

DECISION NO. 5
of 09.01.2004

**on the notification of the Ministry of Public Finances regarding some
State guarantees for credits contracted by S.C. „Leoser “S.A. Bucuresti,
S.C. „Berzer ”S.A. Ilfov, S.C. „Codlea” S.A. Brasov, S.C. „Orsea ”S.A.
Oradea, S.C. „Agroser” S.R.L. Craiova, S.C. „Leader International”
S.A. Constanta**

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 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;
5. 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;
6. The notification of the individual State guarantees submitted under Note no. 183917/10.12.2003, registered at the Competition Council as no. RG 3889/11.12.2003;
7. The Note of the State aid Directorate.

Based on the following:

1. The guarantees are granted by the Ministry of Public Finance on behalf of the State, in order to obtain domestic banking loans in foreign currencies for purchasing and installing heating systems, and/or irrigation and fertilisation installations and for greenhouses.
2. The State guarantee represents 80% of the total value of each loan.
3. The beneficiaries are trading companies in agricultural sector having as main activity producing and trading vegetables and/or fruits and/or greenhouse flowers.
4. The reason of the financial support granted by the State to these companies consists in sustaining the greenhouses sector in Romania through re-technology, due to the intensive character of the activities developed in this Romanian agricultural sector.
5. The financial support granted by the State under the form of guarantees is linked to the initial investment for modernization and re-technology of the activities and for products diversification.
6. The effects to be obtained following the investments financed by credits contracted with State guarantee are:
 - increase of the production generating the increase of the turnover;
 - products quality improvement;
 - diversification of products portfolio and focusing on domains that can provide a quick increase of the profit, being ensured the sales on domestic and external;
 - reduction of water consumption, fertilizers and chemical substances;
 - reduction of energetic consumption;
 - obtaining ecological products;
7. 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 Law no. 20/1993, states at art. 64 par. 5, that, in Romania, for the State aids granted to agriculture and fishery products the rules on State aids stipulated by art. 85(80), 86(81) and 92(87) of the EEC Treaty do not applied, provisions that are the legal ground of the Law no. 143/1999 on State aid.

8. According to art. 42(36) of the EEC Treaty, the provisions of the chapter referring to competition rules are applied to production and trading of agricultural products within the framework established by EC for common agricultural policy and in relation with the procedure established by the institution entrusted with the coordination of common agricultural market. This sets up the measures necessary to reach the objectives stipulated by art. 39(33) of the EEC Treaty, namely : increase the productivity of agricultural activity by promoting the technical progress and ensuring their rational development, as well as a proper utilisation of the factors of production, providing a decent living standard for agricultural communities, markets stabilization, ensuring a equilibrium between demand and supply at reasonable prices, especially measures related to price regulation, to State aids for producing and trading different products, to establishing common mechanisms for imports and exports stabilization. At the EU level, the State aid for agriculture are analysed by DG Agriculture in conformity with the specific regulation in this field.

9. The State aid in relation with the initial investment is analysed in accordance with the Regulation on regional State aid and State aid for SMEs issued in application of Law no. 143/1999 on State aid. The production, processing and trading of the agricultural products contained by Annex no. 1 (Edible vegetables, bulbs, roots, cut flowers, tubers, ornamental foliage etc.) do not fall under this regulation.

DECIDES

Art.1. The guarantees granted by the State for some credits to be contracted by S.C. „Leoser “S.A. Bucuresti, S.C. „Berser ”S.A. Ilfov, S.C. „Codlea” S.A. Brasov, S.C. „Orsea ”S.A. Oradea, S.C. „Agroser” S.R.L. Craiova, S.C. „Leader International” S.A. Constanta constitute measures that do not fall under the Law no. 143/1999 on State aid.

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

Art.3. 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.

Art.4. The Secretariat General and the State Aid Directorate of the Competition Council shall pursue the fulfillment of the present Decision.

PRESIDENT

THEODOR VALENTIN PURCAREA