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**Subject: State Aid SA.55038 (2019/N) – Slovakia –  
Aid to cover the exceptional costs of Hornonitrianske bane Prievidza  
(HBP) related to the closure of its mining operations**

Excellency,

## **1. PROCEDURE**

- (1) By electronic notification of 25 July 2019, registered by the Commission on the same day (SANI2 1342339), 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 for the closure of the Handlová and Nováky mining units of Hornonitrianske Bane Prievidza, a. s. On 11 October 2019 Slovakia submitted additional information.

## **2. DETAILED DESCRIPTION OF THE MEASURE**

- (2) In its decision SA.52687(2018/N)<sup>1</sup> the Commission approved a compensation mechanism granted by Slovakia to the electricity company Slovenské Elektrárne a.s. (SE) for the provision of a temporary service of general economic interest (SGEI) to ensure security of supply in the geographical area around the Bystričany electricity system node until 2023. SE is using its Nováky thermal power plant to provide the SGEI. The Nováky power plant is fuelled by lignite mined and supplied by the mining company Hornonitrianske Bane Prievidza, a. s.

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<sup>1</sup> Commission Decision C (2019) 3361 of 10.5.2019, case SA.52687 (2018/N) – Slovakia – Electricity production from indigenous coal in Slovakia

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("HBP") who has its Handlová and Nováky mining units near the Nováky thermal power plant.

- (3) Slovakia explains that in the context of the above SGEI measure, the government adopted Government Resolution No 580 of 12 December 2018 ("the Resolution") on the draft transformation plan of the Upper Nitra Region. Point B.3 of the Resolution sets out a timescale for the orderly closure and shutdown of HBP's Handlová and Nováky extraction fields, together with the technical mining-out of the remaining coal reserves followed by closure, clean-up and rehabilitation.
- (4) Slovakia argues that ending coal mining in the Nováky I and Handlová extraction areas calls for the closure of the mine by carrying out underground safety measures and decommissioning the former mine workings and pithead structures. The end of mining will also result in redundancies. To this end, Slovakia adds that the termination of coal mining, respectively production from coal mining fields of mine Handlová and mine Nováky is planned for the period of:
  - Mine Handlová's East shaft: 31 December 2018;
  - 12th mining field of Mine Handlová: 31 March 2021;
  - 7th mining field of the Nováky Mine: 31 August 2020;
  - 11th mining field of the Nováky Mine: 30 June 2022;
  - 1st Horizon of Nováky Mine: 31 December 2023;
  - 6th Mining Field Sout Mine Nováky: 31 December 2023.
- (5) In addition to the termination of coal mining, the time frames for the progressive closure works of the mine fields of mine Handlová and mine Nováky including the permanent closure of each mining field, are the following periods:
  - East shaft Handlová mine: closure over period 07/2019 to 06/2021;
  - Extraction field 12 Handlová mine: closure over period 01/2021 to 06/2022;
  - Extraction field 7 Nováky mine: closure over period 01/2020 to 12/2022;
  - Extraction field 11 Nováky mine: closure over period 01/2022 to 02/2024;
  - Handlová mine central plant: closure over period 01/2022 to 12/2024;
  - 1st horizon Nováky mine: closure over period 01/2024 to 04/2024;
  - Extraction field 6 South Nováky mine: closure over period 01/2024 to 12/2024;
  - Nováky mine central plant: closure over period 01/2025 to 12/2027.

The downward trend of production (in tonnes) as well as the time frames of envisaged closure operations in the concerned parts of the mining units are outlined in the following table:

**Table 1: Downward trend of production and time frames of closure**

Mining field		2019	2020	2021	2022	2023	2024	2025	2026	2027	TOTAL
East shaft Handlová	coal mining tonnes	0	0	0	0	0	0	0	0	0	0
	Closing										
12.th mining field Handlová	coal mining tonnes	260 000	230 000	75 440							565 440
	Closing										
Central mine Handlová	coal mining tonnes	0	0	0	0	0	0	0	0	0	0
	Closing										
7.th mining field Nováky	coal mining tonnes	355 378	279 800	0	0	0	0	0	0	0	635 178
	Closing										
11.th mining field Nováky	coal mining tonnes	508 266	307 600	302 060	182 000	0	0	0	0	0	1 299 926
	Closing										
1.st level Nováky	coal mining tonnes	0	13 000	220 600	381 000	470 000	0	0	0	0	1 084 600
	Closing										
6.th mining field south, Nováky	coal mining tonnes	66 353	74 600	291 900	257 000	370 000	0	0	0	0	1 099 853
	Closing										
Central mine Nováky I.	coal mining tonnes	0	0	0	0	0	0	0	0	0	0
	Closing										
Central mine Nováky II.	coal mining tonnes	0	0	0	0	0	0	0	0	0	0
	Closing										
<b>TOTAL</b>	coal mining tonnes	<b>1 189 999</b>	<b>905 000</b>	<b>890 000</b>	<b>860 000</b>	<b>840 000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4 684 999</b>

**Source:** Slovak authorities

- (6) Slovakia submits that, further to its obligations under the Mining Act, HBP is setting aside reserves for the recultivation of land affected by mining, for compensation for damage, for decommissioning the main mine workings and cleaning up buildings in areas affected by mining. These funds will be used to cover part of the costs of closing and decommissioning the Handlová and Nováky extraction fields.
- (7) Nevertheless, the HBP's reserves at the range of EUR 17 million will not be sufficient to cover all the costs of closing and decommissioning the Handlová and Nováky extraction fields, nor will they be able to eliminate all the environmental effects that have accumulated since mining first began in 1909.
- (8) Consequently, in addition to the said own reserves of HBP totaling EUR 17 million, Slovakia intends to grant an aid totaling approximately EUR 92.5 million to cover exceptional costs arising from the closure of the said mining units and which are not related to current production, in accordance with Article 4 of Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines<sup>2</sup> ("the Council Decision").
- (9) Slovakia explained that, according to the closure plan aid will be granted the following way (see more detailed table closure steps in the Annex to this decision):

<sup>2</sup> OJ L 336, 21.12.2010, p. 24–29

**Table 2: Payment tranches and cost categories in both Handlová and Nováky**

<b>Cost Category under the Annex to Council Decision 2010/787/EU</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>TOTAL</b>
(b) Other exceptional expenditure on workers who have lost or who lose their jobs (in EUR)	2,563,392	2,874,352	3,074,448	3,074,448	4,099,264	4,637,360	4,099,264	3,788,304	0	<b>28,210,832</b>
(g) Additional underground safety work resulting from the closure of coal production units (in EUR)	869,189	1,443,868	4,524,114	4,517,921	1,353,255	1,359,310	3,423,571	1,047,855	0	<b>18,539,083</b>
i) all properly reasoned costs in connection to former coal mining localities reclamation	8,165	2,445,176	5,013,866	5,031,106	6,562,778	7,646,811	1,000,000	1,000,000	2,882,963	<b>31,590,865</b>
(m) Costs of surface recultivation (in EUR)	0	2,000,000	2,000,000	4,450,773	180,665	4,000,000	0	800,000	800,000	<b>14,231,438</b>
HBP's own source of financing	797,030	1,324,000	4,1418,531	4,142,851	1,240,910	1,246,463	3,139,352	960,863	0	<b>17,000,000</b>
<b>TOTAL</b>	<b>3,440,746</b>	<b>8,763,396</b>	<b>14,612,428</b>	<b>17,074,248</b>	<b>12,195,962</b>	<b>17,643,481</b>	<b>8,522,835</b>	<b>6,636,159</b>	<b>3,682,963</b>	<b>92,572,218</b>

**Source:** Slovak authorities

- (10) The Slovak authorities confirm that the costs of current extraction are not included and the notified aid measure covers exclusively eligible costs within the meaning of Article 4.

- (11) Slovakia also confirm that HBP will not create a separate legal entity to bear the costs resulting from the closure of the Handlová and Nováky coal production units, however Slovakia intends to introduce separation of the accounts in accordance with Article 6 of the Council Decision and Article 3a of Commission Directive 80/723/ EEC<sup>3</sup> between the activities related to mine closure and the ongoing mining activities carried out by HBP. This means that HBP will create separate accounts for each coal production unit, keeping separate accounts of the aid received and the closure costs of the coal production units. Other economic activities, including the normal production operation of coal production units until the end of mining, will be accounted for as before.
- (12) The Slovak authorities put forward that the owners of the land properties of the Handlová and Nováky coal production units are and will remain the original owners, i.e. natural and legal persons. Upon termination of the mining activity, the lands in question will be restored in accordance with the applicable national legislation. Increase in land value of HBP will be deducted from the eligible costs in the cost categories referred to in point 1 (a). (g), (h), (i) and (m) of the Annex to the Council Decision.
- (13) Finally, Slovakia confirms that the costs covered by the aid will not be the result of non-compliance with environmental rules. HBP affirms compliance with generally binding environmental legislation, such as Directive 2006/21/EC on the management of waste from extractive industries; Directive 2004/35/EC on environmental liability in preventing and remedying environmental damage; Directive 2000/60/EC establishing a framework for Community action in the field of water policy; Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; Directive 2009/31/EC on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, EP and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC , 2008/1/EC and Regulation (EC) No. 1013/2006.
- (14) The Slovak authorities confirmed that the aid notified will not be cumulated with other aid covering the same eligible costs.

### **3. ASSESSMENT OF THE MEASURE**

#### **3.1. State aid in the sense of Article 107(1) TFEU**

- (15) In order for a measure to constitute State aid within the meaning of Article 107(1) TFEU it has to fulfil four conditions. Firstly the aid is granted by Member State or through State resources. Secondly, the measure must confer a selective advantage to certain undertakings or the production of certain goods. Thirdly, the measure must be liable to affect trade between Member States. Fourthly, the measure must distort or threaten to distort competition in the internal market.

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<sup>3</sup> Commission Directive of 25 June 1980 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (80/723/EEC)

- (16) The Commission concluded in its decision of 19 November 2014 in case SA.39096 (2014/N)<sup>4</sup> related to the closure of another mining unit (Cigel') of the beneficiary HBP that the measure involved State aid within the meaning of Article 107(1) TFEU. Similarly to that decision, the Commission finds in this case that the notified aid measure favours a specific economic undertaking, Hornonitrianske Bane Prievidza, 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 economic and 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 mining unit that is planned to produce coal until 2023 may therefore affect trade between Member States

For the reasons set out above, the Commission concludes that the notified measure in favour of Hornonitrianske Bane Prievidza , a. s. constitutes State aid within the meaning of Article 107(1) TFEU.

### **3.2. Lawfulness of the aid**

- (17) By notifying the aid measure before its implementation, the Slovak authorities have respected the standstill obligation under Article 108(3) of the TFEU.

### **3.3. Compatibility of the aid**

- (18) The Commission has assessed the compatibility of the notified scheme on the basis of the Council Decision.
- (19) The notified aid falls within the scope of the Council Decision, as Hornonitrianske Bane Prievidza , a. s. carries out coal production activities in line with Article 2 (2) of the Council Decision. The coal extracted by HBP is used, in fact 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, and this use takes place in the Union.
- (20) The Slovak authorities presented in Table 1 above the termination schedule of coal extraction in the concerned mining units. The closure costs in line with Article 2(2) to be supported by Slovakia are exclusively meant to enable HBP to cover the costs arising from the closure of its coal mining units Handlová and Nováky in line with Article 4 of the Council Decision, and in particular paragraph 1, letter (a) thereof. These costs are not related to current production. 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.
- (21) As mentioned above in recital (14) the aid is not combined with any 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 of the Council Decision). In

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<sup>4</sup> Commission Decision C (2014) 8887 of 19.11.2014, case SA.39096 (2014/N) – Slovakia – Aid to cover exceptional costs of mining field Cigel', property of Hornonitrianske Bane Prievidza, a. s., *JOCE C/219/2015, p.3*

addition, Slovakia confirmed [recital (11)] that the aid will not be used to cover production costs of Hornonitrianske Bane Prievidza, a. s., thereby respecting the rules on the separation of accounts as set out in Article 6 of the Council Decision. 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.

(22) The Slovak authorities confirm that in line with Article 4(2) of the Council Decision, 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.

(23) As seen in Table 2 of recital (9) above and in the Annex to this decision, the categories of costs to be covered fall within the eligible categories defined in the Annex to the Council Decision, to which Article 4 refers:

- other exceptional expenditure of workers who have lost or who lose their jobs (point 1b of the Annex to the Council Decision);
- additional underground safety work resulting from the closure of coal production units (point 1g of the Annex to the Council Decision);
- all properly reasoned costs in connection to former coal mining localities reclamation (point 1i of the Annex to the Council Decision);
- costs of surface recultivation (point 1m of the Annex to the Council Decision).

(24) As explained in recital (12) above the land properties of the Handlová and Nováky coal production units are and will remain the original owners, i.e. natural and legal persons. Upon termination of the mining activity, the lands in question will be returned to their original state in accordance with the applicable national legislation. The Commission notes that Slovakia confirmed that any increase in

land value of HBP will be deducted from the eligible costs in the cost categories referred to in point 1 (g), (i) and (m) of the Annex to the Council Decision.

- (25) It follows from the above that the notified aid remains compliant with the relevant conditions laid down in the Council Decision.

#### **4. CONCLUSION**

- (26) 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.

- (27) 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;
- all the aid, which they intend to grant to the coal industry under the Council Decision during a coal year.

- (28) 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.

Yours faithfully  
For the Commission

Margrethe VESTAGER  
Member of the Commission



## Annex - Definition of costs in accordance with Article 4 paragraph 2 of the Council Decision according to the categories listed in the Annex to the Council Decision

Mining field	Definition in costs in accordance with Art. 4 of the Council Decision	2019	2020	2021	2022	2023	2024	2025	2026	2027	TOTAL
East shaft Handlová	g) other underground safety works outcoming from coal mines production units closure	869 189	1 443 868	283 907							2 596 964
	i) all properly reasoned costs in connection to former coal mining localities reclamation	8 165	359 643	1 728 333							2 096 141
	m) costs for surface recultivation										0
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces	100 000	10 000	219 899							329 899
	<b>TOTAL</b>	<b>977 354</b>	<b>1 813 511</b>	<b>2 232 139</b>							
7.th Mining field Nováky	g) other underground safety works outcoming from coal mines production units closure			976 708	963 357						1 940 065
	i) all properly reasoned costs in connection to former coal mining localities reclamation				474 760						474 760
	m) costs for surface recultivation		2 000 000	2 000 000	4 450 773						8 450 773
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces	500 000	500 000	500 000	479 401						1 979 401
	<b>TOTAL</b>	<b>500 000</b>	<b>2 500 000</b>	<b>3 476 708</b>	<b>6 368 291</b>						
12.th mining field Handlová	g) other underground safety works outcoming from coal mines production units closure			3 263 499							3 263 499
	i) all properly reasoned costs in connection to former coal mining localities reclamation				470 813						470 813
	m) costs for surface recultivation										0
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces	1 000 000	1 000 000	500 000	1 623 751						4 123 751
	<b>TOTAL</b>	<b>1 000 000</b>	<b>1 000 000</b>	<b>3 763 499</b>	<b>2 094 564</b>						
11.th mining field Nováky	g) other underground safety works outcoming from coal mines production units closure				1 119 256	1 353 255	457 125				2 929 636
	i) all properly reasoned costs in connection to former coal mining localities reclamation					1 562 778					1 562 778
	m) costs for surface recultivation					180 665					180 665
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces	500 000	1 000 000	1 000 000	971 296	652 455					4 123 751
	<b>TOTAL</b>	<b>500 000</b>	<b>1 000 000</b>	<b>1 000 000</b>	<b>2 090 552</b>	<b>3 749 153</b>	<b>457 125</b>				
Central mining plant Handlová	g) other underground safety works outcoming from coal mines production units closure				2 435 308						2 435 308
	i) all properly reasoned costs in connection to former coal mining localities reclamation				2 000 000	5 000 000	7 599 048				14 599 048
	m) costs for surface recultivation						4 000 000				4 000 000
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces	463 392	364 352	854 549		1 000 000	1 441 459				4 123 752
	<b>TOTAL</b>	<b>463 392</b>	<b>364 352</b>	<b>854 549</b>	<b>4 435 308</b>	<b>6 000 000</b>	<b>13 040 507</b>				
1.st underground level Nováky	g) other underground safety works outcoming from coal mines production units closure						367 437				367 437
	i) all properly reasoned costs in connection to former coal mining localities reclamation						47 763				47 763
	m) costs for surface recultivation										0
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces					1 000 000	979 401				1 979 401
	<b>TOTAL</b>					<b>1 000 000</b>	<b>1 394 601</b>				

Mining field	Definition in costs in accordance with Art. 4 of the Council Decision	2019	2020	2021	2022	2023	2024	2025	2026	2027	TOTAL
6.th mining field South Nováky	g) other underground safety works outcoming from coal mines production units closure						534 748				534 748
	i) all properly reasoned costs in connection to former coal mining										0
	localities reclamation										0
	m) costs for surface recultivation										0
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces					1 000 000	1 000 000	2 123 751			4 123 751
	<b>TOTAL</b>					<b>1 000 000</b>	<b>1 534 748</b>	<b>2 123 751</b>			<b>4 658 499</b>
Central mining plant Nováky	g) other underground safety works outcoming from coal mines production units closure							3 423 571	1 047 855		4 471 426
	i) all properly reasoned costs in connection to former coal mining		2 085 533	3 285 533	2 085 533			1 000 000	1 000 000	2 882 963	12 339 562
	localities reclamation								800 000	800 000	1 600 000
	m) costs for surface recultivation										1 600 000
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces					446 809	1 216 501	1 975 513	3 788 304		7 427 127
<b>TOTAL</b>		<b>2 085 533</b>	<b>3 285 533</b>	<b>2 085 533</b>	<b>446 809</b>	<b>1 216 501</b>	<b>6 399 084</b>	<b>6 636 159</b>	<b>3 682 963</b>		<b>25 838 115</b>
TOTAL Handlová + Nováky	g) other underground safety works outcoming from coal mines production units closure	869 189	1 443 868	4 524 114	4 517 921	1 353 255	1 359 310	3 423 571	1 047 855	0	18 539 083
	i) all properly reasoned costs in connection to former coal mining	8 165	2 445 176	5 013 866	5 031 106	6 562 778	7 646 811	1 000 000	1 000 000	2 882 963	31 590 865
	localities reclamation										
	m) costs for surface recultivation	0	2 000 000	2 000 000	4 450 773	180 665	4 000 000	0	800 000	800 000	14 231 438
	b) other extraordinary costs for workers who loss their jobs, or loses their workplaces	2 563 392	2 874 352	3 074 448	3 074 448	4 099 264	4 637 360	4 099 264	3 788 304	0	28 210 832
<b>TOTAL</b>	<b>3 440 746</b>	<b>8 763 396</b>	<b>14 612 428</b>	<b>17 074 248</b>	<b>12 195 962</b>	<b>17 643 481</b>	<b>8 522 835</b>	<b>6 636 159</b>	<b>3 682 963</b>		<b>92 572 218</b>