



**FORMAL OPINION**  
**on the draft notification of the individual rescue aid to Complex Energetic Hunedoara SA**

By analyzing

the Standard Notification Form for the individual rescue aid to Complex Energetic Hunedoara SA (hereby named CEH)

and

the Draft law establishing an individual rescue aid to Complex Energetic Hunedoara SA( hereby named the Draft law)

Submitted by the Ministry of Energy, Small and Medium Enterprises and Business Environment, by the address no 101158/19.03.2015, registered at the Competition Council with no. RG/2786/20.03.2015, in order to receive a formal opinion,

And ascertaining that:

1. CEH is facing a difficult economic and financial situation which is reflected in the economic and financial indicators at the end of 2014, thus CEH lacks the necessary financial resources to purchase for greenhouse gases emission allowances, and after April 2015 it will have to pay substantial penalties for non-compliance with EU environmental directives.

2. Given this situation, the Romanian authorities (Ministry of Energy, Small and Medium Enterprises and Business Environment and Ministry of Public Finance) intend to grant a rescue aid. This aid aims to cover liquidity requirements for minimum running costs to support activities for a period of six months, including those required for purchasing, by the beneficiary, the deficit of greenhouse gases emission allowances, necessary to meet the requirements of the *Government Decision No.780 / 2006 establishing a scheme for greenhouse gases emission allowances trading, with the subsequent amendments and completions* and *Commission Regulation (EU) No 389/2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC*, whereby, CEH must achieve compliance stage with carbon dioxide emissions related for 2014, in the Unique Consolidated Registry of the European Union accounts which are under the jurisdiction of the Romanian state.

3. The rescue aid is granted to CEH in compliance with the *Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty*(2014/C/ 249/01).
4. According to the Draft Law, the rescue aid to CEH totals the amount of 98,476,896 lei and it is granted as a loan with an interest rate not less than the reference rate set out in the *Reference Rate Communication* <sup>1</sup> for weak enterprises offering normal levels of collateralization.
5. The rescue aid consists of a temporary contribution of liquidity in the form of loan.
6. CEH has to submit a restructuring plan within six months following the granting of the rescue aid, which will ensure long term viability and will be notified to the Commission for authorization, or a liquidation plan or proof that the loan was fully repaid.
7. Pursuant to the state aid rules, it is prohibited granting rescue aid in the coal sector. In this sector aid may be granted only for closing the mines. In this context, for the coal mines of the CEH there will be kept separate accounting registers. After authorizing the rescue aid by the European Commission, according to art. 5 paragraph. (5) of the draft law, CEH will initiate steps on starting legal separation of coal mines.
8. The individual rescue aid should be granted respecting the “one time, last time” principle. On this line, CEH must submit a statement that should indicate whether it received rescue or restructuring aid previously. If so, and where less than 10 years have elapsed since the aid was granted or the restructuring period came to an end or implementation of the restructuring plan was halted (whichever occurred the latest), the aid will not be granted.
9. The Notification is filled out in accordance with the standard form enclosed in Annex I to the Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, with the subsequent amendments and completions.

## **COMPETITION COUNCIL**

Based on art. 7 point (6) of the Government Emergency Ordinance no. 77 of 3 December 2014 regarding national procedures in the state aid field and the amendment and completion of the Competition Law no. 21/1996,

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<sup>1</sup> Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p.6.)

## **ISSUES FORMAL OPINION**

On the notification of the individual rescue aid to Complex Energetic Hunedoara SA, which will be submitted to the European Commission for approval.