

DECISION NO. 6
of 9.01.2004

on the authorisation of the State aid specific allocation to be granted to S.C. BEGA REAL S.A. PLEASA as part of the existing State aid scheme contained by the GEO no. 40/2002 for the recovery of the budgetary arrears, with subsequent amendments and completions

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.** Provisions of the GD no. 599/2000 for the approval of the reporting, monitoring and information procedures 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. Regulation on State aid for rescue and restructuring firms in difficulty, published in the Official Gazette no. 470/02.07.2002, Part I;
8. Notification of the State aid specific allocation to be granted to S.C. BEGA REAL S.A. PLEASA as part of the existing State aid scheme contained by the GEO no. 40/2002 for the recovery of the budgetary arrears, with subsequent amendments and completions, submitted by the Ministry of Public Finances under Note no. 289.912/12.12.2003, registered at the Competition Council as no. RS-AS 75/12.12.2003. The notification became effective at the date of its registration;
9. The Note of the State aid Department on 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 obligations owed and not paid to the State budget refer to the exemption from the payment of interests and delay penalties in total amount of ROL 119,231,045,511.
3. According to the Agreement closed between the ministry of Public Finances and S.C. Bega Real S.A. Pleasa, the non-observance of payment deadlines and the conditions under which the payment facilities have been granted lead to their annulment, the beginning or the continuation, by case, of the debt enforcement for the entire amount not being paid and the obligation to pay the supplementary charges for payment delay, as of the date the terms and/or conditions have not been observed.
4. S.C. Bega Real S.A. Pleasa did not benefit from State aids until presents.
5. The product relevant market is the market of refractory materials.
6. The analysis of the notified measure has been carried out in accordance with the State aid granting criteria contained by the Regulation on State aid for rescue and restructuring firms in difficulty. S.C. Bega Real S.A. Pleasa is a firm in difficulty since she dealt with several problems that negatively influenced the production and the economic-financial activity, due to the following: the company registers losses, the turnover is decreasing, the volume of finite

products in total current assets is increasing, and the debts are increasing progressively.

7. The effects of the Restructuring Plan are the cost reduction with almost ROL 312,897 million. Thus, the Restructuring Plan aims in a first phase at overcoming the difficult situation and on long term at ensuring the company's competitiveness.

8. The restructuring costs are of ROL 226,721 million, considering that the company's contribution to the financing of the Restructuring Plan is of ROL 107,490 million.

9. The requested State aid shall allow the company's maintenance on the market by its recovery, ensuring thus the competitive environment on the relevant market, without creating supplementary financial resources that might determine the distortion of the competition at national level.

10. The State aid is limited to the minimum necessary and will be used only for the recovery of the company's viability, not allowing the beneficiary, during the application of the Restructuring Plan to increase the production capacity, being thus observed the provisions of art. 14 of the Regulation on State aid for rescue and restructuring firms in difficulty.

11. S.C. Bega Real S.A. Pleasa did not receive restructuring State aid, being thus observed the provisions of art. 18 of the Regulation on State aid for rescue and restructuring firms in difficulty, stipulating that the restructuring State aid should be granted only once.

12. The data presented in the notification submitted to the Competition Council lead to the conclusion that the State aid specific allocation contained by GEO no. 40/2002 for the recovery of the budgetary arrears does not significantly affect the normal competitive environment and does not breach the correct application of the international treaties to which Romania is party.

13. Under art. 13 (1) of the Law no. 143/1999 on state aid, the Competition Council shall permanently survey all the existing aids. If it will be noticed that the State aid scheme contained by GEO no. 40/2002 for the recovery of the budgetary arrears or the State aid specific allocation within it significantly distorts the normal competitive environment and the application of the international agreements to which Romania is party, the Competition Council

shall request the State aid grantor to take the appropriate measures 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. 3 let. c) of the Law no. 143/1999 on State aid, the Competition Council authorizes the State aid specific allocation to be granted to S.C. Bega Real S.A. Pleasa as part of the existing State aid scheme contained by GEO no. 40/2002 for the recovery of the budgetary arrears, with subsequent amendments and completions as restructuring State aid.

Art.2. The value of the State aid to be granted is of ROL 119,231,045,511.

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, Division Contentious Administrative

Art.6. 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. Bega Real S.A. Pleasa, Pleasa City, Prahova County.

Art.7. The Secretariat General and the Directorate for State Aid Authorization of the Competition Council shall pursue the fulfillment of the present Decision.

PRESIDENT

THEODOR VALENTIN PURCAREA