

DECISION NO. 31
of 21.01.2004

regarding the authorization of the State aid specific allocation that is intended to be granted to S.C. Fartec S.A. BRASOV as part of the existing State aid scheme contained by Governmental Emergency Ordinance 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 small and medium enterprises, published in the Official Gazette, Part I, no. 470/02.07.2002;

8. The notification of the State aid specific allocation to be granted to S.C. Fartec S.A. BRASOV 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 by Letter no. 293.373/18.12.2003, registered at the Competition Council as no. RS-AS 85/18.12.2003, became effective at 18.12.2003;
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 for the owed and unpaid obligations to the State social insurances budget refer to the payment exemption of the supplementary charges and penalties for payment delay afferent to the contributions to the State budget in amount of: ROL 132,567,850,653.
3. The total value of the State aids of which S.C. Fartec S.A. benefited until present is of ROL 3,180,428,569.
4. The State aid is granted linked to the initial investment in order to overcome regional disadvantages for ensuring the development of the Center area.
5. The notified State aid is linked to an investment destined to modernize and re-technology the company, which will lead to the increase of the labor productivity, incomes and to the creation of the financial resources for paying in due time the current debts. The investment involves a modification in the product or fabrication process of the company by purchasing new equipments and modernizing the existing ones. Thus, there are met the characteristics provided under art. 2 and art. 5 of the Regulation on regional State aid and the State aid for small and medium enterprises, in order to be considered aid for initial investment.
6. The value of the eligible costs is of ROL 450,105,000,000, representing investments in tangible assets, namely machineries and equipments.

7. The total estimated value of the eligible costs for investments to be carried out until 2007 is of ROL 450,105,000,000, while the value added of the State aid is of ROL 132,567,850,653, at which the amount representing the prior received aid of ROL 3,180,428,569 is added. Following the calculations, an intensity of 30.1% resulted. As a consequence, art. 9 of the Regulation on regional State aid and the State aid for small and medium enterprises is respected, which stipulates that the gross intensity of the regional aid for large enterprises must not exceed 50%.

8. The investment program will be carried out in proportion of 70.54% with the beneficiary contribution, respectively ROL 317,537,149,347, thus being respected art.8 of the Regulation on regional State aid and the State aid for small and medium enterprises, which stipulates that the beneficiary's contribution destined for financing the investments must be at least 25%.

9. The objectives that will be achieved through the investment plan will be maintained for a 5-year period. Thus, it is respected art. 11 of the Regulation on regional State aid and the State aid for small and medium enterprises, which stipulates that the aid for initial investment is conditioned by maintaining the involved investment for a period of minimum 5 years.

10. The information included 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 does not significantly affect the normal competitive environment and does not infringe the proper application of the international treaties to which Romania is party.

11. In the meaning of art. 13 par. (1) of Law no. 143/1999 on State aid, the Competition Council will 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 the budgetary arrears or specific allocations within this affect significantly the normal competitive environment and the proper application of the international treaties to which Romania is party, the Competition Council will request the State aid grantor to take appropriate measures for eliminating the State aid incompatibility with the Law no. 143/1999 on 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, it is authorized the State aid specific allocation intended to be granted to S.C. Fartec S.A. BRASOV 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 132,567,850,653.

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, Administrative Contentious Section.

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, Bucharest;
- S.C. Fartec S.A., 15 Stadionului Street, Brasov.

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