

**D E C I S I O N N O 179
of 07.06.2004**

**regarding the notification of the Public Finance Ministry for obtaining the
authorization of the State aid granted to RA
„Administratia Fluviala a Dunarii de Jos” Galati (RA ADFDJ Galati) (the
River Administration of the Lower Danube” Galati)**

THE PRESIDENT OF THE COMPETITION COUNCIL,

Based on:

1. Presidential Decree no. 57/2004 for appointing the Competition Council's members;
2. The provisions of the Competition Law no. 21/1996, published in the Official Gazette of Romania, Part I, no. 88/30.04.1996, with subsequent amendments and completions;
3. The provisions of the Law no. 143/1999 on State Aid, published in the Official Gazette of Romania, Part I, no. 370/03.08.1999, with subsequent amendments and completions;
4. The Regulation regarding the organization, functioning and procedure of the Competition Council, published in the Official Gazette of Romania, Part I, no. 288/01.04.2004;
5. The Regulation regarding the form, content and other details of a State aid notification, published in the Official Gazette of Romania, Part I, no. 125/24.03.2000;
- 6. The notification of the State aid granted under the GD no. 262/1998 regarding the guaranteeing, by the Romanian State, of an external credit for RA Administratia Fluviala a Dunarii de Jos” Galati for acquiring an absorbing/pressing self-propelled drag-boat, with its own storage with a capacity of 2000-3000 mc and under GEO no. 187/2002 for ratifying the funding contract between Romania, the European Investment Bank and the River Administration of the Lower Danube” Galati for the financing of the Project for protecting the Sulina channel shore, signed on March, the 8th, 2002. The notification was submitted by the Public Finance Ministry, under Note no. 108055/06.05.2004, registered at the Competition Council as no. RS-AS 57/10.05.2004 and became effective on 31.05.2004;**

7. The Note of the Directorate for State Aid Authorization regarding the notified State aid.

Based on the following:

1. River Administration of the Lower Danube Galati, established by the GD no. 362/1991, is a State ownership company, being under the authority of the Ministry of Transport, Constructions and Tourism, and registered in 2003 a turnover, achieved entirely on the domestic market, in amount of ROL 360,665,229 thousands.

2. River Administration of the Lower Danube Galati is the waterways authority for the Romanian sector of Danube from the border line - km 1075 to the river mouth in the Black Sea, on Sulina branch, in Sulina roadstead, on the shipping branches of the Danube, Borcea, Bala, Macin, Valciu, Caleia, on Chilia branch with its secondary branches, on Sfantu Gheorghe channel with the rectifications channels and on the secondary branches of the Sulina Channel, named the Old Danube.

3. River Administration of the Lower Danube Galati has as main activity object the maintenance of the navigability of the Danube in all the Romanian sector, from the Sulina roadstead up to Buzias, its accomplishment being made in accordance with the regulations established by the Convention regarding the navigation regime on the Danube from 1948, the bilateral Romanian – Yugoslavia agreements closed in 1955 and 1976, the recommendations made by the Danube Commission and accepted by the Romanian State, as well as the obligations assumed within the annual sessions of the mixed Romanian – Yugoslav and Romanian – Bulgarian commissions.

4. As waterway authority and in accordance with the provisions of the Convention regarding the navigation regime on Danube, the activity object of River Administration of the Lower Danube Galati is to ensure the minimum navigational depth by maintenance dragging, ensuring the coast and floating signaling, carrying out topo-hydrographic measurements, maintenance and repairing works, hydro technical constructions for ensuring the navigation conditions, ensuring the piloting of the maritime ships in the Danube sector enclosed between Sulina roadstead and Braila and in the ports

situated in this sector, making available for all users the naval transport infrastructure, as well as carrying out the obligations the Romanian State has in accordance with the international conventions and agreements, to which Romania is a party.

5. River Administration of the Lower Danube Galati is the only authority of the navigable waters in the Romanian sector of the Danube, having a natural monopoly position.

6. The administration benefits of a financial support consisting in the guarantee granted by the Ministry of Public Finance, in proportion of 100%, for contracting an external credit in amount of USD 15 mil., used for the acquisition of a absorbing/pressing self-propelled drag-boat, with its own storage with a capacity of 2000-3000 mc. At the same time, the administration contracts an external credit, from BEI, in amount of Euro 38 mil., exclusively used for the partial funding of the costs of the Project for protecting the Sulina channel's shore, reimbursing it as well as the payment of the interests, commissions and other costs shall be done from the State budget, through the budget of the Ministry of Transport, Constructions and Tourism.

7. The credits contracted by the River Administration of the Lower Danube Galati have as purpose accomplishment of maintaining and modernizing works for the river transport infrastructure, the navigable capacity, namely: the acquisition of an absorbing/pressing self-propelled drag-boat, with its own storage, for ensuring the depth of the Romanian sector of the Danube, works of protection of the shore for the Sulina Channel by implementing a topo-hydrographical measurement system and of signaling as well as the operation of clearance of the Channel by taking off the Rostok ship.

8. The navigable side of the Danube and the shores of the Sulina channel make the transport infrastructure and belong to the public domain of the State, according to the Romanian Constitution and with the provisions of the Law no.213/1998; at the same time, the self-propelled drag-boat's acquisition falls into the category of infrastructure investments.

9. The advantages running from the acquisition of the absorbing/pressing drag-boat are, mainly, the following:

- the working capacity in optimum conditions on the sea Danube and at the Sulina bar, having a draught between 4.20 and 5.0 m;
- it can be functioned and navigated on a sea of IV-V degree, with a wave height between 2.0 m and 3.3 m, therefore, the working time during one year can be of approx. 260 days/year;
- diminishing the risk of clogging the Sulina channel;

- achieving the dragging volumes as soon as possible; the alluvial material extracted through dragging works realized with this type of drag-boat is of approx. 790mc/h.

DECIDES:

Art. 1. On the basis of art. 12 (2) a) in the Law no.143/1999 on State aid, with subsequent amendments and completions, the financial support measures consisting of an external credit of USD 15 million, contracted by the River Administration of the Lower Danube Galati and guaranteed by the Ministry of Public Finances, on behalf and account of the Romanian State and of the loan of EURO 38 million granted by BEI, do not constitute State aid, as these are used for the maintenance and modernization of the river transport infrastructure.

Art. 2. The present Decision becomes effective at the date of its communication.

Art. 6. The present Decision will be communicated by the Secretariat General of the Competition Council to the following:

- the Ministry of Public Finance, 17 Apolodor Street, sector 1, Bucharest;
- the River Administration of the Lower Danube Galati, 32, Portului Street, Galati, Galati County.

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

**PRESIDENT
MIHAI BERINDE**