

**DECISION no. 225
of 29.07.2004**

**Regarding the amendment of the State aid scheme on incentives for the
“employment of disabled persons” provided under art. 85 of the Draft for
amending and completing the Law no. 76/2002 regarding the system of
unemployment insurances and employment incentives**

THE COMPETITION COUNCIL,

Having in regard the provisions of the Competition Law no. 21/1996, published in the Official Gazette no. 88/30.04.1996, Part I, with subsequent amendments and completions,

Having in regard 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,

Having in regard the provisions of the Europe Agreement instituting an association between Romania, on one hand, and the European Communities and their Member States, on the other hand, ratified by the Law no. 20/1993, published in the Official Gazette no. 73/12.04.1993, Part I,

Based on the following:

I. PROCEDURE

(1) The Ministry of Labor, Social and Family Solidarity notified through note no. 423/07.04.2004, on the basis of art. 6 of Law no. 143/1999 on State Aid, with subsequent amendments and completions, the State aid scheme on employment incentives, “Reimbursable loans with preferential interest for new job creation” provided under art. 86 of the Draft for amending and completing the Law no. 76/2002 regarding the system for unemployment insurances and stimulating the employment.

(2) For completing the notification of the State aid scheme, the Ministry submitted under note no. 494/28.04.2004, registered as RG/1805/30.04.2004, the *Draft Decision for amending and completing the Enforcement guidelines for the application of Law no. 76/2002 regarding the system for unemployment insurances and stimulating the employment approved by the Governmental Decision no. 174/2002*. The notification

became effective as of the date the information was complete, mainly on 30.04.2004.

II. DESCRIPTION OF THE MEASURE

(3) By Decision no. 160/30.04.2002, the Competition Council authorized the State aid scheme provided in art. 85, par. (2) of Law no. 76/2002 regarding the system for unemployment insurances and employment incentives.

(4) As the State aid scheme mentioned at point (1) also produced effects after the Regulation regarding the State aid for employment of labor force entered into force, it was necessary to make it compatible with the provisions of the new Regulation in this field and with the Law no. 143/1999 on State aid, with subsequent amendments and completions.

(5) Even though the State aid scheme fulfilled the conditions for exemption from notification provided under art. 3, 5 and 6 of the Regulation regarding the State aid for employment, the Ministry of Labor, Social Solidarity and Family notified the State aid scheme “Employment of disabled persons” for verifying its conformity.

(6) By the measures of financial stimulation provided under art. 85, par. 2 of the Draft for amending and completing the Law no. 76/2002 regarding the system of unemployment insurances and employment incentives of labor force, that fall under the provisions of art. 2, par. (1), (5) and (6) of Law no. 143/1999, with subsequent amendments and completions, it is instituted a State aid scheme for the employment of disabled persons.

(7) The State aid scheme establishes that the employers who have less than 100 employees and employ disabled persons, for an undetermined period, benefit for a period of 12 months, for each employed disabled person, from an amount equal with the current minimum gross salary in Romania, under the obligation to maintain the work or office relations for at least 2 years.

(8) The subsidization of vacant jobs aiming at employing disabled persons cannot exceed 60% of the wage costs of the employer, related to the employed disabled persons, which are calculated for a one-year period as of the employment. The employers who, during the previous 2 years, had work and office relations with the employees, do not benefit from these facilities.

III. ANALYSIS OF THE STATE AID MEASURE

(9) The analysis of the notified measure was carried out according to the criteria of granting the State aids in the Regulation on State aid for employment.

(10) The State aid intensity, calculated as percentage of the wage costs of the employer, related to the new employed disabled persons, cannot exceed 60%. The wage costs for a newly-employed disabled person include the gross salary and the contributions to the social insurances, which are mandatory. Thus, the provisions of art. 5 par. 2 of the Regulation on State aid for employment are respected.

(11) The jobs occupied by disabled persons are not vacant after laying off the employees.

(12) The employer has the obligation to maintain the work and office relations for at least 2 years. The employer who ceases before the 2-years period the work and office relations of the employed disabled persons must reimburse to the employment agencies the total amounts received for each persons, together with the reference interest rate of the National Bank of Romania. Thus, the conditions regarding the net increase in the number of jobs provided by art. 5 par. 3 of the Regulation on **State** aid for employment are met.

IV. CONCLUSION

(13) The State aid scheme “employment of disabled persons” contains State aid measures compatible with the Law no. 143/1999 on State aid with subsequent amendments and completions and with the international agreements to which Romania is a party.

(14) Within the meaning of art. 13 par. 1 of the Law no. 143/1999 on State aid with subsequent amendments and completions, the Competition Council shall permanently survey all the existing aid. If State aid scheme “employment of disabled persons” turns out to significantly distort the normal competitive environment and the trade between Romania and Member States of EU, the Competition Council shall require the State aid grantor to take appropriate measures in order to eliminate its incompatibility with the Law no. 143/1999 on State aid, with subsequent amendments and completions.

DECIDES

Art. 1. Within the meaning of art. 12 par. 2 let. b) read in conjunction with art. 14 par. 1 let. d) of the Law no. 143/1999 on State aid, with subsequent amendments and completions, the Competition Council authorizes the State aid scheme as employment State aid.

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

Art. 3. The Ministry of Labor, Social Solidarity and Family must keep the data regarding the State aid scheme and the specific allocations granted as part of this scheme.

Art. 4. The Ministry of Labor, Social Solidarity and Family shall draw up for each granting year, monitoring reports regarding the State aid scheme to which the provisions of the Regulation on state aid for employment are applied. The monitoring report is drawn up after the model presented in Annex II of the regulation and will be transmitted to the Competition Council within 3 months after the reporting period expires.

Art. 5. According to the provisions of art. 29 of the *Law no. 143/1999 on State aid, with subsequent amendments and completions*, the present Decision can be appealed by concerned persons before the Bucharest Court of Appeal, Division Contentious Administrative.

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

- The Ministry of Labour, Social Solidarity and Family – National Agency of Employment, 3 Sf. Dumitru Street, Sector 3, Bucharest

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

PRESIDENT

MIHAI BERINDE