



EUROPEAN COMMISSION

Brussels, 03.12.2009  
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**Subject: State aid N 547/2009 – Romania**  
**Limited amounts of compatible aid under the Temporary Framework ("Schema cadru național temporar de acordare de ajutoare de stat pentru sprijinirea societăților afectate de actuala criză economică și financiară")**

Sir,

## **1. PROCEDURE**

- (1) By electronic notification of 8 October 2009, Romania notified a national framework ("Schema cadru național temporar de acordare de ajutoare de stat pentru sprijinirea societăților afectate de actuala criză economică și financiară") for granting limited amounts of compatible aid under the Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis" (hereinafter referred to as the Temporary Framework)<sup>1</sup>.
- (2) Additional information was required by the Commission services on 27 October 2009. The Romanian authorities submitted further information by e-mails dated 29 October 2009 and 13 November 2009. By email dated 18 and 27 November 2009 the Romanian authorities modified the aid measure and submitted further information.

<sup>1</sup>

Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, (consolidated version) OJ C 83 of 7 April 2009. ([http://ec.europa.eu/competition/state\\_aid/legislation/horizontal.html](http://ec.europa.eu/competition/state_aid/legislation/horizontal.html)). Point 4.2.2 (h) and point 4.7 of the Temporary Framework were amended by Communication from the Commission of 28 October 2009 C(2009) 8462, (OJ C 26, 31.10.2009, p.2) allowing to Member States to grant separate limited amounts of aid to primary agricultural producers of up to EUR 15 000.

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## 2. DESCRIPTION

### 2.1. Objective of the aid scheme

- (3) Romania considers that the financial crisis starts affecting the real economy at national and regional level. According to the information provided by the Romanian authorities, in June 2009, compared to the corresponding month of previous year, industrial production fell by 5.9% (as adjusted series, the index presents a decrease of 8.9%), due to the decrease of the three industrial sectors: mining and quarrying (21.7%), production and supply of electricity and heating, gas, steam and air conditioning (5.2%) and manufacturing (4.9%). Compared to June 2008, exports decreased by 17.5% (in value in Euro), while imports decreased by 38.0%. Commercial deficit in June 2009 was Euro 668.3 million, with Euro 1.42 billion less than in June 2008. According to early estimations of the National Institute of Statistics, gross domestic product (GDP) decreased by 8.8% in second quarter 2009 compared to the corresponding period of 2008, and by 1.2% compared to the first quarter 2009 (data seasonally adjusted). Unemployment rate registered in July 2009 was 6.3%, compared to 6% the previous month and 3.8% over the same month of 2008. Therefore, the total number of unemployed is growing, at the end of June 2009 was recorded a number of 572,562 people unemployed.
- (4) The aim of the notified scheme is to grant temporary aid to undertakings that have been affected by a sudden shortage or unavailability of credit as a result of the global financial and economic crisis. It will help to maintain current employment and possibly will help to stimulate the creation of new jobs. The scheme provides for the provision of limited amounts of compatible aid to undertakings until the end of 2010.
- (5) The scheme is explicitly based on Article 107(3)(b)<sup>2</sup> of the Treaty on the Functioning of the European Union (hereinafter referred to as "TFEU"), and relies on section 4.2.2 of the Commission communication "Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis"<sup>3</sup> (hereinafter referred to as "Temporary Framework").

### 2.2. The nature and form of the aid

- (6) The aid will be provided in the form of transparent forms of aid, as defined by the General Block Exemption Regulation<sup>4</sup>, and in particular, in the form of direct grants, interest rate subsidies, subsidised public loans with an element which is calculated on the basis of the communication on the revision of the method for

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<sup>2</sup> With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the Treaty on the Functioning of the European Union. The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate.

<sup>3</sup> Communication from the Commission – Temporary framework for State aid measures to support access to finance in the current financial and economic crisis (OJ C 16, 22.1.2009, p. 1), as amended on 25 February 2009, the consolidated version published in OJ C 83, 7.4.2009, p. 1.

<sup>4</sup> OJ L 214, 9 August 2008, p. 3, 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).

setting the reference and discount rates (2008/C14/02), public guarantees where the aid element is calculated on the basis of the safe harbour premiums laid down in annex A to the amended Temporary Framework. Aid will be granted also in form of rescheduled public debt, waiving the interest rates over the entire rescheduled period (maximum 3 financial years). In this latter case the aid element is calculated on the basis of the communication on the revision of the method for setting the reference and discount rates (2008/C14/02).

### **2.3. Legal basis**

- (7) The legal basis for the scheme is a national framework called "Schema cadru național temporar de acordare de ajutoare de stat pentru sprijinirea societăților afectate de actuala criză economică și financiară".

### **2.4. Administration of the scheme**

- (8) The notified scheme is a national framework, allowing aid to be granted at all levels, including the national, regional, and local level, and can be applied by all relevant aid awarding authorities.

### **2.5. Budget and duration of the measure**

- (9) The total estimate budget of this national framework state aid scheme is lei 950 million (equivalent of EUR 220 million, estimated for an exchange rate of 4,5 lei/EUR) for 2009 and 2010.
- (10) Under the scheme, limited amounts of compatible aid can be granted as from its approval by the Commission until 31 December 2010.

### **2.6. Beneficiaries**

- (11) The scheme applies to SMEs and large undertakings including cooperatives.<sup>5</sup>
- (12) The Romanian authorities confirmed that no aid under this scheme will be granted to large firms which were, on 1 July 2008, firms in difficulties in the meaning of point 2.1 of the Community guidelines on State aid for rescuing and restructuring for firms in difficulty<sup>6</sup>, nor to SMEs which were on that date firms in difficulties in the meaning of Art. 1 (7) of the General Block Exemption Regulation. SMEs are defined in line with annex I to the General Block Exemption Regulation.
- (13) The scheme may be applied to firms that were not in difficulty on 1 July 2008, but entered into difficulty thereafter as a result of the global financial and economic crisis. In particular, information will be obtained demonstrating that the beneficiary was not a company in difficulty on 1 July 2008.
- (14) The Romanian authorities estimate the number of beneficiaries will exceed 1000 firms.

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<sup>5</sup> As defined by Law 31/1990- commercial undertakings and Law 1/2005 – organization of cooperatives.

<sup>6</sup> OJ C 244, 1 October 2004, p. 2-17.

## **2.7. Sectoral scope, exclusion of export aid and aid favouring domestic over imported product**

- (15) The scheme applies in all sectors, with the exception of the sectoral exclusion laid down in section 4.2.2 (d) ("fisheries") and the sector of primary production of agricultural products. Where this measure applies to companies active in the processing and marketing of agricultural products (as defined in Article 2.3 and 2.4 of Regulation (EC) 1857/2006), the amount of the aid is not fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or the aid is not conditional on being partly or entirely passed on to primary producers (section 4.2.2 (h), of the Temporary Framework as amended).
- (16) Export aid and aid favouring domestic over imported goods and services are excluded (section 4.2.2 (e) of the Temporary framework).

## **2.8. Basic elements of the scheme**

- (17) The Romanian authorities confirm that the conditions laid down in section 4.2.2 for granting limited amounts of compatible aid will be fully met. In particular,
- the aid shall not exceed 500,000 € per beneficiary, as laid down in section 4.2.2(a) of the Temporary framework. All figures used shall be gross, that is, before any deduction of tax or other charge. Where aid is awarded in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid, calculated as indicated in paragraph (6) of this decision.
  - before granting the aid, the aid granting authorities shall obtain from the beneficiaries concerned a declaration about any de minimis aid (as defined in the Commission de minimis-Regulation<sup>7</sup>) or aid granted under this measure received during the current fiscal year (section 4.2.2 (g), first sentence).
  - The total amount of de minimis aid and aid granted under this measure per beneficiary in the period 1.1.2008 to 31.12.2010 may not exceed €500,000 (section 4.2.2 (g), second sentence).
  - where the aid granted under this measure is to be combined with other compatible aid or with other forms of Community financing, the maximum aid intensities indicated in the relevant Guidelines or Block exemption regulations will be respected (section 4.7, last paragraph).

## **2.9. Monitoring and reporting, business secrets**

- (18) The Romanian authorities confirm that the monitoring and reporting obligations laid down in Section 6 of the Temporary Framework will be respected.
- (19) The Commission notes that the Romanian authorities have confirmed that the notification does not contain business secrets.

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<sup>7</sup> OJ L 379 of Official Journal L 379, 28.12.2006

### **3. ASSESSMENT**

#### **3.1. Legality of the measure**

- (20) By notifying the aid measure before putting it into effect, the Romanian authorities respected their obligations under Article 108 (3) TFEU.

#### **3.2. Existence of state aid**

- (21) State resources are involved in the notified scheme since the aid is granted from national and regional resources, via the respective aid granting authorities at national and regional level.
- (22) The measure is selective since aid is awarded only to certain undertakings.
- (23) The measure conveys an advantage by making available limited amounts of compatible aid which would not be available to the beneficiaries without the measure.
- (24) The measure affects trade between Member States since the scheme is not limited to beneficiaries which are active in sectors where no intra-community trade exists.
- (25) The measure distorts or threatens to distort competition.
- (26) In view of the above, the Commission considers that the notified measure constitutes state aid within the meaning of Article 107 (1) TFEU. The Romanian authorities do not contest that conclusion.

#### **3.3. Compatibility of the measure**

- (27) Having established that the measure involves state aid within the meaning of Article 107 (1) TFEU, it is necessary to consider whether the above mentioned measure can be found compatible with the common market.
- (28) The notified measure is one of a series of measures<sup>8</sup> designed at national level by the Romanian authorities to remedy a serious disturbance in their economy. According to the Commission's spring 2009 forecast, Romania's GDP in 2009 is expected to decline by 4 %. Unemployment was forecast to increase from 5.8 % in 2008 to 8 % in 2009
- (29) By granting limited compatible amounts of aid (EUR 500 000/undertaking until end of 2010) the Romanian authorities aim at supporting undertakings that have been particularly affected by a sudden shortage or unavailability of credit as a result of the credit crunch and therefore, anticipate producing effects across its entire economy.
- (30) By adopting the Temporary Framework, the Commission indeed acknowledged (section 4.1) the "seriousness of the current financial crisis and its impact on the overall economy of the Member States". The Commission concluded "that certain categories of State aid are justified, for a limited period, to remedy these difficulties and that they may be declared compatible with the common market on the basis of Article 87(3)(b)."

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<sup>8</sup> See Commission decision N 286/2009- Temporary aid scheme for granting aid in form of guarantees.

- (31) A measure of such a scale can be reasonably anticipated to produce effects across the entire Romanian economy. Furthermore, the measure has been designed to meet the requirements of the additional category of aid ("Aid in the form of limited amounts") described in section 4.2.2 of the Temporary Framework.
- (32) The Commission accordingly considers that the notified measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular,
- The maximum aid amount will not exceed the cash equivalent of EUR 500,000 per beneficiary (point 4.2.2 (a));
  - The measure is granted through an aid scheme in line with point 4.2.2 (b);
  - The aid granting authorities will obtain from the beneficiaries concerned a declaration about any de minimis aid or aid granted under this measure received during the current fiscal year (point 4.2.2 (g), first sentence) and will check that the total aid will not exceed 500 000 per beneficiary during the period from 1 January 2008 to 31 December 2010. Thus, the cumulation rules with de minimis aid and aid for other purposes are respected (in particular point 4.2.2 (g) and point 4.7).
  - Firms in difficulty (situation of 1.7.2008) are excluded from eligibility under the scheme in compliance with point 4.2.2 (c).
  - Firms active in the fisheries sector are excluded from the scope of this measure (point 4.2.2 (d)).
  - Beneficiaries active in the primary production of agricultural products are excluded from the scope of this measure. Aid to the processing and marketing of agricultural products is subject to the relevant conditions (point 4.2.2 (h)).
  - export aid and aid favouring domestic over imported goods and services are excluded (point 4.2.2 (e)).;
  - in line with point 4.2.2 (f) aid may be granted until 31.12.2010.
  - The monitoring and reporting rules laid down under point 6 of the Temporary Framework will be respected.

### **3.4. Conclusion**

- (33) For these reasons, the Commission considers that the notified measure is in conformity with the Temporary Framework and considers it to be compatible with the internal market on the basis of Article 107 (3) (b) TFEU.
- (34) The Commission notes that the Romanian authorities have confirmed that the notification does not contain business secrets and that Romania accepts that the decision be adopted in the English language.

#### **4. DECISION**

- (35) The Commission has accordingly decided
- to consider the notified aid scheme as compatible with the Treaty on the Functioning of the European Union.
- (36) The Commission reminds the Romanian authorities to transmit the concrete implementing rules as soon as possible after the approval of the notified aid.

Yours faithfully,  
For the Commission

Neelie KROES  
Member of the Commission