COMMISSION

COMMISSION DECISION

of 30 March 2004

on the aid scheme for certain coalmining undertakings in the Autonomous Community of Castile-Leon implemented by Spain for 2001 and 2002

(notified under document number C(2004) 927)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(2005/140/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having called on interested parties to submit their comments pursuant to the provision(s) cited above [1] and having regard to their comments,

Whereas:

1. **Procedure**

(1) By letter of 19 June 2000, registered by the Commission as notification No N/776/2000, Spain notified the Commission of aid measures planned for mining in the Autonomous Community of Castile-Leon. The measures planned in favour of the mining industry included certain aid schemes for the coal industry provided for in Commission Decision No 3632/93/ECSC of 28 December 1993 establishing Community rules for State aid to the coal industry [2].

(2) In its notification of 19 June 2000, Spain informed the Commission that the notified aid which the Autonomous Community of Castile-Leon intended to grant would be coordinated with the aid granted by the Spanish Government.

(3) By letter of 25 September 2000, Spain notified the Commission that, since three months had elapsed without the Commission making its position on these measures known, the competent authorities intended to implement them if, within 15 working days of the letter, no decision was taken pursuant to Article 9(4) of Decision No 3632/93/ECSC.

(4) By letter of 17 July 2002, the Commission asked Spain for information about the aid granted to the coal industry by the Government of Castile-Leon in 2000, 2001 and 2002, indicating the recipients, amounts and purpose of the aid and its classification within the categories laid down in Decision No 3632/93/ECSC. Spain was also asked to indicate how the aid fitted in with the general objectives and criteria laid down in Article 2, and with the plans notified to the Commission by Spain in accordance with Article 8, of Decision No 3632/93/ECSC.

[1] OJ C 105, 1.5.2003, p. 2.
[2] OJ L 329, 30.12.1993, p. 12.

(5) By letter of 5 September 2002, Spain notified the Commission of the aid granted to coal undertakings in the Autonomous Community of Castile-Leon in 2000, 2001 and 2002. Spain submitted its notification in accordance with the procedural rules set out in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [1]. In its notification, Spain referred to Decision No 3632/93/ECSC, although both that Decision and the ECSC Treaty had expired on 23 July 2002.

(6) By letter of 19 February 2003, the Commission informed Spain that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid measures for research and development, environmental protection, training and safety. It had also decided to initiate the procedure in respect of aid measures to cover exceptional costs, but such measures are not covered by this Decision.

(7) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* [2]. The Commission invited interested parties to submit their comments on the aid/measure in question.

(8) The Commission received no comments from interested parties. Spain sent additional information on 21 March 2003, 9 April 2003 and 12 December 2003.

2. **Detailed description of the aid**

2.1. *Types of aid*

(9) The types of aid are as follows:

(a) aid for research and development (R & D), as provided for by Article 6 of Decision No 3632/93/ECSC;

(b) aid for environmental protection, as provided for by Article 7 of Decision No 3632/93/ECSC;

(c) aid for mining training;

(d) aid for mining safety.

2.2. *Legal basis*

(10) The Orders of the Regional Ministry of Industry, Trade and Tourism governing the granting of aid for mining of 20 October 2000 (aid for 2000), 19 December 2000 (aid for 2001) and 19 December 2001 (aid for 2002) constitute the legal basis for the aid.

2.3. *Recipients*

(11) The recipients of the aid were all coalmining undertakings (large firms and small and medium-sized enterprises) and associations of coalmining undertakings in the Autonomous Community of Castile-Leon covered by Decision No 3632/93/ECSC with the objective of promoting and developing the use of coal. The estimated number of recipient undertakings or entities is 50.

(12) Castile-Leon is an autonomous community eligible for assistance under Article 87(3)(a) and has been classified as one of the regions eligible for this aid in the period 2000 to 2006.

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[1] OJ L 83, 27.3.1999, p. 1. Regulation as last amended by the 2003 Act of Accession. See, in this regard, the Communication from the Commission concerning certain aspects of the treatment of competition cases resulting from the expiry of the ECSC Treaty (OJ C 152, 26.6.2002, p. 5).

[2] OJ C 105, 1.5.2003, p. 2.

2.4. *Budget*

(13) The following amounts were provided for in order to finance the notified aid:

— 2001: 9 015 181,56 EUR (1 500 000 000 ESP),

— 2002: 9 015 181,56 EUR (1 500 000 000 ESP),

Total: 18 030 363,12 EUR (3 000 000 000 ESP).

2.5. *Duration of the scheme*

(14) The scheme expired on 23 July 2002.

2.6. *Purpose of the aid*

(15) The aid was intended to cover the measures specified in recitals 15 to 18 and, with regard to aid for research and development (R & D), covered measures designed to:

— encourage undertakings which had never carried out research and technological development projects to do so, or encourage those which regularly carried out such projects to engage in more of them,

— improve health and safety conditions in mines,

— make optimum use of mining reserves and resources by improving the methods for producing and using coal,

— promote technological innovation directed towards improving the environmental impact of the mines,

— promote the introduction of technological improvements directed towards adding value to the product, allowing easier access to new markets or increasing productivity,

— upgrade the technology of equipment and projects intended for the exploitation, processing and use of minerals.

This aid scheme accorded priority to projects geared towards one of the following priorities:

— reduction of the risk of catastrophic accidents, explosions, fires, etc. and removal of the causes of serious or frequent accidents,

— technical feasibility studies ahead of industrial mining research activities.

(16) The following measures in the field of environmental protection:

— reduction of the damage which mining and metallurgy activities cause to the environment,

— restoration of the environment in areas affected by former mining activity,

— recovery of minerals or metals from mine-waste tips.

This aid scheme accorded priority to projects geared towards any of the following priorities:

— bringing the quality of mining undertakings' emissions into the atmosphere and into public watercourses into line with current mandatory standards on environmental protection, provided the undertakings' installations were in operation for at least two years prior to the entry into force of the aforementioned mandatory standards,

— improvement of the level of environmental protection so as to raise it substantially above the level laid down in the mandatory standards for mining undertakings,

— remedial measures for already damaged environments,

— technology studies and projects to help reduce the damage which mining and metallurgy activities cause to the environment.

(17) The aid for mining training was intended to cover training activity projects with the basic objective of providing workers in the industry with good technical qualifications so as to minimise the number of pit accidents.

(18) The aid for mining safety was intended to cover investment projects geared towards raising safety standards in mining installations above the minimum required by the legislation applicable.

2.7. *Form of aid*

(19) The aid took the form of a non-repayable grant.

2.8. *Eligible costs*

(20) Eligible costs were those specified in recitals 20 to 23 and, with regard to aid for research and development (R & D), comprised the following costs:

(a) expenditure on staff (research staff, technicians and other auxiliary staff involved exclusively in research activity). The proportion of such costs actually attributable to eligible research and development activity were eligible;

(b) cost of equipment, materials, land and premises permanently used exclusively for research activities (save in the case of commercial transfer). The costs of acquiring unused fixed assets located in the region of Castile-Leon were eligible. Such assets and equipment, and the auxiliary installations and equipment necessary to keep it in proper working order, had to be permanently used exclusively for research and development activities (save in the case of a transfer for a consideration);

(c) cost of outsourced consultancy and similar services used exclusively for research activity (including research, technical know-how, patents, etc.). All such costs were eligible, provided they were directly related to and necessary for research and development activity;

(d) additional general expenditure arising directly from research activity. All such costs were eligible, provided they were directly related to and necessary for research and development activity;

(e) other operating expenditure (for example, cost of equipment, supplies and similar products) arising directly from research activity. All such costs were eligible, provided they were directly related to and necessary for research and development activity.

(21) In the case of aid for environmental protection, the eligible costs were the additional costs of investment in land, buildings, installations and capital goods needed in order to meet environmental objectives.

(22) In the case of aid for mining training, the eligible costs were: trainer costs; trainees' travel expenses; expenditure on consumables and depreciation of tools and equipment, in proportion to their exclusive use for the training project concerned; other staff costs up to the total amount of the eligible costs mentioned above.

(23) In the case of aid for mining safety, the eligible costs were those related to:

(a) acquisition of equipment to improve safety at mining installations;

(b) expenditure geared towards improving safety at mining installations and for mineworkers;

(c) studies to improve safety at mining installations.

2.9. *Aid intensities*

(24) The intensity of the aid is specified in recitals 24 to 27 and, with regard to aid for research and development (R & D), the gross amount was as follows:

— for industrial research, up to 60 % of investment and expenditure approved as eligible. If the applicant was a small or medium-sized enterprise (SME), the aid could total up to 70 % of the eligible project costs,

— for technical feasibility studies ahead of industrial mining research, the maximum permissible limit would be 75 % of the eligible project costs.

(25) In the case of aid for environmental protection, the maximum aid intensity could, in terms of equivalent net subsidy, be up to the maximum percentages of investment made which are specified in the regional aid map authorised by the European Commission for the period 2000-2006, as set out in Annex II to the Order. In the case of SMEs, these rates could be increased by the following percentages:

— investment aid to help undertakings adapt to the new mandatory environmental standards: 15 % gross of eligible costs,

— investment aid to obtain a higher level of environmental protection than required by the mandatory standards: 20 % gross of eligible costs,

— investment aid to improve the level of environmental protection for undertakings in sectors with no mandatory standards: 20 % gross of eligible costs.

(26) In the case of aid for mining training, the maximum gross aid intensity was 80 % of eligible costs.

(27) In the case of aid for mining safety, the maximum gross aid intensity could be up to 100 % of eligible costs.

2.10. *Cumulation of aid*

(28) All the aid provided for in this scheme could be combined with any other public aid for different purposes, provided the maximum limits set in the proposed aid scheme were observed. Under no circumstances could the amount of aid granted under the scheme exceed, on its own or combined with incentives, grants or aid from other public administrations or other national or international public or private bodies, the cost of the investment, expenditure or activity carried out by the recipient.

(29) The cumulation of aid is detailed in recitals 29 to 32 and, in the case of aid for research and development (R & D), the aid could be combined with any other public aid for the same purpose. Where aid schemes were combined, the total public funding could not exceed 75 % of eligible costs.

(30) In the case of aid for environmental protection, the aid could be combined with any other public aid for the same purpose, provided the combined total did not exceed the limits laid down in paragraph 6.1(b) of the regulatory bases in the Order.

The maximum aid intensity could, in terms of equivalent net subsidy, be up to the maximum percentages of investment made which are specified in the regional aid map authorised by the European Commission for the period 2000-2006, i.e.:

— 35 % for Burgos and Valladolid,

— 37 % for Palencia and Segovia,

— 40 % for the other provinces,

— in the case of SMEs, these rates could be increased by up to 15 % gross.

In the case of SMEs, the rates indicated above could be increased by the following percentages:

— investment aid to help undertakings adapt to the new mandatory environmental standards: 15 % gross of eligible costs,

— investment aid to obtain a higher level of environmental protection than required by the mandatory standards: 20 % gross of eligible costs,

— investment aid to improve the level of environmental protection for undertakings in sectors with no mandatory standards: 20 % gross of eligible costs.

(31) In the case of aid for mining training, aid could be combined with any other public aid for the same purpose, provided the combined total did not exceed the limits laid down in paragraph 6.1(c) of the regulatory bases in the Spanish Ministerial Order, i.e. 100 % of eligible costs.

(32) In the case of aid for mining safety:

aid for projects in this field could be combined with any other public aid for the same purpose, provided the combined total did not exceed the limits laid down in paragraph 6.1(b) of the regulatory bases in the Order, i.e. 100 % of eligible costs.

3. **Comments from Spain**

(33) Spain submitted to the Commission additional information and arguments concerning the aid scheme, which consisted mainly of the following elements.

(34) The aid scheme for the years 2001 and 2002 was notified correctly and was complete. The Commission was provided with all the information necessary, so that, according to Spain, there was no need to initiate the procedure. The aid granted should have been considered as existing aid. Spain therefore requests the closure of the procedure and a positive decision. Spain considers that the fact that the Commission waited a long time, until 17 July 2002, before commenting on the notification runs counter to the principles of good administration and legal certainty.

(35) The Autonomous Community of Castile-Leon never intended to implement a scheme which was incompatible with the common market. The Autonomous Community acted in good faith and in a very transparent way. Owing to the fact that the Commission did not react to the notification, the Autonomous Community of Castile-Leon was justified in coming to the conclusion that the scheme was compatible with the common market and could be implemented.

(36) Spain considers that the measures do not confer any advantage on the coalmining undertakings, because they are intended to cover the exceptional costs of the restructuring process. The aid for research and development, environmental protection, mining training and mining safety are in accordance with the State aid schemes concerning these matters. Regarding the aid for research and development, Spain confirmed that the definition of industrial research is in accordance with the definition in Annex 1 of the Community framework for State aid for research and development.

(37) Regarding environmental aid, Spain provided the Commission with additional information about the different categories of aid, the national and regional standards that had to be complied with and the coalmines benefiting from such aid and the specification of the costs related to the rehabilitation of polluted industrial sites. Spain described in detail the measures covered by the aid. Spain confirmed the fact that the aid covering 15 % of eligible costs to meet new standards was strictly limited to environmental purposes. In the net calculation of the aid, account was taken of the benefits obtained as a result of the investment. In the calculation of the eligible costs, the greater potential value of the rehabilitated areas was taken into account.

(38) With regard to aid for training, Spain considered that the amounts granted were very low and would therefore not distort competition. With regard to the aid for mining safety, Spain stresses that safety at mines is not always sufficient and it is therefore necessary to grant aid in this respect. The costs related to this issue are exceptional and have to be covered.

(39) Spain corrected some amounts which had been granted to several coalmining undertakings. Some errors had been made in the figures submitted at previous stages.

4. **Assessment of the aid scheme**

(40) The Commission is restricting its assessment to the aid measures related to research and development, environmental protection, training and safety. Aid measures to cover exceptional costs, which were also covered by the decision of 19 February 2003 to initiate the present investigation procedure, will be the subject of a separate decision. Although it is the aid scheme which will be assessed in this Decision, the Commission will also refer to individual cases, as the aid has been put into effect by Spain.

4.1. *Application of Council Regulation (EC) No 1407/2002*

(41) Given that the ECSC Treaty and Decision No 3632/1993/ECSC both expired on 23 July 2003, the compatibility of the notified measures has to be assessed on the basis of Council Regulation (EC) No 1407/2002 of 23 July 2002 on State aid to the coal industry [1]. Article 14(2) of that Regulation does not apply.

[1] OJ L 205, 2.8.2002, p. 1. Regulation as last amended by the 2003 Act of Accession. See also point 47 of the Communication from the Commission concerning certain aspects of the treatment of competition cases resulting from the expiry of the ECSC Treaty.

(42) In any case, the change of legislative framework, from the ECSC Treaty to the EC Treaty, does not produce a conflict as regards the assessment of the aid granted by the Autonomous Community of Castile-Leon. The relevant provisions of Regulation (EC) No 1407/2002 and of Decision No 3632/1993/ECSC are almost identical, and assessment on the basis of the legislative framework of the ECSC Treaty would not have led to a different outcome.

4.2. *Application of Article 87(1)*

(43) In order to determine whether the scheme's measures constitute aid within the meaning of Article 87(1) of the Treaty, it must be established whether they favour certain undertakings, whether the aid is granted by a Member State through State resources, whether the measures in question distort or threaten to distort competition and whether they are liable to affect trade between Member States.

(44) The first condition from Article 87(1) relates to the possibility of measures favouring certain undertakings. It is necessary to determine, firstly, whether beneficiary undertakings derive economic benefit and, secondly, whether this benefit is granted to a specific type of undertaking. The aid provides clear economic benefits for its beneficiaries in that it constitutes a direct subsidy which covers current expenses which the undertakings would have to bear themselves. Moreover, the measures in question are aimed solely at coalmining undertakings in the Autonomous Community of Castile-Leon. They therefore favour certain undertakings over their competitors, i.e. they are selective.

(45) The second condition from Article 87 relates to the granting of aid by States or through State resources. In this particular case, the existence of State resources is demonstrated by the fact that the measure is effectively financed by the public budget of a regional authority.

(46) In accordance with the third and fourth conditions specified in Article 87(1) of the Treaty, the aid must not distort or threaten to distort competition or affect or be liable to affect trade between Member States. In the case in hand, the measures do threaten to distort competition as they reinforce the financial position and scope for action of the beneficiary undertakings compared with their non-beneficiary competitors. Although intra-Community trade in coal is very limited and these undertakings do not export, national production benefits from the fact that undertakings established in other Member States have less scope for exporting their products to the Spanish market. Moreover, these measures also distort competition and affect trade between Member States in that they are complementary to other measures approved by the Spanish Government.

(47) For these reasons, the measures in question fall within the scope of Article 87(1) of the Treaty and may be considered compatible with the common market only if they qualify for one of the derogations provided for in the Treaty.

(48) The derogations provided for in the Treaty are the object of frameworks for these three categories of aid, which are listed in Article 3 of Regulation (EC) No 1407/2002:

— Community framework for State aid for research and development. (Communication 96/C 45/06 of 17 February 1996 [1]), amended by Communication 98/C 48/02 of 15 February 1998 [2]) and Communication 2002/C 111/03 of 8 May 2002 [3])),

— Community guidelines on State aid for environmental protection (Communication 2001/C 37/03 of 3 February 2001 [4])),

— Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid [5]).

[1] OJ C 45, 17.2.1996, p. 5.
[2] OJ C 48, 13.2.1998, p. 2.
[3] OJ C 111, 8.5.2002, p. 3.
[4] OJ C 37, 3.2.2001, p. 3.
[5] OJ L 10, 13.1.2001, p. 20. Regulation as last amended by Regulation (EC) No 363/2004 (OJ L 63, 28.2.2004, p. 20).

4.3. *Notification of aid*

(49) With regard to the notification of aid which a Member State intends to grant to the coal industry, in accordance with Article 8 of Decision No 3632/93/ECSC, Spain notified the Commission on 31 March 1998 of the 1998-2002 modernisation, rationalisation, restructuring and activity-reduction plan based on the 1998-2005 plan for the coal industry and alternative development of coalmining areas, which was approved by the Commission in Decision 98/637/ECSC of 3 June 1998 [1]. In this plan, the Spanish Government provides for financial support to cover the aid provided for in Articles 3, 4 and 5 of Decision No 3632/93/ECSC within the framework of the abovementioned plans.

(50) In accordance with Article 9(10) of Regulation (EC) No 1407/2002, which coincides with Article 9(1) of Decision 3632/93/ECSC, Member States are to notify all the financial support which they intend to grant to the coal industry in the following year. By letter of 19 June 2000 Spain notified aid measures to the Commission. The Commission did not react to this notification within the period laid down in Article 9(4) of Decision No 3632/93/ECSC and therefore the aid in relation to the year 2000 is deemed to be authorised, as already concluded in the Decision of 19 February 2003, by which the Commission initiated the formal investigation procedure. However, as also concluded in the decision of 19 February 2003, Spain failed to fulfil its obligations to submit prior notification for 2001 and 2002. Consequently, the aid granted by Castile-Leon for 2001 and 2002, as notified by Spain on 5 September 2002, must be considered to be non-notified aid.

4.4. *Assessment of aid for research and development (R & D)*

(51) The Commission has analysed these aid measures in the light of the Community framework for State aid for research and development. In the period covered by the aid, this framework was contained in Commission Communications 96/C 45/06 of 17 February 1996, 98/C 48/02 of 13 February 1998 and 2002/C 111/03 of 8 May 2002.

(52) This concerns the following aid:

(in EUR)

Project	Year	Undertaking	Aid
186/01	2001	Carbones de Arlanza SA	14 514,44
136/02	2002	Alto Bierzo SA	133 829,29

The aid for R & D granted by the Government of Castile-Leon was subject to an open tender procedure and was designed to facilitate coalmining under optimum safety conditions, without adversely affecting conditions of trade in a manner contrary to the common interest.

(53) The projects which were supported were aimed at acquiring new knowledge which would be useful in developing new mining processes or bringing about a significant improvement in existing processes. These projects were selected because it was considered that they could increase technical, organisational or scientific insight into a mining process or any relevant technology, as well as adapt a process or technology and improve its efficiency. This measure was not intended to subsidise practical experiments. These projects will play a crucial role in finding new solutions. The intention of the Spanish authorities was to realise or accelerate those developments which made an important contribution to the Government's objectives of a more efficient and competitive coal-mining industry and which would not have been realised or applied on a wide scale without financial support from the Government. In view of the above, the Commission considers that these activities fall within the definition of industrial research in Annex I of the Community framework for State aid for research and development. The final results of these research activities will be used in developing plans of designs for new or modified mining processes.

(54) The eligible costs were in keeping with the costs as defined in Annex II to the Community framework. The aid intensity was low and in both cases the aid was granted to SMEs. The aid intensity did not exceed the limits laid down in Section 5 of the Community framework. In accordance with the provisions of Section 6 of the Community framework, the aid had to serve

[1] OJ L 303, 13.11.1998, p. 57.

as an incentive for mining undertakings to carry out additional R & D activities and also as a stimulus for undertakings which had never engaged in such activities. As the recipients were SMEs, the Commission assumes, in accordance with point 6.4 of the Community framework, that the aid provided a necessary incentive.

(55) The Commission must therefore conclude that the aid scheme for research and development is in accordance with the abovementioned framework.

4.5. *Assessment of aid for environmental protection*

(56) The Commission analyses aid measures of this type in accordance with the Community guidelines on State aid for environmental protection.

(57) Taking into account the information submitted by Spain, the Commission considers that the aid scheme was intended, *inter alia*, to help SMEs adapt to new Community standards for a period of three years from the adoption of new mandatory Community rules, to foster investment in the absence of mandatory Community standards and to foster investment to ensure compliance with national standards that were more stringent than the applicable Community standards. The scheme authorised this aid up to a maximum of 15 % gross of eligible costs, which was in line with the Community guidelines. The Commission considers that the investments concerned were in keeping with Section E.1.6 of the Community guidelines. As far as water pollution is concerned, the investments were indispensable for controlling the movement of minewater from abandoned mines. The purpose of these investments was, *inter alia*, to control the groundwater table, to prevent flooding and to help ensure safe movement of the minewater. This water had to meet the quality standards laid down in Spanish legislation. The Commission considers that, in the definition of the costs qualifying for funding relating to investments, provision was made in the net calculation of the aid for taking account of the benefits obtained as a result of the investment. This element is in accordance with point 37 of the Community guidelines. In accordance with point 38 of the Community guidelines, the eligible costs took into account the greater potential value of the rehabilitated areas. With regard to the rehabilitation of mines, eligible costs were limited to the cost of mining works, including manpower, materials and the depreciation of machinery necessary to prevent the release of gases and liquids from underground mines, prevent access to dangerous mines and prevent water contamination, as well as for mine-waste tip reclamation. In this respect, the scheme conformed to point 36 of the Community guidelines.

(58) The following aid granted by Castile-Leon:

(in EUR)

Project	Year	Undertaking	Aid
17/01	2001	MSP.	580 027,42
477/01	2001	Mina la Sierra	5 395,65
607.1/01	2001	Carbones San Isidro y María	8 106,12
17/02	2002	MSP.	136 450,88

concerns environmental rehabilitation of opencast mines and, in the case of project 607.1/01, investment in a transformer station and electricity line.

(59) After analysing the information submitted by Spain, the Commission considers that the interventions made by undertakings repairing environmental damage by rehabilitating polluted industrial sites may come within the scope of the Community guidelines. Environmental rehabilitation costs are historical costs. As a result of the abandonment of mining activities, minewater would flood the mines. Owing to the structure of the ground and various currents it is, in many cases, not clear which mine is responsible for such water, which could endanger the environment and has to be kept under control. As a result, it is not possible to identify the polluter. Moreover, in many cases, ownership of mines has changed or mines do not exist any more. The Commission therefore considers that the coal-mining undertakings currently operating the mines cannot be made to bear the cost. Consequently, the aid scheme to cover the costs of rehabilitation of mines was in conformity with the Community guidelines in these cases.

(60) The following aid granted by Castile-Leon:

(in EUR)

Project	Year	Undertaking	Aid
137/01	2001	Alto Bierzo, SA	93 825,20
237/01	2001	Antracitas de Arlanza	9 916,70
607.2/01	2001	Carbones San Isidro y María	8 119,04
1147/01	2001	Coto Minero del Sil	60 101,21
2117.1/01	2001	Unión Minera del Norte	55 934,56
2117.2/01	2001	Unión Minera del Norte	136 506,80
27/02	2002	Hullera Vasco Leonesa	292 504,00
137/02	2002	Alto Bierzo, SA	15 879,22
1147.1/02	2002	Coto Minero del Sil	68 582,02
1147.2/02	2002	Coto Minero del Sil	47 856,86

concerns work to rehabilitate or ensure the safety of mine-waste tips, to protect watercourses and to restore land above disused mines. With regard to these individual cases, the Commission also considers that the deterioration of the environment occurred over many years, that there were no rules on rehabilitation or that it is not even possible to identify clearly who is responsible. The Commission therefore considers that the abovementioned coalmining undertakings which are currently operating the mines cannot be made to bear the cost. In keeping with point 38 of the Community guidelines, the aid intensity did not exceed 100 % of the eligible costs and did not include 15 % of the total cost of the work. The eligible costs were equal to the cost of the work less the increase in the value of the land.

(61) The following aid granted by Castile-Leon:

(in EUR)

Project	Year	Undertaking	Aid
2111.1/01	2001	Unión Minera del Norte	109 569,31
2111.2/01	2001	Unión Minera del Norte	230 183,55
2111.3/01	2001	Unión Minera del Norte	121 656,87
2111.4/01	2001	Unión Minera del Norte	303 840,71
2111.5/01	2001	Unión Minera del Norte	306 940,49
891/02	2002	Campomanes Hermanos	89 232,00
2111.1/02	2002	Unión Minera del Norte	35 526,45
2111.2/02	2002	Unión Minera del Norte	75 452,05
2111.4/02	2002	Unión Minera del Norte	118 602,83
2111.5/02	2002	Unión Minera del Norte	205 304,23
2111.6/02	2002	Unión Minera del Norte	248 210,85
2111.7/02	2002	Unión Minera del Norte	626 746,00
211.1/02	2002	Viloria Hermanos SA	87 880,00
211.2/02	2002	Viloria Hermanos SA	87 880,00

although notified by Spain as aid to cover exceptional costs arising from restructuring (Article 7 of Regulation (EC) No 1407/2002), was intended principally for environmental protection purposes, since the objective was to reclaim land on the surface above mines and to demolish fixed installations on the surface so as to help mitigate the environmental impact of disused coalmines. At the time that the work was carried out, there were no rules on the restoration of the sites affected.

(62) The Commission considers that the special nature of mining means that a large part of the current pollution, caused by gases and water escaping from mines or from surface waste tips, derives from past activities. In most cases, therefore, it is a question of making good the impact of earlier mining activity, the aid has to be considered to be a historical cost, and it is not possible to identify the polluter clearly. The aid was therefore intended for environmental rehabilitation in mining regions. The environmental damage done to the quality of the soil or of surface water or groundwater falls within the scope of the Community guidelines. The aid intensity did not exceed 100 % of the eligible costs and did not include 15 % of the total cost of the work. The eligible costs, being the cost of the work less the increase in the value of the land, were also in conformity with the Community guidelines.

(63) In view of the above, and after analysing the information submitted by Spain, the Commission has come to the conclusion that the aid scheme for environmental protection was compatible with the abovementioned Community guidelines.

4.6. *Assessment of aid for mining training*

(64) On the basis of Regulation (EC) No 1407/2002 on State aid to the coal industry, and in particular Article 3(1) and recital 21 thereof, training aid may be granted, provided that such aid is granted in accordance with the requirements and criteria laid down by the Commission for this category of aid. The Commission has therefore assessed the compatibility of these aid measures with the provisions of Regulation (EC) No 68/2001 on the application of Articles 87 and 88 of the EC Treaty to training aid. Spain had to notify these measures because the conditions for exemption from the notification requirement laid down in that Regulation do not apply to State aid to the coal industry.

(65) In the case of the following aid:

(in EUR)

Project	Year	Undertaking	Aid
183/01	2001	Carbones de Arlanza SA	6 436,84
453/01	2001	Mina Adelina SA	4 376,33
473/01	2001	Mina la Sierra SA	6 565,49
1353/01	2001	Minas de Valdeloso SL	7 867,25

the Commission, after analysing the information submitted by Spain and taking into account the fact that Spain ensured that the maximum aid intensities laid down in Article 4 had been respected when applying the scheme, considers that the aid measures for mining training which the Autonomous Region of Castile-Leon granted will not lead to any distortion of competition and can be allowed on the basis of the abovementioned Regulation. In this respect, the scheme contained a reference to the abovementioned Regulation.

4.7. *Assessment of aid for mining safety*

(66) After analysing the aid and the information submitted by Spain, the Commission considers that this aid has to be assessed on the basis of Regulation (EC) No 1407/2002 on State aid to the coal industry.

(67) The following aid granted by Castile-Leon:

(in EUR)

Project	Year	Undertaking	Aid
182/01	2001	Carbones de Arlanza SA	39 630,74
452/01	2001	Mina Adelina SA	23 991,44
472/01	2001	Mina La Sierra SA	12 020,24
502/01	2001	Minex, SA	120 202,42
602.1/01-LE	2001	Carb. San Isidro y María	30 050,61
602.3/01 PA	2001	Carb. San Isidro y María	13 044,13
1352/01	2001	Minas de Valdeloso SL	35 520,76
452/02	2002	Mina Adelina SA	16 224,00
502/02	2002	Minex SA	64 835,64
1142/02	2002	Coto Minero del Sil	383 920,19

concerns costs which undertakings have to bear in order to improve safety and health conditions. These costs were not related to current production and were intended for investments in equipment and mine workings. In this respect, the Commission considers that the amounts granted did not exceed the costs of the safety works and has come to the conclusion that these measures were in accordance with Article 7 of the aforementioned Regulation and with point 1(g) of the Annex thereto concerning the definition of the costs referred to in Article 7. On this basis, the Commission has come to the conclusion that the aid for mining safety was in accordance with the Regulation.

5. **Conclusion**

The Commission must conclude that Spain unlawfully put into effect the aid for research and development, environmental protection, mining training and mining safety to coalmining undertakings in the Autonomous Community of Castile-Leon in 2001 and 2002, in breach of Article 88(3) of the Treaty. However, after analysing the measures and the information submitted by Spain, the Commission,

HAS ADOPTED THIS DECISION:

Article 1

The aid scheme for research and development, environmental protection, mining training and mining safety which Spain implemented in favour of coalmining undertakings in the Autonomous Community of Castile-Leon in 2001 and 2002 on the basis of the Orders of the Regional Ministry of Industry, Trade and Tourism of 19 December 2000 and 19 December 2001 governing the granting of aid for mining is compatible with the common market within the meaning of Article 87(3) of the Treaty.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 30 March 2004.

For the Commission
Loyola DE PALACIO
Vice-President