



Bruxelles, 22.2.2012
C(2012) 1020 final

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 [...].

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**Subject: State aid SA. 33033 – Romania – National Hard Coal Company
Petroșani**

Sir,

1. PROCEDURE

1. By electronic notification of 19 August 2011, registered by the Commission on the same day (SANI 6185), following pre-notification contacts, the Romanian authorities, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union ("TFEU"), notified this State aid measure designed to finance the closure of Romania's uncompetitive hard coal mines.
2. The Commission requested further information on 25 October and 20 December 2011. The Romanian authorities provided further information on 7 November, 20 December 2011 and 9 January 2012.

2. DESCRIPTION OF THE CLOSURE PLAN

3. The National Hard Coal Company JSC Petroșani (herein after "the National Hard Coal Company") is the only company from Romania that exploits hard coal. The products obtained by the company are intended for the internal market in Romania with the purpose of producing electricity and heat. The National Hard Coal Company is located in the Jiu Valley coal basin.

4. On 1 January 2011, the National Hard Coal Company had 9 units: 7 underground coal production units, a coal preparation unit and a central mine rescue station. The units, which have no legal personality, are the following:
 1. Lonea Coal Production Unit
 2. Petrila Coal Production Unit
 3. Livezeni Coal Production Unit
 4. Vulcan Coal Production Unit
 5. Paroşeni Coal Production Unit
 6. Lupeni Coal Production Unit
 7. Uricani Coal Production Unit
 8. Jiu Valley Coal Preparation Unit – surface
 9. Central Mine Rescue Station – surface
5. The Romanian authorities have informed that technical and economic criteria were used to assess the viability of the different production units. The analysis considered the evolution of the seven units in the last five years, as well as the situation of the existing geological reserves, their certainty degree and the possibilities of efficient exploitation in the period 2011-2018. The analysis carried out by the Romanian authorities aimed at ranking the coal production units to assess the coal production units which in certain conditions can continue their activity without state aid, compared to the ones that cannot continue their activity without state aid.
6. The Romanian authorities submitted a detailed table with viability scores for each production unit. The results of the ranking outlined that Paroşeni, Uricani and Petrila production units do not have viable economic perspectives and need to be included in the closure plan:
7. The other production units, namely Lonea, Livezeni, Lupeni and Vulcan shall continue their activity of exploiting and recovering hard coal. They will start their privatization process under Romanian Law 137/2002 regarding certain measures to accelerate the privatization.
8. In the course of the proceeding, the Romanian authorities have informed the Commission that, on 30 June 2011, the National Hard Coal Company registered debts to the General Consolidated Budget of the State as well as of local municipalities for overdue payments, in amount of Lei 5 051,8 million (about EUR 1 200 million). The debts accumulated by the company were not taken into consideration by the Romanian authorities when evaluating the viability of the mines.
9. The Romanian authorities confirm that the current notification regards exclusively aid measures for the closure of 3 uncompetitive mines by 2018 and it does not include the possibility of paying historical debts, or the restructuring measures of the National Hard Coal Company. The aid to be granted under the current notification is intended exclusively to facilitate the closure of the 3 uncompetitive mines by the year 2018.

10. The Romanian authorities undertake that the restructuring plan of National Hard Coal Company, and any other State measure taken concerning the historical debts towards the State budget, shall be notified, if necessary, separately to the Commission, according to State aid rules.

2.1. Objective and scope of the notification

11. The objective of the scheme is the granting of aid to facilitate the closure of Petrila, Paroşeni and Uricani production units. For each of these production units to be closed, Plans for the Ceasing of Activity have been elaborated, containing the precise dates for ceasing the exploitation activity.
12. Respectively, the permanent ceasing of coal production are:
- Production Unit- Petrila Colliery: 31 December 2015
 - Production Unit- Uricani Colliery: 31 December 2017
 - Production Unit –Paroşeni Colliery: 31 December 2017
13. During 2011, the coal production units of the National Hard Coal Company, included in the Closure Plan were planned to extract 735 thousand tons of hard coal, respectively 364,4 thousand tons of coal equivalent (TCE), and in 2017 they shall extract 245 thousand tons of hard coal, respectively 120, 06 thousand tons TCE (table 1 and 2 in annex 1).
14. The number of staff within the production units included in the Closure Plan will be reduced gradually from 3 355 in 2011 to 406 on 31 December 2017.

2.2. Legal basis and Granting authority

15. The legal bases are:
- Government decision no.1069/2007 on the Energy Strategy of Romania for the period 2007-2020 ¹
 - Mining Law no.85/2003²
 - Government Program 2009-2012, Chapter 7 Energy and mineral resources ³- Revenue and Expenses Budget of The National Hard Coal Company on 2011⁴

¹ http://www.minind.ro/anunturi/strategia_energetica_a_romaniei_2007_2020.pdf

² http://www.minind.ro/ump_/legislatie/legea_minelor.pdf

³ http://www.gov.ro/programul-de-guvernare-2009-2012_c1211p1.html and <http://www.moficial.ro/2009/0907.pdf>

⁴ <http://www.moficial.ro/2011/0308.pdf>

- Annex no.7 to the Decision of the Council of Ministers no. 1070/1955 in regard to bringing under regulation several rights of the employees from industrial enterprises, belonging to the Ministry of Coal Industry (paragraph 2).

- Government Decision no.670/1990 on several measures for the personnel from the Jiu Valley (Article 1).

16. The Ministerul Economiceii, Comertului si Mediului de Afaceri is the granting authority for the notified measure.

2.3. Beneficiary and Duration

17. The beneficiary is the National Hard Coal Company.
18. Subject to approval from the Commission, the aid will cover costs arising between 2011 and 2018.

2.4. Eligible costs, form of the aid and aid amount

19. The notification concerns aid to cover the positive difference between current production costs and revenues from units being closed (production costs) and to cover costs arising from closure of coal production units and which are not related to current production (exceptional costs)

2.4.1. Aid to cover the Production costs

20. The costs taken into account are production costs: material expenses (including energy, depreciation and transport costs) and personnel expenses (including salaries and transfers) as further detailed in Annex 2 including the financial-economic forecasts for the production units subject to closure plan for the period 2011-2018.
21. The aid takes the form of a direct grant.
22. The total amount of State aid notified to cover current production costs is 784 094 thousands Lei. The financial support granted by the Romanian State to cover the production costs for implementing the Closure Plan shall reduce gradually from 178 718 thousand Lei in 2011 to 44 646 thousand Lei in 2017.

2.4.2. Aid to cover exceptional costs

23. The following categories of exceptional costs applicable to units integrated in the current closure plan will be aided. All of these, except for the ones described in points 28-30, would take the form of a direct grant
24. Costs on workers who have lost or who lose their jobs: Within this category were included costs related to severance payments, granted to the personnel when leaving the system, by downsizing, as follows:

- -thousands Lei-

Specification/year	2011	2012	2013	2014	2015	2016	2017	2018	Total period
Number of persons laid off for which exceptional costs are incurred	900	250	265	256	695	262	321	406	3355
PETRILA	359	106	83	92	460	0	0	0	1100
PAROSANI	248	113	102	86	54	74	300	223	1200
URICANI	293	31	80	78	181	188	21	183	1055
Amount foreseen	27.840	9.300	9.858	9.523	25.854	9.747	11.941	15.104	119.167

25. Costs covered by the undertakings for the readaptation of workers in order to help them find new jobs outside the coal industry, especially training costs: Within this category are included costs related to the professional retraining of a number of 3079 of employees, distributed on years, as follows:

– thousands Lei –

Specification/year	2011	2012	2013	2014	2015	2016	2017	2018	Total period
Amount provided	3000	4965	3325	4105					15395

26. The Romanian authorities explain that when calculating the amounts required for the occupational retraining they considered a cost of 5000 Lei /person/course.

27. The Romanian authorities mention that for the year 2011 from the 900 persons for which the professional retraining shall be performed, 300 persons shall start the training program as of December 2011, therefore the expenditure related to their cost of training are shown in the costs of 2012.

28. Costs of supply of coal to workers who have lost or who lose their jobs and to workers entitled to such supply before the closure, or the monetary equivalent: The Collective Work Contract in force stipulated the following rights for those laid off, at the age of 45, by retirement:

- 1) coverage of the cost of electricity for 3000 kwh/retired person/year
- 2) free coal allowance, namely 3 rations of 850 kg of coal for families and 2 rations for singles.

Specification/year	2011	2012	2013	2014	2015	2016	2017	2018	Total period
Amount provided	9799	9800	9800	9800	0	0	0	0	39199

29. The Collective Work Contract in force does not provide other rights for those made redundant by downsizing, giving in the fact that they receive severance payments when they are laid off.

30. The Romanian authorities mention that for the price difference on electricity supplies, the National Hard Coal Company makes payments to the company providing electricity, and for coal rations the payment is made in kind.

31. Costs arising from the closure of coal production units:

- Closure of underground mining works
- Closure of mining works connected with surface
- Assemble/decommission machinery and equipments and shutting the mine in safety conditions.

32. The amount of these costs is presented in the following table:

- thousands Lei-

Specification/year	2011	2012	2013	2014	2015	2016	2017	2018	Total period
Amount provided	7461	9798	8735	13239	11326	10926	550	16013	78048

33. Costs related to the rehabilitation of former coal mining sites:

- Decommissioning and demolishing constructions from mining precincts;
- Decommissioning railway networks and circuits from precincts and linkages;
- Decommissioning roads and platforms from precincts;
- Decommissioning networks (pipes and electric networks).

34. The amount of these costs is presented in the following table:

- thousands Lei-

Specification/year	2011	2012	2013	2014	2015	2016	2017	2018	Total period
Amount provided	8483	8058	5412	7834	8667	18339	582	22350	79725

35. Costs of surface recultivation.

In this category of exceptional costs are included the following types of works:

- Arranging, geometrizing and grass covering;
- Waste dump contouring and revegetation;
- Arranging/disestablish and grass covering temporary storage facilities.

36. The amount of these costs is presented in the following table:

- thousands Lei-

Specification/year	2011	2012	2013	2014	2015	2016	2017	2018	Total period
Amount provided	13562	12785	4274	7025	4314	5934	472	5245	53611

37. The amount of state aid notified to cover the above costs arising from the closure of coal production units is of Lei 385 145 thousand.

2.5. Plan of measures to mitigate the environmental impact of coal production

38. The Romanian authorities have provided a Plan of measures to mitigate the environmental impact of coal production comprising the following measures:

- (1) works for shutting the coal deposit in safety conditions
- (2) demolition works of building for precincts
- (3) rehabilitation of damaged areas
- (4) plan for the capture and recovery of hard coal bed methane from Jiu Valley
- (5) investments related to desulphurization and ash storage in dense environment of two thermal power stations.

For the two last measures, the Romanian authorities have provided further information that is described below in (b) and (c).

39. In addition the Romanian authorities explain that the National Development Programme for Mountain Tourism includes investments in the Jiu Valley to develop tourism by building three ski slopes and transport installation. Moreover, the following measures are proposed to re-use the mining facilities: creating an

industrial park with a greened surface belonging to Petrila Mine, restoring the agricultural circuit with a surface belonging to Paroseni Mine and creating a recreational ground on a greened surface belonging to Uricani Mine. According the Romanian authorities, the implementation of these measures will lead to the development of the area by creating together with local communities alternatives to mining industry.

(a) Plan of measures to mitigate the negative environmental impact of coal mining

40. The Plan submitted by Romania includes the objectives of the mining industry strategy at national level, in the field of environment and the impact of the National Hard Coal Company's activity on the environment. The works for eliminating the negative environmental impact of the mining activity and closure, rehabilitation and ecologisation (land reclaiming) are the following:

Works for shutting the coal deposit in safety conditions comprise underground closure mining works, mining works connected at surface and works for shutting the coal mine in safety conditions.

Demolition works of building from precincts comprises the demolition of the technological and administrative buildings used only for the purpose of coal production.

Rehabilitation of damaged areas comprises the rehabilitation, geometrization and revegetation of waste dump and rehabilitation, land use planning, and revegetation of mining precincts.

(b) Plan for the capture and recovery of hard coal bed methane

41. The National Hard Coal Company has established a plan with concrete measures for the capture and recovery of hard coal bed methane in the JiuValley for the 7 units in order to reduce emissions of methane into the atmosphere ("Capture and recovering of the energetic potential of the coal bed methane"). The Romanian authorities explain that, in the present situation, the absolute volumes of methane released due to hard coal extraction amounts to approximately 42 million m³/year. Currently there are four degassing stations, which capture underground methane and two thermal plants using mine gas (mixture of air - methane gas with concentrations of 40-70% CH₄), to produce heat intended for the consumption of own coal production units. This translates into burning about 817 tons of methane per year, with a direct effect on methane emissions released into the atmosphere of 14.700 equivalent CO₂ per year. The aim of the program is to capture and use for energy purposes a volume of about 22 million m³/year potentially recoverable mine gas at methane concentrations between 45 and 65%.

42. Improvement of environmental protection: the Romanian authorities explain that in the post-closure period, the methane accumulated in the underground voids, produced as a result of the exploiting, tends to migrate towards surface through the fracture systems (cracks) generated by the exploitation of coal, and the closure of mining works connected with surface by any method whatsoever cannot solve this problem. The negative impact of coal mining on the environment cannot be reduced in the post closure period (in terms of coal bed methane) in the absence of a recovery and drainage system, in function when the exploitation is ceased permanently. In terms of environmental impact, the Romanian authorities add that:

- methane is a gas with a strong greenhouse gas effect, 1 tone of CH₄ is equivalent to 21 tons of conventional CO₂;
- by burning methane, no matter the burning system, for each tone of methane a volume of 3 tones of conventional CO₂ is released in the atmosphere.

When completed, this program will lead to the reduction of greenhouse gases emissions due to the exploitation of coal, with about 140,000 tones of CO₂ equivalent/year.

43. Budget: 10 million Euros, staggered on three years (2012-2015)

44. Implementation period: 2013 - 2015.

(c) Investments related to desulphurization and storage of thermal power station ash in dense environment.

45. The Romanian authorities mention the followings measures regarding the programs deployed by Mintia and Paroseni thermal power stations where the coal exploited in mines within the JiuValley is being burnt.

46. **Projects carried out by SC ELECTROCENTRALE DEVA SA (Mintia thermal power station):**

1) *Desulphurization installations of flue gas for group no.3 and no.4*⁵:

Project description: The groups are considered large combustion installations - type I, which will have to reduce their emissions of pollutants in flue gases, according to the implementation plan of Directive no.2001/80/CE⁵. The desulphurization installations of flue gases for group no.3 and no.4 will be designed to comply with the limit values of sulphur dioxide emission laid down in Directive 2010/75/EU⁶ for industrial emissions,

⁵ Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants, OJ L 309, 27.11.2001, p.1-21

⁶ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), OJ L334, 17.12.2010, p. 17-119

referred to in Article 30 (2), Annex V, respectively: Sulfur dioxide: 200 mg/Nm³ (6% O₂); Particulate matter: 20 mg/Nm³ (6% O₂); The desulphurization technology (FGD - flue-gas desulphurization) shall be wet type, based on the use of limestone as the reagent.

Budget: Estimated value is 48.3 million Euros for the group no.3 and 39.4 million Euros for the group no. 4

Implementation period: 2013 - 2014

- 2) ***Non-catalytic installation (SNCR - Selective Non-Catalytic Reduction) for reducing the quantities of NO_x within flue gases from boilers no.3A and 3B from group 3 and no.4A and 4B from group 4"***

Project description: With the entry into force of Directive 2010/75/EU on industrial emissions, more stringent limit values of emissions (200 mg/Nm³) are imposed, which requires the application of secondary measures for reducing NO_x emissions, i.e. installing a selective non-catalytic (SNRC) equipment.

Budget: Estimated value is 1.67 million Euros for group no.3 and 1.67 million Euros for group no.4

Implementation period: 31.12.2013 for group no.3, and 31.12.2014 for group no.4.

- 3) ***Rehabilitation and modernization of the electro-filters group 3 and group 4"***

Project description: The two installations (electro-filter + FGD) will ensure compliance with emission limit values for particulate matter under the new Directive 2010/75/EU on industrial emissions, i.e. 20 mg/Nm³ for particulate matter, in case of operating 100% with solid fuel.

Budget: Estimated value for the electro-filters for both groups is 6 million Euros.

Implementation period: The rehabilitation and modernization of electro-filters will be performed at the same time with the works for installing the FGD installations of group 3 (2012-2013), respectively group 4 (2013-2014).

47. Project carried out by SC PEET ELECTROCENTRALE PAROSENİ (Paroseni thermal power station):

- 1) ***Flue gas desulphurization installation from group no.4 and CAF"***

Project description: In order to reduce sulphur dioxide content of flue gases resulted from coal use in the 540 t/h steam boiler and the 103 Gcal/h hot water boiler, within SE Paroseni, a flue gas desulphurization installation will be brought into service, which will meet the requirements of Directive 2010/75/EU for industrial emissions, referred to in Article 30 (2), Annex V.

Budget: The estimated cost to bring into operation the flue-gas desulphurization installation of in group no. 4 and CAF is 54.679,03 thousands Euros.

Implementation period: 2012 – 2014

2.6. Total amount of aid and budget

48. The total amount of aid is Lei 1 169.239 million (EUR 269.18 million).
49. The aid will be granted in *tranches*, the planned date of each *tranche* was: 1st August 2011, 1st January 2012, 1st January 2013, 1st January 2014, 1st January 2015, 1st January 2016, 1st January 2017, 1st January 2018.
50. The overall amount of State aid to be granted in accordance with Articles 3 and 4 of the Council Decision, broken down by year, is as follows:
- - thousands Lei-

Specification /year	2011	2012	2013	2014	2015	2016	2017	2018	Total period
The amount of state aid pursuant to Article 3 of Decision	178718	158379	134028	122451	93314	52558	44646	0	784094
The amount of state aid pursuant to Article 4 of Decision	70145	54706	41404	51526	50161	44946	13545	58712	385145
TOTAL STATE AID	248863	213085	175432	173977	143475	97504	58191	58712	1169239

2.7. Cumulation

51. The aid to be granted under the notified measure cannot be cumulated with other operating aid for the same eligible costs.

3. ASSESSMENT

3.1. State aid within the meaning of Article 107(1) TFEU

52. State aid is defined in Article 107(1) TFEU as any aid granted by a Member State or through State resources in any form whatsoever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods in so far as it affects trade between Member States.

53. The notified aid measure favours a specific economic undertaking (the National Hard Coal Company) and allows this specific beneficiary to be relieved, by means of State resources transferred directly from the State budget, of a part of the production, social and safety costs which it would normally have to bear itself. The market for coal is fully open to competition. Consequently, the financial aid from the State strengthens the position of the beneficiary in relation to its competitors in the EU and therefore has potentially distorting effects on competition and is liable to affect intra-EU trade.
54. Accordingly, the Commission concludes that the notified measures in favour of The National Hard Coal Company constitute State aids within the meaning of Article 107(1) TFEU.

3.2. Lawfulness of the aid

55. By notifying the aid measure before its implementation, the Romanian authorities fulfilled their obligation according to Article 108(3) of the TFEU.

3.3. Compatibility of the aid

56. The Commission has assessed the compatibility of the notified scheme, according to Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines⁷ (hereinafter "the Council Decision") for the period from 1 January 2011 until 31 December 2018.
57. According to Article 2, paragraph 2 of the Council Decision, "*aid shall cover only costs in connection with coal for the production of electricity, the combined production of heat and electricity, the production of coke and the fuelling of blast furnaces in the steel industry, where such use takes place in the Union*". The production aid Romania intends to grant concerns the production of coal used for the production of electricity and heat. Therefore, this criterion is complied with.
58. Romania intends to grant closure aid in the context of a closure plan of the units concerned. As defined in Article 1.c) of Council Decision, the closure plan drawn up by the Member State must provide for measures culminating in the definitive closure of coal production units. The closure plan submitted by Romania includes the legislative and other measures adopted by Romania described at section 2.2., including also the financial measures planned to accompany the definitive and irrevocable closure of the units concerned, thus leading to an orderly winding down of activities of such units at the planned dates.
59. Moreover, Article 7.2 of the Council Decision specifies the elements which a closure plan must contain at least to enable its authorization, notably:
- a. Identification of the coal production units;*
 - b. Real or estimated production costs for each coal production unit per coal year;*

⁷ OJ L 336, 21.12.2010, p. 24-29.

c. Estimated coal production, per coal year, of coal production units forming the subject of a closure plan;

d. The estimated amount of closure aid per coal year.

60. Romania has submitted all the relevant data required for the assessment of the closure plan.

3.3.1. State aid to cover the Production costs

61. According to Article 3 paragraph 1 of the Council Decision, aid to an undertaking intended specifically to cover the current production losses of coal production units may be considered compatible with the internal market only if it satisfies the following conditions:

a) the operation of the coal production units concerned must form part of a closure plan the deadline of which does not extend beyond 31 December 2018;

62. The Romanian authorities have indeed explained that for each of the production units Petrila, Paroşeni and Uricani, Plans for Ceasing Activity (PCA) have been elaborated, containing the precise dates for ceasing the exploitation activity until the end of 2018; 31 December 2015 for Petrila Unit and 31 December 2017 for both Uricani and Paroşeni units.

b) the coal production units concerned must be closed definitively in accordance with the closure plan;

63. The Plan for Ceasing Activity (PCA) provides for a progressive reduction of the activity until the definitive closure of the coal production unit; closure of portions of the deposit and mining works in which the exploitation activity was carried out and ecological rehabilitation and natural environment restoration of the surfaces occupied by the former mining activity. Specific measures are provided to accompany the downsizing, retraining and severance payments for redundant staff. The Commission can conclude from this that the production units will be closed definitively.

c) the aid notified must not exceed the difference between the foreseeable production costs and the foreseeable revenue for a coal year. The aid actually paid must be subject to annual correction, based on the actual costs and revenue, at the latest by the end of the coal production year following the year for which the aid is granted.

64. The annual aid notified for closing the production units does not exceed the difference between the foreseeable costs and foreseeable revenues. In annex 2, the foreseeable costs and foreseeable revenues in details and by unit to be closed are provided.

Aggregated production costs and revenues for the units to be closed:

-thousands Lei-

Specification/year	Year							
	2011	2012	2013	2014	2015	2016	2017	2018
Foreseeable production costs	273913	246135	218981	213345	162175	113616	89463	0
Foreseeable revenue	95195	87756	84953	90894	68861	61058	44817	0
The difference Costs-Revenue	178718	158379	134028	122451	93314	52558	44646	0
State Aid according to Article 3	178718	158379	134028	122451	93314	52558	44646	0

65. The Romanian authorities are reminded that the aid actually paid must be subject to annual correction, based on the actual costs and revenue, at the latest by the end of the coal production year following the year for which the aid is granted.

d) the amount of aid per tonne coal equivalent must not cause prices for Union coal at utilisation point to be lower than those for coal of a similar quality from third countries.

66. The Romanian authorities explain that a distinctive Article will be inserted in the annual Government Decision on granting aid, stipulating that the Ministry of Economy, Commerce and Business Environment shall monitor the level of granting subsidies, so that the price of coal delivered from the coal production units benefiting of state aid may not be lower than prices for coal of a similar quality from third countries.

67. The Commission considers that the system planned to be put in place by Romania shall ensure that the amount of aid per tonne coal equivalent does not cause prices for Union coal at utilization point to be lower than those for coal of a similar quality from third country.

e) the coal production units concerned must have been in activity on 31 December 2009;

68. All production units that are included in the Closure Plan have been in the activity of exploiting coal in 2009.

f) the overall amount of closing aid granted by a Member State must follow a downward trend: by the end of 2013 the reduction must not be less than 25%, by the end of 2015 not less than 40%, by the end of 2016 not less than 60% and by the end of 2017 not less than 75% of the aid granted in 2011.

69. The Commission concludes from the table below that state aid to be granted has a downward trend and falls into the minimum levels of reduction provisioned in the Council Decision. The degressivity criterion prescribed by the Council Decision is therefore complied with.

Evolution of aid amounts between 2011 and 2018:

- thousands Lei-

Specification/year	2011	2012	2013	2014	2015	2016	2017	2018	Total period
The amount of state aid requested pursuant to Article 3 of Decision	178718	158379	134028	122451	93314	52558	44646	0	784094
The effective reduction of state aid notified pursuant to Article 3, towards the benchmark year	benchmark	11,4 %	25,0 %	31,5 %	47,8 %	70,6 %	75,0 %	100 %	-
The minimum reduction provisioned in the Decision		No values specified	25%	No values specified	40%	60%	75%	No values specified	-

g) the overall amount of closure aid to the coal industry of a Member State must not exceed, for any year after 2010, the amount of aid granted by that Member State and authorised by the Commission in accordance with Articles 4 and 5 of Regulation (EC) No 1407/2002 for the year 2010;

70. In 2010, Romania granted Lei 249 784 thousand for the coal mining industry in accordance with Regulation EC 1407/2002⁸. As it can be seen in the table above, the amounts of production aid to be granted until 2017, for any of the years 2011-2018, are constantly lower than the amount granted in 2010. Therefore, this condition is met.

h) the Member States must establish a plan to take measures aimed at mitigating the environmental impact of the production of coal by production units to which aid is granted pursuant to this Article, for example in the field of energy efficiency, renewable energy or carbon capture and storage.

71. Romania has provided information on its environmental rules applicable to coalmining and designed to minimize its impact on the natural environment (plan of measures to mitigate the negative impact of coal mining, under point 40 above). According to the Romanian authorities the planned investments related to the reduction of emissions (sulphur dioxide, nitrogen oxides, dust) from the Mintia and Paroseni power and heating plants would lead to meeting in advance the environmental standards provided by the EU Directive 2010/75/EU regarding industrial emissions as they are introduced at the latest in 2014 instead of 2016. However, based on its latest information, the Commission can not verify that these provisions would go beyond the mere implementation of the relevant mandatory EU rules, and therefore, to improve on EU standards within the meaning of the Guidelines on State aid for environmental protection⁹ (point 3.1.3). Moreover, it is to be noted that this decision does not prejudice the Commission's assessment regarding compliance with the relevant environmental legislation, in particular the requirements of Directive 2001/80/EC (large combustion plants Directive).

72. In addition, the Romanian authorities explain that coal bed methane (especially for high rank coal), discharged in the atmosphere as a result of mining activity is not nominated (within Kyoto Protocol) as a greenhouse gas, thus, from this point of view, the National Hard Coal Company has no obligations towards reducing these emissions either in the Romanian or EU legislation. In these conditions, the capture and recovery of the entire potential of mine gas is a program that exceeds the current legal framework for complying with the environmental requirements set under the Kyoto Protocol, to which the EU is a party.

⁸ See Commission decision on restructuring aid to coal mining in Romania in case N239/2007 approved on 10/10/2007, JOCE C/16/2008.

⁹ The Community Guidelines on State aid for Environmental Protection, OJ C82, 1.4.2008, p.1

73. According to the Romanian authorities, the investments planned under the National Development Programme for Mountain Tourism are necessary to diversify activities in a region which relies nearly exclusively on coal. However, whilst noting the rationale of the programme on social cohesion and economic development grounds, it is not established that the measures contained therein result in an improvement of environmental conditions that can be related to coal production in the same region.
74. In the light of the above, the Commission considers that the following measure, namely, the plan for the capture and recovery of hard coal bed methane from Jiu Valley included environmental mitigation plan submitted by Romania meet the conditions laid down in Article 3(1)(h) of the Council Decision.
75. It should be noted that some of the measures referred to by Romania may involve the granting of State aid. The acceptance of these measures as part of the environmental mitigation plan for the purpose of authorising aid to coalmining in application of the Council Decision cannot be construed as a clearance of such measures under Articles 107 and 108 of TFEU. It remains Romania's responsibility to ensure that measures liable to constitute State aid are duly notified to the Commission pursuant to Article 108(3) TFEU.
76. The assessment above demonstrates that all substantive criteria of article 3 of the Council Decision regarding production aid to be granted under the closure plan are complied with.

3.3.2. *State Aid to cover exceptional costs*

77. According to Article 4.1 of the Council Decision, State aid granted to coalmines to cover the costs arising from the closure of coal production units and which are not related to current production may be considered compatible with the internal market provided the amount paid does not exceed such costs.
78. The exceptional costs notified by the Romanian authorities cover:
- the costs arising from the closure of coal production units, in accordance with the Plan for Ceasing Activity (PCA), defined in letter (g), (i), (m) of paragraph 1 from the Annex to the Decision;
 - the costs generated by the restructuring and occupational retraining programs of personnel following the closure of coal production units defined in letter (b), (d), (e) of paragraph 1 from the Annex to the Decision.
79. The Commission notes that Romania does not plan to finance in excess to planned exceptional costs and the categories of costs planned to be covered correspond to eligible categories defined in the Annex to the Council Decision, for the purposes of Article 4. The exceptional costs taken into account are those stipulated at paragraph 1 letter (b), (d), (e), (g), (i) and (m) of the Annex to the Council Decision. They shall be granted based on reimbursement justification form.
80. Specifically, they cover:

- Costs related to severance payments granted to the staff when leaving the system referred to in recital 24, which correspond to point 1.b of the Annex (other exceptional expenditure on workers who have lost or who lose their jobs);
- Costs related to the professional training of employees referred to in recital 25 Corresponds to point 1.d of the Annex (the cost covered by the undertakings for the readaptation of workers in order to help them find new jobs outside the coal industry, especially training costs);
- Coal allowances or their equivalents referred to in recital 28, which correspond to point 1.e of the Annex (the supply of free coal to workers who have lost or who lose their jobs, and to workers being entitled to such payments before the closure of the mine);
- Costs of closure of underground and mining works connected with surface referred to in recital 31 which correspond to point 1.g of the Annex (additional underground safety work resulting from the closure of production units);
- Costs related to decommissioning and demolishing referred to in recital 33 correspond to point 1.i of the Annex (residual costs resulting from contributions to bodies responsible for water supplies and for the removal of waste water, and other residual costs resulting from water supplies and the removal of waste water)
- Costs related to surface recultivation referred to in recital 35 correspond to point 1.m of the Annex (costs of surface recultivation)

81. Romania states that the costs covered by the aid for exceptional costs do not result from non-compliance with environmental regulations [Article 4(2) of the Council Decision], such as:

- Directive 2006/21/EC¹⁰ on the management of waste from extractive industries,
- Directive 2004/35/EC¹¹ on environmental liability with regard to the prevention and remedying of environmental damage;
- The Framework Directive 2000/60/EC¹² establishing a framework for Community action in the field of water policy;
- Directive 92/43/EEC¹³ on the conservation of natural habitats and of wild fauna and flora
- Directive 85/337/EEC¹⁴ on the assessment of the effects of certain public and private projects on the environment.

Consequently, measures undertaken in order to comply with mandatory requirements with relevant environmental legislation will not be included in eligible costs.

¹⁰ OJ L 102, 11.4.2006, p. 15.

¹¹ OJ L 143, 30.4.2004, p. 56.

¹² OJ L 327, 22.12.2000, p. 1.

¹³ OJ L 176, 20.7.1993, p. 29.

¹⁴ OJ L 175, 5.7.1985, p. 40.

82. Finally, the Romanian authorities state that the increase in the value of the land shall be deducted from the eligible costs for categories (g), (h) and (i) of the Annex to the Council Decision as provided therein.
83. The aid will not be combined with other State aid within the meaning of Article 107(1) TFEU or with other forms of European Union financing for the same eligible costs (Article 5 of Decision 2010/787/EU). The Commission would like however to remind the Romanian authorities that in case of co-financing through Structural Funds of the Union, the rules applicable to those Funds must be respected and in particular the provisions laid down in Regulation (EC) No 1083/2006¹⁵, Regulation (EC) No 1080/2006¹⁶ and Regulation (EC) No 1084/2006¹⁷.
84. Moreover, the Romanian authorities commit themselves to ensure that all aids received by the beneficiary shall be shown in the profit-and-loss accounts as a separate item of revenue distinct from turnover.
85. Likewise, the Romanian authorities commit themselves to ensure that the National Hard Coal Company shall keep precise and separate accounts for each of the coal production units and for other economic activities which are not related to coal mining (Article 6 of the Council Decision) and shall take all the necessary measures to comply with the provisions of Article 6 of the Council Decision.
86. It follows that the notified aid meets the conditions laid down in the Council Decision as to cumulation and separation of accounts of the beneficiary.
87. Romania has submitted very detailed information in the context of the notification of the closure plan. In particular, Romania has provided detailed costs estimates for each production unit, broken down by individual cost items, for each year covered by the closure plan. The Commission takes the view that the information provided by Romania as portrayed in annex 2 satisfies also the requirements of Article 7.4 of the Council Decision for the entire period covered by the closure plan.
88. The Commission has therefore concluded that both the closure plan and the aid to be granted each year on the basis of the plan can be authorized in the present decision.
89. It follows that the notified aid complies with the relevant conditions laid down in the Council Decision.

¹⁵ OJ L 301, 12.11.2008, p. 40.

¹⁶ OJ L 210, 31.7.2006, p. 1.

¹⁷ OJ L 210, 31.7.2006, p. 79.

4. *Conclusion*

90. The Commission has accordingly decided to consider the aid to be compatible with the internal market for the period from 1 January 2011 until 31 December 2018 pursuant to Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines and has therefore decided not to raise objections to the notified measure.
91. The Commission reminds the Romanian authorities that, in accordance with Article 108(3) of the TFEU, plans to refinance, alter or change this scheme have to be notified to the Commission pursuant to Commission Regulation (EC) No 794/2004¹⁸. Moreover, notifications pursuant to Article 7(3) of Council Decision 2010/787/EU must be submitted if the closure plan is amended. Pursuant to Article 7(4) thereof, notifications must also be submitted if the aid Romania plans to grant to the coal industry during a coal year is higher than the amounts authorised in the present decision or if the details relevant to the calculation of the foreseeable production costs planned to be aided in the closure plan differ from those indicated in the present notification.
92. Romania will need to submit separate annual notifications where there is a discrepancy between the annual measures and the approved closure plan. It shall duly inform the Commission of the amount and of the calculation of the aid actually paid each year until the end of the closure plan, as laid down in Article 7.5 of the Council Decision.
93. The Commission also reminds the Romanian authorities that, in accordance with Article 7 (5) of the Council Decision, they shall inform the Commission of the amount and of the calculation of the aid actually paid during a coal year no later than six months after the end of that year. Where any corrections are made to the amounts originally paid during a given coal year, the Romanian authorities shall inform the Commission before the end of the following coal year.
94. According to Article 3.3 of the Council Decision, if the coal production units to which aid is granted are not closed at the date fixed in the closure plan as authorised by the Commission, Romania shall recover all aid granted in respect of the whole period covered by the closure plan.
95. If this letter contains confidential information, which should not be disclosed to third parties, 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 the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/eu_law/state_aids/state_aids_texts_ro.htm

¹⁸ Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 [now 88] of the EC Treaty; OJ L 140, 30.4. 2004, p.1.

Your request should be sent by registered letter or fax to:

European Commission

Directorate-General for Competition

State Aid Greffe

B-1049 Brussels

Fax No: 32 2 296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice President