



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

25 Savska St., 4th Floor, Belgrade

No.: 5/0-02-290/2020-3

Ref. No.: 5/0-02-02/2019,

5/0-02-08/2018,

5/0-02-724/2017

Date: December 24, 2020

Pursuant to Article 22(2), Article 25(1), Article 57(1), and Article 68(1/2) of the Law on Protection of Competition (Official Gazette of the RS 51/2009 and 95/2013), Article 101 of the Law on General Administrative Procedure (Official Gazette of the RS 18/2016 and 95/2018 - authentic interpretation) and Articles 3 and 4 of the Regulation on criteria for setting the amount payable on the basis of measure for protection of competition and sanctions for procedural breaches, manner and terms for payment therein and conditions for determination of respective measures (Official Gazette of the RS 50/2010), in reassessment proceedings ex officio brought against the party to the proceedings, company Niš-ekspres doo Niš, company number 07133731, with registered office at 160 Čamurlija St., Niš, represented by Zoran Jovanović, to determine the existence of an act of abuse of dominance within the meaning of Article 16 of the Law on Protection of Competition, at the 37th session held on December 24, 2020, the Council of the Commission for Protection of Competition enacts the following

DECISION

I IT SHALL BE ESTABLISHED that undertaking Niš-ekspres doo Niš, with registered office at 160 Čamurlija St., Niš, as the managing authority at the Bus station Niš holds a dominant position on the relevant market for the provision of platform services at bus stations in the territory of the City of Niš.

II IT SHALL BE ESTABLISHED that undertaking Niš-ekspres doo Niš, with registered office at 160 Čamurlija St., Niš, has abused its dominance by imposing unfair trading terms as the managing authority at the Bus station 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:

- 1) by charging various prices for equivalent bus station services in relation to bus ticket purchases from April 18, 2015 to November 20, 2018, distinguishing between individual ticket holders based on the distance travelled in kilometers, namely:
 - 15.00 RSD, VAT included, for travel distances up to 50 km;
 - 45.00 RSD, VAT included, for travel distances from 51 to 100 km;
 - 70.00 RSD, VAT included, for travel distances from 101 to 200 km;
 - 80.00 RSD, VAT included, for travel distances from 201 to 300 km;
 - 100.00 RSD, VAT included, for travel distances of 300 km or more,

and

- 2) by charging various prices for the provision of bus station services to individual ticket holders and platform ticket holders, by charging the latter in the following amounts:
 - from April 18, 2015 to July 13, 2016, in the amount of 100.00 RSD, VAT included,

- 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 that have not provided price-lists to Niš-ekspres, and in the amount of 300.00 RSD for other persons;
- from February 19, 2018 to November 20, 2018, in the amount of 160.00 RSD, VAT included,

resulting in a discrimination of users by charging different prices for the provision of identical services of bus station platform entrance.

III MEASURE FOR PROTECTION OF COMPETITION SHALL BE DETERMINED for undertaking referred to in Paragraph I of enacting terms herein, in the form of a commitment to pay a monetary sum in the amount of RSD 37,593,636.00 (in words: thirty-seven million five hundred ninety-three thousand six hundred thirty-six and 00/100 dinars).

IV IT SHALL BE ORDERED to undertaking referred to in Paragraph I of enacting terms herein, to execute payment in respect of the measure for protection of competition referred to in Paragraph III of enacting terms herein to the Budget account of the Republic of Serbia, No. 840 743224 843 94 MOD 97 – with Reference number: two-digit control number MOD 97 – three-digit number of the municipality, city or area – number of this decision.

V DEADLINE SHALL BE SET OUT for undertaking referred to in Paragraph I of enacting terms herein, at 12 (twelve) months from the notification of this Decision to execute orders referred to in Paragraph IV of enacting terms herein, under threat of enforcement measures implemented by the Tax Administration under regulations governing tax collection.

VI IT SHALL BE ORDERED to undertaking referred to in Paragraph I of enacting terms herein, that no later than 5 (five) days from the date of execution of orders referred to in Paragraph IV of enacting terms herein, to submit proof of payment thereof to the Commission for Protection of Competition.

VII REMEDIAL MEASURE SHALL BE DETERMINED AND IT SHALL BE ORDERED to undertaking referred to in Paragraph I of enacting terms herein, to provide the platform services at the Bus station Niš to all users in a non-discriminatory manner.

VIII IT SHALL BE ORDERED to undertaking referred to in Paragraph I of enacting terms herein, that in the period of 2 (two) years from the notification of this Decision, to submit service price-lists valid at the bus station in the territory of the City of Niš to the Commission for Protection of Competition on a biannual basis starting from the date of notification of this Decision, as evidence of performance concerning orders referred to in Paragraph VII of enacting terms herein.

IX IT SHALL BE PROHIBITED to undertaking referred to in Paragraph I of enacting terms herein, to take any further actions that could prevent, restrict, or distort competition by abusing its dominant position in a manner as described in Paragraph II of enacting terms herein.

X THE REQUEST submitted by undertaking referred to in Paragraph I of enacting terms herein to suspend the proceedings **SHALL BE REJECTED**, instituted pursuant to the Conclusion No. 5/0-2-724/2017-1 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

Nebojša Perić