

BOSNA I HERCEGOVINA
Konkurencijsko vijeće



БОСНА И ХЕРЦЕГОВИНА
Конкуренијски савјет

DECISION

Notification of concentration of undertaking Junuzović-kopex d.o.o. Lukavac

Sarajevo
July, 2014



Broj: 02-26-1-10 - 7 -II/14
Sarajevo, 17th July 2014

Pursuant to Article 25 paragraph (1) itema e), Article 42 paragraph (1) item d), in accordance with Articles 12, 14, 16 and 18 of the Competition Act („Official Gazette of BiH“, No. 48/05, 76/07 and 80/09), deciding upon Notification of concentration of undertaking Junuzović-kopex d.o.o. za niskogradnju, proizvodnju, promet roba i usluga, uvoz-izvoz, Modrac-Studenac bb, 75 300 Lukavac, received on 12th May 2014 under No.: 02-26-1-10-II/13, Council of Competition of Bosnia and Herzegovina, at its 94th session (ninety four) held on 17th July 2014, has adopted

DECISION

1. Concentration is approved on the market of city and suburban passenger transportation in Tuzla Canton, which will be created through acquisition of control of undertaking Junuzovic-kopex d.o.o. za niskogradnju, proizvodnju, promet roba i usluga, uvoz-izvoz, Modrac-Studenac bb, 75300 Lukavac (for civil engineering, production, goods and services, import-export) over the undertaking Dioničko društvo Gradski i prigradski saobraćaj Tuzla, Bukinje bb, 75000 Tuzla, (joint stock company for urban and suburban traffic), through purchase of (..)**1% in the equity.
2. This Decision on concentration is entered in Register of concentrations.
3. This Decision is final and shall be published in ‘Official Gazette of BiH’ and official gazettes of Entities and Brcko District of Bosnia and Herzegovina.

EXPOSITION

Council of Competition of Bosnia and Herzegovina (hereinafter: Council of Competition) received Notification of concentration (hereinafter referred to as Notification), on 12th May 2014 filed under No.: 02-26-1-10-II / 14, by the undertaking Junuzović-kopex d.o.o. za niskogradnju, proizvodnju, promet roba i usluga, uvoz-izvoz, Modrac-Studenac bb, 75 300 Lukavac (hereinafter Applicant or Junuzovic-kopex) whereby undertaking Junuzović- kopex intends to acquire a majority stake in the share capital of the undertaking Dioničko društvo Gradski i prigradski saobraćaj Tuzla, Bukinje bb, 75 000 Tuzla (hereinafter: Gips Tuzla).

The Applicant has amended the Notification with submission No. 02-26-1-10-2-II / 14 on 2nd June 2014.

Upon receipt of documentation, Council of Competition found that the Notification is complete and issued Acknowledgement of receipt of complete and adequate Notification, in accordance with Article 30, paragraph (3) of the Competition Act (hereinafter the Act), on 17th July 2014, the act No 02-26-1-10-5-II / 14.

The Applicant, in accordance with Article 30, paragraph (2) of the Act, stated that the Applicant has not submitted or intends to submit Notification to the competent authorities for the assessment of concentrations outside the territory of Bosnia and Herzegovina.

¹ (..)** Data represent business secret, in terms of Article 38 of the Competition Act.

Council of Competition, in accordance with Article 16, paragraph (4) of the Act, issued a Notice of the submitted Notification No. 02-26-1-10-3-II / 14 of 2nd July 2014, which was published in daily newspaper on 4th July 2014, and invited all interested parties to submit written comments on the proposed concentration. No comments of interested parties were provided for the relevant Notice.

In the process of assessing the compatibility of the concentration, Council of Competition found the following facts:

Notification was submitted pursuant to Article 16, paragraph (2) of the Act (legal basis: Letter of Intent).

1. Participants to the concentrations

Participants to the Concentration are undertakings Junuzović-kopex d.o.o. za niskogradnju, proizvodnju, promet roba i usluga, uvoz-izvoz, Modrac-Studenac bb, 75 300 Lukavac, undertaking Samn d.o.o. za proizvodnju, promet i usluge Tuzla, Nikole Tesle bb, 75 000 Tuzla and Dioničko društvo Gradski i prigradski saobraćaj Tuzla, Bukinje bb, 75 000 Tuzla, Bosnia and Herzegovina.

1.1. Undertaking Junuzović-kopex

Undertaking Junuzović-kopex d.o.o. za niskogradnju, proizvodnju, promet roba i usluga, uvoz-izvoz, Modrac-Studenac bb, 75 300 Lukavac, is registered at Municipality Court in Tuzla under No.: 1-7573 (ID: 4209157220005) with paid equity of (..)**KM, and with (..)**% equity of physical entity Junuzović Amir ((..)**, 75 000 Tuzla).

Main business activity of undertaking Junuzović-kopex is trade of oil products in Federation of Bosnia and Herzegovina.

According to data from the Notification undertaking Junuzovic-kopex has no related companies in Bosnia and Herzegovina.

1.2. Undertaking Samn d.o.o. za proizvodnju, promet i usluge Tuzla

Undertaking Samn d.o.o. za proizvodnju, promet i usluge Tuzla, Nikole Tesle bb, 75 000 Tuzla (hereinafter: Samn d.o.o. Tuzla) is registered in Register of Municipality Court in Tuzla under No. 1-14103 (ID No.: 4209842100004), with paid equity amounting to (..)**KM, and with (..)**% of equity shares of physical entity Nijaz Suljkić ((..)**, 75 000 Tuzla).

Main business activity of undertaking Samn d.o.o. Tuzla is technical testing and analysis (vehicles).

1.3. Undertaking Gips Tuzla – subject of concentration

Undertaking Dioničko društvo Gradski i prigradski saobraćaj Tuzla, Bukinje bb, 75 000 Tuzla, Bosnia and Herzegovina, is registered in Register of Municipality Court in Tuzla under No 1-250 (ID No: 4209197100002), with basic capital of (..) ** KM and with (..) **% equity stake of undertaking Samn d.o.o. Tuzla and (..) **% equity stake of a physical entity Nijaz Suljkić while the remaining (..) **% are owned by all other shareholders.

Main business activity of undertaking Gips Tuzla is city and suburban passenger transportation in Tuzla Canton.

1.3.1. Related companies of the undertaking Gips Tuzla (subject of concentration)

Undertaking Gips Tuzla owns (..) **% of equity stake in undertaking:

- T&A Remag d.o.o. Tuzla, Bukinje bb, 75 000 Tuzla is registered in Municipality Court in Tuzla under No: 32-01-0343-10 (ID No: 4210003960004), main activity – maintenance and repair of motor vehicles;
- Tadi Benc d.o.o. Tuzla, Bukinje bb, 75 000 Tuzla is registered in Municipality Court in Tuzla under No.: 32-01-0061-12 (ID No: 4210060250005), main registered activity – wholesale trade of parts and accessories for motor vehicles;
- Aut Luk d.o.o. Lukavac, Kula bb, 75 300 Lukavac is registered in Municipality Court in Tuzla under No.: 32-01-0326-10 (ID No: 4209999180001), main registered activity – urban passenger transport.

According to the data from Notification, listed related companies of the undertaking Gips Tuzla are also subject to concentration.

2. Legal basis and form of concentration

As the legal basis of the concentration Applicant submitted a "Letter of Intent" signed in Lukavac on 5th May 20 i.e. on 9th May 2014 by the undertaking Junuzovic-kopex (buyer) and undertaking Samn d.o.o. Tuzla and the natural person Nijaz Suljkić, expressing its intention to acquire control of the basic capital of the undertaking Gips Tuzla.

The Letter of intent defined that the undertaking Junuzovic-kopex will acquire total (..) **% stake in the basic capital of the undertaking Gips Tuzla, from:

- Natural person Nijaz Suljkić who shall transfer to the undertaking Junuzovic-kopex (..) **% stake in the basic capital or (..) ** shares;
- Undertaking Samn d.o.o. Tuzla, which will transfer to the undertaking Junuzovic-kopex (..) **% stake in the basic capital or (..) ** shares.

In accordance with the foregoing, and pursuant to Article 12, paragraph (1) item b) of the Act, the legal form of the concentration is the acquisition of control of one undertaking over another in accordance with the provisions of the Act.

3. Legal framework for the assessment of concentration

In the process of assessment of the concentration Council of Competition applied the provisions of the Regulation on Definition of the relevant market ("Official Gazette of BiH", no. 18/6 and 34/10) and the Decision on notification and assessment of concentrations of undertakings.

Council of Competition, pursuant to Article 43, paragraph (7) of the Act, used the jurisprudence of the European Court and decisions of the European Commission, as well as the criteria and standards of the European Commission Notice on the calculation of the total turnover in accordance with Council Regulation (EEC) No 4064 / 89 on the control of concentrations of undertakings.

4. Obligation to notify concentration

The obligation to notify the concentration of undertakings within the meaning of Article 14 paragraph (1) item a) and b) of the Act, exists if a total annual turnover of the participants to the concentrations earned in sales of goods and / or services in the global market amounts to KM 100,000,000.00, according to balance sheet in the year preceding the concentration, and that total turnover of each of at least two parties to the concentration earned through the sale of goods and / or services on the market of Bosnia and Herzegovina is at least 8,000,000.00 KM, or if the combined market share of the parties to the concentration in relevant market is more than 40.0%.

Total annual turnover of the undertakings, parties to the concentration as of 31st December 2013 was:

Table 1

Total turnover (KM)	Junuzović-kopex	Samn d.o.o. Tuzla	Gips Tuzla
Bosnia and Herzegovina	(..)**	(..)**	(..)** *
World	-	-	-

Source: data from Notification; *- total annual turnover including turnovers of related companies: T&A Remag d.o.o Tuzla – (..)**KM; Tadi Benc d.o.o. Tuzla – (..)**KM and Aut Luk d.o.o. Lukavac – (..)**KM.

Annual turnover of the undertaking Junuzovic-kopex in 2013 totaled (..) ** KM which included the turnover realized in mutual exchange with entity Gips Tuzla in amount of (..) ** KM. Annual turnover of the undertaking Gips Tuzla which included turnovers of its affiliated companies amounted to (..) ** KM, while the income of the undertaking Samn d.o.o. Tuzla for 2013 amounted to (..) ** KM.

Annual turnovers of the parties to the concentration (Table 1) represent total turnovers (excluding value added tax and other taxes directly related to the participants to the concentration in the market of Bosnia and Herzegovina), pursuant to Article 9 item h) of the Regulation on Notification and Criteria for assessment of concentrations of undertakings.

According to the data provided in the Notification (Table 1), undertakings, parties to the concentration, fulfill the requirement of obligation to notify concentration in the aspect of the joint total annual turnover in accordance with Article 14, paragraph (1) of the Act, and were required to report the concentration.

5. Relevant concentration market

Relevant concentration market, pursuant to Article 3 of the Act, and Art. 4 and 5 of the Regulation on relevant market is the market of certain products / services that are the subject of business in a specific geographic market.

According to Article 4 of the Regulation on relevant market, the relevant market includes all products and / or services that consumers and / or users consider mutually substitutable, under acceptable conditions, taking into account the special characteristics, their quality, common purpose, method of use, price and sale conditions.

According to Article 5 of the Regulation on relevant market, relevant geographic market comprises all or part of the territory of Bosnia and Herzegovina, where the entity operates in the sale and / or purchase of the relevant product under the same or sufficiently homogeneous conditions and which are significantly different from the conditions of the market competition in neighboring geographic markets.

Taking into account the prevailing registered activity of the participants to the concentration, the relevant market of goods and / or services in this particular case is market of urban and suburban passenger transportation.

Taking into account the scope of activities of the undertaking Gips Tuzla, area of Tuzla Canton was determined as the geographical area of concentration.

Consequently, the relevant market of the concentration shall be deemed to be the market of urban and suburban passenger transportation in Tuzla Canton.

5.1. Analysis of market concentration

The Applicant has submitted an estimate of the market share (Table 2) based on the final harmonization of timetables of cantonal lines in Tuzla Canton. A total of 26 carriers with their timetables were registered, out of which 19 had timetables that were registered to the Long distance bus station in Tuzla, the bus station West and the bus station East.

Listed 19 carriers performed a total of (..) ** departures from Tuzla and (..) ** arrivals in the municipality of Tuzla at three aforementioned stations.

Table 2

No.	Name of Carrier	Total number of arrivals/departures	Total %
1.	Gips Tuzla	(..)**	(..)**
2.	Litvatrans d.d. Banovići	(..)**	(..)**
3.	Road d.o.o. Lukavac	(..)**	(..)**
4.	Bjeljevac tours d.o.o. Kalesija	(..)**	(..)**
5.	Others	(..)**	(..)**
	Total	664	100,00

Resource: data from Notification;

Based on data analysis, it was found that undertaking Gips Tuzla on the market of city and suburban passenger transportation in Tuzla Canton has a share of (..) **% (Table 2) while undertaking Junuzovic-kopex does not operate in this market.

6. Assessment of the concentration

Following an assessment and analysis of data and facts established in the decision making process, Council of Competition found that the implementation of the concentration does not lead to a horizontal overlap of the parties to the concentration since the undertaking Junuzovic-kopex does not operate on the market of urban and suburban passenger transportation in Tuzla Canton, and that the market share of the undertaking Gips Tuzla will remain unchanged, i.e. it will not produce a change of market positions in the relevant market.

Council of Competition has also determined that the concentration does not prevent, restrict or distort market competition in the relevant market of urban and suburban passenger transportation Tuzla Canton and decided as in the enacting clause of this Decision.

7. Administrative fee

In regard to this Decision, the Applicant is obliged to pay administrative fee in the amount of KM 2.500,00 for the benefit of the Budget of Bosnia and Herzegovina Institutions in accordance with Article 2, Tariff number 107 paragraph (1) item d) of the Regulation on amount of administrative fees related to procedural actions before Council of Competition („Official Gazette of BiH“, no. 30/06 and 18/11).

8. Legal remedy

Appeal against this Decision is not allowed.

Unsatisfied party can initiate an administrative procedure before the Court of Bosnia and Herzegovina within 30 days upon receipt, namely publication of this Conclusion.

President

Gordan Raspudić