



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

25/IV Savska St., Belgrade

Number: 5/0-02-02/2019-4

Reference number: 5/0-02-08/2018

5/0-02-724/2017

Date: May 24, 2019

Pursuant to Article 22(2), Article 57(1), and Article 68(1/1) of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13), Article 137 read in conjunction with Article 213(2) of the Law on General Administrative Procedure (Official Gazette of the RS 18/2016), and Article 3 and Article 4 of the Regulation on criteria for setting the amount payable on the basis of measures for protection of competition and sanctions for procedural breaches, manner and terms for payment thereof and conditions for determination of respective measures (Official Gazette of the RS 50/2010), deciding in *ex officio* proceedings against the party, Joint stock company for transportation services Niš-ekspres Niš, company number 07133731, with registered seat at the address 160 Čamurlija St., Niš, represented by Zoran Jovanović, CEO, in order to establish the existence of an act of abuse of dominance within the meaning of Article 16 of the Law on Protection of Competition, at the 205<sup>th</sup> session held on May 24, 2019, the Council of the Commission for Protection of Competition enacts the following

### **DECISION**

**I IT IS ESTABLISHED** that undertaking Joint stock company for transportation services Niš-ekspres Niš, company number 07133731, with registered seat at the address 160 Čamurlija St., Niš, represented by Zoran Jovanović, CEO, holds a dominant position on the relevant market for the provision of platform entrance services at bus stations in the territory of the City of Niš.

**II IT IS ESTABLISHED** that undertaking Joint stock company for transportation services Niš-ekspres Niš, company number 07133731, with registered seat at the address 160 Čamurlija St., Niš, represented by Zoran Jovanović, CEO, has abused its dominance, in particular by:

- 1) applying dissimilar business conditions at the Bus station Niš as the only bus station in the territory of the City of Niš in the period from April 18, 2015, to November 20, 2018, by charging various prices for equivalent bus station services linked to a bus ticket purchase, based on the price lists no. IO 208/2 of April 17, 2015, no. 301/1 of July 13, 2016, and no. 435/1 of February 12, 2018, thus distinguishing ticket holders on the basis of travel distance in km, namely:

- 15.00 RSD, VAT included, for the travel distance of up to 50 km;

- 45.00 RSD, VAT included, for the travel distance from 51 to 100 km;
- 70.00 RSD, VAT included, for the travel distance from 101 to 200 km;
- 80.00 RSD, VAT included, for the travel distance from 201 to 300 km;
- 100.00 RSD, VAT included, for the travel distance of over 300 km,

which as a consequence had an effect of discrimination of those users who were charged more for the provision of equivalent bus station platform entrance services.

2) applying dissimilar business conditions at the Bus station Niš as the only bus station in the territory of the City of Niš, based on the price lists no. IO 208/2 of April 17, 2015, no. 301/1 of July 13, 2016, and no. 435/1 of February 12, 2018, in the form of various pricing for the provision of bus station platform entrance services, distinguishing between users who have paid for the provision of related bus station services with the bus ticket purchase and users holding the bus station platform tickets, by charging more for the provision of bus station platform entrance services to the bus station platform ticket holders than to those with purchased bus tickets that cover the bus station platform entrance, namely:

- in the period from April 18, 2015, to July 13, 2016, in the amount of 100.00 RSD, VAT included;
- in the period from July 14, 2016, to February 18, 2018, in the amount of 160.00 RSD, VAT included, for persons using the services of bus carriers who have not provided related price lists to Niš-ekspres, and in the amount of 300.00 RSD for all other persons;
- in the period from February 19, 2018, to November 20, 2018, in the amount of 160.00 RSD, VAT included,

which as a consequence had an effect of discrimination of those users who were charged more for the provision of equivalent bus station platform entrance services against persons who have paid for the provision of related bus station services with the purchase of a bus ticket.

**III MEASURE FOR PROTECTION OF COMPETITION IS IMPOSED** against the undertaking from Paragraph I of enacting terms herein, in the form of commitment to pay a monetary amount at 1.3% of the aggregate annual turnover generated in 2016, which amounts to RSD 40,726,439.00 (in words: forty million seven hundred twenty-six thousand four hundred thirty-nine and 00/100 dinars).

**IV IT IS ORDERED** to the undertaking from Paragraph I of enacting terms herein to make payment in respect of the measure for protection of competition from Paragraph III of enacting terms herein, into the Budget account of the Republic of Serbia, number 840 743224 843 94, model 97 - reference number: two-digit control number according to model 97 – three-digit number of a municipality, city or area – number of this decision.

**V DEADLINE IS SET** with regard to the undertaking from Paragraph I of enacting terms herein, to 12 (twelve) months from the date of receipt of this decision for the execution of the order from Paragraph IV of enacting terms herein, under the threat of enforcement measure implemented by the Tax Administration in accordance with regulations governing tax collection.

**VI IT IS ORDERED** to the undertaking from Paragraph I of enacting terms herein, that within 5 (five) days from the date of execution of the order from Paragraph IV of enacting terms herein, produce a proof of payment thereof to the Commission for Protection of Competition.

**VII REMEDIAL MEASURE TO RESTORE COMPETITION IS IMPOSED AND IT IS ORDERED** to the undertaking from Paragraph I of enacting terms herein, to enable the bus station

platform entrance to all bus station service users based on the purchase of bus tickets and bus platform tickets at the Bus station Niš in a non-discriminatory manner.

**VIII REMEDIAL MEASURE TO RESTORE COMPETITION IS IMPOSED AND IT IS ORDERED** to the undertaking from Paragraph I of enacting terms herein, that within the period of 2 (two) years from the date of receipt of this decision, provide a price list of bus station services every 6 months, with effect from the date of receipt of this decision, valid at the bus station in the territory of the City of Niš as a proof of execution of the order from Paragraph VII of enacting terms herein.

**IX IT IS PROHIBITED** to the undertaking from Paragraph I of enacting terms herein to take any further actions that could prevent, restrict, or distort competition.

**X THE REQUEST** submitted by the undertaking from Paragraph I of enacting terms herein to suspend the proceedings **IS REJECTED**, instituted pursuant to the conclusion no. 5/0-02-742/2017-1 of November 17, 2017, enacted by the President of the Commission for Protection of Competition.

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

[...]

**PRESIDENT OF THE COMMISSION**

Dr Miloje Obradović