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D E C I S I O N No. 226
of 29.07.2004

**regarding the State aid scheme for training „Specific training”,
provided in art. 48¹ 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 Labour, Social and Family Solidarity notified through
note no. 423/07.04.2004, registered at the Competition Council as no. RS-

AS 39/09.04.2004, on the basis of art. 6 of Law no. 143/1999 on State Aid, with subsequent amendments and completions, the State aid scheme „Specific training”, provided under art. 48¹ of the Draft for amending and completing the Law no. 76/2002 regarding the system of unemployment insurances and employment incentives of labour force (hereinafter the Draft).

(2) For completing the notification of the State aid scheme, the Ministry of Labour, Social Solidarity and Family 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 of unemployment insurances and employment incentives of labour force approved by the Governmental Decision no. 174/2002.*

II. DESCRIPTION OF THE MEASURE

(3) By the measures of financial stimulation provided under art. 48¹ of the Draft for amending and completing the Law no. 76/2002 regarding the system of unemployment insurances and employment incentives of labour 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 training.

(4) As provided under art. 48¹ of the Draft for amending and completing the Law no. 76/2002 regarding the system of unemployment insurances and employment incentives of labour force, to employers that organize, based on the specific training annual plan, training programs for their employees, carried out by the suppliers of specific training services, authorised under law conditions, it is granted, from the unemployment insurance budget, an amount representing 50% of the expenditures with specific training services organised for at most 20% of the hired personnel.

(5) The employers can benefit from State aid from the unemployment insurance budget for carrying out a single specific training program during one year.

(6) The employers can organise 2 selections during one year, based on administrative, eligibility and selection criteria.

The selection can be made on 4 categories:

a) category I - employers requesting finance for training 5 employees at most;

b) category II- employers requesting finance for training 6 - 20 employees;

c) category III- employers requesting finance for training 21 - 50 employees;

d) category IV- employers requesting finance for training 51 employees at least.

(7) the employers who fulfil the following criteria are eligible:

a) employers within the meaning of art. 5 para. I of the Draft;

b) employers who are not under one of the following situations:

- it is under bankruptcy or liquidation, or its business are administrated by a bankruptcy trustee or its activities are suspended or it is under similar circumstances mentioned above, regulated by the legislation in force;

- it is subject of a legal procedure for its framing in one of the above mentioned situations;

- records debits owed to the State budget, respectively to the local budgets or from the non-payment of the contributions to the social insurance fund, to the unemployment insurance budget, to the labour accidents and professional disease insurance as well as to the health insurance fund;

- provide false information within the submitted documents;

- made severe professional error or did not fulfil the obligations committed under a contract or convention, to the extent in which the local Agency for employment or the Bucharest Agency for employment can provide evidences to this matter;

- they suspended the labour or job relations with persons benefiting from specific training programs for which they also received the amount provided by the Law prior to the 3 years term provided by the Law for the reasons provided under art.83 para. (2) of the Draft.

The selection criteria are destined to evaluate the specific training programs and the selection of the employers.

(8) The specific training programs are evaluated under a Fundamentation Note submitted by the employer, according to the following evaluation criteria:

a) the importance of the specific training programs to the employer;

b) the professional categories of the employees to which the specific training programs is addressed;

c) the cost of the specific training program.

III. ANALYSIS OF THE STATE AID SCHEME

(10) 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 training (hereinafter the Regulation).

(11) The Labour Code institutes that the employers have the obligation to ensure for the employees the periodical access to specific training, based on a specific training program, elaborated annually, after consultations with unions or, by case, with the representatives of the employees. All the expenses afferent to courses or specific training are paid by the employer.

(12) The specific training programs contained by the annual specific training plan of the employers and provided by the suppliers of training services, authorized by the Law, are eligible. As stipulated by art. 2 para. IV of the Regulation, the training has a general character if it is recognised, certified or validated by public authorities or bodies.

(13) The State aid intensity, calculated as percentage of the eligible costs does not exceed 50%. The authorisation conditions provided under art. 4 para. (2) of the Regulation are met, according to which the ceiling of the intensity of the State aid granted for general training shall not exceed 60 % for large enterprises and 80 % for small and medium-sized enterprises.

(14) The eligible costs of the training program are represented by expenses with the services of specific training. By *expenses with the services of specific training* it is meant the cost for the services provided by the trainer, authorised by Law, established by the contract concluded between the employer and the provider.

IV. CONCLUSION

(15) The State aid scheme „Specific training” compatible with the Law no. 143/1999 on State aid with subsequent amendments and completions and with the Regulation on State aid for training issued in its application.

(16) 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 „Specific training” ” 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 State aid for training.

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

Art. 3. According to the provisions of art. 24 of the *Law no. 143/1999 on State aid, with subsequent amendments and completions*, the Ministry of Labour, Social Solidarity and Family shall submit to the Competition Council information on the authorized State aids, for their inventorying and monitoring.

Art. 4. 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. 5. 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. 6. 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