Subject: State Aid SA.51767 (2019/NN) – Poland
Modification of the aid to promote cultural heritage conservation in salt mine of Bochnia

Sir,

1. PROCEDURE AND HISTORY

(1) On 31 July 2018, the Polish authorities pre-notified to the Commission the prolongation until 31 December 2020 of approved aid measures ("the prior aid")\(^1\) with a new budget for the years 2018-2020.

(2) The prior aid (NN67/2010 and SA.36221 (2013/N)) concerned several measures for protection and security works in the former salt mine of Bochnia in Poland and was approved by the Commission by decision of 14 December 2010 and 8 July 2013 ("the prior decisions") and was due to continue until 31 December 2017 (latest Decision SA.36221).

(3) On 23 October 2018, the Commission requested the Polish authorities to provide additional information. The Polish authorities submitted the requested information on 20 December 2018.

(4) On 6 February 2019, the Commission asked Poland further clarifications.

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On 22 February 2019, the Polish authorities submitted the clarifications requested and formally notified the already pre-notified measure to the Commission.

On 11 March 2019, the Commission moved the case to the NN Register, since it appeared that part of the notified aid had already been granted (see recital (23) and (24)).

On 1 April 2019, the Commission asked the Polish authorities for some final factual clarifications. On 8 April 2019, Poland provided the clarifications requested to the Commission.

2. DETAILED DESCRIPTION OF THE MEASURE

Objective

The aid enables the conservation of the cultural heritage of the Bochnia salt mine. More specifically, the aid will be used to carry out extensive protection and security works to the monumental and non-monumental parts of the mine. According to the Polish authorities, the combination of these works is needed to protect the monumental parts of the mine. The mine is classified as a monument and included on the UNESCO World Heritage List.

As part of the justification for the prior aid, the Polish authorities presented a study by the University of Science and Technology in Cracow from 2010. This study provided evidence for the necessity of the restoration works and demonstrated that the monumental and non-monumental parts of the Bochnia mine cannot be treated separately. The Polish authorities confirmed that the conclusions from this study remain valid as not all of its required actions have been carried out yet and there were no significant changes of a geological nature, which would have required an amendment of the study.

A second prolongation of the measures funded by the Ministry of Energy combined with an annual increase of the budget of more than 50% compared to the aid approved in Commission Decision SA.36221 (2013/N) (see recital (19) below) is necessary according to the Polish authorities because of a lack of sufficient funds and the fact that planned works were postponed as available funds were allocated to the implementation of the following (unforeseen) projects:

(a) Closure of mine excavations

– Between 2014-2017 (the previous aid period), 5 282 m³ of excavations in the Western part of the salt mine were closed (originally only 3 922 m³ was planned). This led to an increase in the costs for backfilling. Moreover, more backfilling material was needed.

– Protection of the historic buildings in the surroundings of the mine, in particular the 18th century staircases of the mine, required a special type of mineral binder. This has been confirmed by a 2014 study from employees of the Cracow Saltworks Museum Wieliczka titled “Historical and conservation study of the
excavations in the Western part of the Bochnia Salt Mine” and has been applied throughout the project.

(b) Vertical transport – The different shaft hoists and ways to transport materials in the salt mine are subject to regular reviews and inspections that result from the provisions of the Mining Law of 9 June 2011 (“ustawy z dnia 9 czerwca 2011 r. · Prawo geologiczne i górnicze”). Costs of these inspections and subsequent repairs and maintenance increased because of:

– Unexpected replacement of highly corroded pipeline in the Campi shaft.

– Sealing of the casing in the Campi shaft between 135 and 100 meters deep to avoid water flowing in.

– Repair of the cable drum of the Campi shaft hoisting system. Wear and tear of the drums made it dangerous for people being transported by the hoist.

– Filling up voids and caverns by pumping aqueous cement behind the casing of the upper section of the Trinitatis shaft. These voids and caverns posed a danger for the mines surroundings and the casing of the shaft in itself.

– Repair of the electric part of the hoisting machine in the Campi shaft. Wear and tear made that the hoisting machine frequently broke down, which endangered safety of the people using the hoisting machine.

(c) Horizontal transport – extending the aid period means that also certain regular activities need to continue, which brings costs with it. This includes maintenance and repairs of transport roads and tracks, maintenance, inspections and repairs of underground rolling stock and transport of excavated material from the mining site.

(d) Technical facilities

– Due to a lack of storage on the surface, machines, equipment and other materials were stored in an open-air yard and exposed to severe weather conditions. This resulted in their gradual deterioration and impaired their value. In order to solve this problem a warehouse building had to be constructed.

– Lower than expected temperatures led to an extension of the heating season and, consequently, also to higher costs.

– Due to unforeseen deterioration of the technical condition of certain facilities, more staff was needed for reparation works.

(e) The cost increase led, in parallel, to higher costs for the development of projects, administration, expert reports and analyses. The additional documentation produced is listed below:
– „Projekt techniczny gromadzenia solanki w wyrobiskach dołowych zakładu górniczego Siedlec - Moszczenica” (resulting from provisions of the Mining law);

– An evaluation of the Wazyn chamber’s stability called „Ocena stateczności komory Ważyn w aspekcie jej zabezpieczenia i możliwości zwiększenia gabarytów poprzecznych komory" was needed to secure parts of the chamber for safety reasons.

– „Koncepcja przemysłowej instalacji ługującej" was needed since material excavated at the salt mine, which could not be used to backfill other excavations, had to be disposed.

– „Określenie własności fizyko - mechanicznych mieszaniny gruzu solnego, Solanki oraz spojwa Minobet w aspekcie możliwości jego wykorzystania do likwidacji szybu Moszczenica” resulted in the use of a new mineral binder called “Minobet”, used for the preparation of the solidifying mixture for the backfilling of the Moszczenica shaft.

– „Dokumentacja techniczna oraz karta zmian do dokumentacji górniczego wyciągu szybowego szybu Campi ... " contains technical documentation needed in connection with the change in the weight of the brake drive weights that increase the static reliability coefficient of the fixed and loose drum brake during the decoupling of the drums.

– „Analiza deformacji górotworu i powierzchni terenu w zachodniej części KS Bochnia z uwzględnieniem wyników pomiarów geodezyjnych i ujawnienia nowych objętości pustek poeksploatacyjnych w trakcie zabezpieczania rejonu, w aspekcie konieczności ich podsadzania dla ochrony powierzchni" resulted from the discovery of new empty spaces in the mine during the backfilling process.

– „Dokumentacja techniczna związana z remontem części elektrycznej maszyny wyciągowej szybu Campi" concerns technical documentation needed for the repair of the Campi shaft hoisting machine.

– A geological analysis of the Ernest and August chambers in the salt mine. Both chambers date back to the 18th century and have historical, geological and scenic value and an analysis was needed in order to make them accessible to the public.

(11) In addition, the necessary increase in the budget is needed due to special measures that were required in the Campi-Sutoris part and the Western part of the mine.

(12) The Campi-Sutoris part of the mine had to be decommissioned using a special method and type of cement. Due to the current role of this part of the mine (i.e. it became an important transport corridor for the works carried out in the Eastern part of the mine), a new technology was needed. Decommissioning of the Campi-Sutoris excavations will now be carried out through specially prepared backfilling
holes using a special backfilling material. This technology with specially prepared backfilling material will allow for a better, more precise, backfilling of inaccessible voids. This was not guaranteed by the previous method of decommissioning. This will not only ensure safety in the mine, but also for the nearby urban areas.

(13) Close to the Western part of the mine, subsidence measurements were carried out in 2015. It turned out that the subsidence of the soil between the Campi shaft and the Trinitatis shaft has slightly increased. The previous decommissioning plans (covered by the previous Decision) only covered a small part of the Western part of the mine. In recent years, more and more residential buildings were constructed in this area which made it necessary to expand and speed up the decommissioning works in this part of the mine. This means that an additional 8500 m³ needs to be decommissioned.

(14) Essentially, all projects listed above were needed to ensure an appropriate level of safety in the monumental and non-monumental parts of the mine and the mine’s surroundings such as the historical city centre of Bochnia.

(15) The part of the new aid granted by NFOSiGW is not linked to a delay in the execution of certain projects, but is earmarked for a project that involves conservation of the land surface in Bochnia by backfilling mine pits. In addition, the funds from NFOSiGW will be used to complete a disposal node for extracted materials at the Moszczenica shaft, this includes purchasing installations to crush and dissolve extracted materials, which are to be deposited in the excavation pits of the Siedlec-Moszczenica unit.2

**Beneficiary and eligible costs**

(16) The beneficiary of the measures is Kopalnia Soli "Bochnia" sp. Z o.o. (hereinafter "KS Bochnia"), a 100% State-owned company, located at ul. Campi 15, 32-700 Bochnia, Poland.

(17) Similar to the prior decision, the following costs are considered eligible costs (see also recital (10)):

– decommissioning of shafts;
– decommissioning of pits and wells;
– decommissioning of non-essential installations, buildings and dismantling machinery and equipment;
– reparation of damages caused by the mine;
– rehabilitation of the mining site;
– ensuring traffic safety within decommissioned mining facilities;

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2 In the Commission Decision NN67/2010 (ex N194/2010) from 14 December 2010 (paragraph 20) it was explained that the Siedlec-Moszczenica unit will be closed down and the empty corridors of the unit will be used as a depot for material and salty water produced during the protection works in the Bochnia unit of the mine.
– completing conservation works;
– preparation of projects, documentation, opinions and expert reports;
– improving the natural environment in the region and preventing further ecological degradation of the area and surroundings (this also covers general management costs);
– fund the cash equivalent of the right to 2.5 tonnes of free coal per annum in accordance with the rules laid down in the collective (legally binding) agreement for pensioners or other benefit claimants entitled to free coal. The right to free coal is an operational cost and therefore an integral part of the operational costs of KS Bochnia. This applies to both pensioners who have worked in the mine when it was still in use as a mine and afterwards in the decommissioning process that is still ongoing).

(18) The total aid intensity of the measures approved in the prior decisions was approximately 96% and 97% of the eligible costs. For the prolongation, the aid intensity is estimated to be 100% of the eligible costs.

**Duration and budget**

(19) The notification concerns a prolongation of the aid measures until 31 December 2020, with a new budget for the period 2018-2020 of PLN 76 813 453. This budget is provided by the Minister for Energy (PLN 50 565 000), National Fund for Environmental Protection and Water Management (PLN 16 430 400) and KS Bochnia will try to secure additional funding amounting to PLN 5 550 000 from other sources for conservation activities at the mine (e.g. within the framework of funds managed by institutions which support heritage activities). The remaining PLN 4 268 053 is a budget overspend related to the prior Decision (SA.36221 (2013/N)).

(20) The above is summarized in table 1.

**Table 1: Aid granted to KS Bochnia**

<table>
<thead>
<tr>
<th>Source</th>
<th>Total public aid (in PLN)</th>
<th>Total public aid (in EUR. PLN 1 is approx. EUR 0.23)³</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minister for Energy</td>
<td>50 565 000</td>
<td>11 772 991.85</td>
</tr>
<tr>
<td>National Fund for Environmental Protection and Water Management</td>
<td>16 430 400</td>
<td>3 825 471.48</td>
</tr>
</tbody>
</table>

³ Exchange rate: PLN 1 = EUR 0.23283. Taken from InforEuro which provides the European Commission’s official monthly accounting rates for the euro (April 2019), [http://ec.europa.eu/budget/graphs/inforeuro.html](http://ec.europa.eu/budget/graphs/inforeuro.html).
### Other sources for conservation activities

<table>
<thead>
<tr>
<th>Budget overspend</th>
<th>Total State resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 550 000</td>
<td>1 292 200.23</td>
</tr>
<tr>
<td>4 268 053</td>
<td>993 725.96</td>
</tr>
<tr>
<td><strong>76 813 453</strong></td>
<td><strong>17 884 389.52</strong></td>
</tr>
</tbody>
</table>

(21) The budget amounted to PLN 94.6 million (approx. EUR 21.84 million) for the years 2004-2009, to PLN 88 million (approx. EUR 20.32 million) for the years 2010-2013 and to PLN 66.03 million (approx. EUR 15.25 million) for the years 2014-2017. The average annual budget (i.e. approx. PLN 16.5 million) for the period 2014-2017 was about 10% lower than the average annual budget (i.e. approx. PLN 18.3 million) for the period 2004-2013. The average annual budget (i.e. approx. PLN 25.6 million) for the period 2018-2020 has increased with about 55% compared to 2014-2017.

(22) A standstill clause is directly enshrined in Article 14 of the Act on Subsidies for Certain Entities of 30 August 2013. The environmental protection act of 27 April 2001 (applicable to the part of the aid granted by the National Fund for Environmental Protection and Water Management) does not contain a standstill clause; however the Polish authorities have confirmed in their notification that this part of the aid will not be granted until the Commission has approved the aid.

(23) On 2 March 2018, part of the aid had already been disbursed by Grant Agreement No 17/II/D/10005/2580/18/DGA for carrying out activities in 2018 within the framework of the full decommissioning of the Siedlec-Moszczenica mine and the non-heritage part of the Bochnia mine, and the maintenance and conservation work on the heritage sections of the Bochnia mine which are the property of KS Bochnia. This part of the aid amounts to PLN 17 003 000 (EUR 3 958 789.29) and was slightly increased on 11 December 2018 to PLN 18 003 000 (EUR 4 191 618.16). In the end PLN 25 622.55 (EUR 5 965.67) has been refunded to the State.

(24) The amount indicated as ‘budget overspend’ in table 1 has also been paid before the Commission’s approval.

(25) The Polish authorities confirmed that the remainder of the aid would only be granted after the Commission's decision approving the notified prolongation of the aid measures, in line with the standstill clause described above.

### Legal basis


### Planning of the works
Regarding the monumental part of the mine (which is UNESCO world heritage), ongoing maintenance will always be required to make sure that excavations are safe and that the safety of visitors and employees is ensured. This means that costs similar to the ones described above will be incurred as along as the monumental part of the mine is open to the public.

The aid granted since 2004 however is aimed at preserving the monumental part of the mine. Therefore a broader range of measures are required which extend to the non-monumental parts of the mine. The foreseen end of the works in the non-monumental part of the mine is 2027.

3. ASSESSMENT OF THE MEASURE/ AID, INCLUDING:

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

The changes introduced to the notified measure do not alter the conclusion of the Commission in case NN67/2010 and SA.36221 (2013/N) that the measure constitutes State aid within the meaning of Article 107(1) of the TFEU (see points 32-41 of the decision of 14 December 2010 and point 14 of the decision of 8 July 2013).

3.2. Compatibility of the aid

In the prior decisions (see points 45-61 in case NN67/2010 and point 15-20 in case SA.36221), the Commission considered the aid measures compatible with the internal market under Article 107(3)(d) TFEU, taking into account:

- the fact that the aided works are technically necessary to preserve the monumental part (heritage) of the Bochnia mine,
- the fact that the aid measures are necessary and the amount is proportionate,
- the fact that the aid measures do not affect competition and trading conditions to an extent that is contrary to the common interest.

Besides the duration of the aid measure and the new budget, Poland will not alter any other conditions of the aid measures that were approved by the prior decision.

3.2.1. The prolongation and new budget is technically necessary to preserve the heritage of Bochnia

Similarly as in the prior aid period, (see paragraphs 53 and 54 of the first Decision) the beneficiary of the aid is still not able to generate sufficient resources to finance the substantial costs of the required heritage conservation works. As a result, without the aid, the beneficiary would go bankrupt in which case the protection works would cease and the heritage risks to be damaged severely.

Moreover, stopping in particular the technical works could result in uncontrolled natural and mining risks and could even lead to a mining disaster with a wider reach than only the mine. Gradual erosion of the heritage chambers could increase the risk for the town of Bochnia and its residents.
Together with the elements put forward by the Polish authorities (see paragraph (9) to (11) above) the Commission is satisfied that the prolongation of the notified aid measures is necessary.

3.2.2. *The prolongation and new budget is necessary, has an incentive effect, and the new amounts are proportionate and limited to the minimum required for financing the preservation of the heritage*.

The beneficiary is required to reinvest any revenues from other (financially separated) activities in the restoration works; however, these revenues are not sufficient to cover all the costs. Considering that the Bochnia salt mine depends on funding from the State and uses all the State funding it receives (and even needs more, see the reference to budget overspend in Table 1), there is no overcompensation and therefore the aid is limited to the minimum necessary.

In the absence of the aid, the works would have never been carried out and the mine would not be accessible to the public as it is today. Consequently, the aid clearly produces an incentive effect.

Although the intensity of the aid is 100%, the Polish authorities have shown that this is the indeed necessary since the beneficiary does not generate profits, but uses the totality of the State funding for the works necessary to keep the mine and its surroundings accessible to the public and safe.

In light of the additional works and measures needed (see Section 2), the Commission is satisfied that the increase in the overall budget is proportionate in relation to the objective pursued (preservation of natural and cultural heritage).

Consequently, the Commission considers that the aid measures are necessary and their amounts are proportionate.

3.2.3. *The prolongation and new budget does not affect competition and trading conditions to an extent that is contrary to the common interest*.

The Commission concludes that the prolongation of 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:

– the aid under assessment is limited to the minimum required for financing the preservation of the heritage and the amount is proportionate;

– there is no evidence of strong competition with comparable mine sites and few foreign tourists would travel to the Bochnia mine by itself (as the main reason for their visit is normally the nearby city of Cracow).

Therefore, the Commission sees no reason to depart from its previous favourable compatibility assessment. The notified aid can thus be considered compatible with the internal market in accordance with Article 107(3)(d) of the TFEU.
4. **CONCLUSION**

The Commission regrets that Poland put part of the aid in question already into effect, in breach of Article 108(3) of the Treaty on the Functioning of the European Union.

However, it has decided, based on the foregoing assessment,

- not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(d) of the Treaty on the Functioning of the European Union.

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Your request should be sent electronically to the following address:

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State Aid Greffe
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Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission