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Subject: State aid SA.36565 (2013/N) – Slovakia
Aid to cover exceptional costs of the mine of Baňa Dolina

Sir,

1. PROCEDURE

1. By electronic notification of 22 April 2013, registered by the Commission on the same day (SANI 8281), the Slovak authorities, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union ("TFEU"), notified the individual aid to cover exceptional costs of the mine of Baňa Dolina.
2. The Commission requested further information on 21 June, 11 October 2013 and 15 January 2014. The Slovak authorities provided further information on 15 August, 8 November 2013, 5 March 2014 respectively. Slovakia amended its latest submission dated 5 March 2014 by filing additional information on 22 April 2014 and on 6 May 2014.

2. DESCRIPTION

2.1. Objective

3. The main objective of the notified measure is to grant aid to the mining company Baňa Dolina a. s. in order to cover severance payments to its workers

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who have lost their jobs due to the closure of the beneficiary's sole mining unit Velký Krtíš.

2.2. Background and context

4. In case NN 9/2006¹, the Commission decided under Council Regulation 1407/2002/EC of 23 July 2002 on State aid to the coal industry² ("the Council Regulation") not to raise objections to the SKK 191 million (approximately EUR 5 million) aid to cover exceptional costs (social and technical costs) occurred by Baňa Dolina a.s.
5. Additionally, the Commission on 19 November 2009 adopted a decision in case N 347/2009 which allowed a further aid amount of EUR 87 256 to cover exceptional costs within the meaning of Article 7 of the Council Regulation. In line with Article 7 the aid authorised aimed at enabling Baňa Dolina a.s. to cover the costs arising from or having arisen from the rationalisation and restructuring of the coal industry that are not related to current production.
6. In fact, in case N 347/2009 the Slovak authorities put forward that the beneficiary, Baňa Dolina a.s., was progressively terminating its mining operations and was going to close by 2012, i.e. at the time of the Commission Decision no restructuring but a straight mid-term closure was planned. Since 2009 the coal production and the number of employees has constantly been decreasing (see recital 7). Due to the fact that the Council Regulation expired on 31 December 2010, the Commission had only approved the existing aid programme until 31 December 2010.
7. Slovakia explained in the current notification that Resolution 449/2012 of the Slovak Government had approved the extension of the abovementioned closure date to 31 December 2015. This is also supported by the document "Application for permission to change the mining activity" filed by Baňa Dolina a.s. with the District Mining Office on 7 March 2014 which sets out the termination of mining activities on 31 December 2015. At the same time, Slovakia demonstrates that out of the aid to cover social costs authorized by the abovementioned Commission Decisions amounting to EUR 4.19 million only EUR 1.4 million was eventually spent. Slovakia also presented progressively decreasing figures on the people employed and the coal production between 2004 and 2014, the latter leading to a significant (80%) drop in coal extraction in the mentioned timeframe.

Table 1: Evolution of the number of employees

Year	2004	2006	2009	2011	2012	2013	2014
Workers employed	380	212	201	188	201	161	146

Source: Slovak authorities

¹ Commission Decision of 13 September 2006, OJ C 297, 7 December 2006, p.14.

² OJ L 205, 2 August 2002, p. 1.

Table 2: Evolution of coal production (in kilotonnes)

Year	2004	2006	2009	2011	2012	2013	2014 <i>(projection)</i>	2015 <i>(projection)</i>
Production output	220	146	139.7	172	113	88	80	44

Source: Slovak authorities

8. The Slovak authorities explain that the delay of the closure was due to several factors, such as the Slovak Republic's Energy Security Strategy, the balance of the costs of the phasing-out of the mining activities and the support for employment in the region with the highest unemployment rate in Slovakia (approximately 33%).
9. According to the data provided, Slovakia eventually granted approximately 35% less aid until 31 December 2010 compared to the amounts approved under the abovementioned Commission Decisions. Slovakia argues that the reason why Baňa Dolina a.s. has decided to apply for the notified aid is because there are still currently 64 workers who are entitled to severance payments, although originally they were planned to be paid from the aid which was authorized under the Council Regulation until 31 December 2010³.

2.3. Scope of the notification, legal basis, granting authority

10. The notification concerns aid to cover exceptional costs that have arisen from the process of the closure of the Veľký Krtíš mining unit and are not related to coal production. In particular, the aid is intended to cover the expenditure on workers who have lost or who lose their jobs at the coal production unit.
11. The legal bases are:
 - Act No 231/1999 on state aid, as amended (hereinafter 'the State Aid Act');
 - Act No 71/2013 on granting subsidies within the competence of the Ministry of Economy of the Slovak Republic.
12. The Ministry of Economy of the Slovak Republic is the granting authority for the notified measure.

³ See recitals 4 and 5 above.

2.4. Beneficiary, form of aid and budget

13. The beneficiary is the company Baňa Dolina a. s., which belongs 100% to a private company, EG Power, a.s.
14. The aid amounting to a total budget of EUR 200 318 will be granted under a plan ending in 2014 and takes the form of a direct grant.

2.5. Cumulation

15. The Slovak authorities put forward that 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 in the sense of Article 107(1) TFEU

16. 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.
17. The notified aid measure favours a specific economic undertaking, Baňa Dolina, a. s. and allows this specific beneficiary to be relieved, by means of State resources transferred directly from the State budget, of a part of the social costs which it would normally have to bear itself. Consequently, the financial aid from the State may strengthen the position of the beneficiary in relation to its competitors in the EU and therefore has potentially distorting effects on competition. Coal is widely traded between Member States and the support to a mine that is planned to produce coal until 2015 may therefore affect trade between Member States
18. Accordingly, the Commission concludes that the notified measure in favour of Baňa Dolina, a. s. mine constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Lawfulness of the aid

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

3.3. Compatibility of the aid

20. The Commission has assessed the compatibility of the notified scheme on the basis of Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines⁴ ("the Council Decision").
21. The Commission considers that the notified aid falls within the scope of the Council Decision, as Baňa Dolina, a. s. carries out an activity in connection with coal production and the planned aid covers in line with Article 2 (2) of the Council Decision 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.
22. Whilst the Council Regulation aimed at aid contributing to the restructuring of the coal industry the Council Decision contains rules for aid to facilitate the closure of uncompetitive coal mines. The Commission firstly takes note of the commitment given by the Slovak authorities to terminate the coal extraction by the end of December 2015. This is well in advance to the final closure date of end 2018 as set in the Council Decision. The Commission further positively notes the downward trend as regards the figures of employees and coal production since 2009. Those figures credibly underpin the path towards closure in 2015.
23. The aid is not 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). Moreover, Slovakia confirmed that the aid shall not be used for any other coal production units⁵, thereby respecting the rules on the separation of accounts as set out in Article 6. 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.
24. As regards the nature of the costs to be covered, the State aid is exclusively meant to enable Baňa Dolina, a. s. to cover the costs arising from the closure of the coal production unit Veľký Krtíš by the end of 2015 in accordance with Article 4 of the Council Decision and which are not related to current production. In particular, no aid to cover losses of current production as defined in Article 3 of the Council Decision is granted for the closure of the mine.

⁴ OJ L 336, 21.12.2010, p. 24.

⁵ The aid is linked to specific workers employed in the mining unit Veľký Krtíš.

25. As required by Article 4(2), the costs covered by the aid do not result from non-compliance with environmental legislation, such as:
- Directive 2006/21/EC on Mining Waste Directive,
 - Directive 2004/35/EC on damage to land or water caused by mining waste activity (Environmental Liability Directive - ELD);
 - The Framework Directive 2000/60/EC establishing a framework for Community action in the field of water policy;
 - The Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora
 - The Directive 85/337/EEC - amended with Directive 97/11/EC, Directive 2003/35/EC and Directive 2009/31/EC on the environmental impact assessment: <http://ec.europa.eu/environment/eia/eia-legalcontext.htm>.

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

26. The category of costs planned to be covered correspond to the eligible categories laid down in the Annex to the Council Decision, to which Article 4 refers, namely:
- Other exceptional expenditure of workers who have lost or who lose their jobs (point 1b of the Annex to the Council Decision).
27. It follows that the notified aid complies with the relevant conditions laid down in the Council Decision.

4. CONCLUSION

28. The Commission has accordingly decided to consider the aid to be compatible with the internal market 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.
29. The Commission reminds the Slovak authorities that, in accordance with the Council Decision, they shall notify to the Commission:
- any amendments related to the final closure, and
 - all the aid which they intend to grant to the coal industry under the Council Decision during a coal year.
30. The Commission also reminds the Slovak 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 Slovak authorities shall inform the Commission before the end of the following coal year.

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/competition/elojade/isef/index.cfm>

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