

**DECISION NO. 10**  
**From 09.01.2004**

**Regarding the notification of The National Agency for SMEs and Cooperation, with the view to obtain the authorization for modifying the state aid scheme contained by the Multi – annual National Programme 2002-2005 for supporting the investments carried out by the newly created undertakings and the micro-undertakings , as well the investments for SMEs modernization/re-technology**

**THE PLENUM OF THE COMPETITION COUNCIL:**

**Based on:**

1. The Decree no. 1075/2001 regarding the appointment of the members of the Competition Council;
2. The provisions of the Competition Law no. 21/1996 published in the Official Gazette no 88, I Part of April 30, 1996 amended by the EGO no. 121 from 04.12. 2003, published in the Official Gazette no. 875, Part 1, of December 10,2003;
3. The provisions of the Law no 143/1999 on State aid, published in the Official Gazette no. 370 of August 03,1999, Part I, with subsequent completions;
4. The Regulation regarding organisation, functioning and procedures of the Competition Council, published in the Official Gazette, no. 50 bis, Part I, of 25.03.1997, with the subsequent amendments;
5. The Regulation regarding the form, content and others details of the State aid notification, published in Official Gazette no. 125, Part I of March 24,2000;
6. The Regulation regarding the regional state aid and the state aid for SMEs, published in the Official Gazette no. 125, Part 1 of March 24,2000;
7. The notification regarding the state aid scheme contained by the Multi – annual National Programme 2002-2005 for supporting the investments carried out by the newly created undertakings and the micro-undertakings, as well the investments for SMEs modernization/re-technology, called Programme, submitted by The National Agency for SMEs and Cooperation under note

- no.1001/12.11.2003, registered at the Competition Council under no. RS-AS 77/15.12.2003 and became effective on 15.05.2003.
8. The note of the Department for State Aid Authorization regarding the alter of the notified scheme of state aid.

**Based on the following:**

1. The state aid scheme authorized by the Competition Council by Decision no. 263/13.06.2003 consists of the granting of non reimbursable financial allocation to SMEs and micro-undertakings, representing maximum 40% of the value of the investment project but not more than EURO 20,000 for the existing SMEs, and no more than EURO 10,000 for the newly created undertakings and micro-undertakings exclusive Added Value Tax, correlated to the allocation of not guaranteed completion state credits ( min 45% ) through the commercial bank selected in a competition system, in accordance with the legislation in force of public acquisitions, no matter the sources of the financing. The difference of 15% is represented by cash or nature contribution, from own sources of the beneficiary of the financing.

2. In accordance with the submitted notification, The National Agency for SMEs and Cooperation communicated the modifications of the state aid scheme which refer to:

- The allocated budget of the program for 2003 is ROL 90 billion ( initial ROL 80 billion );
- The non reimbursable financial allocation that can be granted to a eligible beneficiary can not top the ROL equivalent of EURO 50,000 , for the SMEs ( initial EURO 20,000 ), respective EURO 10,000 for the newly created undertakings and micro-undertakings;
- The public authority which is granting the state aid : The National Agency for SMEs and Cooperation ( initial The Ministry for SMEs and Cooperation );
- The budget of ROL 90 billion allocated to the Program for 2003 is divided this way :
  - ROL 86.8 billion for the granting of non reimbursable financial allocation to the eligible beneficiaries ( initial ROL 76.8 billion );
  - ROL 3.2 billion for the technical assistance for The National Agency for SMEs and Cooperation, consisting of expenses for the implementation, the administration, the monitoring and the

evaluation of The Program, inclusive the administration commission of the bank (remains the same).

3. The modifications of the state aid scheme have at the base the following considerations:

a) the rectification of the state budget for 2003, according to the dispositions of the annex no. 3/12/28 to the GD no.87/2003 based on which was issued the Ordinance of the President of The National Agency for SMEs and Cooperation no. 137/22.09.2003 regarding the modification of the Ordinance of the ministry for SMEs and cooperation no. 51/2003, for the approval of the Procedure for the implementing of the Multi – annual National Program 2002-2005 for supporting the investments carried out by the newly created undertakings and the micro-undertakings , as well the investments for SMEs modernization/re-technology;

b) the value of the non reimbursable financial allocation was increased only for the type of beneficiaries represented by the existing SMEs, from maximum EURO 20,000 to maximum EURO 50,000, while the value for the non reimbursable financial allocation for newly created undertakings and the micro-undertakings remains unmodified , respective maximum EURO 10,000 because :

- The rather limited financial capacity of the newly created undertakings and the micro-undertakings to cover minimum 15% from the value of the project by own contribution , and also the entire reimbursement of the credit granted by the bank and of the related interest in quantum of minimum 45% from the value of the investment project.

- The National Agency for SMEs and Cooperation will implement two other programs for the newly created undertakings and the micro-undertakings:

- The program for the development of the entrepreneurship abilities for the young people and the facilitation of their access at the financing.
  - The multi-annual national program regarding the creation and the development of the business and technological incubators.

- The undertakings with a functioning history (existing SMEs ) have the financial capacity to cover the value of the own contribution and the AVT, the reimbursement of the credit and of the related interests and also

the insurance of the guarantees, comparative with the newly created undertakings and the micro-undertakings.

4. The state aid consists of the granting of non reimbursable financial allocations to the eligible beneficiaries selected during the program, in total sum of ROL 86.8 billion, the difference up to ROL 90 billion representing expenses with the technical assistance done by The National Agency for SMEs and Cooperation, inclusive the administration commission of the bank.

5. The scope of granting the state aid under the form of the scheme of state aid of which modification was notified is the partial supporting the costs for the investments accomplished by the newly created undertakings and the micro-undertakings from the products and services field, and also the investments for the endowment / modernization of the technological process, the development of new activities by the existing SMEs, from the prior sectors from the point of view of the integration of Romania in EU, contained by the Annex of The Procedure of the implementation of the Program.

6. The beneficiaries of the state aid scheme are the undertakings, inclusive the newly created undertakings, described according to the provisions of the Law no. 133/1999 regarding the stimulation of the private entrepreneurs for the establishment the and the development of SMEs, with the subsequent amendments and completions, which cumulatively fulfils, at the time of the requirement, the next criteria of eligibility:

- Are registered and have the operational headquarter in Romania;
- Have integral private capital;
- The employees number does not cross over 249, inclusive for the existing SMEs and the newly created, respective 9 employees inclusive, for the micro-undertakings, registered in the last fiscal year;
- Have a turnover representing the ROL equivalent of the sum up to EURO 8 million, registered in the last fiscal year;
- Do not have debts at the state budget, the special budgets or outstanding credits, after the case, at the date of the requirement of the financing;
- Do not have losses according to the last balance sheet registered, excepting the newly established undertakings;
- The undertaking must keep regular accountability evidences;

- To make the activity for which it requires the financing in one of the prior fields from the point of view of Romania's accession to the EU, excepting the following sectors : the agriculture ( is admitted the processing of the agriculture products ), the extraction, energy, retail and en-gross trade, real estate agencies, financial-banking and insurance services, casinos, gambling, the production of alcoholic beverages with a concentration over 15%;

7. The number of undertakings which will beneficiate from non reimbursable financial allocation in the state aid scheme for 2003-2005, is estimated at 387 beneficiaries. For 2003, the estimated number of beneficiaries is 120. The minimum number of beneficiaries of the financing is 48. There is no separation of the fund on types of beneficiaries.

8. The state aid scheme lifetime is the period 2003- 2005. The period when the scheme is in force can be prolonged even after 2005, after assessing the results and the impact of its implementation in the previous period.

9. The preliminary economic effects due of to the granting of the state aid consist of:

- The increase of the competition in the sector of the SMEs;
- The development of new production capacities;
- The increase of the number of the employees, based on the realization of the investment projects;
- The increase of the contribution of the sector at the realization of the GDP;

10. The notified state aid is related to the initial investment, the investment for the acquisition by the beneficiary undertakings of the Program of the equipments and/or the new equipments, the acquisition and/or the construction of some productive spaces and the insurance of the necessary utilities only if they are correlated with the other components of the investment, the extension and/or the restructuring of the constructions for the production only if they are correlated with the other components of the investment; the acquisition of transportation means for merchandises ( trucks or utility van) , strictly related to the investment project. It will be financed only the acquisitions of equipments, new transportation means.

11. According with art.6 and art.7 in the Regulation regarding the regional state aid and the state aid for SMEs, called Regulation , the floating capital investment are excluded from the type of initial investments and are not eligible for state aid;

12. The eligible costs for the investments are given by the value of the investments in tangible fixed assets, respective grounds, buildings and equipments which form the standard basis and the investments in intangible fixed assets. (technology transfer ) .

13. The share of the beneficiaries of the regional state aid scheme is 60% from the value of the investment project and consists of the nature or the cash contribution of the undertaking – 15% from the non guaranteed completion credits or by other public authorities – min. 45%, placed after the minimum limit of 25% according to the art. 8 in the Regulation and guaranteeing this way a viable and efficient level of the investment.

14. The intensity of the state aid represents 40% from the total eligible costs of the project, framing in the maximum level of 65% stated by the Regulation.

15, The data presented in the notification submitted at the Competition Council reach to conclusion that the modifications for the notified state aid scheme are not in the measure to distort significantly the normal competition environment and does not affect the application of the international agreements to which Romania is a part.

16. Based on the article 13 par. (1) of the Lawno. 143/1999 on state aid with the subsequent amendments and completions, the Competition Council will supervise constantly all the existing aids, and if is reached that the state aid contained by the Multi – annual National Programme 2002-2005 for supporting the investments carried out by the newly created undertakings and the micro-undertakings, as well the investments for SMEs modernization/re-technology, or specific allocations within the scheme, affects the normal competition environment and the international agreements to which Romania is a part, the Competition Council will ask the state aid granter to take the adequate measures in order to eliminate the incompatibility with the Law no. 143/1999 on state aid .

## **DECIDES**

**Art. 1.** Based on art. 12 align. (2) letter.c) corroborated with art. 14 align (1) letter.f) of the Lawno. 143/1999, is authorized the modification of the state aid scheme for regional development enclosed in the Multi – annual National Program 2002-2005 for supporting the investments carried out by the newly created undertakings and the micro-undertakings, as well the investments for SMEs modernization/re-technology . Based on art. 11 in the Regulation regarding the regional state aid and the state aid for SMEs , the granting of the state aid will be conditioned by the maintenance of the investment for a period of minimum five years. According with art.6 and art.7 in the mentioned Regulation, the floating capital investments are excluded from the type of initial investments and are not eligible for state aid.

**Art. 2.** The value of the state aid to be granted in 2003 under the form of state aid scheme is ROL 86.8 billion, from which ROL 76.8 billion represent state aid authorized by the Decision of the Competition Council no.263/13.06.2003. For the period 2003-2004, the annual estimated budgets of the Program, fixed in the prices of 2002 are ROL 85 billion for 2004, respectively ROL 90 billion for 2005.

**Art. 3.** The National Agency for SMEs and Cooperation will supervise the observance of the in the maximum intensity for the regional state aid, in the conditions of the state aid for the same objective and beneficiary.

**Art. 4.** This Decision becomes effective on the date of its communication.

**Art. 5.** According to the dispositions of art. 23 in the Law no. 143/1999, and in the GD no.599/2000 regarding the approval of the monitoring and information procedures, for the application of the Lawno. 143/1999 the National Agency for SMEs and Cooperation and the state aid beneficiary shall transmit information regarding the granted / received state aids, in order to inventorying and monitoring it.

**Art. 6.** According to the provisions of art. 29 of the Lawno. 143/1999 on state aid with the subsequent amendments and completions, this Decision

may be attacked at the Court of Appeal Bucharest, within 30 days from the delivery.

**Art. 7.** This Decision shall be communicated by the General Secretariat within the Competition Council: to The National Agency for SMEs and Cooperation, str. Poterasi, no.11, Bucharest.

**Art. 8.** The General Secretariat and the Department for State Aid Authorization within the Competition Council shall supervise the execution of this Decision.

**PRESIDENT**

**THEODOR VALENTIN PURCAREA**