

Decision no. 123/ 13.04.2004
on authorization of the State aid for restructuring to be granted to SC
ROMVAG SA Caracal

The President of the Competition Council,

Based on:

1. Decree no. 57/2004 on 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, 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 Gazette 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 Gazette no. 288, Part I of 01.04.2004;
5. The notification of the State aid to be granted to S.C. ROMVAG S.A. Caracal, submitted by the Authority for Privatization and Administration of State Assets by letter no. P/348/ 16.02.2004, registered at the Competition Council under the no. RS-AS 11/16.02.2004, became effective on 12.03.2004;
9. The Note of the Department for State aid Authorization concerning the notified State aid.

Based on the following:

1. The notified State aid represents an individual State aid to be granted according to GO no. 801/14.09.2000 on privatization strategy of SC Romvag Sa Caracal included in the component "Privatization of Prevailing State-Ownership Undertakings" within the Program for Adjustment of Private Sector.
2. The value of State aid is of ROL 49,396,050,169 and represents the exemption from the payment of overdue budgetary obligations at 31.12.2001 representing taxes, fees, contributions and other budgetary revenues, own debts, interests and penalties for delay and other types of penalties afferent to overdue budgetary obligations.

3. SC ROMVAG SA Caracal did not benefit anymore of other State aids.
4. The relevant product market is the goods trucks market (construction, modernization, reparation).
5. The notified measure was analyzed based on the granting criteria set out by the Regulation on State aid for rescuing and restructuring firms in difficulty. SC ROMVAG SA Caracal is considered a company in difficulty since faced a lot of problems that negatively influenced production and economic-financial activities. These problems consists of: losses enhance, turn-over decrease, stocks increase, own capitals decrease, indebt ness level increase, solvability decrease, rise in debts
6. The restructuring costs is of ROL 163,260,000,000. The restructuring program is financed and by own sources amounting ROL 1,660,000,000. In addition, in the privatization contract, the contribution of strategic investor for sustaining financial effort realized by SC ROMVAG SA Caracal is of ROL 112,200,000,000.
7. The application of measures provided by Restructuring Plan ensures the efficient functioning of the company in accordance with the present possibilities of the absorption of market. The modernization of outfits was made in order to save financial and human resources for restoring the activity and continuation of production.
8. The grant of State aid do not create a surplus of liquidities that could be used in activities that lead to distortion of competition; in this way the provisions of Art. 13 of the Regulation on State aid for rescuing and restructuring firms in difficulty are observed.
9. The State aid is limited to minimum strict necessary and will be only used in view of restoration of the viability of company and does not enable the beneficiary to extend its production capacity during the application of the Restructuring Plan; in this way the provisions of Art. 14 of the Regulation on State aid for rescuing and restructuring firms in difficulty are observed.
10. SC ROMVAG SA Caracal did not benefit anymore of the restructuring aid; in this way the provisions of Art. 18, that specifies that restructuring aid have to be granted one time, of the Regulation on State aid for rescuing and restructuring firms in difficulty are observed.
11. The information included in the notification submitted to the Competition Council leads to the conclusion that individual State aid to be granted to SC ROMVAG SA Caracal according to GO no. 801/14.09.2000 on privatization strategy of SC Romvag Sa Caracal

- included in the component "Privatization of Prevailing State-Ownership Undertakings" within the Program for Adjustment of Private Sector, does not significantly affect the normal competitive environment and does not affect the Romania trade with the Member States.
12. In the meaning of art.13 par. (1) of Law no. 143/1999 on State aid with subsequent modifications and completions, the Competition Council will permanently survey all the existing State aids, and if it is noticed that the State aid granted to SC Romvag SA Caracal distorts significantly the normal competitive environment and the trade of Romania with the Member States, will request the State aid grantor to take appropriate measures for eliminating its incompatibility with the Law no. 143/1999 on State aid, with subsequent modifications and completions.

DECIDES

Art.1 Within the meaning of art. 12(2) let. c) corroborated with art. 14 (1) let. e) of Law no. 143/1999 on State aid with subsequent modifications and completions, it is authorized with conditions the individual State aid intended to be granted to S.C. ROMVAG SA Caracal according to GO no. 801/14.09.2000 on the privatization strategy of SC Romvag Sa Caracal included in the component "Privatization of Prevailing State-Ownership Undertakings", as restructuring State aid.

Art. 2 The authorization of State aid is conditioned by the fulfillment of obligations assumed by the strategic investor, respectively the contribution to the financing of restructuring costs to be of ROL 112,200,000,000.

Art.3 The value of the State aid to be granted is of ROL 49,396,050,169 and represents exemption from the payment of budgetary debts overdue at 31.12.2001 representing taxes, fees, contributions and other budgetary revenues, own debt, interests, penalties for delay payment and other penalties afferent to overdue budgetary obligations.

Art.4 The present Decision becomes effective at the date of its communication.

Art.5 According to the provisions of art. 24 of the Law no. 143/1999 on State aid with subsequent modifications and completions, the grantors will

submit to the Competition Council the information on authorized State aid in view of their inventorying and monitoring.

Art. 6 The Authority for Privatization and Administration of State Assets will submit annually reports on implementing Restructuring Plan. The first Report shall be submitted to the Competition Council within 6 months from the date of communication of decision.

Art. 7 According to the provisions of art. 29 of the Law no. 143/1999 on State aid, with subsequent modifications and completions, the present Decision can be appealed by the interested persons at Court of Appeal Bucharest.

Art.8. The present Decision shall be communicated by the Secretariat General of the Competition Council to:

- The Authority for Privatization and Administration of State Assets, Alexandru Serbanescu Street, no.50, sector 1, Bucuresti;
- SC Romvag SA , 1 Decembrie 1918 Street, no. 146, Caracal, Olt.

Art.9. The Secretariat General and the Directorate for State Aid of the Competition Council shall pursue the fulfillment of the present Decision.

President
Mihai Berinde