



FORMAL OPINION
on the draft of Government Decision establishing a State aid schemes with the object of stimulating investments that have a major impact on the economy

By analyzing

The Draft of Government Decision establishing a State aid schemes with the object of stimulating investments that have a major impact on the economy (hereby named the Draft of GD)

And

The draft of Synthetic Information sheet on the State aid granted in accordance with the *Commission Regulation (EC) no. 651/17.06.2014 declaring certain categories of aid compatible with the common market in application of Articles 107 and 108 of the Treaty*¹,

Submitted by the Ministry of Public Finance, by the address no. 552703/08.09.2014, registered at the Competition Council with no. RG 10632/09.09.2014, in order to receive a formal opinion,

And

ascertaining that:

1. The Draft of GD approves a State aid scheme with the objective of regional development by making investments with major impact on the economy;
2. The Scheme was set up based on the *Regulation (EC) no. 651/2014 declaring certain categories of aid compatible with the common market in application of Articles 107 and 108 of the Treaty* (hereby named the Regulation) and meets the intensities provisioned for by the *Regional Aid Map* for Romania for the period 2014 – 2020² approved by the European Commission;
3. In accordance with the Regulation, the State aid scheme is being exempted from the obligation to notify to the European Commission as:
 - the state aids granted under the schemet are transparent, taking the form of nonreimbursable financial allocations;
 - the aid is granted for investment projects representing initial investment: according to the Draft of GD, the large undertakings located in the Bucharest region receive state aid if they carry out initial investments in favor of a new economic activity;
 - the eligible costs are costs of realization, or of acquisition, of tangible and intangible assets, as well as renting expenses for the construction related to initial investment;

¹ Published in the Official Journal of the European Union no. L 187/26.06.2014.

² Approved by the EC Decision no the State aid no. SA 38364 (2014/N) Romania



- tangible and intangible assets must fulfill the following conditions of eligibility:
 - they must be exploited exclusively by the enterprise which benefits from State aid in order to reach the objectives of the investment for which the financing was requested;
 - they must be purchased under market conditions from persons which are not affiliated persons as these are defined by art. 7 point 21 from *Low no. 571/2003 on the Fiscal Code, with the subsequent amendments and completions*;
 - they must be included in the assets of the undertaking receiving the aid and must remain associated with the project for which the aid is granted for at least five years after completion of the investment.

- costs of intangible assets are eligible only up to a limit of 50 % of the total eligible costs for the investment.
- the maximum level of state aid that can be received by an undertaking within the Scheme is the following:

Development Region	The maximum level of state aid	
	2014-2017	2018-2020
Development Region Bucharest	euro 11,25 million (the equivalent in lei)	euro 7,5 million (the equivalent in lei)
Development Region West and Ilfov	euro 26,25 million (the equivalent in lei)	
Development Region Nord-West, Center, North - East, South - East, South - Muntenia, South - West Oltenia	euro 37,5 million (the equivalent in lei)	

- the maximum intensity of the aid, as provisioned for by the Regulation and the Regional Aid Map, is not exceeded, namely:

Development Region	The maximum intensity of the aid	
	2014-2017	2018-2020
Development Region Bucharest	15%	10%
Development Region West and Ilfov	35%	
Development Region Nord-West, Center, North - East, South - East, South - Muntenia, South - west Oltenia	50%	



- for large investment projects, the aid shall not exceed the maximum aid amount provisioned for each development region and it is calculated in accordance with the mechanism defined in Article 2, point 20 from Regulation;
- the investment made with financial support within the State aid scheme must be maintained within the unit benefiting from regional State aid for a period of at least 5 years after the end of the investment project;
- the beneficiaries should not be firms in difficulty;
- the stipulations of the Draft of GD shall apply only to aid which has an incentive effect. Aid shall be considered to have an incentive effect if the following conditions are cumulatively fulfilled:

- the beneficiary has submitted a written application for the aid to the Ministry of Public Finance before work on the investment project starts;
- the documentation attached to the application proves that the investment would not have been carried out in the area concerned or would not have been sufficiently profitable for the beneficiary in the area concerned in the absence of the aid;
- the investment project does not start before the financing agreement is received by the beneficiary.

4. The scheme is applying to all development regions of Romania, the beneficiaries being allowed to perform their activity in all economic sectors, except of those provided by art. 14 and by the List of activity sectors which are not granted State aid pursuant to this scheme, as mentioned in Appendix no. I.

5. The scheme provisioned for by the draft of GD shall apply from the date of its publication in the Official Journal of Romania until December 31st, 2020, its budget is of Lei 2.7 billion, namely the equivalent of approximately EUR 600 million, with possibility of supplementation. The maximum annual budget of the scheme is of Lei 450 million, i.e. the equivalent of approximately EUR 100 million, and the estimated number of beneficiaries of the State aid granted under the scheme is 150.

6. The Information sheet meets the form and content of the standard form enclosed in Annex III to the *Commission Regulation (EC) no. 800/2008 declaring certain categories of aid compatible with the common market in application of Articles 107 and 108 of the Treaty.*

COMPETITION COUNCIL

Based on the *Competition Law no. 21/1996, republished, with the subsequent amendments and completions* and of art. 8 recital (1) of the *Government Emergency Ordinance no. 117/2006 on the national procedures in the State aid field, approved with amendments and completions by the Law no. 137/2007,*



ISSUES FORMAL OPINION

On the Draft of GD of the Minister of Public Finance for the approval of the *State aid scheme having as objective the stimulation of the investments with major impact on the economy* and on the draft of synthetic Information sheet submitted by Romania in accordance with the provisions of the *Regulation (EC) no. 651/2014 declaring certain categories of aid compatible with the common market in application of Articles 107 and 108 of the Treaty*.

With the following amendments:

- At art. 17, point a) of the Draft of GD, phrase “ within development region Bucharest” shall be replaced with phrase “within development region Bucharest – Ilfov”, because in accordance to *Regional Aid Map* approved by the European Commission for Romania, whole development region Bucharest – Ilfov falls under art. 107 (3) point c of the Treaty;
- In *Chapter III Eligible Costs*, to be added a new article with the following text:
“The aid beneficiary must provide a financial contribution of at least 25 % of the eligible costs, either through its own resources or by external financing, in a form, which is free of any public support”.
- At art. 18 of the Draft of GD to be added a new recital, with the following text:
“the information provided in Appendix III to the Regulation on each individual aid awarded exceeding EUR 500 000 (equivalent in lei) shall be published by the Ministry of Public Finance on its own website.