

**DECISION**

**Adopted upon Notification of intended concentration between Federal State of Bavaria, FR  
Germany and BayernLB Holding AG, FR Germany**

**Sarajevo  
May, 2009**

Number: 01-01-26-057-12-II/08  
Sarajevo, 12 May 2009

**Pursuant to Article 25, paragraph(1) item e), Article 42, paragraph(1), item d), 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 Federal State of Bavaria, FR Germany, represented by the Bavarian Ministry of finance, Odeonsplatz 4, D – 80539 Munich, Germany, represented by a lawyer Stevan Dimitrijević from Banja Luka, Gundulićeva 4, 78000 Banja Luka, that is recorded under the number: : 01-01-26-057-II/08, on 30 December 2008, the Council of Competition at its 88th (eighty-eight) session, held on 12 May 2009, has adopted**

## **D E C I S I O N**

- 1. Concentration that shall be created in the market for universal banking and leasing in Bosnia and Herzegovina through acquisition of majority ownership share in economic entity BayernLB Holding AG, JSC., Brienner Strasse 18, 80333, Munich, Germany by the FS Bavaria, FR Germany, represented by Bavarian Ministry of finance, located in Odeonsplatz 4, D – 80539 Munich, Germany, is assessed 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.**

## **E x p o s i t i o n**

Council of Competition, on 30 December 2008, received a Notification on intended concentration, number: 01-01-26-057-II/08, sent by mail on 26 December 2008, (hereinafter: the Notification) of the Federal State of Bavaria, FR Germany, represented by the Ministry of Finance of Bavaria, headquartered in Odeonsplatz 4, D - 80,539 Munich, Germany, represented by attorney Stevan Dimitrijevic from Banja Luka, Gundulićeva 4, 78000 Banja Luka (hereinafter: the Applicant or the Federal State of Bavaria), which intends to acquire control through capital increase in the stock company BayernLB Holding AG, headquartered in Brienner Strasse 18, 80,333, Munich, Germany.

**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 («Official Gazette of BH», No. 48/05 and 76/07) and Article 8, 9 and 10 of the Regulation on Notification and criteria for assessment a concentration of undertakings («Official Gazette of BH», No. 95/06), and requested supplements to the Notification (official letter number 01-01-26-057-2-II/08) on 06 January 2009, pursuant to Article 31 of the Act on competition (hereinafter: the Act).**

**The Applicant submitted to the Council of Competition the supplements to the Notification recorded under the number 01-01-26-057-5-II/08 on 11 February 2009, number: 01-01-26-057-7-II/08 on 05 March 2009 and number: 01-01-26-057-9-II/08 on 27 March 2009.**

Upon receipt of all required documents, the Council of Competition issued an Acknowledgment of receipt of complete and adequate Notification, number: 01-01-26-057-10-II/08, on 23 April 2009, pursuant to Article 30, paragraph (3) of the Act.

The Applicant states that he intends to submit a Notification for assessment of the concentration to the responsible body for protection of competition of Serbia, Germany, Austria, Montenegro, Slovenia, Macedonia, Italy and Bulgaria.

The Notification was filed within the prescribed time within eight days of making the Decision on capital increase, in terms of Article 16 paragraph (1) of the Act.

#### 1. The concentration participants

Participants to the concentration are Federal State of Bavaria, FR Germany and stock company BayernLB Holding AG, Germany.

##### 1.1. Federal State of Bavaria

Federal State of Bavaria, that is represented by Bavarian Ministry of Finance, Odeonsplatz 4, D - 80,539, Munich is one of the states of FR Germany.

In 2007, the Federal State of Bavaria achieved income in the amount of (.)\*\* KM ((.)\*\* EUR), of which the amount of (.)\*\* KM ((.)\*\* Euro) in Germany.

Federal State of Bavaria is present in the market of Bosnia and Herzegovina in the bank - financial sector through ownership of 50, 00% shares in a company Bayern LB.

##### 1.2. BayernLB Holding AG

Stock company BayernLB Holding AG, headquartered in Brienner Strasse 18, 80,333, Munich, FR Germany (hereinafter: BayernLB) is registered in 2000 in the economic register of the Municipal Court of Munich under number HRB 136,306.

Ownership structure of joint-stock company BayernLB before the implementation of the concentration is shown in Table 1:

Table 1.

Stockholders	Share (%)
Federal State of Bavaria	50,00
(Sparkassenverband Bayern)	50,00
<b>TOTAL</b>	<b>100,00</b>

Source: Data from the Application

BayernLB stock company is a financial holding company, whose main activity is provision of universal banking and leasing.

The economic entity BayernLB in Bosnia and Herzegovina operates through Hypo Group Alpe Adria and Alpe Adria Venture Fund GmbH & Co KEG, Bauernmarkt 6, Vienna, Austria.

Hypo Group Alpe Adria is an international financial group which operates in Austria, Italy, Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Germany, Hungary, Bulgaria, FYR Macedonia and Ukraine.

Hypo Group Alpe Adria operates within the Hypo Group Alpe-Adria-Bank International AG, Alpen - Adria - Platz 1, 9020 Klagenfurt, Austria, and entered, on 30 August 1991, in the register of the District court in Klagenfurt under registration number 108415i.

Ownership structure of economic entity Hypo Alpe-Adria-Bank International AG is given in Table 2:

Table 2.

Stockholders	Share (%)
Bayern LB SR Germany	67,08
Insurance companies GRAWE - Gruppe Austria	20,48
The Government of the province of Corinthian Austria Kärntner Landesholding	12,42
Association employees of Hypo Alpe-Adria Mitarbeiter Privatstiftung	0,02
<b>TOTAL</b>	<b>100,00</b>

Source: [www.hypo-alpe-adria.ba](http://www.hypo-alpe-adria.ba)

The main activity of economic entity Hypo Alpe-Adria-Bank International AG is providing universal banking services and leasing.

### 1.3. Economic entities related to BayernLB in Bosnia and Herzegovina

Related BayernLB economic entities in Bosnia and Herzegovina are Hypo Alpe - Adria - Bank JSC. Mostar, Hypo Alpe - Adria – Vrijednosnice( securities) Ltd. Sarajevo, Hypo Alpe - Adria - Invest Ltd. Mostar, Hypo Alpe - Adria - Leasing Ltd. Sarajevo, Impregnacija (impregnation) - Holz Ltd. Vitez and Hypo Alpe - Adria - Bank JSC. Banja Luka.

#### 1.3.1. Hypo Alpe-Adria-Bank JSC., Mostar

The economic entity Hypo Alpe-Adria-Bank JSC. Mostar, Kneza Branimira 2b, 88 000 Mostar, entered, in 2001, in the register of the Municipal Court in Mostar under registration number 1-10164.

Basic registered activities of the economic entity Hypo Alpe-Adria-Bank JSC. Mostar are conducting deposit and other banking operations in the country and abroad as that are receiving all kinds of money deposits and other financial assets, giving and taking of loans and financial leasing, providing all forms of cash collateral, payment services of transferring money, buying and selling foreign currencies , issuance and management of securities and other values, services, financial management, buying and selling of securities and other matters arising from it.

The economic entity Hypo - Alpe - Adria Bank JSC. Mostar is 100% owned by Hypo Alpe-Adria-Bank International AG.

The economic entity Hypo - Alpe - Adria Bank JSC. Mostar has 51 subsidiaries, 57 ATMs and a total of 1459 POS terminals in the Federation of Bosnia and Herzegovina.

### **1.3.2. Hypo Alpe – Adria – Vrijednosnice(Securities) Ltd. Sarajevo**

The broker - dealer house Hypo Alpe-Adria-Vrijednosnice Ltd. Sarajevo, Trg Solidarnosti 12 , 71 000 Sarajevo, is recorded in June 2003 in the register of the Municipal Court in Sarajevo under the registration number 1-25756.

The economic entity Hypo Alpe - Adria - Vrijednosnice Ltd. Sarajevo is 100% owned by economic entity Hypo Alpe Adria Bank JSC. Mostar.

The main registered activity is mediation in securities in the financial market for its own and someone else account, and related activities.

### **1.3.3. Hypo – Alpe – Adria – Invest Ltd. Mostar**

The economic entity Hypo - Alpe - Adria - Invest Ltd. Mostar, Kralja Petra Kresimira IV, 88000 Mostar, is registered on 25September2000 in the register of the Municipal Court in Mostar under registration number 1-10288.

Economic entity Hypo Alpe - Adria - Vrijednosnice Ltd. Sarajevo is 100% owned by economic entity Hypo Alpe Adria Bank JSC. Mostar.

**The main activity registered business entity Hypo - Alpe - Adria - Invest Ltd. Mostar is the management of privatization investment funds.**

### **1.3.4. Hypo – Alpe – Adria Leasing Ltd. Sarajevo**

The economic entity Hypo - Alpe - Adria - Leasing Ltd. Sarajevo, Zmaja od Bosne,71000 Sarajevo (hereinafter: Hypo - Alpe - Adria - Leasing) is founded in September 2001, and entered in the register of the Municipal Court in Sarajevo under the registration number 1-24584.

Economic entity Hypo - Alpe - Adria - Leasing is 100% owned by economic entity Hypo - Alpe - Adria - Leasing AG, Austria, Alpen - Adria-Platz 1, Klagenfurt, Austria.

The main activity is retail and wholesale of motor vehicles and mediation in trade of motor vehicles.

The economic entity Hypo - Alpe - Adria - Leasing has subsidiaries in Mostar, Tuzla, Banja Luka, Bijeljina, Bihac, Vitez, Livno and Trebinje, and office in Sarajevo.

### **1.3.5. Impregnacija – Holz Ltd. Vitez**

The economic entity "Impregnacija - Holz „Ltd, Vitez, headquartered in Vitez, Stjepan Radic Street, is registered in the register of the Municipal Court in Travnik, under registration number 1-608.

Ownership structure of business entity "Impregnacija - Holz „Ltd, Vitez is shown in Table 3:

<b>Owners</b>	<b>Ownership share (%)</b>
Bayern LB (Alpe Adria Venture Fund Gmbh& Co KEG Austria)	51,00
PAHLZ Gmbh Hermagor	42,38

Ivo Križanac	6,62
<b>TOTAL</b>	<b>100,00</b>

The economic entity Bayern LB has 99.2% of ownership share in a company Alpe Adria Venture Fund GmbH & Co KEG, Bauernmarkt 6, Vienna, Austria.

The main activity of business entity "Impregnacija – Holz“Ltd, Vitez is the production of timber, impregnation or chemical wood processing, production of non-installed timber, veneer, doors and windows, etc.

### 1.3.6. Montis Ltd. Sarajevo

The economic entity "Montis" limited liability company for construction Sarajevo, headquartered in Sarajevo, Nusret Sisic Dedo A2, is registered in the register of the Municipal Court in Sarajevo under registration number 1-25634.

Ownership structure of economic entity "Montis „Ltd Sarajevo is shown in Table 4:

**Table 4.**

<b>Owners</b>	<b>Ownership share (%)</b>
Bayern LB (Alpe Adria Venture Fund GmbH & Co KEG Austria)	85,00
Hazandar Dževad	15,00
<b>TOTAL</b>	<b>100,00</b>

Main activities of the registered economic entity "Montis“ Ltd Sarajevo are demolishing and wrecking of buildings, earthworks, building, low- construction, installation of roof construction and roofing and other construction works.

### 1.3.7. Hypo Alpe – Adria – Bank JSC. Banja Luka

The economic entity Hypo Alpe - Adria - Bank JSC, Banja Luka, headquartered in Banja Luka, Aleja St. Sava 13, is registered in the register of the Municipal Court in Banja Luka, under the number of 3-25-00 on 09 October 2003 for the performing activities of banking operations, monetary brokerage, credit and financial intermediation and securities brokerage.

Ownership structure of business entity Hypo Alpe - Adria - Bank JSC, Banja Luka is shown in Table 5:

**Table 5.**

<b>Stockholders</b>	<b>Share (%)</b>
Hypo Alpe-Adria-Bank International AG Austria	97,00
Private companies from Republic of Srpska	2,4
Farm cooperative of Republic of Srpska	0,6
<b>TOTAL</b>	<b>100,00</b>

1.4. Economic entities in Bosnia and Herzegovina in which BayernLB has more than 10% ownership share

- The economic entity "Soko - **specijala oprema**"(special equipment) Ltd, Mostar, headquartered in Mostar, Rodoč, with 10.70% of ownership share,
- The economic entity "Ventilator - Soko" Ltd, Mostar headquartered in Mostar, Rodoč, headquartered in Mostar, with 20.23% of ownership share,
- The economic entity "Glumina Leasing Ltd, Ljubuski, headquartered in Ljubuski, A. Simica, with 20% of ownership share,
- The economic entity "Vucjak" JSC, Bosanski Brod, headquartered in Bosanski Brod, Vojvode Stepe Stepanovica, with 10.12% of ownership share,
- The economic entity "Crystal Hurricane" JSC, Banja Luka, headquartered in Banja Luka , Milan Rakic 1, with 12% of ownership share,
- The economic entity "Crystal Consulting" JSC, Banja Luka, headquartered in Banja Luka Vuk Karadzic 6, with 47.83% of ownership share.

2. The notification obligation on intended concentration

The economic entities are obliged to notify the intended concentration, pursuant to Article 14 paragraph (1) a) of the Act, if their total annual income achieved in sales of goods and / or services in the global market, amounts over 100,000,000.00 KM, according to final account of the year preceding the concentration, where at least one participant in the concentration registered in the territory of Bosnia and Herzegovina.

Total annual income of the BayernLB, on 31 December 2007, is shown in Table 6:

**Table 6.**

<b>BayernLB</b>	<b>KM</b>	<b>EUR</b>
<b>Bosnia and Herzegovina</b>	(..)**	(..)**
<b>World</b>	(..)**	(..)**

Source: Data from Notification

Annual income of participants is a total revenue (excluding the value added taxes and other taxes directly related to the concentration participants, in the world and the market of Bosnia and Herzegovina), pursuant to Article 8,item h) of the Regulation on Notification and Criteria for Assessment a concentration of undertakings ( "Official Gazette BiH, number 95/06) .

Due to the fact that the conditions are met, in terms of Article 14 paragraph (1) a) of the Act, regarding the joint total annual income and that at least one participant in the concentration is registered in the territory of Bosnia and Herzegovina, the concentration of economic entities is required to be notified .

3. Legal basis and shape of this concentration

Legal basis of this concentration is a Decision on increase of shares capital, from 18December2008. The Decision was taken at the extraordinary main assembly session of

the Bayern LB Holding AG and refers to the capital increase with (...)\*\* KM ((..)\*\* EUR), for (...)\*\* KM ((..)\*\* EUR), the (...)\*\* KM ((..)\*\* EUR).

The increase is made by increasing the basic capital of the entity BayernLB by the Federal State of Bavaria through issuance of 1,264,854,164.00 shares, without indicated minimal value denominated in name, with the advantage of participation in profit amounting to EUR (...)\*\*, and a proportional amount of initial capital of 1.00 EUR.

On the basis of this Decision, the Federal State of Bavaria, as Applicant, will become the majority owner of the BayernLB with 94.0% ownership share.

In accordance with the above, legal form of this concentration is the acquisition of control of the Federal state of Bavaria over BayernLB, pursuant to Article 12 paragraph (1) item b) of the Act on Competition.

#### 4. Relevant market of this concentration

Relevant market, in terms of Article 3 of the Act and art. 4, 5 and 6 of the Regulation on definition of a relevant market is the market of certain products / services that are the subject of performing activities in a particular geographic market.

According to the provisions of Article 4 of the Regulation on definition of a relevant market, relevant product market includes all products and / or services that consumers consider each substitute given their essential characteristics, quality, purpose, price or method of use.

Furthermore, under Article 5 of the Regulation on definition of a relevant market, the relevant market in geographical sense includes the whole or part of the territory of Bosnia and Herzegovina, where the market competitors operate in sale and / or purchase of relevant products under equal or sufficiently balanced conditions that are significantly different from the conditions of market competition in neighboring geographic markets.

The relevant product market of this concentration is a market of universal banking and leasing.

Relevant geographic market is considered to be the market of Bosnia and Herzegovina due to the fact that economic entities related to the BayernLB, operate on the entire territory of Bosnia and Herzegovina.

In accordance with these, the Council of Competition determines the relevant market as the market of universal banking and leasing in the entire territory of Bosnia and Herzegovina.

#### 5. Analysis of relevant markets of this concentration in Bosnia and Herzegovina

Market share of economic entities, connected to the BayernLB in the relevant market, will not be changed by implementation of this concentration.



## 6. Assessment of the concentration

Council of Competition, after assessment and analysis of data and established facts, pursuant to Article 17 of the Act, in the process of making the relevant Decision, has assessed that implementation of this concentration will not distort the existing market competition and it leads only to change of ownership structure of BayernLB, as party to the concentration, and, therefore, this concentration will not produce a change in market share in the relevant market.

Council of Competition has found that the subject concentration does not create and strengthen a dominant position in the relevant market, and decided as stated in the operative part of this Decision.

## 7. 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.**

## 8. 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**

**Dr. Stjepo Pranjić**