

Decision no. 30/21.01.2004

Concerning the authorization of specific allocation of aid which is meant to be granted to S.C. Turnatoria Centrala Orion S.A. Campina as part of the Existing State Aid Scheme comprised in the GEO no. 40/2002 for Recovering the Budgetary Arrears, approved and modified by Law no. 491/2002

The Plenum of the Competition Council,

Based on:

1. The Decree no. 1075/2001 for the appointment of the members of the Competition Council;
2. The provisions of the Competition Law no. 21/1996, published in the Official Gazette of Romania 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 of Romania no. 370, Part I, of 03.08.1999, with subsequent completions;
4. The Government Decision no. 599/2000 for approving the procedures of reporting, monitoring and informing in the application of the Law no. 143/1999 on State aid, published in the Official Gazette of Romania no. 340, Part I, of 21.07.2000;
5. The Regulation for organization, functioning and procedure of the Competition Council, published in the Official Gazette of Romania 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 the Official Gazette of Romania no. 125, Part I of 24.03.2000;
7. The Regulation on regional State aid and State aid for SMEs, published in the Official Gazette of Romania, Part I, no. 470/02.07.2002;
8. The notification of a State aid scheme which is intended to be granted to S.C. Turnatoria Centrala Orion S.A. Campina, as part of the existing State aid scheme represented by the Government Emergency Ordinance no. 40/2002 for recovery the budgetary arrears, approved with subsequent

amendments and completions, submitted by the Ministry of Labor, Social Solidarity and Family under Note no. 7230-MC/15.12.2003, registered at the Competition Council as no. RS-AS 78/16.12.2003 and become effective on 18.12.2003;

9. The Note of the State Aid Department 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 budgetary arrears.
2. The payment facilities for the owed obligations and not paid to the social insurance budget refer to the exemptions from the payment of supplementary charges for payment delay and afferent delay penalties afferent to the contributions to the social insurance budget in amount of ROL 121,877,734,520.
3. The total amount of the State aids that S.C. Turnatoria Centrala Orion S.A. has benefited from is ROL 18,576,051,000.
4. The State aid is granted in relation with the initial investment in order to overcome some regional disadvantages for ensuring the development of South – Muntenia region.
5. The notified State aid is linked to an investment destined to start an activity that involves a change of the product or fabrication process of an existing unit by purchasing new equipment and modernizing the existing ones; this will lead to the increase of the production and productivity, reaching the quality standards imposed by Romania's accession to the EU, incomes increase and, implicitly, the creation of financial resources for paying in due time the current debts. Thus, the characteristics foreseen in art. 2 and 5 of the *Regulation on Regional State aid and aid for SMEs* are met, as to be considered aid for the initial investment.
6. The value of the eligible costs is in total amount of ROL 284,800,000,000, representing investments in tangible assets, namely machines and equipment.

7. The total estimated value of the eligible costs for the investments to be carried out until 2007 is in total amount of ROL 284,800,000,000, while the value of the notified State aid is in amount of ROL 121,877,734,520, at which the amount of ROL 18.576.051.000 is added, representing the amount of aid previously received. After the calculation, an intensity of 49.31% has resulted. Thus, art. 9 of the Regulation on regional State aid and aid for SMEs –providing that the gross intensity of the regional aid for large undertakings shall not exceed 50% is observed.
8. The investment program will be carried out with the beneficiary's contribution of **50.69%**, meaning ROL 142.922.000.000 lei; thus, art. 8 of the Regulation on regional State aid and aid for SMEs –providing that the beneficiary's contribution to finance the investment must be at least 25%, is observed.
9. In the notification is mentioned that investments in tangible assets will be exclusively operated inside the beneficiary undertaking and will be recorded in the company's assets as they will remain in the patrimony of S.C. Turnatoria Centrala ORION S.A. more than 5 years. Thus, art. 11 of the Regulation on regional State aid and State aid for SMEs, which stipulates that aid for initial investment is conditioned by the maintaining of the respective investment for a of 5 years minimum, is observed.
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 budgetary arrears, approved and amended by Law no. 491/2002, is not in the position to significantly affect the normal competitive environment and does not infringe the proper application of the international treaties to which Romania is a party.
11. On the basis of Art. 13 paragraph (1) of the Law no 143/1999 on State aid, the Competition Council shall permanently survey all the existing aids, and if it is noticed that the State aid scheme contained by GEO no. 40/2002 for the recovery of budgetary arrears or the specific allocations within it significantly affects the normal competitive environment and the proper application of the international agreements to which Romania is a party, the Competition Council will request the aid grantor to take the appropriate measures for eliminating its incompatibility with Law no. 143/1999 on State Aid.

DECIDES

Art. 1. On the basis of art. 12 paragraph (2) letter b) read in conjunction with art. 14 paragraph (1) letter f) of the Law no. 143/1999 authorizes the State aid specific allocation which is meant to be granted to S.C.Turnatoria Centrala Orion S.A. as part of the existing State aid scheme contained by the GEO no. 40/2002 for the recovery of budgetary arrears, approved and amended by Law no. 491/2002, as State aid for regional development.

Art. 2. The value of the state aid, which is meant to be granted, is in total amount of ROL 121.877.734.520.

Art. 3. This Decision will become applicable at the date of its communication.

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

Art. 5 This decision will be communicated by the Secretariat General of the Competition Council to:

- The Ministry of Labor, Social Solidarity and Family, 2 Dem I. Dobrescu Street, 1st district, Bucharest;
- S.C. Turnatoria Centrala Orion S.A., 29 Ecaterina Teodoroiu Street, Campina.

Art. 6 The Secretariat General and the State Aid Department of the Competition Council will survey the fulfillment of the present Decision.

PRESIDENT
THEODOR VALENTIN PURCAREA