

EN

***Case No COMP/M.6074 -
CEZ / EPH / MIBRAG
GROUP***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 17/12/2010

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EUROPEAN COMMISSION

Brussels, 17.12.2010
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PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

SIMPLIFIED PROCEDURE

To the notifying parties

Dear Madam(s) and/or Sir(s),

Subject: Case No COMP/M.6074 - CEZ / EPH / MIBRAG GROUP
Notification of 19.11.2010 pursuant to Article 4 of Council Regulation (EC) No 139/2004¹
Publication in the Official Journal of the European Union No C 322, 27.11.2010, p.29

- (1) On 19.11.2010, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which HC Fin3 N.V. (The Netherlands) wholly owned by Energetický a průmyslový holding, a.s. ("EPH", Czech Republic), and ČEZ, a.s. ("ČEZ", Czech Republic) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control over JTSD Braunkohlebergbau GmbH ("JTSD", Germany) and its wholly owned subsidiary Mitteldeutsche Braunkohlengesellschaft mbH ("Mibrag", Germany, Mibrag and its subsidiaries collectively called "Mibrag Group) which are currently controlled by ČEZ 's subsidiary Severočeské doly a.s. ("SD", Czech Republic) and Mr Křetínský wholly-owned special purpose vehicle, namely, LIGNITE INVESTMENTS (Cyprus), by way of purchase of shares.

¹ OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

2. The business activities of the undertakings concerned are:
- for EPH: strategic investor in the energy sector and a major investor in industry.
 - for JTSD: limited liability company fully controlling Mibrag.
 - for Mibrag Group: mainly active in ortho-lignite mining, district heating, operation of lignite fired power generation plants in Germany.
 - for SD: lignite mining in the Czech Republic.
 - for ČEZ: different activities in the energy sector like (i) generation, (ii) distribution and (iii) sale of electricity and heat in the Czech Republic and (iv) electricity trading and operation of power plants in some other European countries.
3. After examination of the notification, the European Commission has concluded that the notified operation falls within the scope of the Merger Regulation and of paragraph 5(c) of the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004.
4. For the reasons set out in the Notice on a simplified procedure, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

For the Commission

(signed)
Alexander ITALIANER
Director General