

BOSNA I HERCEGOVINA
Konkurencijsko vijeće



БОСНА И ХЕРЦЕГОВИНА
Конкуренијски савјет

DECISION

**Adopted upon Notification of concentration between Asseco Adria S.A. Poland
and Pexim d.o.o. Belgrade**

**Sarajevo
May 2008**



Number: 01-03-26-049-13-II/07
Sarajevo, 13 May 2008

Pursuant to Article 25, paragraph (1) item e), Article 42, paragraph (1), item d) and Article 43, paragraph (2), in connection with Article 12, 14, 16, 17 and 18 of the Act on Competition («Official Gazette of BH», No. 48/05 and 76/07) and upon the Notification of intended concentration of undertaking Asseco Adria S.A., Armii Krajowej 80, 35-307 Rzeszow, Republic of Poland and Društvo za trgovinu, konsalting i informacioni inženjering (a Company for trade, consulting and information engineering) Pexim d.o.o. Belgrade, Goce Delčeva 44, Republic of Serbia, submitted by a lawyer Branko Marić, Zajednička advokatska kancelarija (a Common Law Office), Mehmeda Spahe 26, 71000 Sarajevo, recorded under the registration number: 01-03-26-049-II/07 on 27 December 2007, the Council of Competition, at its 66th (sixty-sixth) session, held on 13 May 2008 has adopted

DECISION

1. A concentration that shall be created in the market for sale of computers and data processing equipment in the territory of Bosnia and Herzegovina through share purchase of majority share in Društvo za trgovinu, konsalting i informacioni inženjering Pexim d.o.o. Belgrade, Goce Delčeva 44, Republic of Serbia by Asseco Adria S.A., Armii Krajowej 80, 35-307 Rzeszow, Republic of Poland is declared compatible.
2. This Decision shall be recorded in the Register on concentrations.
3. This Decision is final and it shall be published in Official Gazette of BH and official gazettes of Entities and Brčko District.

Exposition

Asseco Adria S.A., Armii Krajowej 80, 35-307 Rzeszow, Republic of Poland(hereinafter: Asseco Adria or the Applicant) and Društvo za trgovinu, konsaltingi informacioni inženjering Pexim d.o.o. Belgrade, Goce Delčeva 44, Republic of Serbia (hereinafter: Pexim Belgrade), submitted to the Council of Competition, by a lawyer Branko Marić, Common Law Office, Mehmeda Spahe 26, 71000 Sarajevo, (authorization number 7402/2007 given by Asseco Adria on 19December 2007), a Notification of intended concentration(hereinafter: the Notification) which entered into records under the number 01-03-26-049-II/07 on 27 December 2007, pursuant to Article 16,paragraph(1) of the Act on competition.

The Applicant submitted supplements to the Notification, number 01-03-26-049-1-II/07 on 03 January 2008 and number 01-03-26-049-2-II/07 on 14 January 2008.

Having an insight into the Notification, the Council of Competition established that it was not complete pursuant to Article 30 of the Act on competition (hereinafter: the Act), Article 8, 9 and 10 of a Regulation on Notification and Criteria for Assessment a Concentration of undertakings („Official Gazette of BiH“, number 95/06) and pursuant to Article 31 of the Act , the Council of Competition requested supplements to the Notification (recorded under the number 01-03-26-049-3-II/07 on 08 February 2008 and number 01-03-26-049-8-II/07 on 21 March 2008).

The Applicant submitted to the Council of Competition the supplements to the Notification: number: 01-03-26-049-4-II/07 on 14 February 2008; 01-03-26-049-5-II/07 on 06 March 2008; 01-03-26-049-6-II/07 on 07 March 2008; 01-03-26-049-7-II/07 on 20 March 2008 and 01-03-26-049-9-II/07 on 04 April 2008.

Upon receipt of all required documents, the Council of Competition issued an Acknowledgement of receipt of complete and adequate Notification number: 01-03-26-049-11-II/07, on 09 April 2008, pursuant to Article 30, paragraph (3) of the Act.

The Applicant stated, pursuant to Article 30, paragraph (2) of the Act, that Notification was submitted for assessment to Commission for Protection of Competition of Republic of Serbia and Anti monopoly Commission of Republic of Montenegro. Commission for Protection of Competition of Republic of Serbia approved the concentration (Decision number 6/0-02-518/07-3 on 11 December 2007).

The following facts are established during the assessment procedure of Notification:

The Application has been submitted in the given period of time.

1. Parties to the concentration

Parties to the concentration are Asseco Adria S.A., Armii Krajowej 80, 35-307 Rzeszow, Republic of Poland and Društvo za trgovinu, konsalting i informacioni inženjering Pexim d.o.o. Belgrade, Goce Delčeva 44, Republic of Serbia.

1.1. Asseco Adria S.A.

Asseco Adria S.A., Armii Krajowej 80, 35-307 Rzeszow, Republic of Poland is established and entered in records of the State Court Register –District Court in Warsaw (registration number 180248803), under the number 0000284571 on 11 July 2007.

The main registered business activities of Asseco Adria are production of computers and other devices for data processing and transformation of information, consulting in a field of computer equipment, programming and development of information technology.

Asseco Poland S.A, Armii Krajowej 80, 35-307 Rzeszow, Republic of Poland (hereinafter: Asseco Poland), is established and entered in records of the State Court Register –District Court in Warsaw (registration number 0103334578), under the number 0000033391 on 20 August 2001. Asseco Poland holds 93, 0% of share ownership in Asseco Adria.

The main registered business activities of Asseco Poland are production of computers and other data processing devices, sale of computers (only wholesale) and other data processing equipment, programming and development of information technology.

According to the data given in the Notification, Asseco Adria has no connected undertakings or direct or indirect share ownership (10, 0% or more) in any undertaking in Bosnia and Herzegovina.

1.2. Društvo za trgovinu, konsalting i informacioni inženjering Pexim d.o.o. Belgrade, (a Company for trade, consulting and information engineering)

Društvo za trgovinu, konsalting i informacioni inženjering Pexim d.o.o. Belgrade, Goce Delčeva 44, Republic of Serbia, is established on 20 March 1990 and entered in records of the High Commercial Court in Belgrade under the number 1-8201-00 (registration number: 07432461) and under the number BD 14724 in the Register of the Agency for the Business Registers of Republic of Serbia, with the capital valued at ¹(..)**KM ((..)**EUR), on 04 October 2006.

Natural person Mihail Petreski, a citizen of Republic of Macedonia (ID number (..)) owns 84,0% of shares in Pexim Belgrade, and undertaking I4-Invention owns 16,0% of shares.

I4-Invention d.o.o. Belgrade, Bulevar Avnoj-a 83, Republic of Serbia (hereinafter: I4-Invention) is established and entered in records of the Register of Agency for the Business Registers of Republic of Serbia under the number BD.N.56315/2007 on 16 July2007 (registration number: 20309598) with the capital valued at (..)** KM ((..)** EUR), on 12 September 2007.

Consulting and management activities are the main registered business of I4-Invention.

According to the data given in the Notification, I4-Invention has no connected undertakings or direct or indirect share ownership (10,0% or more) in any undertaking in Bosnia and Herzegovina.

The main business activities of Pexim Belgrade are production and sale (only wholesale) of computers and other data processing equipment.

Pexim Belgrade has majority ownership share in the following undertakings:

Table 1.

No.	Name of undertaking	Location/State	Share (%)
01.	EMS	Beograd-Republic Serbia	(..)**
02.	CMC	Kragujevac-Republic of Serbia	(..)**
03.	Pexim Banja Luka	Banja Luka-Bosnia and Herzegovina	(..)**
04.	Pexim Doel	Skopje-Republic Macedonia	(..)**
05.	E-Mon	Podgorica-Republic of Montenegro	(..)**
06.	Pexim Solutions	Sofia-Republic of Bulgaria	(..)**

Source: Data from the Notification

1.1.1. Connected undertakings of the parties to the concentration in Bosnia and Herzegovina

Pexim Belgrade (Table 1) in Bosnia and Herzegovina is 100, 0% owner of undertaking Pexim Solutions d.o.o. Banja Luka, Kralja Alfonsa XIII 14/1, 78000 Banja Luka (hereinafter: Pexim Banja Luka).

Pexim Banja Luka is established and entered in the Register of the Municipal Court in Banja Luka under the number 1-15758-00 on 28 November 2006.

¹ (..)** - The data is deemed to be a business secret

The main business activity of Pexim Banja Luka is wholesale trade in computers and data processing equipment and providing services of software solutions making

2. Total annual income of the parties to the concentration

Pursuant to Article 14, paragraph (1), item a) of the Act, the parties are obliged to notify the concentration in a case when their total annual income, achieved through the sale of goods/services, exceeds 100.000.000, 00 KM, according to the final account in the year preceding the implementation of the concentration and when at least one of the party is registered in Bosnia and Herzegovina.

Total annual income of the parties to the concentration, achieved at worldwide level in 2006, was:

Table 2.

No.	Name of undertaking	Total income (KM)
01.	Asseco Adria	² (..)**
02.	Asseco Poland	(..)**
03.	I4 – Invention Belgrade	(..)**
04.	Pexim Belgrade	(..)**
05.	Pexim Banja Luka	(..)**

Source: Data from the Notification

Asseco Adria (established on 11 July 2007), I4-Invention, (established in 16 July 2007) and Pexim Banja Luka (established on 28 November 2006) had no income in 2006.

Total joint annual income of the parties to the concentration (Table 2) was 100.000.000, 00 KM; Asseco Poland achieved (..)** KM and Pexim Belgrade achieved (..)** KM, according to the final account in the year preceding the implementation of the concentration.

Total annual income of the parties to the concentration (Table 1) is the income (without value added tax and other taxes) that is directly related to the parties to the concentration in the market at world wide level and in Bosnia and Herzegovina, pursuant to Article 8, item h) of the Decision in question.

On the basis of the above mentioned data, the parties to the concentration are required to submit a Notification because they have met a condition of joint annual income (Table 2), pursuant to Article 14, paragraph (1), item a) of the Act, and at least one of them is registered in Bosnia and Herzegovina

3. Legal basis and form of the concentration

Legal basis of the concentration in question is Share Sale Purchase Agreement (hereinafter: the Agreement) relating to the sale and purchase to 60, 0% shares capital in Društvo za trgovinu, konsalting i informacioni inženjering Pexim d.o.o. Belgrade, Goce Delčeva 44, concluded on 18 December 2007 between Mr. Mihailo Petreski (as a seller), undertaking I4 Invention d.o.o. Belgrade (as a seller), Asseco Adria S.A. (as a buyer) and Assecco Poland S.A. (in his capacity as guarantor).

² (..)**- The data is deemed to be a business secret

According to this Agreement, Asseco Adria has bought 60, 0% of share in Pexim d.o.o. Belgrade (where 5, 0% of share is bought from I4-Invention d.o.o. Belgrade and 55, 0% from Mr. Mihailo Petreski) and therefore become a majority shareholder and acquired control over the undertaking Pexim Belgrade.

According to the above mentioned Agreement, I4 Invention holds ownership share of 11, 0% in Pexim Belgrade and Mr. Mihail Petreski holds 29, 0%.

The legal frame of the concentration is acquisition of control of one undertaking (Asseco Adria) over another undertaking (Pexim Beograd) through purchase of majority share, pursuant to Article 12, paragraph (1), item c) of the Act.

4. Analysis of the relevant market of the concentration in question

Relevant market, pursuant to Article 3 of the Act and Article 4, 5 and 6 of the Regulation on Definition of Relevant market, is a market of products / services that are the subject of conducting activities in a particular geographic market.

Relevant product market in this concentration is subject to market sales of computers and other equipment for data processing.

The geographic relevant market is a territory of Bosnia and Herzegovina because the parties to the concentration are present in the market of Bosnia and Herzegovina indirectly through the subsidiary.

Therefore, a relevant geographic market for this concentration is a market for sale of computers and other data processing equipment in whole territory of Bosnia and Herzegovina.

The market share of the parties to the concentration and their competitors in the relevant market, on 31 December 2006, was:

Table 3.

No.	Name of undertaking	Market share (%)
01.	Lanaco Banja Luka	12,0
02.	BBS Sarajevo	10,0
03.	Logosoft Sarajevo	10,0
04.	Ping Sarajevo	8,0
05.	IT Cimeters Gračanica	2,0
06.	DNC Sarajevo	2,0
07.	m-san grupa Sarajevo	2,0
08.	S&T Sarajevo	1,0
09.	Aneks Banja Luka	1,0
10.	Others	52,0
	Total	100,0

Source: Data from the Notification

Having in mind all data and information about the market share of the parties to the concentration and their competitors in the relevant market (Table 3), it can be concluded that there is strong competition between many undertakings which operate with relatively small market share. The biggest market share is owned by Lamaco Banja Luka with 12, 0% of market share and then follows BBS Sarajevo and Logosoft Sarajevo with 10, and 0% of market share.

Pexim Banja Luka had insignificant market share in 2006 in the relevant market due to the fact that it was established on 28 November 2006.

5. Assessment of the concentration

The Council of Competition had in mind, pursuant to Article 17 of the Act (especially regarding the market structure and market share of the parties to the concentration and their competitors) that implementation of the concentration should not prevent, restrict or distort market competition in the market for sale of computers and other data processing equipment in Bosnia and Herzegovina.

Having in mind all data and information, the Council of Competition declared this concentration compatible, pursuant to Article 18, paragraph (2), item a) of the Act and decided as it is in the statement of grounds of this Decision.

6. Administration tariffs

On this Decision the Applicant, pursuant to the Article 2, tariff number 107, paragraph (1), item d) 1) of the Regulation on administration taxes relating to the practices before the Council of Competition ("Official Gazette of BIH", No. 30/06), is obliged to pay administration tariff of 2.500,00 KM for the benefit of the Budget of Institutions of Bosnia and Herzegovina.

7. LEGAL REMEDY

This Decision is final and no appeal is allowed against it. Unsatisfied party shall be entitled to bring an administrative dispute before the Court of Bosnia and Herzegovina within thirty days (30 days) from the date of receipt of this Decision, i.e. from the date of its publication.

President

Ibrica Lakišić