

Commission Decision (EU) 2015/1826 of 15 October 2014 on  
the State aid SA.33797 — (2013/C) (ex 2013/NN) (ex 2011/CP)  
implemented by Slovakia for NCHZ (notified under document C(2014)  
7359) (Only the Slovak text is authentic) (Text with EEA relevance)

- Article 1 The state aid of EUR 4 783 424,1 provided to...
- Article 2 The decision to allow continued operation of NCHZ after the...
- Article 3 (1) Slovakia shall recover the incompatible aid referred to in...
- Article 4 (1) Recovery of the aid referred to in Article 1...
- Article 5 (1) Within two months following notification of this Decision,  
Slovakia...
- Article 6 This Decision is addressed to the Slovak Republic.  
Signature

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*Changes to legislation:* This version of this Decision was derived from EUR-Lex on IP completion day (31 December 2020 11:00 p.m.). It has not been amended by the UK since then. Find out more about legislation originating from the EU as published on legislation.gov.uk. (See end of Document for details)

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- (1) Commission Decision C(2013) 3555 final of 2 July 2013 ([OJ C 297](#), 12.10.2013, p. 85).
- (2) The complainant asked for its identity not to be disclosed.
- (3) See footnote 1.
- (4) The owner of the company was Disor Holdings Limited, a company with no declared business activity registered in Cyprus whose ultimate owners are not publicly known.
- (5) The fine was imposed by Commission Decision of 22 July 2009 in Case COMP/39.396 — Calcium carbide and magnesium based reagents for the steel and gas industries ([OJ C 301](#), 11.12.2009, p. 18).
- (6) According to the applicable rules, members of the creditors' committee are non-secured creditors elected at the meeting of all creditors where the votes of each creditor correspond to the amount of its claims.
- (7) Confidential information.
- (8) Zákon č. 7/2005 Z.z. z 9. decembra 2004 o konkurze a reštrukturalizácii a o zmene a doplnení niektorých zákonov [Act No 7/2005 of 9 December 2004 on Bankruptcy and Restructuring and Amending Certain Acts].
- (9) Explanatory memorandum to Government Decision No 534/2009 of 2 December 2009 proclaiming NCHZ a strategic company.
- (10) The private members of the creditors' committee were INVEST — KREDIT, s.r.o. (owned by DISOR HOLDINGS LIMITED, the sole shareholder of NCHZ); Novácká Energetika, a.s. (originally a subsidiary of NCHZ, the majority shareholder since January 2011 being STUPEFY HOLDINGS LIMITED); M-ENERGO, s.r.o. (majority shareholder STUPEFY HOLDINGS LIMITED) and DAK KIABA, s.r.o.
- (11) Obchodný vestník [Commercial Gazette] No 37B, 23 February 2011.
- (12) The Social Insurance Company was not a secured creditor because the liabilities towards it were incurred only after the beginning of the bankruptcy proceedings.
- (13) Judgment of 5 June 2012, *Commission v EDF*, C-124/10, ECLI:EU:C:2012:318, paragraphs 83-85 and 105; judgment of 16 May 2002, *France v Commission*, C-482/99, ECLI:EU:C:2002:294, paragraphs 71 and 72; judgment of 30 April 1998, *City Flyer Express Ltd v Commission*, T-16/96, ECLI:EU:T:1998:78, paragraph 76.
- (14) In this respect, see in particular Case T-152/99, *Hijos de Andrés Molina, SA (HAMSA) v Commission*, ECLI:EU:T:2002:188, paragraph 157.
- (15) This amount corresponds to the outstanding debts due to public creditors on 31 December 2009. The Slovak authorities claim that there is no precise information on the amounts on the exact date when NCHZ was declared to be a strategic company. Therefore, the figure is the most precise available estimate (and a rather conservative one) of the amount of outstanding liabilities at the beginning of the application of the Act.
- (16) This amount corresponds to the outstanding debts due to public creditors on 31 December 2010. The Slovak authorities claim that there is no precise information of the amounts on the exact date when NCHZ ceased to be a strategic company under the Act. Therefore, the figure is the most precise available estimate (and a rather conservative one) of the amount of outstanding liabilities at the end of the application of the Act.
- (17) Case C-364/90, *Italy v Commission*, ECLI:EU:C:1993:157, paragraph 20.
- (18) [OJ C 244](#), 1.10.2004, p. 2.
- (19) See Case C-70/72, *Commission v Germany*, ECLI:EU:C:1973:87, paragraph 13.
- (20) See Joined Cases C-278/92, C-279/92 and C-280/92, *Spain v Commission* ECLI:EU:C:1994:325, paragraph 75.
- (21) See Case C-75/97, *Belgium v Commission*, ECLI:EU:C:1999:311, paragraphs 64 and 65.
- (22) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ([OJ L 83](#), 27.3.1999, p. 1).
- (23) Judgment of the General Court of 28 March 2012, *Ryanair Ltd v European Commission*, Case T-123/09, paragraph 155.

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- (24) Judgment of the Court of 8 May 2003, *Italian Republic and SIM 2 Multimedia SpA v Commission of the European Communities*, Joined Cases C-328/99 and C-399/00.
- (25) Commission Decision of 17 September 2008, State aid N 321/08, N 322/08 and N 323/08—Greece — Vente de certains actifs d'Olympic Airlines/Olympic Airways Services; Commission decision of 12 November 2008 State aid N 510/2008 — Italy — Sale of assets of Alitalia; Commission decision of 4 April 2012 SA.34547 — France — Reprise des actifs du groupe SERNAM dans le cadre de son redressement judiciaire.
- (26) Judgment of the General Court of 28 March 2012 in Case T-123/09, *Ryanair Ltd v Commission*.
- (27) See in particular recitals 25 – 29 of the merger approval decision (Decision No 2012/FH/3/1/032) available at <http://www.antimon.gov.sk/2012fh31032/>.
- (28) See the presentation of the bankruptcy administrator of 26 October 2009 'Novácké chemické závody, a.s. — Prezentácia správcu', slides 4 and 5.
- (29) See [www.fortischem.sk](http://www.fortischem.sk).
- (30) See slide 5 of the presentation of the bankruptcy administrator of 26 October 2009 'Novácké chemické závody, a.s. — Prezentácia správcu'.
- (31) See 2013 Annual Report of Energochemica Group, of which Fortischem is the largest member, [http://www.energochemica.eu/data/files/Vyrocka\\_ECH\\_2013.pdf](http://www.energochemica.eu/data/files/Vyrocka_ECH_2013.pdf).
- (32) See, for example, the economic analysis produced by the administrator in December 2010, page 3 (see recital 106).
- (33) See, for example, the article 'Novácku chemičku bude prevádzkovať spoločnosť Fortischem' [NCHZ to be operated by Fortischem] of 2 August 2012, published on Webnoviny: <http://www.webnoviny.sk/ekonomika/novacku-chemicku-bude-prevadzkovat-s/526742-clanok.html>
- (34) See footnote 31.

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