



R O M A N I A

CONSILIUL CONCURENTEI

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**Decision no. 89
of 11.03.2004**

**on the notification of the Constanta County Council for obtaining the
authorization of the State aid to be granted to
Regiei Autonome Judetene de Apa Constanta**

The President of the Competition Council,

Based on:

1. The Decree no 57/17.02.2004 regarding the appointment of the Competition Council's members;
2. The provisions of the Competition Law no 21/1996, published in the Official Gazette no 88 – Part I, of April 30, 1996, with subsequent amendments and completions;
3. The provisions of the Law no 143/1999 on State aid, published in the Official Gazette no 370/03.08.1999, Part I, with subsequent amendments and completions;
4. The Regulation on organization, functioning and procedures of the Competition Council, published in the Official Gazette, no. 50 bis, Part I, of 25.03.1997, with subsequent amendments and completions;

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 State aid to be granted, submitted by the Constanta County Council under Note no. 184/16.01.2004, registered at the Competition Council as no. RS-AS 2/21.01.2004. The notification became effective as of the date the information was exact and complete, mainly on 19.02.2004.
7. The Note of the State aid Department on the notified State aid;

Based on the following:

1. The financial support from which the Autonomous Regie of Water Constanta, hereinafter RAJAC, will benefit, represents the guarantee given by Constanta County Council for contracting an EBRD loan, under market conditions. The total value of the loan contracted by RAJAC from BERD is of Euro 20,000,000.
2. The funds allocated through this loan shall be used to co-finance the investment in infrastructure “Rehabilitation of water sewerage and wastewater facilities in Constanta, Romania” with the following components:
 - ? Wastewater Plant Constanta Nord
 - ? Sewerage in Constanta Nord and water pumping stations
 - ? Water pumping stations in Constanta Sud
 - ? Sewerage in Constanta Sud
 - ? Pluvial System in Constanta Sud
 - ? Water pumping stations in Eforie
 - ? Water pumping stations in Mangalia
 - ? Wastewater Plant Eforie.
3. RAJAC is an Autonomous Regie of local interest, under the authority of Constanta County Council which administrates and exploits the public systems of drinking water supply and sewerage owned by the public domain of the County.

4. The relevant product market is represented by market of public services of water supply and sewerage. For the water supply services, the relevant geographic market is represented by the territories of the following cities: Constanta, Ovidiu, Eforie Nord, Eforie Sud, Mangalia, Navodari, Basarabi, Harsova, Mihail Kogalniceanu, Negru Voda, Nicolae Balcescu, Mihai Viteazu, Corbu, Ciobanu, Agigea, Lazu, Techirghiol, Poiana, Tuzla, Schitu, Costinesti, Castelu, Pecineaga, 2 Mai, Limanu, 23 August, Dulcesti, Valul lui Traian, Lumina, Poarta Alba, Cumpana, Topraisar, Viisoara, Independenta, Plopeni, Chirnogeni, Amzacea, Oituz, Pietreni, Baneasa, Lipnita, Ostrov, Cobadin, Biruinta, Ciobanita, Albesti, Cotu Vaii, Galesu, Vadu Oii, Sat Mamaia, Vama Veche, Ciocarlia, Credinta, and for sewerage services: Constanta, Eforie Nord, Eforie Sud, Mangalia, Basarabi, Navodari, Harsova, Ovidiu, Negru Voda, M. Kogalniceanu, Techirghiol, Baneasa, Poarta Alba, Tuzla, Costinesti, Ostrov, Lipnita, Schitu, Cumpana, 23 August, Cobadin, Agigea.

5. RAJAC is the only operator on the relevant market in Constanta County, having thus a natural monopoly position. These public services of local interest are provided through a public system of water supply and sewerage, which is part of the technical-urban infrastructure of the County and is owned by its public ownership.

6. The public services of water supply and sewerage is regulated, their prices and tariffs not being established on a free market, based on demand and supply, but being surveyed by the National Regulatory Authority for Municipal Services (ANRSC) and approved by the local public administration - Constanta County Council.

7. The efficient treatment of the wastewaters represents a priority measure within the National Action Plan for environmental protection in which the important measures Romania has to undertake during the implementation process of the *acquis communautaire* are defined. The fulfilment of the measures contained by this Project will contribute to the fulfilment of the provisions of the Black Sea Convention signed by Romania.

8. The measure of rehabilitation of the sewerage system and wastewaters facilities in Constanta County will generate the protection of the Black Sea and of its coasts against the pollution generated by the waste of not treated waters and of industrial waters, by building wastewaters plants aiming at reaching the standards as regards the quality of affluent. The measure aims

at the improvement of the sewerage infrastructure, taking over and controlling the residual waters flows and reducing the losses and the non-controlled overflows, that otherwise will produce damages to the underground and surface waters. The measure will lead to the promotion of the tourism by ensuring clean waters in the coast area.

9. The rehabilitation of the sewerage system and the wastewaters facilities in Constanta County will generate parameters of superior quality as regards the wastewaters, the reduction of water losses and implicitly the cost reduction. The final beneficiaries of this measure are the citizens of Constanta County, following the positive effect of the water quality improvement will have on their health.

10. Having in regard that RAJAC is the only administrator of the public system of water and sewerage in this geographic area, without any other competitor on the relevant market, the guarantee of Constanta County Council for the loan does not fulfil the selectivity criteria – one of the elements that characterize the State aid – and does not lead to competition distortion.

DECIDES

Art.1. Within the meaning of art. 8 par. (2) read in conjunction with art.12 par (2) lit. a) of the Law no. 143/1999 on State aid, with subsequent completions, the guarantee given by Constanta County Council, to the loan received by RAJAC from EBRD, does not constitute State aid since this loan is used for rehabilitation of the technical-urban infrastructure of Constanta County.

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:
Constanta County Council, 51, Tomis Blvd., City of Constanta, Constanta County;

- Constanta Autonomous Regie of Water Regiei, 22-24, Calarasi Street, City of Constanta, Constanta County.

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

PRESIDENT

MIHAI BERINDE

DIRECTOR

Cristina COBIANU

INTOCMIT

Hermina VITE

Oana TATU