



R O M A N I A

CONSILIUL CONCURENTEI

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DECISION NO. 29
of 21.01.2004

regarding the authorization of the State aid specific allocation that is intended to be granted to S.C. RESIAL S.A. Alba Iulia as part of the State aid scheme contained by GEO no. 40/2002 for the recovery of the budgetary arrears approved and amended by Law no. 491/2002

The Competition Council's Plenum,

Based on:

- 1.** Decree no. 1075/2001 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 provisions of the Governmental Decision no. 599/2000 for the approval of the procedures for reporting, monitoring and informing in the application of the Law no. 143/1999 on State aid, published in the Official Gazette no. 340, Part I of 21.07.2000;
- 5.** The Regulation regarding the organization, functioning and procedure of the Competition Council, published in the Official Gazette no. 50 bis, Part I of 25.03.1997 with subsequent amendments and completions;
- 6.** 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;

7. The Regulation on regional state aid and the State aid for SMEs, published in the Official Gazette, Part I, no. 470/02.07.2002;
8. The notification of the State aid specific allocation that is to be granted to S.C. RESIAL S.A. Alba Iulia as part of the existing State aid scheme contained by the GEO no. 40/2002 for the recovery of the budgetary arrears, approved and amended by Law no. 491/2002, submitted by the Ministry of Public Finances under Note no. 292.870/17.12.2003, registered at the Competition Council as no. RS-AS 82/17.12.2003, became effective on 19.12.2003;
9. The Note of the Department for State aid Authorisation concerning the notified State aid.

Based on the following:

1. The notified State aid represents a State aid specific allocation within the existing State aid scheme, contained by GEO no. 40/2002 for the recovery of the budgetary arrears.
2. The payment facilities refer to the exemption from payment of the interests and delay penalties for the overdue obligations at 31.12.2001 to the State budget calculated until 08.04.2002 in total amount of ROL 59,242,167,039.
3. According to the Convention closed between the Ministry of Public Finance and S.C. RESIAL S.A. Alba Iulia, the non-observance of the payment deadlines and of the conditions under which the payment facilities were approved leads to their annulment, the beginning or continuation, by case, of the forced execution for the entire unpaid amount and the obligation to pay the supplementary charges for payment delay calculated as of the date the deadlines and/or conditions were not respected.
4. The State aid is granted in relation with the initial investment in order to overcome the regional disadvantages for ensuring the development of the Center area.
5. The notified State aid is linked to the initial investment, investment destined for the re-technology of the technological flows. The investment objectives aims at replacing certain obsolete technologies with others much performing from qualitative and economic point of view, as well as the

achievement of new investment objectives in order to diversify the products range. Thus, there are met the characteristics provided under art. 2 and art. 5 of the Regulation on regional State aid and State aid for SMEs, in order to be considered aid for initial investment.

6. The value of the eligible costs is of ROL 485,850,000,000, which represents investments in tangible assets in value of ROL 434,708,000,000 (equipments that form the standard basis) and investments in intangible assets (software and know-how) in value of ROL 51,142,000,000 (representing 11.76% of the standard basis) fulfilling the conditions provided under art. 7 of the Regulation on regional State aid and State aid for SMEs.

7. The total estimated value of the eligible costs for the investments that are to be carried out until 2010 is of ROL 485,850,000,000 while the State aid value is of ROL 59,242,167,039, resulting an intensity of 12.2%. As a consequence, it is respected the art. 9 of the Regulation on regional State aid and State aid for SMEs, which provides that the gross intensity of the regional State aid for large enterprises must not exceed 50%.

8. The Investment Program shall be achieved in percentage of 87.8% with the contribution of the beneficiary, thus being respected the art. 8 of the Regulation on regional State aid and State aid for SMEs, which stipulates that the beneficiary's contribution destined for the investment financing should be at least 25%.

9. The assets that are going to be carried out within the investment program of S.C. RESIAL S.A. shall be maintained in function during the entire lifetime, longer than 5 years. The condition provided under the art.11 of the Regulation for maintaining the investment for a period of minimum 5 years is thus fulfilled.

10. The information presented in the notification submitted to the Competition Council leads to the conclusion that the State aid specific allocation as part of the existing State aid scheme contained by GEO no. 40/2002 for the recovery of the budgetary arrears approved and amended by Law no. 491/2002 is not capable to significantly affect the normal competitive environment and does not infringe the proper application of the international treaties to which Romania is party.

11. Under the provisions of art.13 paragraph (1) of Law no.143/1999 on State aid, the Competition Council will permanently survey all the existing State aids, and if it is found out that the State aid scheme contained by the GEO no. 40/2002 for the recovery of the budgetary arrears or specific allocations within it significantly affect the normal competitive environment and the proper application of the international agreements to which Romania is party, the Competition Council will request the state aid grantor to take appropriate measures for eliminating the incompatibility with the Law no.143/1999 regarding the State aid.

DECIDES

Art.1. Within the meaning of art. 12 par. (2) let. b) read in conjunction with art. 14 par. 1 let. f) of Law no. 143/1999 on State aid, the Competition Council authorizes the State aid specific allocation intended to be granted to S.C. RESIAL S.A. Alba Iulia as part of the existing State aid scheme contained by the GEO no. 40/2002 for the recovery of the budgetary arrears approved and amended by Law no. 491/2002, as a State aid for regional development.

Art.2. The value of the State aid to be granted is of ROL 59,242,167,039.

Art.3. The present Decision becomes effective at the date of its communication.

Art.4. According to the provisions of art. 29 of the Law no. 143/1999 on State aid, the present Decision can be appealed within 30 days as of its communication before the Bucharest Court of Appeal.

Art.5. The present Decision shall be communicated by the Secretariat General of the Competition Council to:

- the Ministry of Public Finances, 17 Apolodor Street, sector 1, Bucharest;

- S.C. RESIAL S.A. Alba Iulia, 23 Al. I. Cuza Street, Alba County.

Art.6. The Secretariat General and the Directorate for State Aid of the Competition Council shall pursue the fulfillment of the present Decision.

PRESIDENT

THEODOR VALENTIN PURCAREA