Subject: SA.38122(2014/N) – Poland

Aid to promote heritage conservation in the "Guido" and "Królowa Luiza" coal mines

Sir,

1. **PROCEDURE**

(1) On 7.01.2014, the Polish authorities notified to the Commission the above mentioned aid measures.

(2) On 24.02.2014, the Commission requested the Polish authorities to provide additional information. The Polish authorities submitted the requested information on 7.04.2014.
2. **DESCRIPTION OF THE MEASURES**

2.1. **Background and objective**

(3) The objective of the measures is the conservation of the cultural heritage of the "Guido" and "Królowa Luiza" ("Queen Louise") Adit complex (being composed of "Queen Louise" Mine and Main Key Hereditary Adit underground galleries) coal mines in Zabrze (Silesia, near Katowice, Southern Poland) (hereinafter "the mines"). More precisely, the measures are destined to:

(i) securing the monumental parts of the mines (including the renovation of historic excavations),

(ii) renovating historic machinery and equipment,

(iii) ensuring the rehabilitation of the mining sites and

(iv) ensuring the rehabilitation of the land surface.

(4) According to the Polish authorities, the combination of all these works is needed to protect the monumental parts of the mines in order to achieve the primary objective of this investment, which is to preserve this cultural heritage and to make it available to the public.

(5) The mines form a complex of post-industrial structures considered an extremely valuable part of the cultural heritage of the region and country, as it illustrates the development of the mining sector and mining culture in a broad sense and therefore its maintenance for future generations is in the public interest. A significant part of the excavations at the mines are subject to protection due to being listed in the national register of historic monuments. Moreover, the City of Zabrze and the Śląskie Province have taken steps aimed at recognising some structures as historic monuments, creating a cultural park on the complex’s grounds and ultimately adding the complex to the World Heritage List of the UNESCO.

2.2. **Beneficiary**

(6) The beneficiary of the measures is the Coal Mining Museum in Zabrze ("the Museum"). The Museum is the largest and most important touristic and cultural institutions in Zabrze. The Museum was founded on 2 April 2013 by merging two cultural institutions under Resolution No XXXIII/494/13 of the Zabrze City Council of 14 January 2013 respectively the "Guido" Historic Coal Mine in Zabrze and the Coal Mining Museum in Zabrze. The new institution (the Museum) comprises the "Guido" Historic coal mine and the Queen Louise Adit complex, the latter being composed of the Queen Louise Mine and Main Key Hereditary Adit underground galleries.
(7) The Museum is a local government cultural institution entered into the register of cultural institutions kept by Zabrze under registration No RIK 12/13. The Museum is a public institution with the mission of providing access to cultural heritage and collections, and actively seeking to encourage local communities to participate in culture.

(8) Apart from the preservation of cultural heritage, the Museum carries out museum activities, cultural and educational activities, publishing activities and, subsidiarily, other commercial activities (catering for visitors, sale of souvenirs and organisation of events, real estate activities¹). According to the evidence put forward by the Polish authorities, the revenues generated by the Museum in 2012 are as follows:

<table>
<thead>
<tr>
<th>2012 (in PLN)</th>
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<tbody>
<tr>
<td>Revenue from basic museum activities:</td>
</tr>
<tr>
<td>1 418 879</td>
</tr>
<tr>
<td>Making tourist routes available to the public</td>
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<tr>
<td>1 305 990</td>
</tr>
<tr>
<td>Making museum exhibitions available to the public</td>
</tr>
<tr>
<td>78 941</td>
</tr>
<tr>
<td>Organisation of theatre performances and concerts</td>
</tr>
<tr>
<td>33 948</td>
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<tr>
<td>Revenue from complementary activities and other</td>
</tr>
<tr>
<td>activities:                                     1 227 019</td>
</tr>
<tr>
<td>Catering services and organisation of events</td>
</tr>
<tr>
<td>1 019 460</td>
</tr>
<tr>
<td>Sale of souvenirs</td>
</tr>
<tr>
<td>207 559</td>
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<tr>
<td>In total                                        2 645 898</td>
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</tbody>
</table>

(9) The total revenue generated by the Museum in 2012 is therefore of PLN 2 645 898, approx 631 961.88 EUR². The revenues acquired from the business activity run by the Museum are devoted to finance the operational costs stemming from the Museum's statutory activities: conservation works of Museum exhibitions, ensuring the availability of the historic excavations to the public, carrying out studies on the industrial heritage, organise cultural, educational events for the public. These activities result from obligations imposed on the Museum through provisions of national laws.

2.3. The aided projects

The "Guido" Coal Mine in Zabrze

(10) The ‘Guido’ mine was built in 1855. Regular coal extraction began in the 1870s and continued until 1995. The mining heritage park comprises a historic

¹ The Museum owns real estates located on the surface of the Museum complex. As only part of them are needed for the activities performed by the Museum, some of the spaces are rented to societies, municipal museums and a restaurant. In 2013, the total amount of revenue from lease and rent amounted to 33 700 PLN.

² Exchange rate used: EUR 1 = PLN 4.1868 (rate from 19 May 2014, Source: ECB).
underground at the 170 m and 320 m levels and a complex of surface buildings. The entire complex is subject to heritage conservation. The mine also has great value as an inanimate nature reserve, where visitors can admire a layered geological structure with a variety of tectonic forms.

_The "Queen Louise" Coal Mine in Zabrze_

(11) The ‘Queen Louise’ mine is one of the oldest mines in the Upper Silesia. It dates back to 1791 and was one of the biggest and most modern mines in Europe. The underground part of the mine covers excavations dating back to the beginning of the 19th century and a modern section of the mine. It exhibits various coal extraction techniques.

_The Main Key Heritage Adit_

(12) The Main Key Heritage Adit joins the "Queen Louise" mine and its construction began in 1799. It is one of the longest heritage adits in Europe and the longest hydraulic engineering structure in the history of European coal mining.

(13) The "Guido" Coal mine, the Main Key Heritage Adit and parts of the "Queen Louise" mine have been entered into the national register of historic monuments in Poland. The "Guido" Coal Mine in Zabrze currently has two underground tourist routes (around 2 km long) on levels 170 and 320, to which tourists descend in an authentic mine lift. The "Queen Louise" coal mine's historic excavations are not available to tourists yet. It is planned to make underground routes (5 km in total) and the Main Key Heritage Adit excavation (linked with the "Queen Louise" Mine) available to the public.

(14) Works to secure historic excavations at the "Guido" and "Queen Louise" Coal mines and the Main Key Heritage Adit will be performed in horizontal and vertical excavations, i.e. mining shafts, and will cover structures (underground and surface) that, in accordance with geological and mining laws, constitute the mines' basic structures.

(15) While conservation works will cover historic areas, other types of works will be performed in all areas that affect the preservation status and the safety of the historic excavations and that are important for making the historic excavations available to the public (e.g. for allowing technical access or ensuring appropriate ventilation). Technical resources must be in place (equipment must be purchased, including protective equipment and workshop tools), relevant approvals and permits must be obtained, and documentation and expert opinions must be prepared (including conservators' opinions as the secured structures are listed in the register of historic monuments) before works are performed.

(16) The Polish authorities have explained that the project to make the mine excavations available to the public includes two different kind of works that must be distinguished:
(a) Works that must be performed in order to preserve and secure the mines, including:

– Securing monumental parts (renovation of the shoring of excavations, construction of dewatering installations);
– Renovation of historic machinery and equipment;
– Rehabilitation of mining sites (diminishing of the risks of decreasing sinks, erosion and disturbances in water ratios);
– Protection of land surface against the effects of mining operations (diminishing of the risks of decreasing of sinks, erosion and disturbances in water ratios).

(b) Adaptation works (works that must be performed in order to make a mining object available for the public). They particularly include:

– Clearance of the excavations and shafts (removing the sludge);
– Purchasing touristic equipment (for example multimedia equipment, boats, underground cable cars);
– Organization of museum exhibitions;
– Arrangement of underground chambers which enable organisation of cultural and educational events;
– Installation of underground safety systems in order to manage the tourist movement in a safe way (video cameras, fire protection);
– Construction of the tourist facilities located on the ground (a building for ticket counters, toilets, waiting rooms) and an underground infrastructure for cable cars.

(17) The notified measures cover the works mentioned under point (a). Actions listed under point (b) will be assumed by the Museum and co-financed from EU structural funds.

2.4. Legal basis, form of the aid and rules governing the award and payment of the aid

(18) The aid will be granted in form of subsidies and is composed of two financial instruments: the subsidy granted by the Ministry for Economic Affairs and the subsidy granted by the National Fund for Environmental Protection and Water Management ("the National Fund").

Aid granted by the Ministry for Economic Affairs
The aid will be awarded by the Ministry for Economic Affairs under the Subsidies for Enterprises Act of 30 August 2013 (Journal of Laws of 2013, item 1160). The grant will be awarded further to a request of the Museum\(^3\) for maintenance, securing and preservation of the monumental parts of the cultural heritage which is the object of this notification.

The grant may be awarded on approval by the Ministry for Economic Affairs of an annual schedule of tasks of the Museum covering the material and financial scope of these tasks, broken down by months. An agreement will be concluded between these two parties specifying the tasks, the amount of the grant, settlement rules and reasons for grant reimbursement, if any.

The grant will be paid out in monthly instalments to a separate bank account on the basis of an application for payment of an instalment in accordance with the annual schedule of tasks. The award of a subsequent grant instalment is conditional on submission to the Ministry for Economic Affairs by the 25th day of the month preceding the month when such an instalment is due of a monthly report containing the material and financial accounts for completed tasks.

Furthermore, the Museum is required to submit to the Ministry for Economic Affairs by 20 February of the following year a report on the implementation of the annual schedule of tasks together with financial accounts.

Taking into account the above mentioned requirements of the Subsidies for Enterprises Act, between 2014 and 2020 a contract between the two parties will be concluded every year and the payments will be done in monthly instalments. The last instalment will be paid in December 2020.

Aid granted by the National Fund

The National Fund will grant aid under the Environmental Protection Act of 27 April 2001 (Journal of Laws of 2013, item 1232, as amended). Grants will be awarded further to a request from the applicant (the Museum).

They will be awarded on the basis of an agreement concluded by the National Fund and the entity applying for funding. Granted aid will be paid out under the concluded agreement on fulfilment of the terms thereof. The duration of the contract will depend on the duration of the investment. According to the Polish authorities, at present it is not possible to pinpoint the date of signing of the financing agreement or the dates of payment, this means that the granting of the aid may take place at the latest in 2020, but that the payment of the aid may also occur after 2020.

Aid may be paid out in the form of advances or on submission of documents by the Museum confirming the incurred costs of a project or task.

\(^3\) Pursuant to the Subsidies for Enterprises Act, the beneficiary of the grant is the ‘Guido’ Historic Coal Mine in Zabrze or its successor that took over the performance of tasks provided for in the Act. The Coal Mining Museum in Zabrze is such a successor.
27. Granted aid will be transferred to a separate bank account.

28. Funding will be paid out on the basis of an application for partial or final payment.

2.5. Duration and budget

29. The notified measures consist of funds provided by the Ministry for Economic Affairs (PLN 99 093 thousand, EUR 23.66 million) and from the National Fund (PLN 84 729 thousand, EUR 20.23 million). The total amount of aid budgeted is of PLN 183 822 thousand (aprox. EUR 43.8 million).

30. The aided projects are planned for the period 2014-2020. The annual division of the measures is provided in the table below.

Table 1: Annual division of the measures granted to the mines

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</thead>
<tbody>
<tr>
<td>Ministry for</td>
<td>8 000</td>
<td>13 470</td>
<td>16 750</td>
<td>17 000</td>
<td>17 365</td>
<td>13 488</td>
<td>13 020</td>
<td>99 093</td>
</tr>
<tr>
<td>Economic Affairs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>National Fund</td>
<td>0</td>
<td>21 845</td>
<td>16 156</td>
<td>16 652</td>
<td>16 576</td>
<td>13 500</td>
<td>0</td>
<td>84 729</td>
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<tr>
<td>for Environmental Protection and Water Management</td>
<td></td>
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<tr>
<td>TOTAL</td>
<td>8 000</td>
<td>35 315</td>
<td>32 906</td>
<td>33 652</td>
<td>33 941</td>
<td>26 988</td>
<td>13 020</td>
<td>183 822</td>
</tr>
</tbody>
</table>

31. The Polish authorities confirmed that the aid would only be granted after the Commission's decision approving the notified aid measures.

2.6. Aid intensities and cumulation rules

32. The Polish authorities confirmed that the measure under assessment can be cumulated with any other aid from other local, regional or national schemes to cover for the same eligible costs. Financing from EU funds would not be cumulated with the notified aid.

33. The maximum aid intensity will in any event be 100% of eligible costs.

34. In order to ensure that the cumulation rules are respected, both the Ministry for Economic Affairs and the National Fund, before granting the aid, will

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4 Exchange rate used: EUR 1 = PLN 4.1868 (rate from 19 May 2014, Source: ECB).
verify whether Article 7 of the *Subsidies for Enterprises Act of 30 August 2013* is complied with. More precisely they will verify if other aid, including *de minimis* aid and aid from the EU budget, was awarded to enable implementation of the activities referred to in this Act.

### 2.7. Eligible costs

(35) The eligible costs under the notified measures shall cover the following tasks:

- **a)** securing and renovation of historic excavations, machinery and equipment (securing of drifts; maintenance and renovation of drift linings; securing, modernisation and reconstruction of shafts, *inter alia* to gain access to excavations; optimisation of ventilation system; implementation of a security system; maintenance of excavation equipment — valuable machinery and equipment that constitute museum collections or monuments, etc.)

- **b)** rehabilitation of mining sites (costs of levelling land, reinforcing slopes and hillsides, stabilising the surface, and soil drainage and fertilisation costs);

- **c)** development of projects, documentation, opinions, evaluations and analyses relating to the tasks listed in points a) and b) above;

- **d)** general management (costs for maintaining administrative and technical services necessary for the supervision of the tasks to be performed (which cannot be assigned to a single task) and for the enterprise’s survival (which also cannot be assigned directly to one of the tasks);

- **e)** protection of land surface against the effects of mining operations (i.e. land surface rehabilitation in areas degraded as a result of mining activities, elimination of threats resulting from the extent of the construction and exploitation of works and excavations and environmental monitoring);

(36) As explained by the Polish authorities, the costs detailed under points a), b), c), d) above will be covered by the Ministry for Economic Affairs under the *Subsidies for Enterprises Act of 30 August 2001*, while the costs detailed under point e) will be covered by the National Fund.

### 2.8. Monitoring mechanism

(37) In accordance with the existing national laws and regulations, especially the law on public finances, the public bodies must control subsidies that they grant. The Ministry for Economic Affairs and the National Fund are therefore obliged to guarantee that the process of preservation of the historical excavations is carried out properly and that the subsidies granted are used for
the sole purpose of completion of this task but also that the subsidies are used efficiently.

(38) In order to ensure the control and monitoring of the aided projects, the Ministry of Economy appoints Agencja Rozwoju Przemyslu SA (the Agency for Industry Development) to perform this process. The Agency will monitor the correctness of budget subsidy utilisation and will ensure that the scope of the works supported under the notified measures does not exceed what is necessary to achieve the goals set.

(39) Monitoring is based upon reports that are submitted by the Museum. The annual examination of income, costs and expenditures incurred by the Museum is also one of the elements of control. The examination will cover all revenues and costs of commercial and non-commercial activities. This should allow, according to the Polish authorities, the defining of a minimum, indispensable amount of funds which should be spent for a given task in order to complete it. This means that the amounts of the aid are precisely calculated and that this calculation is based upon detailed materials and finance schedules which take into consideration the objective and scope of the aided projects.

(40) During the notification process, the Polish authorities have declared that the notified measures will only be devoted to finance the eligible costs underlined in section 2.7 above.

(41) Moreover, in order to ensure that there is no risk of cross-subsidisation with any other activity from the range of activities performed by the Museum (see paragraph 8 above), the Museum will be required to keep a system of separate accounts which will be introduced to the accountancy policy of the Museum. The charts of accounts of the Museum will encompass separate synthetic, analytic or off-balance sheet accounts related to both the subsidies (the subsidy from the Ministry of Economy and the subsidy from the National Fund). This system will envisage that all operations, related to the receipt and application of each subsidy, are kept separated from the other revenues and costs not related to a particular subsidy.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid within the meaning of Article 107(1) of the TFEU

(42) According to Article 107(1) of the TFEU, "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 shall, in so far as it affects trade between Member States, be incompatible with the internal market".

(43) It follows that in order to be qualified as State aid, the beneficiary of the measure must qualify as an undertaking, and the following cumulative conditions have to be met:
– The measure has to be granted out of State resources,
– It has to confer an economic advantage to an undertaking,
– The advantage has to be selective and to distort or threaten to distort competition,
– The measure has to affect trade between Member States.

3.2. Presence of an undertaking

(44) The very first condition as regards the presence of aid is whether the beneficiary qualifies as undertaking. It is settled case-law that any entity engaged in an economic activity is to be considered as an undertaking regardless of its legal form or the way it is financed.5 Furthermore, the concept of economic activity is defined as offering goods and services on a given market6.

(45) As referred to in paragraph 8, the beneficiary of the measure, the Museum, is involved in economic activities since it commercially exploits the heritage site through the sale of souvenirs or by renting some of the Museum's facilities that are currently not in use. Moreover, the support notified under these measures will maintain and improve the possibility to use the heritage commercially. Therefore the Commission cannot exclude that the Museum qualifies as an undertaking for the application of EU State aid rules.

3.3. Presence of State Resources

(46) The measures under assessment are financed directly from the State budget and from Funds constituting part of the national administration. All these finances are at the disposal of the Polish authorities and under their direct control. Consequently, the public financing of the measures is imputable to Poland and constitutes State resources within the meaning of Article 107 (1) TFEU.

3.4. Economic advantage to an undertaking and selectivity

(47) The measures under assessment are selective because they are earmarked for only one beneficiary (the Museum), and they confer to that beneficiary an economic advantage, since they relieve it from costs it should bear by itself in the normal running of its business.

5 Case C-41/90 Klaus Höfner and Fritz Elser v Macrotron GmbH. ECR 1991 I-01979, par.21.
3.5. Distortion of competition and effect on trade between Member States

(48) Although the costs eligible for aid include expenditure directly related to the protection and security works in the mines, the support by the State aid will at the same time maintain and improve the possibility to use the heritage commercially, modernise its facilities and make it more attractive when compared to other comparable internationally renowned touristic sites exploited commercially within the EU.

(49) In this respect, it should be noted that in the European Union there are many valuable post-industrial mining structures (over 180) adapted for cultural and touristic functions. Therefore, on the market of operators of cultural infrastructure in the mining sector, other mining sites are present: Zollverein Coal Mine Industrial Complex (Germany), Mining Museum of Hallstatt-Dachstein (Austria), Centre Historique Minier Lewarde (France), Wieliczka Salt Mine (Poland), Bochnia’ Salt Mine State Company (Poland). The Museum faces direct competition from these undertakings. Given that the advantage in the form of the notified measures is granted only to the Museum and given that there are also other undertakings operating in the same market that directly compete with the Museum (as listed above), this advantage threatens to distort competition on this particular market.

(50) It is also worth mentioning that these sites have in general the potential to attract tourists. A larger one of them, e.g. the UNESCO listed mining museum of Hallstatt-Dachstein, Austria attracts yearly approx. 400 000 visitors. For its part, the salt mine in Bochnia attracts around 150 000 visitors a year (about 5% of visitors originating from outside of Poland).

(51) It must be stated that the Museum is one of the largest and most important touristic and cultural institutions in Zabrze. Its location in southern Poland near to the borders with Slovakia and the Czech Republic facilities cross-border tourism. According to the Silesian Tourist Organisation (Śląska Organizacja Turystyczna), over 4 million inhabitants of the region and other provinces and around 600 000 foreign tourists took advantage of the tourist attractions of the Śląska Province in 2012. Also in 2012, museum exhibitions made available by the Museum were attended by 44 655 people, which represents 3.85 % of all visitors attending museum exhibitions in the Śląska Province. It must also be pointed out that among the many post-industrial monuments connected with coal mining remaining in Europe, only Zabrze boasts genuine underground excavations made available to tourists. As mentioned in paragraph 5, the City of Zabrze and the Śląskie Province have taken steps aimed at recognising some mining structures as historic monuments, creating a cultural park on the complex’s grounds and ultimately adding the complex to the World Heritage List of the UNESCO.

(52) In view of the Museum's location which facilitates cross-border tourism, of the cultural value of the mining complex that has already attracted foreign tourists although only recently opened to public, in view of the perspective of the complex being added to the World Heritage List of the UNESCO that would
increase its fame globally, it can be concluded that the notified measures increase the attractiveness of the Museum for foreign tourists. Therefore the Commission services cannot exclude an effect on trade between Member States of the notified measures.

(53) In view of the above, the Commission considers that the measures under assessment constitute aid within the meaning of Article 107(1) TFEU.

4. **COMPATIBILITY OF THE AID**

4.1. **Compatibility with Article 107(3)(d) TFEU**

(54) According to Article 107(3)(d) TFEU, aid to promote culture and heritage conservation may be considered compatible with the Internal market, where such an aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest.

(55) In addition, Article 167 of the TFEU states that the Union shall take cultural aspects into account in its action under other provisions of the Treaties, in particular in order to respect and to promote the diversity of its cultures.

(56) The Commission's compatibility assessment of the notified measures did not imply any serious difficulties. The principles laid down in Article 107(3)(d) TFEU have been applied to cases similar to the case at stake in a series of precedent decisions.\(^7\)

(57) For the following reasons, the Commission has no doubts that the notified measure is compatible with the internal market based on Article 107(3)(d) of the TFEU.

4.2. **The aided works are technically necessary to preserve the heritage of the "Guido" and "Królowa Luiza" mines**

(58) The aim of the measures under assessment is to provide the necessary resources to carry out the works needed to preserve the cultural heritage of the "Guido" and "Queen Louise" coal mines together with the Main Hereditary Adit, as valuable parts of the technical heritage of the country and to make it available to the public.

(59) The main activities relating to the protection and security works for these sites will be performed in horizontal and vertical excavations, i.e. mining shafts and will cover structures (underground and surface) of the mines' basic structures. All these works are important for making historic excavations available to the public (e.g. for allowing technical access or ensuring appropriate ventilation).

Research conducted in August 2013 at one of the sections of the near-surface Main Key Hereditary Adit excavation by researchers from the Faculty of Mining and Geology of the Silesian University of Technology, showed that the ground directly above the support was loose. It must be added at this point that the excavations at the ‘Queen Louise’ Coal Mine and at the Main Key Hereditary Adit excavation linked with the mine are located relatively close to the surface. Reduction in rock mass strength may cause cracks around the excavation (even if it is partially filled with silt), which may lead to a loss of stability and eventually to roof falls. In such a situation, the threat of collapse is present. Appropriate securing and an appropriate underground infrastructure management strategy will ensure that changes in stress and deformation are limited in time and that the excavations' stability is maintained.

Failure to take measures to secure and properly maintain the excavations not only poses a threat to the land surface, but could also lead to a loss of valuable monuments (including horizontal and vertical excavations and the machinery and equipment located there).

Moreover, due to the fact that the excavations at these mining sites have not been in use for years, their opening to the public, like for example in the case of the Main Hereditary Key Adit, will result, according to the data provided by the Polish authorities, in risks of sinks decreasing, erosion and disturbances in water ratios. These processes would endanger the stability of the excavations and cause the risk of flooding (obviously eliminating at the same time the possibility to open the excavations complex to the public). The works indicated for purposes (iii) and (iv) in paragraph 3 above are indispensable to preserve the excavations as they have as effect the diminution of sinks decrease, the diminution and reduction of erosion of rocks particles, sand grains as well as clays, the maintenance of correct water ratios in that area.

In conclusion, the Polish authorities have submitted sufficient evidence proving the technical necessity of the aided works for the protection of the national heritage that is the object to this notification.

4.3. The aid measures are necessary and their amount is proportionate and limited to the minimum required for financing the preservation of the heritage

As already indicated, the main aim of performing safety works at the historic excavations of the ‘Guido’ and ‘Queen Louise’ mines and the Main Key Hereditary Adit is to preserve these valuable monuments that constitute a unique part of historical and cultural heritage for future generations. As indicated by the Polish authorities, an analysis carried out for the purpose of drawing up the Development Strategy for the Museum in Zabrze shows that only a handful of such structures remain in Europe. Among the many post-industrial monuments connected with coal mining remaining in Europe, only Zabrze boasts genuine underground excavations to be made available to tourists.
According to Article 5(3) of the Act of 23 July 2013 on the Protection and Care of Monuments (Journal of Laws (Dziennik Ustaw) 2003, No 162, item 1568, as amended) one of the key principles of monument protection is securing and maintaining monuments in the best possible condition. Thus, proprietors of monuments, such as the Museum, are required to take specific measures to preserve valuable cultural heritage for future generations. As mentioned in paragraph 5 above, a significant part of excavations at both mines are subject to protection due to being listed in the national register of historic monuments. As mentioned in the above section (4.2), appropriate securing and an appropriate underground infrastructure management strategy is necessary in order to ensure that changes in stress and deformation are limited in time and that the excavations' stability is maintained.

It must also be stated at this point that the aided projects do not result from the necessity to meet any legal environmental standards, but from the fact that the facility is planned to be made available to the public. None of the eligible costs listed would have occurred if it had not been decided to preserve the historical facilities of the mines and to make them available to the public. The primary purpose of the planned works is therefore not environmental protection and bringing the land back to the original state (i.e. the aim is not to repair damages caused to environment), but to preserve the historical excavations and to protect the reconstructed excavations in order to make them available to the public. Moreover, the closure of the Main Key Hereditary Adit was processed and accomplished in accordance with geological and mining law many years ago.

As indicated in the paragraph 16 a) above, a series of works need to be performed to ensure the protection of this valuable heritage, and therefore given the scope of the planned safety works and their duration, significant funds must be provided in a relatively short period of time. It should be noted that conservation and maintenance works performed on historic excavations are very expensive, not only due to the historic nature of the structures but also to the necessity of underground excavation. Such works must be performed in accordance with mining and geological laws, which further increases their costs. High costs of maintaining historic underground structures are also due to high expenditure incurred on day-to-day maintenance of historic excavations, i.e. ensuring utilities, technical supervision and services, administrative services and security. As documented by the Polish authorities, the beneficiary is not capable of generating sufficient resources for financing the aided projects. The income of the beneficiary in 2012 amounts to EUR 631,961.88, compared to EUR 43.8 million of costs for the aided projects. In addition, the small income generated by the beneficiary is in its totality reinvested in its statutory activities.

It is therefore apparent that the Museum cannot bear the costs for the protection and security works notified under these aid measures. Consequently, without the support of the State, the Museum would go bankrupt, the protection and security works would be halted and the heritage sites would be irredeemably destroyed.
Moreover, given the monitoring mechanism put in place by the Polish authorities (see section 2.8 above), an agency will monitor the correctness of budget subsidy utilisation and will ensure that the scope of the works supported under the notified measures does not exceed what is necessary to achieve the goals set. This should allow the definition of a minimum, indispensable amount of funds which should be spent for a given task in order to complete it. This means that the amounts of the aid are precisely calculated and that this calculation is based upon detailed materials and finance schedules which take into consideration the objective and scope of the aided projects.

Moreover, the Polish authorities have ensured that if during the period 2014-2020 the Museum would generate any revenues that could be devoted to the aided projects, the control mechanism put in place as described in section 2.8 above would ensure that the Museum devotes all spare revenues to cover parts of the costs of the notified measures.

Therefore, in conclusion, the notified aid measures are both necessary and limited to the minimum required to carry out the protection and security works in the coal mines.

4.4. **The aid measures do not affect competition and trading conditions to an extent that is contrary to the common interest**

The Commission concludes that the aid measures do not adversely affect the trading conditions and competition in the Union to an extent contrary to the common interest for the following reasons:

- whilst effects of the measures on competition and intra-Union trade cannot be excluded, those effects are limited considering the fact that the aid under assessment is limited to what is necessary to finance the works needed to preserve the cultural heritage of the mines;

- although there is evidence of competition with comparable mine sites, this competition does not appear to be strong.

Therefore the Commission concludes that the notified aid can thus be considered compatible with the internal market in accordance with Article 107(3)(d) of the TFEU.

5. **Conclusion**

In view of the above, the Commission finds that the notified Aid to promote heritage conservation in the "Guido" and "Królowa Luiza" coal mines is compatible with the internal market in accordance with Article 107(3)(d) of the TFEU and has accordingly decided not to raise objections to the notified measure.
If this letter contains confidential information that should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt, stating the reasons. 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 Registry
B-1049 Brussels
Fax No: +32 2 296 12 42

We would ask you to state the case name and number in all correspondence.

Yours faithfully,

For the Commission

Joaquín Almunia
Vice-President