



EUROPEAN COMMISSION

Brussels, 29.7.2010  
C(2010)5418

**Subject: State aid N 173/2010 – Romania**  
**Amendment to the framework scheme "Temporary aid scheme for granting aid in form of guarantees" (N 286/2009)**

Sir,

### **1. PROCEDURE**

- (1) By means of an electronic notification of 11 May 2009 the Romanian authorities notified to the Commission an amendment to the framework scheme "Temporary aid scheme for granting aid in form of guarantees" under the Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis ("Temporary Framework")<sup>1</sup>. The existing framework scheme has been approved by the Commission on 9 July 2009 (N 286/2009).<sup>2</sup>
- (2) By communication of 1 June 2010 the Commission services required further information and clarifications from the Romanian authorities. The Romanian authorities submitted further information on 11 June 2010.

---

<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 261, 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. Point 4.3.2 (d) of the Temporary Framework was amended by Communication from the Commission of 8 December 2009 (OJ C 303, 15.12.2009, p.4) allowing to Member States to calculate, for underlying investment loans, the maximum loan on the basis of the annual EU 27 average labour cost.

<sup>2</sup> OJ C 285, 26.11.2009

Nickolay MLADENOV  
Minister of Foreign Affairs  
Aleea Alexandru 31  
011822 BUCUREȘTI  
ROMÂNIA

- (3) By decision of 24 June 2010<sup>3</sup>, the Commission decided not to raise any objections to the notified amendment of the existing framework scheme N 286/2009.
- (4) On 28 June 2010, the Romanian authorities informed the Commission that the decision dated 24 June 2010 (part 3) erroneously referred to section 4.2.2. instead of section 4.3.2 of the Temporary Framework. The current decision amends, annuls and replaces Commission Decision C (2010) 4373 of 24 June 2010.

## **2. DESCRIPTION OF THE AMENDMENT**

- (5) The Romanian authorities notify an amendment to the approved aid scheme to increase the maximum investment loan amount by its calculation on the basis of the annual EU 27 average labour costs.<sup>4</sup> In the framework scheme N 286/2009, the guaranteed maximum loan may not exceed the total annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the company site but formally in the payroll of subcontractors) for 2008. This criterion is considered restrictive due to the fact that the Romanian economic context is still dominated by the effects of the crisis and the financial needs imposed by the implementation of an investment project remain on high level.<sup>5</sup>
- (6) The budget of the scheme will not be changed. According to the framework scheme N 286/2009, the guaranteed amount of loans will not exceed RON 450 million and the aid amount will not exceed RON 20.34 million. As the estimated volume of guarantees for 2009 was not entirely granted, the funds unused in 2009 will be carried over to 2010.
- (7) All other elements of the approved scheme remain unchanged.
- (8) The Romanian authorities confirm that the monitoring and reporting obligations laid down in Section 6 of the Temporary Framework will be respected.
- (9) The Romanian authorities confirm that the notification does not contain business secrets.
- (10) The Romanian authorities confirm that, in view of the urgency of the measure, they exceptionally accept that the Commission decision is adopted in the English language.

## **3. ASSESSMENT**

- (11) The Commission approved the framework scheme "Temporary aid scheme for granting aid in form of guarantees" (N 286/2009) on 9 July 2009. The Commission

---

<sup>3</sup> Commission Decision of 24 June 2010 C (2010) 4373.

<sup>4</sup> On 8.12.2009 the Commission adopted an amendment to the Temporary Framework enabling to determine the maximum amount of the investment loan covered by a guarantee either on the basis of the total annual wage bill of the beneficiary or on the basis of the EU 27 average labour costs as established by Eurostat (the last available data). (Official Journal C303, 15.12.2009, p.6).

<sup>5</sup> According to the Romanian National Institute of Statistics, the average monthly labour costs for 2008 were EUR 549, whereas according to Eurostat the EU 27 average labour in 2007 costs were EUR 3028.

considered that the scheme is in conformity with the Temporary Framework and with the Treaty on the basis of Article 107(3)(b) TFEU<sup>6</sup>.

(12) The notified amendment does not alter this assessment. The State aid character of the measure as established in the Commission's Decision of 9 July 2009 is unaffected by the proposed amendment. The conditions for applying Article 107(3)(b) TFEU<sup>7</sup> remain in place because the continuing financial crisis is still having a significant impact on the ability of companies to access credit. The amended scheme meets all the conditions of the Temporary Framework and especially the requirements of the additional category of aid ("aid in the form of guarantees") as described in section 4.3.2. of the Temporary Framework. In particular:

- The reduction of the applicable premiums is limited to 15%/25% for large enterprises/SMEs in compliance with Art. 4.3.2. (a) + (b) of the Temporary Framework.
- The cumulation rules regarding combination with *de minimis* aid and aid for other purposes, as laid down in section 4.7 of the Temporary Framework, are respected.
- In line with Article 4.3.2. (i) of the Temporary Framework, firms in difficulty (situation as of 1 July 2008) are excluded from benefitting from the scheme.
- In conformity with Article 4.3.2. (g) of the Temporary Framework, the benefit of guarantees under this scheme is limited to investment and working capital loans.
- The maximum loan amount per beneficiary, which may be covered by guarantees under the present scheme, is limited in line with the provisions of section 4.3.2. (d) of the Temporary Framework, as it was amended on 8 December 2009<sup>8</sup>. Following this amendment, the Member States now have the possibility of establishing the maximum amount of investment loan to be covered by a guarantee on the basis of the annual average labour costs in the 27 Member States of the European Union, although the maximum amount of working capital loan continues to be capped by the total annual wage bill of the beneficiary for 2008. The Romanian authorities confirmed that the EU average labour costs will be used only for new guarantees for new investment loans. They also confirmed that for calculating the available guarantee amount, all previously granted guarantees for investment loans will be taken into account, while for guarantees on working capital loans granted in the past, or to be granted in parallel, the cap represented by the total annual wage bill of the beneficiary will be respected.

---

<sup>6</sup> With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the TFEU. 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>7</sup> On 1 December 2009, Articles 87 and 88 of the EC Treaty became Articles 107 and 108, respectively, of the Treaty on the Functioning of the European Union (TFEU), which entered into force that day. The two sets of provisions are, in substance, identical.

<sup>8</sup> The Temporary Framework was amended by a technical modification which was adopted by the Commission on 8 December 2009; published in OJ C 303, 15.12.2009, p.6.

- In accordance with Article 4.3.2 (f) of the Temporary Framework, guarantees under this scheme are limited to 90% of the risk resulting from the loan, and this exposure rate must not be increased during the loan contract.
- As required by Article 4.3.2. (e) and 4.3.2. (h) of the Temporary Framework Communication, guarantees under the scheme can be granted until 31 December 2010, and the reduced annual premiums can be applied for a maximum of two years following the granting of the aid.
- The monitoring and reporting rules laid down in section 6 of the Temporary Framework will be respected.

#### **4. CONCLUSION**

- (13) For these reasons, the Commission considers that the notified amendment is in conformity with the Temporary Framework and considers it to be compatible with the Treaty on the basis of Article 107(3)(b) TFEU. The Commission notes that the notification does not contain business secrets, and that Romania has exceptionally agreed that the decision be adopted in English as its authentic language.

#### **5. DECISION**

- (14) The Commission has accordingly decided to consider the notified aid scheme as compatible with the internal market under Article 107(3)(b) TFEU.

Yours faithfully,  
For the Commission

Neelie KROES  
Vice-President of the Commission