



EUROPEAN COMMISSION

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<p>In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...].</p>	<p style="text-align: center;">PUBLIC VERSION WORKING LANGUAGE This document is made available for information purposes only.</p>
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Subject: State aid C39/2008 (ex N 148/2008) - Romania
Training aid to Ford Craiova

Sir,

The Commission wishes to inform Romania that, having examined the information supplied by your authorities on the measure referred to above, it has decided to initiate the procedure laid down in Article 88(2) of the EC Treaty.

1. PROCEDURE

1. By notification submitted on 1 April 2008, Romania notified the aid in reference.
2. By letter of 18 April 2008, the Commission requested complementary information which was necessary for its assessment of the notified aid. Romania provided information by letter registered with the Commission on 25 June 2008. On 18 July 2008, the Commission met with the Romanian authorities and representatives of the beneficiary. It was also agreed that the 2 months period within which the Commission is required to finalise its assessment on the notification and to adopt a decision, as provided in Article 4(5) of Regulation 659/1999, would start as of 18 July 2008.

2. DESCRIPTION OF THE PROJECT

2.1 The beneficiary

3. The beneficiary of the aid will be the Romanian car producer Ford Craiova that took over on 12 September 2007 the production facilities and the business formerly operated by SC Automobile Craiova SA (hereinafter ACSA) and SC Daewoo Automobile SA

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Romania (hereinafter DWAR), following their privatisation by the Romanian privatisation agency, AVAS.

4. By decision of 27 February 2008, the Commission found that the privatisation of ACSA and DWAR entailed incompatible aid due to conditions attached to the sale.¹ The Commission ordered recovery of EUR 27 million.
5. The Ford Craiova car plant currently employs 3 900 people. By the end of 2012, the company plans to employ more than 7 000 people and possibly even 9 000 in the long term. Its facilities are suited for both the production of cars as well as engines and gearboxes. However, the vehicle production ceased in January 2008. The production of engines and gearboxes will continue in 2008 and will be supplied to General Motors on the basis of a supply agreement concluded in the past by DWAR. This production will be phased out in the course of 2009.
6. By decision of 30 April 2008, the Commission approved regional investment aid amounting to EUR 143 million for an investment project of EUR 675 million in the Craiova plant.² The regional aid reached the maximum intensities allowed. Under this regional investment project, the vehicles production will start in 2009 and the engines in 2011. The date of completion of the project and full production is expected to be 2012.
7. The car plant is based in a region eligible for aid under Article 87(3)(a) EC Treaty.

2.2 The training project

8. The training project is intended to be implemented from 2008 to 2012 and to cover both present and future employees, an estimated total of 9 000 people.
9. The Ford Craiova training project amounts to EUR 141 million of eligible costs, out of which EUR 139.7 million are to be spent for general training and EUR 1.7 million for specific training. Romania applies an aid intensity of 50 % for the general training measures, i.e. EUR 69.9 million of aid, and 25 % for the specific training measures, i.e. EUR 0.4 million of aid.
10. Although the training aid could amount to EUR 70 million for the total eligible costs of the project, Romania intends to grant and thus notified aid of EUR 57 million. The aid will be granted for courses as they are completed until the EUR 57 million cap is met.
11. The project can be broken down into the following four "themes":

- (a) Health & Safety Training

12. This training theme covers a total of 79 courses which are intended to teach the staff safe behaviour in the workplace, covering 15 subject areas: Legal requirements like duties and rights addressed for to all employees; Emergency, Fire and evacuation instructions; Fire prevention and use of extinguishers; Housekeeping – keeping your workplace tidy; Environment – environmental standards, e.g. ISO 14001; Material handling/Ergonomics;

¹ Commission decision of 27 February 2008 on State aid C 46/2007, *Privatisation of Automobile Craiova, Romania*, not yet published.

² Commission decision of 30 April 2008 on State aid N 767/2007, *Regional investment aid to Ford Craiova*, not yet published.

Personal Protective Equipment; Safe use of machinery; Safe use of hand- and power-tools; Use of ladders/Working at heights; Confined spaces; Skin protection; Office safety; Handling of hazardous material; and Safety signs.

13. The training will cover for all 15 subject areas an introduction to basic principles, i.e. regulations and legal responsibilities of employees and employers, safe operating, maintenance and repair principles, and safety management systems, reporting, identification of risk, control and accident prevention, but also behavioural elements, i.e. raising awareness of hazards, risks and accidents within an industrial workplace, roles and responsibilities for the management of safety in the workplace, and the impact of individual and group behaviour of the management of safety within the workplace, the development of a safety mindset and how this can improve safety performance.
14. Romania claims that all training in this theme goes beyond what the employer is required to provide by law. Also, Romania considers that, although safety standards and practices are at the Craiova plant considerably lower than in other European industrial facilities, existing employees have a sufficient level of safety knowledge; however, the training envisages that they "unlearn" past behaviours and practices. According to Romania, the training of new employees at Craiova will require considerably more efforts than training Western European counterparts.
15. The majority of the courses (i.e. 65) constitute according to Romania general training. Only three courses (i.e. "biocide handling", "pedestrian safety principles" and "safe handling and storage of supplementary restraint systems") are specific.³ For the remaining courses, Romania claims that since they are either legally required (e.g. "Risk evaluators") or Ford specific (e.g. "Safe Cell Entry Training – ECPL Stage 2 for Maintenance", "MATS system and data management for hazardous materials") they would be provided in any event, also in the absence of aid. Consequently, for these courses no aid is requested.
16. The training under this theme covers, according to Romania, eligible costs of EUR 16.26 million, for which EUR 7.79 million training aid is requested.

(b) Core Skills

17. This training comprises a total of 58 courses, which aim at achieving a level of knowledge that is comparable to other Member States. These training courses will provide employees with various skills of general value in the workplace: the ability to communicate in English, the ability to use a full range of IT tools, literacy and numeracy skills, communication, team-working, leadership, and the ability to work in an objective and target driven environment.
18. All 58 courses are general training. Only half of the duration of three courses ("Task Card Training", "Introduction to Score Cards" and "Strategies, Objectives and Key Performance Indicators") is considered as training which would be provided also in the absence of aid. Thus, no aid is requested for this part.

³ The terms "general training" and "specific training" are used as defined in Article 38 of Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ L 214, 9.8.2008, p. 3).

19. The total eligible costs for the courses under this theme amount to EUR 84.3 million, for which EUR 42.1 million are requested as training aid. Out of these eligible costs, EUR 44.5 million are to be spent for training around 5 000 employees [...] literacy and numeracy skills. The second largest amount under this theme of EUR 14.2 million is to be spent for English language training for more than 3 000 employees [...].

(c) Business Fundamentals

20. Romania explains that the level of understanding of European and global business practices is limited in the Craiova plant. Many employees lack the knowledge and understanding of business practices. Extensive training will be thus required to bring these employees to a level of knowledge comparable to their Western European counterparts. However, Romania underlines that the employees have the basic skills that are required for the company to operate.
21. 75 courses under this theme are intended to bring the workforce up to speed on European and global business practices. The training will be aimed at staff in management or team-leading positions and cover such skills as Understanding of the internal control and regulatory environment within the EU and globally; Understanding of the linkages between operating, supporting and centralised functions within a global organisation; Project management; Negotiation; etc.
22. Training within 52 courses is general and within 4 is specific. 17 courses are categorised as non-eligible, since they are considered necessary for the operation of the plant and would be provided even in the absence of aid.
23. The total eligible costs for the courses under this theme amount to EUR 7.5 million, for which EUR 3.7 million are requested as training aid.

(d) Industrial Skills

24. This theme will cover industrial and technical skills relevant to the production at the Craiova facility. Romania explains that given the level of investment in the facility, including new technologically more advanced equipment, machinery and systems, there will be a significant need to develop the industrial and technical skills of employees. Further, the current knowledge of available vocational training in industrial skills such as mechanics, electronics, welding, electrics and hydraulics would indicate that the level of skills in these areas fall far behind those in other Member States. Operation, maintenance and repair of this equipment require a common set of base skills, before specific training can be undertaken on new equipment. Nevertheless, the current skills allow an immediate operation of the Craiova plant. Consequently, according to Romania, the measures planned go beyond the training needed to operate the plant.
25. Training under this theme covers 58 courses, out of which 55 are categorised as general training (e.g. Basic electric and electronic skills, Hydraulics, Metrology, Electric Motors, Engine technology and assembly, Electrical machines, Programmable controllers, etc.). One course, i.e. Motion Determine Operator Time Study, is specific training. Two courses, i.e. Engine assembly and Manufacturing Simulation Training, are considered not to be eligible since they would be provided by Ford even in the absence of aid.

26. The training measures under this theme are intended to upskill the current workforce as regards key technical principles of mechanics, toolmaking, metal finishing, paint spraying, electrics, electronics, hydraulics, welding, base vendor training, driver skills, total preventative maintenance, medical skills, e.g. first aid training, upskilling of doctors and nurses working at the plant, security skills and kitchen and food hygiene.
27. The total eligible costs for the courses under this theme amount to EUR 33.4 million, for which EUR 16.6 million are requested as training aid.
28. To sum up, the following tables show the total eligible costs for each individual training theme and the maximum training aid requested:

General Training

Themes	Eligible Costs	Wage Compensation	Total Eligible Costs	Training Aid (aid intensity 50%)
Safety	[...]	[...]	14.908.254 €	7.454.127 €
Core Skills	[...]	[...]	84.304.782 €	42.152.391 €
Business				
Fundamentals	[...]	[...]	7.361.239 €	3.680.619 €
Industrial Skills	[...]	[...]	33.223.111€	16.611.556 €
Total general	103.501.229 €	36.296.157 €	139.797.386 €	69.898.693 €

Specific Training

Themes	Eligible Costs	Wage Compensation	Total Eligible Costs	Training Aid (aid intensity 25%)
Safety	[...]	[...]	1.357.081 €	339.270 €
Core Skills	[...]	[...]	0 €	0 €
Business				
Fundamentals	[...]	[...]	147.115 €	36.779 €
Industrial Skills	[...]	[...]	232.594 €	58.148 €
Total specific	1.432.486 €	304.304 €	1.736.790 €	434.197 €
TOTAL	104.933.715 €	36.600.462 €	141.534.176 €	70.332.891 €

Table 1

Incentive effect

29. Romania explains that one decisive factor for Ford to acquire and to invest in the Craiova car plant was the firm governmental commitment to grant Ford regional investment and training aid. Indeed, the Romanian government issued on 7 September 2007 a binding commitment letter promising EUR 57 million training aid. In the absence of this commitment, Ford would have considered implementing the investment project in other locations, even outside the European Union. According to Ford, when compared to the Craiova investment, a Greenfield location would have offered several advantages related to employees: ability to select qualified employees and no obligation to employ any workers during an extended non-productive period⁴.

⁴ Within the privatisation of ACSA and DWAR, the Romanian privatisation Agency AVAS imposed on the buyer the obligation to maintain the workforce of 3,900 employees for a period of four years after the

30. In the absence of aid, Romania claims that Ford would provide only the Ford-specific training amounting to EUR 29.7 million which is necessary for the plant to start operating and which Ford would need to provide in any event. Therefore, this training is not eligible for aid.

ASSESSMENT OF THE AID

Existence of the aid

31. The Commission considers that the measure constitutes State aid within the meaning of Article 87 (1) of the EC Treaty: it takes the form of a grant financed by State resources. The measure is selective as it is limited to Ford Craiova. The selective grant is likely to distort competition, by providing Ford with an advantage over competitors not receiving the aid, by relieving Ford of costs which otherwise it would have to bear. Finally, the markets for motor vehicles and engines production are characterised by extensive trade between Member States, and Ford is one of the big players in this market.

Legal basis for the assessment

32. Romania notified the aid on the basis of Commission Regulation (EC) No. 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid⁵, as modified by Commission Regulation (EC) No. 363/2004 of 25 February 2004⁶ and Commission Regulation (EC) No. 1976/2006 of 20 December 2006⁷.
33. According to Article 5 of Regulation 68/2001, where the amount of aid granted to one enterprise for a single training project exceeds EUR 1 million, the aid is not exempted from the notification requirement of Article 88 (3) EC Treaty. The Commission notes that the proposed aid in this case amounts to EUR 57 million; that it is to be paid to one enterprise; and that the training project is a single project. The Commission therefore considers that the notification requirement under Regulation 68/2001 applied to the proposed aid, and that it was respected by Romania.
34. However, Regulation 68/2001 ceased to apply on 30 June 2008, i.e. after the notification of the aid, and the relevant Community provisions on training aid are now to be found in Regulation (EC) No 800/2008⁸ ("the General block exemption regulation") which recently entered into force. The Commission will consequently base its assessment of the compatibility of the aid with the common market on the provisions of the General block exemption regulation. In this respect, the Commission initially observes that the General block exemption regulation provides that certain forms of state aid are compatible with the common market within the meaning of Article 87(3) of the Treaty and exempt from the notification requirement under Article 88(3) of the Treaty. However, this exemption is not unconditional. First of all, the General block exemption regulation does not apply to ad hoc aid granted to large enterprises⁹, which is the case for the aid notified by

purchase. This obligation was included in the subsequent Share Sales Purchase Agreement, annex 1 to the notification.

⁵ OJ L10 of 13.01.2001, p. 20

⁶ OJ L63 of 28.2.2004, p.20

⁷ OJ L368 of 23.12.2006, p.85

⁸ See footnote 3.

⁹ See Articles 1(5) and 2(3) of the General block exemption regulation.

Romania. Second, and in any case, according to Article 6 of the General block exemptions regulation, where the amount of aid granted to one enterprise for a single training project exceeds EUR 2 million, the aid is not exempt from the notification requirement of Article 88 (3) EC Treaty. The Commission consequently finds that the aid remains subject to the requirement to notify also under the provisions of the General block exemption regulation, and that Romania has fulfilled that requirement.

35. When assessing an individual training aid which does not qualify for the exemption laid down in the General block exemption regulation, the Commission, has to make an individual assessment on the basis of Article 87 (3) (c) EC before allowing that the aid is put into effect. Concerning training aid, this assessment will be made in particular on the basis of the relevant conditions set out in the General block exemption regulation (see recital 7 of that regulation). This is also in line with Commission practice in training aid cases under Regulation 68/2001 which remains relevant in this respect¹⁰. This translates notably into a verification of the compliance with the specific exemption criteria for training aid laid down in section 8 of the General block exemption regulation and in addition into the scrutiny whether the aid fulfils the general condition of incentive effect as set out in Article 8 of the General block exemption regulation¹¹.

Compatibility with the common market

36. The Commission has assessed *prima facie* compliance of the notified project with the formal exemption criteria laid down in section 8 of the General block exemption regulation.
37. First, the aid intensity seems to be limited to the ceilings indicated in Article 39(2) of the General block exemption regulation: 25 % for specific training and 60 % for general training. Although Romania could in principle have raised the ceilings by 10 basis points given that the project is located in an assisted area pursuant to Article 87 (3) (a) EC Treaty, it did not do so.
38. Second, the notified measure's eligible costs provided in table 1 comply *prima facie* with Article 39(4) of the General block exemption regulation. In particular, the trainees' personnel costs (i.e. wage compensation) covered by the aid are limited to the amount of the total of the other eligible costs.

Necessity of the aid

39. The Commission notes that a training aid measure can be found compatible with the common market pursuant to Article 87 (3) (c) of the EC Treaty only when it is not immediately necessary for the activities of the beneficiary.¹² Where the aid does not lead to activities being undertaken additionally to the ones which would be undertaken through market forces alone, the aid cannot be deemed to have positive effects likely to

¹⁰ See Commission Decision of 4 July 2006 on State aid C 40/2005, *Ford Genk*, OJ L 366 of 21.12.2006, p. 32; Commission Decision of 4 April 2007 on State aid C 14/2006, *General Motors Belgium*, OJ L 243 of 18.9.2007, p. 71; Commission Decision of 12 September 2007 on State aid C 35/2007, *Volvo Cars Gent*, OJ C 265 of 7.11.2007, p. 21.

¹¹ The requirement of incentive effect is explained in recital 28 of the General block exemption regulation : "In order to ensure that the aid is necessary and acts as an incentive to develop further activities or projects, this Regulation should not apply to aid for activities in which the beneficiary would already engage under market conditions alone..."

¹² See Commission Decision of 2 July 2008 on State aid C 18/2007, *DHL Leipzig-Halle*, not yet published; Commission decisions *General Motors Belgium* and *Ford Genk*.

offset the distortion of trade and cannot, therefore, be authorised. Training aid can then not be considered to “*facilitate*” the economic development, in the sense of Article 87(3) (c) EC, and to correct the market imperfection leading companies in general to under-invest in the training of their workers as stated in recital 62 of the General block exemption regulation if the company would have undertaken the supported activities in any event, and even in the absence of aid.¹³ In the case of a *ad hoc* aid to large enterprises which falls outside the scope of the General block exemption regulation, the Commission will assess the incentive effect in the context of the notification of the aid on the basis of the applicable Community instruments (recital 32 of the General block exemption regulation).

40. In the present case, the Commission has reasons to consider that the beneficiary would need to provide, at least to a certain extent, the training under assessment to its employees also in the absence of aid. Nevertheless this does not exclude that some training measures may go beyond what is necessary for starting operations and to this extent may be eligible for training aid.
41. The Romanian authorities claim that the necessity of the aid follows from several facts. First, the Romanian government had committed before Ford bought the car plant to grant training aid and regional aid to Ford. Without this commitment, Ford would have not bought the company and, thus, would have not provided any training at all. Instead it would have built a new car plant in a greenfield location and employed already skilled and qualified employees.
42. Second, the Romanian authorities argue that the training aid is necessary in order to compensate for the lower level of skills of the local workforce in comparison to the EU average. Romania underlines that the Craiova workforce at present has the know-how to produce vehicles and engines at pre-accession Romanian industry-average levels, so that in order to overcome this, Ford must provide extensive general and specific training measures to educate the employees. Thus, the aid will benefit the lower skilled employees and develop positive external effects for the whole region, which is confronted with high unemployment.
43. Finally, the Romanian authorities argue that the training intended is not necessary for the operation of the plant. Consequently, without the aid, Ford would not implement the training under assessment to the same extent, but would only provide a minimum Ford-specific training which is necessary for the plant to start operating. This Ford-specific training amounts to EUR 29.7 million, which represents around 20% when compared to the eligible costs notified.
44. The Commission has doubts at this stage as regards the arguments put forward by Romania for several reasons.

¹³ In the context of training aid, recital 62 of the General block exemption regulation states that "Training usually has positive external effects for society as a whole since it increases the pool of skilled workers from which other firms may draw, improves the competitiveness of Community industry and plays an important role in the Community employment strategy ...In view of the fact that undertakings in the Community generally under-invest in the training of their workers, especially when this training is general in nature and does not lead to an immediate and concrete advantage for the undertaking concerned, State aid can help to correct this market failure. Therefore such aid should be exempt, under certain conditions, from prior notification."

45. First, the necessity and the incentive effect of the training aid in the present case have to be assessed against the background of Ford's recent purchase of the Craiova plant and its plans to turn the factory into a modern top-of-the-line manufacturing facility. Ford is setting up an entirely new production facility which will have only the location in common with the original plant. The investment project concerns the extension, modernisation and fundamental change of the existing plant, including the creation of new capacities, in order to produce new vehicles and new hi-tech engines.
46. The Commission observes that (re-) location of undertakings is a regular process in the European Union by which the undertakings attempt to reduce costs, increase their profitability and remain competitive on the market. Undertakings considering a relocation of their production often put several potential sites in different Member States into competition. The decision on the location is eventually influenced not only by forecasts on the operation costs (including training costs for employees with skill levels under the EU average) and other economic advantages or disadvantages (i.e. existent production facilities, existent workforce, etc.), but to a certain extent also by possible governmental support (i.e. regional aid). The Commission notes that the beneficiary received the maximum amount of regional investment aid allowed, i.e. EUR 143 million, for its investment project in Craiova.
47. However, training for activities in a new installation – unlike regional investment aid¹⁴ – cannot be justified by regional location considerations, since the objective of training aid is not to attract investments in a certain region but to remedy the underinvestment in training in the Community.¹⁵ Training aid aims at increasing the pool of skilled workers in the European Union, which eventually will improve the competitiveness of Community industry and have a positive effect on the employment strategy and the society as a whole.
48. Second, the Commission is not at this stage convinced by Romania's argument that the necessity of training aid derives from the necessity to compensate lower skill levels in assisted areas by training aid. These lower skill levels are in principle part of the regional handicap which is to be offset by regional investment aid. The objective of regional aid is not only to increase the number of direct and indirect jobs created, but to have a positive impact also on the quality of the jobs created and the required skill level.
49. In the case at hand, the Commission has reasons to believe that Ford made the decision to invest in Craiova being fully aware of the facility's technical status and the workforce's low level of qualification. To overcome these handicaps, the Commission approved the maximum intensity of regional investment aid allowed under the Regional Aid Guidelines. Further governmental support in the form of training aid compensating

¹⁴ See recitals 2 and 3 of the Regional Aid Guidelines for 2007-2013 :

"2. By addressing the handicaps of the disadvantaged regions, national regional aid promotes the economic, social and territorial cohesion of Member States and the European Union as a whole. This geographical specificity distinguishes regional aid from other forms of horizontal aid, such as aid for research, development and innovation, employment, training or the environment, which pursue other objectives of common interest in accordance with Article 87(3) of the Treaty, albeit sometimes with higher rates of aid in the disadvantaged areas in recognition of the specific difficulties which they face.

3. National regional investment aid is designed to assist the development of the most disadvantaged regions by supporting investment and job creation. It promotes the expansion and diversification of the economic activities of enterprises located in the less-favored regions, in particular by encouraging firms to set up new establishments there."

¹⁵ See Commission decision *DHL Leipzig-Halle*

for these regional handicaps would in fact be a soft top-up which would thus circumvent the regional aid ceilings.

50. Indeed, it seems that the company has two options: either to recruit already skilled employees if possible given the terms of the Share Purchase Agreement or to make use of the current workforce, which although with a lower skills level than in other European locations, has nevertheless experience in car production. Given that the Share Purchase Agreement requires Ford to maintain the original workforce for four years, Ford may have a strong incentive to use the existing workforce, which would require Ford to provide at least part of the planned training. Also, in the framework of the regional investment project for which it received regional investment aid, Ford committed to substantially increase direct employment to more than 7 000 people, potentially rising to 9 000 in the longer term. At this stage, Romania did not submit any information showing that Ford would be able to recruit several thousand already skilled employees from the local market in order to comply with its commitments. Moreover, given the general lower technical and skill level of the Romanian workforce, the Commission has doubts whether Ford would not need to provide in any event certain training measures even to newly recruited employees.
51. Third, according to the information provided by Romania, Ford plans to create a state-of-the-art production facility at Craiova. To this end, the company plans the construction of new production lines, including a modern flexible Ford specific production system, a very substantial modernisation of some usable part of the factory and the development of existing capacities, with the aim of bringing the Craiova facility to a fully integrated part of its European manufacturing operations. Given the low level of knowledge and skills of the workforce in Craiova, as argued by Romania, it is highly doubtful that Ford could spare the intended training, without jeopardising the technological investments and the smooth operation of the car plant. Further, the Commission has doubts whether Ford could succeed in finding already skilled employees on the local market and avoid thus the intended training. In any event the Commission was not provided with more precise data in this respect.
52. Fourth, the Commission has doubts whether part of the training is not legally required under national and European legislation relating to safety and security at work, or Ford internal quality standards. Romania argues that the Craiova car plant operates in compliance with the current legal standards, and that consequently the training would go beyond what is required by law or what Ford Craiova would in any event need to do to meet internal group standards. However, Romania also alleges that the local workforce has a lower skills and awareness level regarding safety and security than in other Western European or Ford plants. The Commission would require more detailed information in this respect in order to be able to verify that the training does indeed exceed what Ford Craiova would in any case provide under statutory requirements or for the needs of operations and that the notified aid has an incentive effect.
53. Finally, Romania notified EUR 57 million of aid for a training project for which theoretically EUR 70 million of aid could be granted, arguing that the approved aid will be granted for courses as they are completed until the EUR 57 million cap is reached. Further, Romania stated that, should the Commission consider certain courses ineligible for training aid, the reduction of the aid amount will be made from the "theoretical" total of EUR 70 million rather than from the capped basis. However, Romania has indicated neither the order of the courses to be provided, nor on what basis the priority will be set by the beneficiary. Also, Romania did not substantiate whether the beneficiary will

provide only the training for which aid would be approved or whether he will consider providing, without state aid, also the courses which would be considered by the Commission as eligible for training aid but for which would not be funding under the EUR 57 million grant, which would mean that a part of the training for which an incentive effect of the aid is claimed would also be provided in the absence of aid. In these conditions the Commission has reasons to doubt the incentive effect of the notified aid.

54. Consequently the Commission has doubts whether a substantial part of the training, if not all, would need to be provided by Ford in any event, even without aid, in order for Ford to be able to start operating the plant and whether the handicap in form of the generally lower skills level of the workforce does not need to be considered compensated already by the regional investment aid.

Deggendorf principle

55. The Commission also notes that by its aforementioned decision of 27 February 2008 in state aid case C 46/2007 it declared the aid granted within the privatisation process of Automobile Craiova to be unlawful and incompatible and ordered the recovery of that aid. The Commission considers that the so-called Deggendorf case law¹⁶ applies to the present case. According to the principles outlined in that case law, new state aid cannot be paid out until previously granted incompatible aid has been fully recovered.
56. At this stage, the information submitted by the Romanian authorities has not allowed the Commission to conclude that the recovery obligations following from its decision of 27 February 2008 have been fulfilled. Nor have the Romanian authorities made a commitment not to pay out the notified training aid until such recovery has taken place. In these circumstances, the Commission believes that the notified aid might be incompatible under the so-called Deggendorf principle.

DECISION

In the light of the foregoing considerations, the Commission has decided to initiate the procedure laid down in Article 88(2) of the EC Treaty and requires Romania, within one month of receipt of this letter, to provide all documents, information and data needed for assessment of the compatibility of the aid, and in particular:

- detailed information showing which training measures are necessary for the company to be able to start operating at Ford standards, and which would thus need to be provided by the beneficiary in any event, even in the absence of aid;
- information on the order of the training courses to be provided;
- information on the costs related to attracting already skilled employees;

¹⁶ Court of First Instance, 13.09.1995, *TWD/Commission*, T-244/93 and T-486/93, *Rec.*, I-2265 ; Court of Justice, 15.05.1997, *TWD/Commission*, C-355/95, *Rec.*, I-2549.

- information on the national and European labour market for vehicles production, and in particular the availabilities of skilled workers;
- information on the national, European and Ford internal safety and security standards.

Romania is requested to forward a copy of this letter to the potential recipient of the aid immediately.

The Commission wishes to remind Romania that Article 88(3) of the EC Treaty has suspensory effect, and would draw your attention to Article 14 of Council Regulation (EC) No. 659/1999, which provides that all unlawful aid may be recovered from the recipient.

The Commission warns Romania that it will inform interested parties by publishing this letter and a meaningful summary of it in the Official Journal of the European Communities. It will also inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication.

If this letter contains confidential information which should not be published, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to publication of the full text of this letter. Your request specifying the relevant information should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
Rue de la Loi/Wetstraat, 200
B-1049 Brussels
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For the Commission

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