



R O M A N I A

CONSILIUL CONCURENTEI

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Palatul Parlamentului
Calea 13 Septembrie, nr.1, sector 5
Bucuresti
?
Cabinet Presedinte
Tel: 337.36.08; Fax: 337.36.43
Email: theodorpurcarea@rccomp.eunet.ro

DECISION NO. 9

of 09.01.2004

**on the authorisation of the State aid specific allocation to be granted to
S.C. PIPERA S.A. Bucuresti as part of the existing State aid scheme
contained by the GEO no. 40/2002 for the recovery of the budgetary
arrears, approved and modified 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. 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. PIPERA S.A. Bucuresti PLEASA 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 Labour, Social Solidarity and Family under Note no. 5180-MC/12.12.2003, registered at the Competition Council as no. RS-AS 76/12.12.2003. 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 the 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 supplementary charges for payment delay and delay penalties owed to the social securities budget and unemployment budget in total amount of ROL 95,999,178,634.
3. According to the Convention closed between the Ministry of Labour, Social Solidarity and Family and S.C. PIPERA S.A. Bucuresti, 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 unpaid amount and the obligation to pay the supplementary charges for payment delay, starting with the date the terms and/or conditions have not been observed.
4. On 05.12.2003, the Convention no. 344 between the Ministry of Public Finances and S.C. PIPERA S.A. Bucuresti has been closed, through which there are exempted from the payment the interests and delay penalties afferent to the budgetary obligations owed to the State in total value of ROL 45,245,566,015.

5. The total value of the State aids from which S.C. PIPERA S.A. benefited until present is of ROL 25,612,650,143.
6. The product relevant market is the market of production and marketing of wood products.
7. 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. PIPERA S.A. Bucuresti is a firm in difficulty since she dealt with several problems that influenced negatively the production and the economic-financial activity due to the following: the company registers losses (the loss registered in 2002 represents 45% of the registered capital), there is a high weight of the stock of finished products in total stocks, the financial costs are increasing due to the high interests of short term credits, being noticed a non-favourable evolution of the economic-financial indicators.
8. The State aid will allow S.C. PIPERA S.A. Bucuresti to achieve the Restructuring Plan for 2003 - 2007, ensuring the company's maintenance on the market and its recovery. By achieving the objectives of the Restructuring Plan and of the income/expenses forecast, there are established the grounds for the development of the furniture and wood production.
9. S.C. PIPERA S.A. worked out a wide Restructuring Plan which contains organisational, technical-technological, management and financial measures. The effects of the Restructuring Plan and the financial recovery consist in costs reduction with about ROL 38,144,000,000.
10. The restructuring costs for S.C. PIPERA S.A. are ROL 175,909,744,649, being supported as follows: own resources (in value of ROL 24,665,000,000), attracted sources (in value of ROL 10,000,000,000) and State aid (in amount of ROL 141,244,744,649). Thus, the contribution of S.C. PIPERA S.A. to the achievement of the Restructuring Plan represents 20% of the financial effort.
11. The State aid granted to S.C. PIPERA S.A. will not significantly affect the competitive environment, taking into account that the market of production and marketing of furniture and wood products is a competitive market on which a large number of companies activate; S.C. PIPERA S.A. has a small market share (3%). Also, the applied restructuring measures will generate the reduction of the production activity, leading to the identification of the non-profitable activities of PIPERA and their taking over by lease or sale to other companies or closing these activities.

12. 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. The State aid ensures the company's recovery for a 5 years period, the production capacity being reduced to optimum. Thus, there are observed the provisions of art. 14 of the Regulation on State aid for rescue and restructuring firms in difficulty.

13. The requested State aid does not distort the competition and does not generate supplementary liquidities that can be used to aggressive market distortion activities without being related to the restructuring process.

14. S.C. PIPERA S.A. Bucuresti 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.

15. The data presented in the notification submitted to the Competition Council lead to the conclusion that the State aid specific allocation contained by the GEO no. 40/2002 for the recovery of the budgetary arrears, approved and amended by Law no. 491/2002 does not affect significantly the normal competitive environment and does not breach the correct application of the international treaties to which Romania is party.

16. 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 the GEO no. 40/2002 for the recovery of the budgetary arrears or the State aid specific allocation within it significantly distort 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, with subsequent amendments and completions, Competition Council authorizes the State aid specific allocation to be granted to S.C. PIPERA S.A. Bucuresti 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 restructuring State aid, with the mention that, as stipulated by art. 18 of the Regulation on State aid for rescue and restructuring firms in difficulty, the restructuring State aid id granted only once.

Art.2. The estimated value of the State aid to be granted is of ROL 141,244,744,649.

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, with subsequent amendments and completions, the present Decision can be appealed within 30 days as of its communication before the Bucharest Court of Appeal, Division Contentious Administrative

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

- the Ministry of Labour, Social Solidarity and Family, 2, Dem. I. Dobrescu Street, sector 1, Bucharest;
- S.C. PIPERA S.A. Bucuresti, 48, Pipera Street, sector 2, Bucharest.

Art.6. The Secretariat General and the State Aid Directorate of the Competition Council shall pursue the fulfillment of the present Decision.

PRESIDENT

THEODOR VALENTIN PURCAREA