

DECISION NO. 33

of 21.01.2004

regarding the authorization of the State aid specific allocation that is intended to be granted to S.C. COMPANIA ENERGOPETROL S.A.

Campina 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;
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 state aid for SMEs, published in the Official Gazette, Part I, no. 470/02.07.2002 (hereinafter the Regulation);
8. The notification of the State aid specific allocation to be granted to S.C. COMPANIA ENERGOPETROL S.A. Campina 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 Labor, social solidarity and Family by Letter no. 6385 MC/22.12.2003, registered at the Competition Council as no. RS-AS 87/22.12.2003; the notification became effective on 22.12.2003;

Based on the following:

1. 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 State aid consists in exemption from the payment of supplementary charges for payment delay and delay penalties afferent to contributions owed to the social insurance State budget in value of ROL 53,033,697,158, their granting aiming at the continuation of the investment program for the period 2003-2006.

3. The non-observance of the payment deadlines and conditions according to which the payment facilities were granted generates their annulment and the begging and by case continuation of the forced execution for the entire unpaid amount, and the obligation to pay the interests calculated as of the date the deadlines and/or conditions were not respected.

4. S.C. COMPANIA ENERGOPETROL S.A. Campina previously benefited from State aids as follows:

- year 2000 – total ROL 5,813 million, representing supplementary profit tax, supplementary VAT to be paid, supplementary income tax;
- year 2001 – total ROL 1,307 million, representing supplementary profit tax, supplementary VAT to be paid, supplementary income tax
- year 2002 – total ROL 2,247 million, representing supplementary charges for payment delay of the contribution to the unemployment fund.

5. The relevant market affected by the State aid granting is the market of constructions and electro-energetic installations in oil and gas industry.

6. The State aid is granted in relation with the initial investment, aiming at overcoming certain regional disadvantages of the Romania's South-East area by reducing the unemployment and creating the premises for new job creation; the investment is destined to purchase new equipment and machines specific to the undertaking's activity.

7. The contribution of the State aid beneficiary, namely S.C. COMPANIA ENERGOPETROL S.A. Campina to the investment which will be made in the period 2003 – 2006, is of 59%, being over the minimum limit of 25% provided under the Regulation and guaranteeing a viable and efficient level of the investment.

8. The value of investments which the company intends to carry out during 2003-2006 is of ROL 129,810 million; the value of the entire on-going investment program which started in 1995 and will be finalized in 2006, is of ROL 165,764 million.

9. The value of the eligible costs for investments is if ROL 129,810,000,000 and represents eligible costs for investments in tangible assets (standard base equipments, in this case).

10. Having regard to the value of the requested State aid, the value of the aid previously granted for the same objective and the value of the eligible costs for investments, the State aid intensity represents 48.07% of the eligible cost of the project, being below 50% of the ceiling provided under the Regulation.

11. The investments in tangible assets which will be carried out within the investment program will be used only by the State aid beneficiary and maintained within the company for a minimum period of 5 years.

12. The effects and benefits to be registered subsequently to the State aid granting are:

- achievement of the investment program for re-technology and modernization, reduction of production expenses and a normal production activity;
- overcoming regional disadvantages, leading to unemployment reduction by maintaining in operation of 450 employees;
- existence of liquidities for a normal functioning of the company and payment in due time of obligations owed to the State budget and suppliers of utilities.

13. 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 scheme represented by GEO no. 40/2002 for the recovery of the budgetary arrears shall not significantly affect the normal competitive environment neither the correct application of international treaties to which Romania is part.

14. According to art.13 par.(1) of Law no. 143/1999 on State aid, the Competition Council shall permanently survey all the existing State 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 it significantly affect the normal competitive environment and the correct application of international treaties to which Romania is part, Competition Council shall request the grantor to take appropriate measures in order to eliminate its 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, to authorize the State aid specific allocation intended to be granted to S.C. COMPANIA ENERGOPETROL S.A. Campina, 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 state aid for regional development.

Art. 2. The value of the State aid is of ROL 53,033,697,158 and represents exemption from the payment of supplementary charges for payment delay and of delay penalties afferent to contributions owed to the social insurance State budget.

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

Art.4. According to the provisions of art.23 of Law no. 143/1999 and GD no. 599/2000 for approving the reporting, monitoring and informing procedure in the application of the Law no. 143/1999, the Ministry of Labour and Social Solidarity and the State aid beneficiary shall submit information regarding granted/received State aids, for their inventorying and monitoring.

Art.5. 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.6. The present Decision shall be communicated by the Secretariat General of the Competition Council to:

- Ministry of Labour and Social Solidarity, 2 Dem. I. Dobrescu Street, sector 1, Bucharest;
- S.C. COMPANIA ENERGOPETROL S.A., Campina, Prahova county.

Art.7. 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