



R O M A N I A

CONSILIUL CONCURENTEI

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**DECISION NO. 143
of 30.04.2004**

**on the notification of Sibiu County Council for obtaining the
authorization of the State aid to be granted to „ APA-CANAL” S.A.
Sibiu**

PRESIDENT OF THE COMPETITION COUNCIL,

Based on:

1. Decree no. 57/2004 regarding the appointment of the Competition Council's members;
2. The provisions of the Competition Law no 21/1996, published in the Official Gazette no 88 – Part I, of April 30, 1996, with subsequent amendments and completions;
3. The provisions of the Law no 143/1999 on State aid, published in the Official Gazette no 370/03.08.1999, Part I, with subsequent amendments and completions;
4. The Regulation on organization, functioning and procedures of the Competition Council, published in the Official Gazette, no. 288, Part I of 01.04.2004;
5. The Regulation on the form, content and other details of the State aid notification, published in Official Gazette no.125, Part I of 24.03.2000;
6. The notification of the State aid to be granted, submitted by the Sibiu County Council under Note no. 18736/18.03.2004, registered at the

Competition Council as no. RS-AS 25/18.03.2004. The notification became effective on 18.03.2004;

7. The Note of the Department for State aid Authorisation on the notified State aid;

Based on the following grounds:

1. The financial support from which S.C., „Apa Canal” S.A. Sibiu will benefit, represents the guarantee given by Sibiu County Council for contracting an EBRD loan, under market conditions. The total value of the loan is of Euro 10,000,000.

2. The funds allocated through this loan shall be used to co-finance the Project „ Modernization of water supply and sewerage systems of City of Sibiu ” consisting of:

- ? Rehabilitation of the residual waters treatment Plant;
- ? Development and rehabilitation of the sewerage system;
- ? Rehabilitation of the Drinking Water Station;
- ? measuring and monitoring the water supply system.

3. S.C. „ Apa Canal ” S.A. Sibiu is a company of local interest, subordinated to Sibiu County Council which is entrusted, according to the Regulation on organization and functioning, approved by Sibiu County’s Decree no. 110/2003, to provide municipal services of drinking water supply and sewerage that are part of the public domain of Sibiu City.

4. The relevant product market is represented by market of public services of water supply and sewerage and the territories of Sibiu City represent the relevant geographic market.

5. S.C. „ Apa Canal ” S.A. Sibiu is the only operator on the relevant geographic market, having thus a natural monopoly position. These public services of local interest are provided through a public system of water supply and sewerage, which is part of the technical-urban infrastructure of Sibiu City and is its public ownership.

6. The market of public services of water supply and sewerage is regulated, their prices and tariffs not being established on a free market, based on demand and supply, but being surveyed by the National Regulatory

Authority for Municipal Services (ANRSC) and approved by the local public administration - Sibiu County Council.

7. The results of the investment in the water-sewage technical infrastructure of Sibiu are the following:

- Rehabilitation of the waters treatment Plant;
- Rehabilitation of the residual waters treatment Plant;
- metering and monitoring the water supply system;
- Development and rehabilitation of the sewerage system;
- improving the financial and operational efficiency of water treatment and sewerage services in Sibiu;
- consultancy services as regards public procurement;
- access to a qualitative water, diminishing the risks of public health;
- rehabilitation of the water supply system, metering the non-metered services and installing new systems to improve the water supply to consumers and to reduce the system losses and the risk of residual waters to enter into sewages through the waste points;
- to have water parameters at EU standards.

8. Having in regard that S.C. „Apa Canal” S.A. Sibiu is the only administrator of the public system of water and sewerage in this geographic area, without any other competitor on the relevant market, the guarantee of Sibiu County Council for the loan does not fulfil the selectivity criteria – one of the elements that characterize the State aid – and does not lead to competition distortion.

DECIDES

Art.1. Within the meaning of art. 8 par. (2) read in conjunction with art.12 par (2) lit. a) of the Law no. 143/1999 on State aid, with subsequent completions, the guarantee given by Sibiu County Council to the loan received by S.C. „ Apa Canal ” S.A. Sibiu from EBRD does not constitute State aid since this loan is used for rehabilitation of the technical-urban infrastructure of Sibiu.

Art.2. The present Decision becomes effective as of its communication.

Art.3. The present Decision shall be communicated by the Secretariat General of the Competition Council to:

- City hall of Sibiu, 1-3, Victoriei Blvd., code 2400, Sibiu, Sibiu County;
- SC APA – CANAL S.A. Sibiu, 6, Eschille Street, code 2400, Sibiu, Sibiu County;

Art.4. The Secretariat General and the Directorate for State Aid Authorization of the Competition Council shall pursue the fulfillment of the present Decision.

PRESIDENT

MIHAI BERINDE