

competition - legal changes published in November and December 2016

Order no. 3254/2016 approving the supportive measure consisting in the provision of State aid and *de minimis* aid for improving economic competitiveness through increasing the productivity of small and medium enterprises within the Regional Operational Programme 2014-2020 was published in the Official Gazette, Part I no. 1053 of December 27, 2016.

The Order aims to establish a supportive measure consisting in granting state aid or *de minimis* aid for small and medium enterprises that are interested in finding an optimal model of growth, both by shifting to another size category and by the development of the activity carried out in order to increase the market size. The investments for development located in the regions of Bucharest - Ilfov and the territory covered by the Integrated Territorial Investment - ITI Danube Delta are not considered as eligible.

Projects must cumulatively meet the conditions set by the Order, among which we list, as an example, the following:

- the applicant must already have registered the place of implementation of the project as a main or secondary establishment (office), except when the application for funding aims at establishing a secondary office (work place) as a result of the investment and the activities proposed by the project, the investment, must target one area of activity (NACE class) which represents the scope of the project (the project must mandatorily include an initial investment in tangible assets);
- timeframe of the project activities after the signing of the contract is of maximum 36 months without exceeding December 31, 2023. It may be extended at most to twice the initial period under the conditions specified in the financing contract.

The grant of the non-reimbursable financing that may be awarded for a project as regional state aid and *de minimis* aid, as the case may be, is at least EUR 200,000 and at most EUR 1,000,000. The project beneficiary must provide its own contribution of 10% from the eligible expenditure financed under the *de minimis* aid, *i.e.*, own contribution to the eligible expenditure financed by regional state aid and the financing of non-eligible expenditure for the project (if applicable). Own financial contribution is made either from its own resources or resources provided in a form that is not subject to any other public aid.

The supportive measure will apply starting with January 1st, 2017 until December 31, 2020 and payments will be made by December 31, 2023, within the allotted budget. The total aid value, estimated to be granted under this measure, for the entire the duration of application, is of EUR 172.94 million.

Government Decision no. 937/2016 for the establishment of a state aid scheme aimed at stimulating investment SMEs was published in the Official Gazette of Romania, Part I, no. 1067 of December 30, 2016.

The enactment was adopted in order to establish a State aid scheme, aimed at regional development through investments by SMEs in all sectors except those expressly excluded by the Decision (including, without limitation, activities in the fields of agriculture, forestry and fishing, mining & manufacturing, electricity, gas, construction, wholesale and retail, transport, IT, financial intermediation, insurance, real estate etc).

The investments made by undertakings according to the scheme must meet the following eligibility criteria:

- to be considered initial investment and have a total value, excluding VAT, of at least RON 4,500,000, equivalent to approximately EUR 1,000,000;

- to prove their economic efficiency and viability during implementation of the investment and 3 years after the date of its completion, according to the business plan and generate contributions to regional development by paying taxes to the consolidated state budget, for the period of implementation of the investment and 3 years after its completion.

The scheme is valid until December 31, 2020. The granting of state aid to stimulate investment in the economy under this scheme shall take the form of grants and the maximum level of state aid granted to a beneficiary under this scheme shall not exceed RON 5,000,000. Financing agreements may be issued until December 31, 2020 and state aid payments will be made in the period between January 1, 2017 - December 31, 2023, based on financing agreements issued within annual budgets allocated to the scheme. The estimated number of undertakings to benefit from state aid under the scheme is 200.

The Competition Council launches the Prices Monitor project

As of November 24, 2016, the Prices Monitor project was launched at the initiative of the institutional environment in Romania, by the Competition Council and the National Authority for Consumer Protection, which is a website that displays prices for basic products of the major retail chains. This is an online platform to display weekly prices of products that are part of the daily shopping basket of the population, and the retail participants to the project voluntarily include their own stores and regularly send to the platform the selling prices for a number of 64 generic product categories. For each of these 64 categories there are two individual product prices for each store: cheapest price and best-selling price.

The stated purpose of the platform is to inform the consumer on the evolution of prices and to support market regulation by stimulating free competition, the generic product categories being set as necessary to be included in a basket of daily consumption in relation to an ordinary consumer. However, at the moment, the consumer is not able to select the display of a particular product/ brand, which means it cannot specifically identify the cheapest products, but only the total value of the basket in order to establish by comparison the value of the cheapest basket. Also, for now, consumers outside the capital cannot use this service because the site centralizes information only from certain stores in Bucharest and Ilfov.

The online version of the Prices Monitor can be accessed at: <http://www.monitorulpreturilor.info/>

Order no. 694/2016 for the implementation of the Guidelines on individualization of sanctions for offenses provided in Art. 55 of the Competition Law. 21/1996 was published in the Official Gazette of Romania, Part I no. 882 of November 3, 2016

As a novelty in comparison to the previous regulation (i.e., Order no. 420/2010 for the implementation of the Guidelines on individualization of sanctions for civil offenses provided in Art. 51 of the Competition Law no. 21/1996), the new Instructions state, in respect to the individualization elements of sanctions, the possibility for the Competition Council to consider the classification of concerned businesses as micro-enterprise or small businesses, as defined by Law no. 346/2004 regarding the establishment and development of small and medium enterprises.

Also, the new enactment details the legal regime **for granting favorable treatment to undertakings which admit to committing an anti-competition deed**, structuring it on several aspects, thus pursuing (i) the initiation and conduct of discussions on the possible admission, (ii) access to elements of the investigation file, (iii) the wording of the proposal for admitting the deed, (iii) the procedure applicable to the proposal for admission formulated before disclosure of the investigation report, (iv) the procedure applicable to the proposed admission of the anti-competitive deed after disclosure of the investigation report, and (v) determining the level of the fine following the acceptance of the proposal for admitting the deed.