



## FORMAL OPINION

**on the draft Order of the Minister of European Funds for the approval of the State aid scheme "Support for strengthening and upgrading the productive sector through investments by made SMEs and large enterprises", corresponding to the Priority Axis 1 "An innovative and eco-efficient production" within the Sectoral Operational Programme Increase of Economic Competitiveness**

By analyzing

draft Order of the Minister of European Funds for the approval of the State aid scheme "*Support for strengthening and upgrading the productive sector through investments by made SMEs and large enterprises*", corresponding to the Priority Axis 1 "An innovative and eco-efficient production", Major intervention field 1.1. "Productive investments and preparing the undertakings for market competition", operation 1.1.1. "Support for strengthening and upgrading the productive sector through investments by made SMEs and large enterprises, within the Sectoral Operational Programme Increase of Economic Competitiveness

and

The draft of synthetic Information sheet on the State aid granted in accordance with the *Commission 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*<sup>1</sup>,

submitted by the Management Authority of SOP IEC, by the address no. 10103/28.07.2014, registered at the Competition Council with no. RG 8767/28.07.2014, in order to receive a formal opinion,

and

ascertaining that:

1. By the Draft of *Order* it is approved a State aid scheme having as objective the regional development by supporting undertakings (small, medium and large), by financing the initial investments, in order to achieve the general objective of the Sectoral Operational Programme Increase of Economic Competitiveness, namely to "increase the productivity of the undertakings from Romania, in accordance with the principles of lasting development and reduction of discrepancies, as compared to the average EU productivity";
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*

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

107 and 108 of the Treaty (hereby named the Regulation) and meets the intensities provisioned for by the Regional Aid Map approved by the European Commission for Romania for the period 2014 – 2020<sup>2</sup>;

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 aid granted within it are transparent, taking the form of non-reimbursable financial allocations;
- the aids are granted for investment projects representing initial investment: the small and medium undertakings may benefit also of State aid for consultancy services;
- the eligible costs are: costs related to the acquisition of installations, tools and equipment. The costs related to the acquisition of transport technology, strictly related to the production process, and acquisition costs on patents, licenses, know-how, unpatented technical solutions, including related software production process and requirements of the enterprise management; for the SMEs are also eligible for financing the costs for consultancy services;
- the acquired assets are new and the un-tangible assets do not exceed 50% of the total eligible costs;
- the maximum amount of the financing cannot exceed the following thresholds:

- a) Euro 4 million (the equivalent in lei) per project, for the aids granted to large undertakings for investments;
- b) Euro 1 million (the equivalent in lei) per project, for the aids granted to SMEs for investments;
- c) Euro 0.5 million (the equivalent in lei) per project, for the aids granted to SMEs for consultancy.

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

- for large undertakings:

- a) 15% of the total eligible costs, for the projects made in Bucharest Municipality, within the development region Ilfov;
- b) 35% of the total eligible costs, for the projects made in Ilfov County, within the Development region Bucharest- Ilfov and West Region;
- c) 50% of the total eligible costs, for the projects made in the development regions North-West, North – East, South, South-West, South-East and Center.

- for medium undertakings:

- a) 25% of the total eligible costs, for the projects made in Bucharest Municipality, within the development region Ilfov;
- b) 45% of the total eligible costs, for the projects made in Ilfov County, within the Development region Bucharest- Ilfov and West Region;
- c) 60% of the total eligible costs, for the projects made in the other development regions (North-West, North – East, South, South-West, South-East and Center).

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

- for small undertakings:

- a) 35% of the total eligible costs, for the projects made in Bucharest Municipality, within the development region Ilfov;
- b) 55% of the total eligible costs, for the projects made in Ilfov County, within the Development region Bucharest- Ilfov and West Region;
- c) 70% of the total eligible costs, for the projects made in the other development regions (North-West, North – East, South, South-West, South-East and Center).

- The State aid beneficiary within this scheme has to make the proof of its own contribution, which has to cover the difference between the eligible costs and the non-reimbursable funds to be received. The beneficiary's own contribution may come from own resources, bank credits unguaranteed by the state, contribution of the shareholders, other than state bodies, or other private sources, in a form free of State aid;
- 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 for large undertakings, namely 3 years for SMEs;
- The beneficiaries are not firms in difficulty.

4. The scheme is applied to all development regions of Romania, the beneficiaries being allowed to perform their activity in certain economic sectors, expressly specified. The State aid scheme does not apply for the aids stipulated at art. 13 of the Regulation.

5. The scheme provisioned for by the draft of Order shall apply from the date of its publication in the Official Journal of Romania until December the 31<sup>st</sup>, 2015, its budget being of Euro 100 million (lei 450 million) of which Euro 86 million from the Regional development Fund – FEDR (387 million lei) and euro 14 million from the state budget (63 million lei). The scheme's budget shall be broken down, 2/3 for SMEs and 1/3 for large undertakings.

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 Law on competition 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 Order of the Minister of European Funds for the approval of the State aid scheme "*Support for strengthening and upgrading the productive sector through investments by made SMEs and large enterprises*" 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 proposals of modification:

- At art. 5 of the scheme to be added a new letter with the following text:

“initial investment for a new economic activity means:

(a) an investment in tangible and intangible assets related to the setting-up of a new establishment, or diversification of the output of an establishment only if the new activity is not identical or similar with the activity previously performed in that specific establishment; or

(b) an acquisition of assets belonging to an establishment that has been closed or would have closed if not purchased, and is bought by an investor unrelated to the seller, only if the new activity to be performed with the acquired assets is not identical or similar with the activity performed in that establishment, before the acquisition.”

- At art. 12 of the scheme to be added a new recital, with the following text:

“Within the development region Bucharest-Ilfov, the State aids for large undertakings are granted only for an initial investment in favor of a new economic activity.”