



Republic of Serbia  
**COMMISSION FOR  
PROTECTION OF COMPETITION**

25/IV Savska St.  
Number: 4/0-02-427/2018-01  
Date: May 28, 2018  
Belgrade

Pursuant to Article 35(2) of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13), President of the Commission for Protection of Competition enacts the following

### CONCLUSION

#### **I PROCEEDINGS IS INSTITUTED** *ex officio* against companies:

1. Original preduzeće za spoljnu i unutrašnju trgovinu i usluge doo Beograd (Novi Beograd), 21ž Antifašističke borbe St., 11070 New Belgrade, company number 06421091, represented by CEO Predrag Samardžić, branches Original doo Beograd ogranak Čačak, 57 Vojvode Stepe St., office no. 2, Čačak, Original doo Beograd ogranak Niš, 54 Dušanova St., Niš;
2. Mikops doo Export-Import za proizvodnju, trgovinu i usluge Niš, 6 Vojvode Tankosića St., office no. 5, 18000 Niš, company number 20060719, represented by CEO Vladimir Mitić, branch Mikops doo Niš ogranak veleprodaja, 80-84 Svetog Cara Konstantina Blvd., Niš;
3. Preduzeće za usluge i trgovinu Birolinija društvo sa ograničenom odgovornošću Beograd (Čukarica), 16 Bitoljska St., Belgrade, company number 17203096, represented by CEO Branko Dimitrijević;
4. Biro print sistemi doo Beograd-Savski venac, 3 Velisava Vulovića St., company number 21263150, represented by CEO Milan Majkić;
5. Preduzeće za trgovinu i usluge Dikti Line doo, Beograd (Vračar), 24 Alekse Nenadovića St., company number 17409735, represented by CEO Milica Radovanović;
6. Društvo za spoljašnju i unutrašnju trgovinu Birodeveloping doo Niš, B.C. Dušanov bazar – kula, 54-72 Dušanova St., office no. 108, company number 17113003, represented by CEO Sonja Todorović; and
7. Društvo za proizvodnju, promet i usluge Birotehnika Export-Import doo Jagodina, 1 Novosadska St., Jagodina, company number 06350232, represented by CEO Aleksandra Zarić, branches Birotehnika doo Jagodina Poslovna jedinica br. 1 Beograd, 18 Toše Jovanovića St., Birotehnika doo Jagodina, Radna jedinica Niš, 11 Novopazarska St.,

in order to investigate the infringement of competition from Article 10 of the Law on Protection of Competition.

- #### **II** All persons in possession of data, documents or other relevant information which could contribute to the fact-finding in this proceedings are called upon to submit the said to the Commission for Protection of Competition to the address 25 Savska St., Belgrade.

**III** This conclusion shall be published in the Official Gazette of the Republic of Serbia and on the website of the Commission for Protection of Competition.

### *Rationale*

The Commission for Protection of Competition (hereinafter referred to as the Commission) has monitored the implementation of public procurements which as their subject have the procurement of goods – equipment manufactured by Konica Minolta and the procurement of maintenance services for the equipment produced by the said manufacturer. As a result of monitoring those public procurements, the Commission has noticed that only one of two undertakings have submitted bids in individual public procurements relating to the above-mentioned subject of procurements. In such manner, in the Low-value public procurement (PP) of goods no. 404-1D/102-2017-28 – Procurement of 3 photocopiers, published by the City Administration of the City of Niš, only company Mikops doo Niš has participated, which is confirmed by the Contract award decision no. 492/2018-26 of February 5, 2018. Also, in the PP Administrative equipment - Lot I - Photocopier, published by the Blood Transfusion Institute of Niš, only company Mikops doo Niš has participated, which is evidenced by the Contract award decision no. 758 of March 23, 2016.

According to the Contract award decision no. 20167 of July 17, 2017, in relation to the PP 1.2.0.2017 Maintenance services for photocopiers, Lot I - Maintenance services for Konica Minolta devices, for the Contracting authority: PUC Zelenilo Beograd, only company Original doo Beograd has participated.

According to the Contract award decision no. 515/14 of December 15, 2016, in relation to the PP 17/2016, Lot V – Multi-function printing device, for the Contracting authority: Serbian Academy of Sciences and Arts, companies Original doo Beograd and Byte club doo Beograd have participated.

In the PP 2/2016, Lot I - Procurement of toners and consumables for Konica Minolta printers, for the Contracting authority: Center for the promotion of science, Belgrade, companies Original doo Beograd and Taft Line doo Beograd have participated (Contract award decision no. 208/16-7 of March 21, 2016).

Moreover, data on the sales and services partners of the above specified manufacturer are publicly available. On the website of company Konica Minolta poslovna rešenja SE doo Beograd (Novi Beograd), 11A Milutina Milankovića Blvd., New Belgrade ([www.konicaminolta.co.rs](http://www.konicaminolta.co.rs)), is published that partners of Konica Minolta manufacturer are the following companies: Original doo Beograd, Birotehnika doo Jagodina, Birolinija doo Beograd and Mikops doo Niš.

Considering the number of potential bidders, the fact found alarming is that bids in related public procurements are most frequently submitted by only one and rarely two bidders, as established by reviewing the documents published in relation to the concrete public procurements.

Through investigating which companies, in addition to the above-mentioned partners, are dealing with the sales and provision of maintenance services for Konica Minolta equipment or participate in similar public procurements, the following has been established.

On its webpage [www.biro-ps.rs](http://www.biro-ps.rs), company Biro print sistemi doo Beograd is advertising the sales and aftersales maintenance services for professional office machinery and equipment, multi-function photocopiers, printers and plotters, including Konica Minolta's products. Company Dikti Line doo Beograd has participated in public procurements for the provision of maintenance services for photocopiers, including the procurement of photocopier toners, specifically: PP no. M 1.2.12./17, for the Contracting authority: Development Agency of Serbia, PP 1/2018, Lot VI – Original toners for

Minolta devices, for the Contracting authority: Administration for Joint Services of the Republic Bodies, and has concluded a contract with the Ministry of Finance pursuant to the Framework agreement on the procurement of original toners for Minolta devices no. 404-02-1589/2017-01 of July 7, 2017.

Company Birodeveloping doo Niš has participated in the PP 93/2016 – Procurement of printers, Lot II – Toners for laser printers and photocopiers, for the Contracting authority: Municipality of Aleksinac, as a sole bidder in the mentioned lot (Contract award decision no. 404-10/3/16 of February 11, 2016), as well as in the PP 11208/1-8-02 for the provision of maintenance services for photocopiers, for the Contracting authority: PUC Naissus Niš (Contract award decision no. 11208/7 of May 3, 2018). Also, in the earlier public procurement published by the identical contracting authority for the procurement of photocopiers and associated equipment (PP 12585/1), company Birodeveloping doo Niš participated as a sole bidder (Contract award decision no. 12585/7 of May 11, 2016). In the PP 3/2015 – Procurement of printers for the needs of municipal administration - Municipality of Kuršumljija, only one more bidder has participated aside Birodeveloping doo Niš, namely Servis Sloga doo Niš (Contract award decision no. I 404/1-93/2016 of December 6, 2016). In relation to the geographical area in which the above-mentioned public procurements are published (Niš, Aleksinac and Kuršumljija), it is necessary to underline that two partners of Konica Minolta company, as office machinery and equipment manufacturer, have registered branches in the area, namely companies Original doo Beograd and Birotehnika doo Jagodina, while the seat of Mikopos doo company's partner is in Niš, whereat none of those companies – partners of manufacturer Konica Minolta have not submitted a bid.

Starting from the fact that the main objective of procurements is to secure the best value for money allocated for a contracting authority, which is achieved through tendering, that is, competition between bidders, the alarming circumstance is that the largest undertakings on the identical relevant markets – the Konica Minolta office machinery and equipment market and the maintenance service market for Konica Minolta equipment, which are the subjects of related public procurements, do not compete by participating in public procurements. The reason for bid suppression may relate to the earlier agreement between potential bidders. If they mutually agree to offer a cover bid by way of a higher price or poorer quality of the subject of related procurements, or to mutually allocate public procurement markets, in such manner they significantly restrict and prevent competition during the final consideration process of the most favorable bidder. The goal of coordination of bidding activities in each public procurement is to predispose the selection of contracting authorities and to achieve a higher price. In such manner, colluding bidders on coordinated bidding activities in public procurements mutually enable each other to conclude a public procurement contract. Whether or not the goal of such coordination is indirect or direct fixing of prices or other conditions of trade, i.e. allocation of public procurement markets, all forms of rigged bids are prohibited. This case would then relate to the prohibited restrictive agreements from Article 10, paragraphs 1 and 2, item 1) or 5) of the Law, referred to as 'bid rigging' in accordance with generally accepted term from the European competition practice, as explained in the Instructions for detecting bid rigging in public procurement procedures (hereinafter referred to as the Instructions), enacted by the Council of the Commission on June 9, 2011, and published on the Commission's webpages ([www.kzk.org.rs](http://www.kzk.org.rs)). In the Instructions is stated that one of the circumstances indicating on potential infringement of competition is the fact that some bidders submit tenders that win in only certain geographic areas. Also, in case of legal entities which are exempt from the implementation of the Public Procurement Law, the failure to bid on an invitation to tender with identical subject of procurement which results from the previous coordination of bidding activities between competitors is qualified in the same manner.

Article 35 of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13, hereinafter referred to as the Law) stipulates that the Commission institutes a procedure on investigation of competition infringement *ex officio*, when based on submitted initiatives, information and other available data, reasonably assumes the existence of competition infringement.

Based on the review of available documentation, the Commission has reasonably assumed that the following companies: Original preduzeće za spoljnu i unutrašnju trgovinu i usluge doo Beograd, 21ž Antifašističke borbe St., 11070 New Belgrade; Mikops doo Export-Import za proizvodnju, trgovinu i usluge Niš, 6 Vojvode Tankosića St., office no. 5, 18000 Niš; Preduzeće za usluge i trgovinu Birolinija društvo sa ograničenom odgovornošću Beograd (Čukarica), 16 Bitoljska St., Belgrade; Biro print sistemi doo Beograd-Savski venac, 3 Velisava Vulovića St.; Preduzeće za trgovinu i usluge Dikti Line doo, Beograd (Vračar), 24 Alekse Nenadovića St.; Društvo za spoljašnju i unutrašnju trgovinu Birodeveloping doo Niš, B.C. Dušanov bazar – kula, 54-72 Dušanova St., office no. 108; and, Društvo za proizvodnju, promet i usluge Birotehnika Export-Import doo Jagodina, 1 Novosadska St., Jagodina, have committed an infringement of competition from Article 10 of the Law, particularly by bid rigging in public procurement procedures whose subject was the procurement of Konica Minolta office machinery and equipment and the provision of maintenance services for the said equipment during the period at the latest with effect from 2015 onwards.

Given that the Commission has assessed the fulfilment of conditions from Article 35 of the Law for instituting *ex officio* proceedings based on the above-mentioned, it is established as in Paragraph I of the enacting terms herein.

Pursuant to the provisions of Article 35(2) of the Law, it is established as in Paragraph II of the enacting terms herein.

Pursuant to the provisions of Article 40(1) of the Law, it is established as in Paragraph III of the enacting terms herein.

#### **Instruction on legal remedy:**

This conclusion is not susceptible to special appeal, but is permitted to institute administrative dispute by an appeal before the Administrative Court against the final decision of the Commission.

**PRESIDENT OF THE COMMISSION**

Dr. Miloje Obradović

To be delivered to:

1. **Original** preduzeće za spoljnu i unutrašnju trgovinu i usluge doo Beograd, 21ž Antifašističke borbe St., 11070 New Belgrade,
2. **Mikops** doo Export-Import za proizvodnju, trgovinu i usluge Niš, 6 Vojvode Tankosića St., office no. 5, 18000 Niš,
3. Preduzeće za usluge i trgovinu **Birolinija** društvo sa ograničenom odgovornošću Beograd, 16 Bitoljska St., Belgrade,
4. **Biro print sistemi** doo Beograd, 3 Velisava Vulovića St., Belgrade,
5. Preduzeće za trgovinu i usluge **Dikti Line** doo Beograd, 24 Alekse Nenadovića St., Belgrade,
6. Društvo za spoljašnju i unutrašnju trgovinu **Birodeveloping** doo Niš, B.C. Dušanov bazar – Kula, office no. 108, 54-72 Dušanova St., 18000 Niš,
7. **Birotehnika Export-Import** doo Jagodina, 1 Novosadska St., 35000 Jagodina,
8. Archives.