDP registered over the entire county still has a low value and also had a decreasing trend over the analyzed period (from 2,12% to 2,00%), which indicates that this county still has a low economic level.

Measures taken in cases of infringement of the granting conditions

The final results of the first monitoring actions carried out by the Competition Council were submitted to the state aid grantor and to the territorial agencies of regional development, along with the request for the appropriate measures to be taken so that the unlawful state aid to be stopped and recovered.

Practice has shown that the state aid grantors faced many difficulties in enforcing both the Competition Council's decisions, instructions and recommendations and their tasks because of the lack of legislation that should empower them with the necessary instruments to stop and recover the unlawful or prohibited aid.

In order to improve and accelerate this process, G.E.O. no. 129/2005 was adopted *to modify and complete* G.O. no. 92/2003 *on the Fiscal procedure Code*. G.E.O. no. 129/2005 laid down unlawful and prohibited aid stopping and recovery procedure and the annual setting through a Government decision of the interest rate applicable to state aid to be recovered. According to this ordinance's provisions, the state aid was stopped through a Competition Council decision and the recovery of an unlawful and prohibited aid was also made on the basis of a Competition Council decision representing a writ of execution. The effective recovery was to be made by the Ministry of Public Finance or by the Authority of State Assets Recovery.

The monitoring action that took place during March-June 2005 has finalized with measures to stop granting state aids, requested to the grantor, for 31 undertakings that have reached the maximum admissible limit of state aid intensity (Table no.1), while for the 32 undertakings identified as being potential beneficiaries of illegal state aids, the Competition Council opened an ex-officio investigation.

From the 32 companies investigated, 31 exceeded the maximum admissible level of the state aid intensity and one company did not benefit from state aid. The Competition Council issued the **Decision no. 184 of September 30th, 2005**

declaring these state aids unlawful and incompatible with a normal competitive environment and requested the grantor – the Ministry of Public Finance – to recover that state aid. The value of state aid to be recovered was 3,279,082 RON plus interests calculated from the day the state aid was at the beneficiary's disposal until the date of the actual recover.

Following a new monitoring action that took place during August-October 2005, for 37 undertakings identified as reaching the maximum admissible level of the intensity of state aid from which they had benefitted, the Competition Council issued the **Decision no. 227 of December 20th, 2005** in order to stop the granting of state aid, thus enabling the Ministry of Public Finance, as grantor of state aid, to take the necessary measures in order to apply the provisions of the decision.

Also, the investigation opened for 24 undertakings, identified as potentially beneficiaries of unlawful state aid, was closed by the **Competition Council Decision no. 52 of March 9th, 2006**. As a result, it was imposed the recovery of the unlawful state aid for 19 undertakings; also for 5 undertakings which voluntarily reimbursed the amounts above the maximum admissible level, were taken measures for stopping the aid. The total value of the state aid to be recovered according to the decision is 2.546.692 RON plus the interests calculated from the day the state aid was at the beneficiary's disposal until the date of the actual recovery.

As a result of the monitoring actions undertaken by the Competition Council in the deprived areas, **the stopping and recovery decisions continued in 2006**. Thus, for 45 undertakings identified through the monitoring action that took place during March – June 2006, which reached the maximum admissible level of the state aid intensity, the Competition Council requested the state aid stopping by issuing **Decision no. 165 from the 14th of July 2006**. As a result of the ex-officio investigation, by the **Decision no. 211 from the 11th of October 2006** the Competition Council requested the recovery of the unlawful state aids for 4 undertakings (of the 6 companies that were investigated – for one of them the state aid was stopped and for one it was established further monitoring process). The total amount of the state aids that are to be recovered according to the decision is 76.224,63 RON plus the interest calculated from the day the state aid was at the beneficiary's disposal until the date of the actual recovery.

During the monitoring action that took place between August 2006 – October 2006, there wasn't found any undertaking with exceeded state aid intensity. At the same time, for the 35 undertakings that have reached the maximum intensity limit, the Competition Council requested, by issuing **Decision no. 222 from the 28th of November 2006** for the state aid to be stopped from granting.

The total value of the state aids set as unlawful through **the 3 decisions issued by the Competition Council for the deprived areas is approximately 6 million RON** plus the interest calculated from the day the state aid was at the beneficiary's disposal until the date of the actual recovery. According to the Ministry of Public Finance communications, until present there were recovered approximately 3,7 million RON, amount which represents over 60% of the total value to be recovered.

Starting with the 1st of January 2007, according to the provisions of G.E.O. no. 117/2006 with its subsequent amendments and completions, **the state aid grantors must check how the aids were used and must dispose the appropriate measures for the cases with problems.**

Thus, as a result of the monitoring action of the aids granted in deprived areas, undertook in January 2007 by the Ministry of Public Finance, there wasn't registered any exceeding of the level of intensity of the granted state aids. As it regards reaching the maximum intensity limit, the grantor recorded 50 undertakings in this situation. In case of these companies, the state aid grantor communicated that measures to stop granting state aids are to be taken following a financial control after the companies submitted their annual financial situation (April 30th, 2007).

At the same time, the grantor stated that it stopped granting state aids for a total number of 404 undertakings, including here those which were previously nominated in the decisions issued by the Competition Council.

As it regards the enforcement of G.E.O. no. 117/2006, with its subsequent amendments and completions, the Ministry of Public Finance, as state aid grantor, issued the Order no. 1133/2008 *on the approval by the Ministry of Public Finance of the Methodological Norms for applying the provisions of art. 18 of G.E.O. no. 117/2006 on the national state aid procedures within the state aid field, approved with amendments and completions by Law no. 137/2007.*

By the means of this administrative act, the Ministry of Public Finance establishes the way of applying the measures that must be taken for the situations in which beneficiaries don't meet the conditions provided when the state aid was granted/ authorized.

According to the provisions of G.E.O. no. 117/2006, with its subsequent amendments and completions, and to the Order mentioned above *“the Ministry of Public Finance, as grantor of state aid, disposes measures regarding the way that the state aids were used by the beneficiaries, issues decisions imposing state aids stopping/recovering, these decisions representing a writ of execution”*.

During the monitoring action undertook at the beginning of 2008 (after the ending of the financial exercise in 2007) the Ministry of Public Finance identified 74 undertakings that exceeded the maximum admissible intensity level and 59 undertakings that reached the maximum admissible intensity level. All these companies will be subject to a fiscal control in order to apply the recovery/stopping measures according to the Order no. 1133/2008.

By the means of the monitoring action of the state aids undertook in the spring of 2009 (after the conclusion of the financial exercise of the year 2008), the grantor identified a number of 30 undertakings that benefitted of state aid that had reached the maximum admissible intensity of the aid, which will be subject to several fiscal controls in order to stop the aid and to register them as profit tax payers. At the same time, the grantor has applied the measure to stop granting state aid for a number of 138 undertakings.

The other undertakings that don't any longer appear as eligible are either micro enterprises which pay income tax, either undertakings that don't carry out activities in the deprived area anymore (they didn't made investments or they sold them out, they entered in judicial liquidation procedure, they are erased from the Commerce Register evidences, they don't have their headquarter in the deprived area anymore or they interrupted their activity).

CONCLUSIONS

The support of the deprived areas is a separate component of the regional development policy, determined by the existence of some areas which are disadvantaged from a social, economic, structural and geographical point of view and which require adequate measures to contribute to their strengthening. The investments made until present in the deprived areas as a result of this policy show an average beneficiaries' contribution of 86,89%, which proves the efficiency of the facilities granted in these areas.

Following the monitoring actions of the state aids granted in the deprived areas, there were assessed the state aids received by each undertaking with an investor certificate, and, on the basis of the maximum admissible intensity level, it was drawn up the list of the undertakings that can further benefit from state aid and the amounts that can still be granted to them.

The state aid that can still be granted to undertakings up to the maximum admissible intensity level is approximately 639,93 million RON (approximately 152 million Euro calculated with an average exchange rate of 4,2 RON/EUR). The potentially beneficiaries that, although fulfilled the legal conditions, didn't request state aid until now were not taken into account.

The undertakings eligible for state aid will be further monitored until they will reach the maximum intensity level (during the entire lifetime of the deprived areas) and starting with that date the grantor will cease granting state aid.

Although, according to the legal provisions, the state aid representing exemption from the profit tax payment will be granted over the entire lifetime of the deprived area, the maximum intensity level will cause in time a decrease of the number of state aid beneficiaries.

Despite the facilities granted to the deprived areas, the statistical data regarding the social and economic situation of these areas show the need to carry on with supporting them in order to make investments and to create new jobs which might lead to an improvement in the standard of living.

**Situation of the investments made and the state aid granted
to the undertakings operating in deprived areas**

		Valori rezultate din actiunile de monitorizare :						
No.		June 2005	October 2005	June 2006	October 2006	January 2007	June 2008	June 2009
1	Value of the investments made	2.270.810.000	2.192.010.000	2.000.549.000	1.804.000.000	1.731.700.000	1.676.783.347	1.500.218.885
2	State aid for investments	187.560.000	189.150.000	189.622.000	208.800.000	209.844.000	222.598.955	195.921.358
3	Non-refundable funds (Phare)	1.430.000	5.030.000	4.586.000	4.400.000	2.981.000	877.170	762.428
4	Operating aid	125.360.000	127.690.000	-	-	-	-	-
5	New job places created	53.015	60.636	45.000	51.500	43.161	39.700	34.466
6	Received state aid	1.183.040.000 (320 mln. Euro)	1.124.000.000 (307 mln. Euro)	871.400.000 (240 mln. Euro)	795.000.000 (225 mln. Euro)	758.812.000 (224 mln. Euro)	662.232.350 (179 mln. Euro)	639.932.987 (152 mln. Euro)

