

DECISION NO. 11
of 09.01.2004

on the notification of the Ministry of Administration and Interiors with the view to obtain the authorization of the state aid to be granted to S.C. TETAROM S.A. as part of the state aid scheme contained by the Regional Development Program „Industrial Parks”

COMPETITION COUNCIL’S PLENUM

On the basis of:

1. Decree no. 1075/2001 for appointing the Competition Council’s members;
2. The provisions of the Competition Law no. 21/1996, published in the Official Journal no. 88, Part I, of 30.04.1996, with subsequent amendments and completions;
3. The provisions of the Law no. 143/1999 on state aid, published in the Official Journal no. 370, Part I, of 03.08.1999, with subsequent amendments and completions;
4. The Regulation regarding the organization, functioning and procedure of the Competition Council, published in the Official Journal no. 50 bis, Part I of 25.03.1997, with subsequent amendments and completions;
5. The Regulation on the form, content and other details of the state aid notification, published in Official Journal no.125, Part I of 24.03.2000;
6. The Regulation on regional state aid and state aid for SMEs (hereinafter the Regulation), published in the Official Journal, Part I, no 470/02.07.2002;
7. The notification of the intention to grant a state aid, submitted by the Ministry of Administration and Interiors by letter no. 970/GO of 10.11.2003, registered at the Competition Council with no. RS-AS 67/11.11.2003, notification that became effective on the date of its completion, respectively 12.12.2003 ;
8. The Competition Council’s Decision no. 265/2003 on the authorization of the modification of the existing state aid scheme contained by the Regional Development Program “Industrial Parks”;
9. The Notice of the Directorate for Authorizing State Aids regarding the notified State Aid.

On the basis of the following grounds:

1. The Regional Development Program “Industrial Parks” provided by GD no. 1116/2001, modified by GD no. 917/2002 constitutes a system for granting state aids, applicable to some economic operators defined in general and abstract mode, being met the conditions provided by art. 2 para. (4) of Law no.143/1999 for this to be considered a state aid scheme. The state aid scheme was authorised by the Competition Council by its Decisions no. 275/2001, respectively no. 138/2002 and no. 265/2003, authorization conditioned by the notification of specific allocations granted within this state aid scheme, for establishing their compatibility with the Law no.143/1999.

The general objectives of the program are to stimulate the regional and local development by attracting firms capable to carry out productive activities generating products with high added value.

2. The state aid notified by the Ministry of Administration and Interiors constitutes a state aid specific allocation within the existing state aid scheme represented by the Regional Development Program “Industrial Parks”.

3. The beneficiary of the notified state aid is S.C. TETAROM S.A., company that administrates the Industrial Park Cluj.

4. The *main activity* of S.C. TETAROM S.A. is to make available production areas for economic operators, based on contracts, and to provide access to utilities and infrastructure. The *secondary activities* of the beneficiary are in connection with investments and the maintenance of installations which ensures the utilities.

5. On 03.10.2002, the Competition Council, by its Decision no. 371/03.10.2003, authorised the state aid specific allocation granted to S.C. TETAROM S.A. Cluj as part of the state aid scheme contained by art. 7 of GO no. 65/2001 regarding the creation and operation of industrial parks, approved by Law no. 490/2002. In the notification of the Ministry of Administration and Interiors it is specified that the respective company did not benefited of fiscal facilities granted under art. 7 of G.O. no. 65/2002 since the industrial park is in the phase of fitting out the infrastructure, not being functional yet. In 2002, S.C. TETAROM S.A. benefited of amounts from the budget of Cluj County Council for investments and operating (3,241,500,000 ROL), but the project subject to the state budget co-financing „Multifunctional Center – business incubator” represents another investment, being a new project.

6. The purpose of granting state aid is to create a business incubator for obtaining the main results, respectively:

- to create a synergic effect for using efficiently the regional competences in the following fields: IT, communication and electronic, by favouring the cooperation between the practical research, education and production;
 - stimulating the development of the SMEs from the region that carry out activities in the high technology fields(especially software);
 - economical re-launch and development by using efficiently the existing human and material resources in the software production field, IT field, audio-visual industry and telecommunications;
 - attracting foreign capital investments in these fields;
 - achieving European standards in the main fields;
 - using rationally the high qualified labor force and blocking the unconditioned export of intelligence;
- using efficiently the potential of the local units of high education.

7. The state aid is granted as co-financing the goods and services necessary for carrying out infrastructure works that consist of new investments, modernizations, developments, general reparations, improvements.

8. The state aid to be granted to S.C. TETAROM S.A. is destined to the initial investment having as finality the creation and put into function a new unit, namely the new business incubator, specialized on soft production and high technology; thus, there are met the characteristics provided by art.2 si art.5 of the *Regulation on regional state aid and the aid for SMEs* in order to be considered *regional state aid* for initial investment. The new business generator built with state co-financing shall function by leasing or renting the built spaces, of the services: water supply, sewerage, sanitation, transport-communications, guard-services, offices, consultancy for natural and legal persons under the provisions of the Law. The total budget of the project is of 26,000,000,000 ROL.

9. The total value of the state aid to be granted to S.C. TETAROM S.A. within this program is of 6,237,592,000 ROL. Having in view that for the company administrator of the park it was authorized, for the same objective, a state aid that could not have been assessed by the grantor, it is mandatory for the Ministry of Administration and Interiors to monitor the activity of the state aid beneficiary, surveying that the state aid granted under the Program “Industrial Parks”, cumulated with the state aid granted for the same objective under different schemes, respectively art. 7 of GO no. 65/2001, with subsequent amendments,

not to exceed the maximum admissible intensity of 50% for the regional state aid, provided by the *Regulation on regional state aid and aid for SMEs*.

10. Within the project, the contribution of the beneficiary of the regional state aid at the investment financing is 19,762,407,800 ROL, respectively 76% of the total value of the investment, exceeding the limit of 25% provided by art.8 of the Regulation, thus guaranteeing a viable and efficient level of the investment.

11. In financing contract signed by the beneficiary with the Ministry of Administration and Interiors it is foreseen the beneficiary obligation to maintain the destination of the financed goods and works for a period of at least **10 years** from the finalization of the project execution, being thus a condition for obtaining the specific allocation of state aid. In the case of non-observance, the Ministry of Administration and Interiors has the right to request from the beneficiary the total reimbursement of the financing.

12. The data presented in the notification submitted to the Competition Council lead to the conclusion that the specific allocation that will be granted to S.C. TETAROM S.A. does not affect significantly the normal competition environment and does not infringe the application of the international treaties to which Romania is part, fulfilling in the same time the granting criteria provided by the Regulation.

13. On the basis of art. 13 para. (1) of Law no.143/1999, the Competition Council shall permanently survey all the existing state aids, and if it is observed that this scheme or specific allocations within it affect significantly the normal competition environment and the correct application of the international agreements to which Romania is part, shall request to the state aid grantor to take appropriate measures for eliminating the incompatibility of this scheme with the Law on State Aid no. 143/1999.

DECIDES

Art.1. Within the meaning of art. 12 para. (2) let. b) corroborated with art. 14 para. (1) let. f) of Law no. 143/1999 on state aid, with subsequent completions and amendments, it is authorized the state aid for regional development to be granted to S.C. TETAROM S.A.

Art.2. The value of the state aid to be granted is 6,237,592,000 ROL.

Art.3. The Ministry of Administration and Interior shall survey the state aid granted to S.C. TETAROM S.A. within the Program “Industrial Parks”, in order not to be exceeded the maximum admissible intensity provided by the in force regulations, under the conditions of the state aid cumulation for the same objective and beneficiary.

Art.4. The present Decision becomes applicable at its communication date.

Art.5. The present Decision shall be communicated by the General Secretariat of the Competition Council to:

- the Ministry of Administration and Interiors, Piata Victoriei no. 1, sector 1, Bucharest;
- S.C. TETAROM S.A., Bd. 21 Decembrie 1989, no. 58, Cluj-Napoca, county Cluj.

Art.6. According to the provisions of art. 29 of Law no. 143/1999 on State Aid, with subsequent amendments and completions, the present Decision may be appealed to the Bucharest Court of Appeal, division Contentious Administrative, in 30 days from its communication date.

Art.7. The General Secretariat and the Department for State Aid Authorization of the Competition Council shall pursue the fulfillment of this Decision.

PRESIDENT

THEODOR VALENTIN PURCAREA