

From: CEE Bankwatch Network
Ionut Apostol, energy coordinator
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To: European Commission
Directorate General for Competition
State aid Registry
J-70, 4/136
B-1049 Brussels
Belgium
Fax (32-2) 295 36 10
stateaidgreffe@ec.europa.eu

Form for the submission of complaints concerning alleged unlawful State aid

1. Information regarding the complainant.

First Name:* Ionut
Surname:* Apostol
Address line 1:* Str. Cluj nr. 43, sector 1
Address line 2:
Town/City:* Bucharest
County/State/Province:
Postcode:* 011491
Country:* Romania
Telephone:
Mobile Telephone:
E-mail address:* ionut@bankwatch.org
Fax:

2. I am submitting the complaint on behalf of somebody (a person or a firm)

Yes

Name of the person/firm you represent*: CEE Bankwatch Network
Address line 1:* Jicinska 8, Prague 3
Address line 2:
Town/City:* Prague
County/State/Province:
Postcode:* 130 00
Country:* Czech Republic
Telephone 1: +420 274 816 571
Telephone 2:
E-mail address:
Fax: +420 274 816 571

If the complainant is an enterprise, a brief description of the complainant and its field (s) and place (s) of activity:

The CEE Bankwatch Network is an international non-governmental organisation (NGO) with member organisations currently from 12 countries across the central and eastern European region. The aim of the network is to monitor the activities of the international financial institutions (IFIs) which operate in the region, and to propose constructive alternatives to their policies and projects in the region.

The CEE Bankwatch Network was formally set up in 1995 and has become one of the strongest networks of environmental NGOs in central and eastern Europe. Members of the CEE Bankwatch Network are NGOs from Bulgaria, the Czech Republic, Estonia, Georgia, Hungary, Latvia, Lithuania, Macedonia, Poland, Russia, Slovak Republic and Ukraine. Bankwatch focuses mainly on energy, transport and EU enlargement, while working at the same time to promote public participation and access to information about the activities of the IFIs across our region. Members of the CEE Bankwatch Network attend the annual meetings of the IFIs and are engaged in an ongoing critical dialogue with their staff and Executive Directors at the national, regional and international levels.

The CEE Bankwatch Network's mission is to prevent the environmentally and socially harmful impacts of international development finance, and to promote alternative solutions and public participation.

Please select one of the following two options*

Yes, you may reveal my identity

3. Information regarding the Member State granting the aid*

a) Country: Romania

b) Level at which the alleged unlawful State aid has been granted. Please specify which Ministry or institution if known: Romanian Government

Central government: Romanian Government

Region (please specify): Romania

other (please specify):

4. Information regarding the alleged aid measure.*

Please be aware: the information provided under this point is regarded as non-confidential.

a) To your knowledge when was the alleged aid given or granted?

The Romanian Government has issued Decision no. 691/ 2008 modifying the annex to Governmental Decision 643/2007 that approves the Strategy to select investors for the Cernavoda 3 and 4 Nuclear Power Plant; Decision 691/2008 was published in the Romanian Official Journal, Part I, No. 594/ 7 August 2008. Decision 691/2008 establishes the Romanian state will participate in the Romanian nuclear company's (Societatea Nationala Nuclearelectrica SA – SNN SA) joint stock increase by allocating amounts from the National Development Fund, and it will grant SNN-SA, if the case, credits attracted with state guarantee.

b) What is the amount of the alleged aid, if known? In what form is it given (loans, grants, guarantees, tax incentives or exemptions etc)?

The amounts of alleged aid, according to Governmental Decision 691/2008, are as follows:

- SNN SA loans with Romanian state guarantee (starting with 2012): EUR 220 million
- heavy water, 245 tonnes, produced quantity and quantity for which financing is ensured until June 2008, at regulated price: EUR 100 million
- budget funds to finance heavy water production at Romag in the period 2009-2012 for the 865 tonnes difference, at current regulated price: EUR 350 million
- the National Development Fund: EUR 800 million

We need to mention that the National Development Fund is state budgeted fund designed to provide funding for infrastructure projects as well as priority projects in education, health and environment. The Fund is approved annually, through the state budget law. The source of the fund is represented by privatisation revenues, amounts from selling the state share in various companies, and amounts from the state treasury's general current account and amounts from the foreign currency account of the Ministry of Public Finance (also revenues from privatisations).

c) Who is the beneficiary? Please give as much information as possible, including a description of the main activities of the beneficiary/firm (s) concerned

The beneficiary is the Romanian nuclear company, Societatea Nationala Nuclearelectrica SA – SNN SA.

"Nuclearelectrica" - SA is registered with the Register of Commerce, Chamber of Commerce and Industry, as a state owned company. SNN SA reports to the Ministry of Economy and Finance. The state owns 80% of Nuclearelectrica's shares and Fondul Proprietatea (state fund) - 20%. The main activity fields of SNN SA are centered on the generation of electrical and thermal power, and manufacturing of nuclear fuel. SNN SA also coordinates the investment-development activities as well as the human resources training and optimization.

"Nuclearelectrica"-SA has two branches:

- Cernavoda NPP Division operating Cernavoda NPP Units 1 and 2 and the auxiliary services and performing the preservation of Unit 3, 4 & 5 until completion and commissioning;
- "FCN - Pitesti", the Nuclear Fuel Plant - manufacturing nuclear fuel for Cernavoda NPP Units 1 & 2

d) For what purpose was the alleged aid given (if known)?

The aid is to be given to SNN SA for the construction of the 3rd and 4th nuclear reactors at the Cernavoda Nuclear Power Plant. SNN SA would hold 51% of the shares in the project company building the reactors; the rest of shares would be held by private companies.

5. Grounds of complaint.*

Please explain in detail the grounds for your complaint. If known, what rules of community law you think have been infringed by the granting of the alleged aid.

Please be aware: the information provided under this point is regarded as non-confidential.

Governmental Decision 691/2008 lays down direct subsidies and state guarantees for loans contracted by a state-owned energy company; this constitutes State Aid and breaches Article 87 of the EC Treaty.

6. Please summarize briefly to what extent the award of the alleged aid affects.*

a) your commercial interests / commercial interests of the person/firm you represent

CEE Bankwatch Network doesn't have a commercial interest in the Romanian nuclear programme. CEE Bankwatch Network would like to see though the Romanian energy sector developing in a sustainable manner.

b) the market(s) in which the beneficiary(ies) of the alleged aid operate.

The beneficiary of the state aid operates in the European electricity market and the mentioned state aid would give SNN SA an illegitimately advantageous position in the electricity market without the Cernavoda project belonging to one of the exceptions as mentioned in Directive 2003/54/EC.

7. Information on other procedures.*

a) Have you already approached the Commission's services or any other European or national institution concerning the same issue?

Yes, a complaint has been sent to the Romanian Competition Council, copy attached, in Romanian.

b) Approaches already made to national authorities or recourse to national courts or other procedures.

No.

8. I understand that for a faster treatment of the complaint the information provided above in point 3, 4 and 5 are non-confidential and can be sent to the Member State in question.*

Yes

9. Supporting documents

Please list any documents and evidence which is submitted in support of the complaint and add annexes if necessary

- Whenever possible, a copy of the national law or other measure which provides the legal basis for the payment of the alleged aid should be provided
- If the complaint is submitted on behalf of someone else (a person or a firm) please attach proof that you as a representative are authorized to act
- If the complainant is an enterprise, please feel free to attach a brief description of the complainant and its field(s) and place (s) of activity
- Copies of previous correspondence with the European Commission or any other European or national institution concerning the same issue
- If the issue has already been dealt with by a national Court, a copy of a judgement if available.

Annexes:

- Governmental Decision 691/2008 (in Romanian)
- Proof that Ionut Apostol represents CEE Bankwatch Network (in Czech)
- Copy of complaint submitted to the Romanian Competition Council (in Romanian)

Place, date and signature of complainant

Bucharest, September 17th