



Number: 01-01- 26-172/05  
Sarajevo, 27 December 2005

Pursuant to Article 25, paragraph (1), item e), Article 42, paragraph (1), item e) and Articles 2 and 3 in connection with Article 9 of the Act on Competition («Official Gazette of BiH», No. 48/05), and Article 193, paragraph (2) of the Law on Administrative procedure, («Official Gazette of BiH», No. 29/02 and 12/04), in the proceedings on determination of the abusing the dominant position which prevents, restricts and distorts a market competition, taken on the basis of a Request submitted by «Centrotrans-Eurolines»d.d. Sarajevo, Kurta Schorka14, represented by Muhamed Saciragic, a general director, No. 01-01-129/05 from 25April 2005, against Government of the Sarajevo Canton, headquartered in Sarajevo, Reisa Demaludina Causevica 1, represented by Vasvija Teftedarija, a deputy of an attorney of Sarajevo Canton, the Ministry of Traffic and Communications of Sarajevo Canton, headquartered in Sarajevo, Reisa Damaludina Causevica1, represented by authorized person Jasminka Susa and Ministry for Work, Social policy, displaced persons and refugees of Sarajevo Canton, headquartered in Sarajevo, Reisa Damaudina Causevica 1, represented by authorized persons Slavica Gorancic and Jagoda Smajis, the Council of on its 20th session, held on 27 December 2005, has adopted the following

**DECISION**  
**I**

- (1) It is decided that the Government of Sarajevo Canton, as a state administration organ which by its acting directly or indirectly participates or acts in the market, within the meaning of Article 2 of the Act on Competition, starting from 2003 and further on, enables, that is to say strengthens a dominant position of the KJKP Gras Sarajevo and therefore prevents, restricts and distorts the market competition in the relevant market of the transport services for the particular category of users (retired persons and blind persons) in the public transport in Sarajevo Canton area by the means of legal and administrative barriers restricts the access to other potential participants and undertakings to the relevant market on the basis of the following:
  - Resolution passed by the Government of Sarajevo Canton, No. 02-05-18797-17/03, from 17 October 2002, effective from 01 January 2003,
  - Resolution passed by the Government of Sarajevo Canton, No. 02-05-4701-7/03, from 27 March 2003, effective in the year 2003,
  - Resolution passed by the Government of Sarajevo Canton, No. 02-05-11064-15/03, from 25 June 2003, effective in the year 2003,
  - Decision on subsidy to transportation charges in the public transport in Sarajevo Canton area in 2004, No. 02-05-24876-1/03, from 17 December2003,
  - Guidelines on the application of a Decision on subsidy to transportation charges in the public transport in Sarajevo Canton area in 2004, No. 02-05-24876-1/03 from 16 February 2004.
- (2) The Government of Sarajevo Canton is ordered to adopt a new Decision on subsidy to the costs in the public transport in the Canton area, according to which the equal access to the relevant market of subsidized transportation services to particular categories of the users (retired persons and blind persons) in the public transport, shall be allowed to all parties-carriers, apart from KJKP Gras, with the approved schedules on bus routes in Sarajevo Canton area.

The period of execution is to be without delay and at least within 3 (three) months starting from the day of the decision delivery.

The Government of Sarajevo Canton is ordered to submit for insight a new Decision on the subsidy to the costs in the public transport in Sarajevo Canton area as an evidence that the order stated in point 2 of this decision is executed.

## II

(1) It is established that the Ministry of traffic and communication of Sarajevo Canton, as a state administrative body which by its direct or indirect acting participates or acts in the market, within the sense of Article 2 of the Act on Competition, starting from 2002 and further, restricts, prevents and distorts the market competition in the relevant market of the public transport of persons and things in public transport in Sarajevo Canton area by failing in creation of the obliged regulations and compliance with the law and that makes a legal and administrative barriers to access to the determined relevant market of public transport services to other undertakings, carriers in the Sarajevo Canton area,

- Failed to act according Articles 8 and 70 of the Law on transport in internal road traffic («Official Gazette of FBiH», No. 23/98), and to adopt within 90 days a special regulation stipulating the conditions, method and organization of functioning the route and out-route road traffic, conditions, methods and procedure of engagement of the carriers in functioning the route transport of persons, rights and duties of the authorized staff and enterprises, other legal persons engaged in functioning the route transportation, etc...
- Failed to start a procedure of the public harmonization of the schedules in Sarajevo Canton area, in accordance with the procedure regulated in Rulebook on criteria, procedure and methods of harmonization and registration of schedules («Official Gazette of FBiH», No. 34/03)

(2) The Ministry of traffic and communication of Sarajevo Canton is ordered to adopt within 6 days a regulation referred to in Article 8 of the Law on transport in internal road traffic and to start procedure of the public harmonization of schedules in Sarajevo Canton area, in accordance with the regulation in the Rulebook on criteria, procedure and methods of the harmonization and registration of schedules.

(3) The Ministry of traffic and communication of Sarajevo Canton is ordered to submit for insight, within 6 months, the adopted regulation referred to in Article 8 of the Law on transport in internal road traffic in Sarajevo Canton area and Decision on harmonization of schedules in road transport of persons adopted in accordance with the Rulebook on criteria, procedure and methods of the harmonization and registration of schedules as an proof that the orders from the point 2 of this decision are obeyed.

## III

It is established that the Ministry for Work, Social Policy, Displaced persons and Refugees of Sarajevo Canton, acting as an administration organ in the sense of Article 2 of the Act on Competition has not breached stipulations of Article 11, paragraph (1) of the Act on Competition.

## IV

The request of «Centrotrans-Eurolines» d.d Sarajevo in its part concerning the refusal by KJKP Gras Sarajevo of the agreement to use the station services of the bus stations in possession of the applicant is rejected due to incompetence.

## EXPOSITION

On 15 April 2005 the «Centrotrans-Eurolines» d.d Sarajevo (hereinafter: applicant) submitted to the Council of Competition of Bosnia and Herzegovina a Request on the monopoly activity of the Government of Sarajevo Canton, Ministry of Traffic and Communication of Sarajevo Canton and Ministry for Work, Social policy, Displaced Persons and Refugees of Sarajevo Canton.

The applicant stated that the Government of Sarajevo Canton by its monopolistic activities and by making the barriers to access to the relevant market within the sense of Article 10 of a Decision on definition of a relevant market («Official Gazette of BiH», No. 01/05) breaches the stipulations of Article 5 in connection with Article 1 of at that time existing Law on Competition («Official Gazette of BiH», No. 30/01) which relate to the equality of the public and private economic subjects, and that by these activities intends to keep and strengthen the monopoly position of the KJKP Gras Sarajevo in the service market of the public transport of passengers in Sarajevo Canton area by the means of granting the subsidy to cantonal routes to KJKP Gras Sarajevo and un-use the station services of the applicant.

1. Concerning the subsidy, the applicant states that a Decision of the Government of Sarajevo Canton, No. 02-05-24876-1/3 from 17.12.2003 determined a subsidy to transport costs in public city traffic within the Sarajevo Canton area in 2004 for retired persons, residents of Sarajevo Canton area, retired persons-returnees and for blind persons.

The request for the subsidy to costs for transport services provided for retired persons submitted by the applicant was refused by the Ministry for Work, Social Policy, Displaced Persons and Refugees of Sarajevo Canton, explaining that the determined subsidy is only for the retired persons who use the KJKP Gras Sarajevo services, and he thinks that the said Ministry was not right, because the cited decision determined the subsidy to transport costs for the particular category of persons but not the carriers to be subsidized for the transport services costs they provided in the route transport. Although Article 7 of the cited Decision stated that Ministry for Work, Social Policy, Displaced Persons and Refugees of the Sarajevo Canton and KJKP Gras Sarajevo are assigned for realization of the decision it is considered that it does not mean that only transport costs of the particular category of persons on the route of KJKP Gras Sarajevo shall be subsidized, that only KJKP Gras Sarajevo is only carrier in Sarajevo Canton area to whose passengers the transport costs are subsidized, because the subsidy is granted to passengers but not to KJKP Gras Sarajevo.

If it is considered that transport costs for passengers using the services of KJKP Gras Sarajevo have to be subsidized than the said decision is discriminatory and it places the undertakings in the unequal competition position by imposing the different operating conditions and that KJKP Gras Sarajevo, assigned as the only undertaking for providing such services in the market, is enabled the advantageous operating conditions and that it is contrary to Article 5, paragraph, (1) item c) of at that time existing Law on Competition and that it breaches Article 253 of the Crime Law of Federation of Bosnia and Herzegovina.

At same time, on the basis of a Decision on granting utility services-transport of passengers in suburb -area traffic within Sarajevo Canton area, No. 10-023-43/90 from 08.11.1990 and its amendments No. 10-23-3/91 from 04.06.1991 adopted by the Parliament of Sarajevo city the status of the applicant was put in equal position with the status of KJKP Gras Sarajevo concerning the transport in city transport within the Sarajevo Canton area and on the basis of that the applicant considers that there was no reason the benefits to subsidy to the transport costs of the particular passengers in the routes of the applicant to be refused.

2. Concerning the second part of the Request, the applicant stressed that the Ministry of traffic and communication of Sarajevo Canton (hereinafter: Ministry) adopted a

Decision on approved schedules of routes Sutjeska – Vogosca, Ilidza – Tarcin – Vukovici, Sutjeska Ilijas – Ljesevo, Ilidza – Rakovica – Kobiljaca, Vijecnica – Dobrinja, Nedzarici – Dobrinja, Sutjeska – D.Vogosca, Ilidza – Sokolovici, Ilidza – Hrasnica, Ilidza – Hadzici – Drozometva and extended the registration time of the said routes every year.

Further, despite to objections and requests of the applicant, the Ministry adopted 70 decisions in April and May 2004 approving to KJKP Gras Sarajevo the cantonal schedules and 10 schedules which can not be considered as old schedules due to increased number of buses using the said schedules.

The applicant states that he has asked for several times the Ministry to remove irregularities, to make him available access to a book of the registry of the cantonal schedules, to provide also the applicant to obtain a new routes and to start the procedure on harmonization of the schedules according Article 18 of the Law on transport in internal road traffic and Article 3 of the Rulebook on criteria, procedure and methods of harmonization and registration of schedules in order to remove breaches of the security time with other carriers having the same routes in federal and cantonal bus routes as the applicant.

The applicant has never got reply or information on his request until the time when the access to information is provided, according the Law on free access to information in BH, by the Ombudsman for human rights of Bosnia and Herzegovina and when the procedure is finalized by means of the extension of schedules to bus and tram cantonal routes of KJKP Gras Sarajevo.

Upon received copy of a Decision on the extension of schedules to the bus and tram cantonal routes of KJKP Gras Sarajevo, the applicant submitted an appeals to Ministry only to the Decisions which affected him directly and which affected a security times and common routes in the federal and cantonal routes having been approved previously, and which were refused by the Ministry as groundless because the traffic functioned easily and regularly.

The applicant thinks that the Ministry by its behavior and unlawful operations enables the KJKP Gras Sarajevo, founded by the Ministry and owned by Sarajevo Canton, to the detriment of the applicant, to accomplish profit of more than 2 million of convertible marks what distorted the competition by making barriers and protecting the access to the relevant market in the spirit of Article 10 of the said Regulation on definition of a relevant market.

3. The KJKP Gras Sarajevo due to unexpected of the conditions of the Agreement on use of the station services offered by the applicant and due to un-use of the station services of bus-stations, owned by the applicant, caused damage of 1.700.000,00 convertible marks within the 5 years period of the application of the agreement. The applicant informed the Ministry and responsible cantonal inspectorate on infringement of the Law on transport in internal road traffic but no one sanctioned the KJKP Gras Sarajevo and undertook any measure to eliminate difficulties. That also put the applicant to the unequal position what was directly contrary to Article 5, paragraph (1), item c) of at that time existing the Law on Competition.

The Council of Competition considered the submitted request and estimated that there were conditions for initiation of the investigation from Article 18, paragraph (2) of at time existing Law and Competition. On 27 May 2005 the Council of Competition adopted a Resolution refers to the initiation of the investigation of the monopoly activities against the Government of the Sarajevo Canton, Ministry of traffic and communication of Sarajevo Canton and Ministry for Work, Social Policy, Displaced Persons and Refugees of Sarajevo Canton and submitted an information on initiation of the investigation to parties to the proceedings on 12 June 2005.

The proceedings stated before 27 July 2005, that means before a day when the application of the new Act on Competition started («Official Gazette of BiH», No. 48/05), so within the sense of Article 59 it was stipulated that the proceedings initiated before the Council of Competition pursuant to the provisions of the previous Law on Competition and not completed until the day of entry into force of the new Act, shall be continued pursuant to the provisions of the new Act. As the previous Law did not stipulate the rules governing the proceedings as it is stipulated by the new Act, it was not possible to collect adequate evidences and additional analysis and expertise to determine the factual circumstances, so the Council of Competition submitted on 18 August 2005 a request to the parties to declare themselves about the notification and to submit a reply and all evidences approving the facts stated in the reply.

Within the given period, the replies were submitted on 09 September by Ministry for work, social policy, displaced persons and refugees, No. 13-49-26209 and by Ministry of traffic and communication of Sarajevo Canton, No. 04-27-26123/05. In their replies they stated identically about the important points and that their decisions contained no activities contrary to the positive regulations and they confirmed the fact that the Government of Sarajevo Canton on its 45 the session held on 17 December 2003 adopted a Decision on granting the subsidy to transport costs in public city transport in Sarajevo Canton area, No. 02-05-24876-1/03.

The legal basis for the cited Decision is in Article 163, paragraph (1), alinea 24 of the Law on social protection, protection of the civil war victims and families with children («Official Gazette of BiH», No. 16/02 and 8/03) stipulating that «other rights within this law, regulated by the acts of the Parliament or Government of Sarajevo Canton» shall be financed from the cantonal budget. The reason for adoption of that decision was to provide for the most jeopardized categories of population (retired persons and blind persons) the subsidy to transport costs in public city transport in Sarajevo Canton area and that the KJKP Gras Sarajevo was to provide fully transport services in bus, trolley, tram and mini-bus traffic and that its routes were to cover entire territory of the Canton and that the applicant in the moment of adoption of the Decision was without registered routes in the Sarajevo Canton area and due to that fact the Government of Canton ordered the KJKP Gras Sarajevo to realize the said Decision. They also stated that the users of the services stressed their gratitude for this kind of subventions and for provided services.

Further, they stated that the applicant's statement can not be considered as grounded in regards to the previously cited Decisions of the Parliament of Sarajevo City from 1990 and 1991 because the area of Sarajevo City covers now only 4 municipalities and the adopted Decision provided subsidy to transport costs in public transport in Sarajevo Canton area.

The Ministry of traffic and communication of Sarajevo Canton stressed in its statement submitted to the Government of Sarajevo Canton, upon a request of the applicant, a proposals to grant the subsidy to the transport costs on route Sarajevo-Ilijas and as there was no funds in the budget for that year (2005) it was not possible to satisfy the request and that the Ministry would propose for the next year (2006) the targeted funds in the budget to satisfy the applicant.

As regards to the cantonal routes and functioning of the city traffic as vital function in Sarajevo Canton, the Ministry of traffic and communication of Sarajevo Canton replied that Sarajevo Canton is responsible for proper functioning of the city traffic and to provide normal transport in 80 suburb routes, that profitable routes provide the finance for unprofitable routes and the law prices for particular categories of population (retired persons, students, workers). The normal traffic is provided on the basis of a decision on registered routes which are to be harmonized, so Sarajevo Canton is taking care that it is not to be disturbed in a case that any carrier withdraw from unprofitable routes and it controls complete system.

Analysis of replies of both Ministries, and having in mind a very sensitive field of the economy and market and that additional expertise or analysis is need for appraisal of the facts, the Council of Competition in accordance with Article 41, paragraph (2) of the new Act on Competition has adopted on 23 September 2005 a Resolution on extension of the time limits for the final decision.

The Council of Competition analyzed all submitted evidences and asked the applicant and KJKP Gras Sarajevo for additional explanations (submitted in a written form No. 2427 on 11 October 2005) and then organized a public oral hearing on 24 November 2005 presented by authorized representatives of the applicant «Centrotrans-Eurolines» d.d. Sarajevo, the Government of Sarajevo Canton, Ministry of traffic and communication of Sarajevo Canton and Ministry for Work, Social Policy, Displaced Persons and Refugees of Sarajevo Canton.

The Council of Competition on the basis of the Regulation on Definition of a Relevant market («Official Gazette of BiH», No.1/05) has established that according to the request the relevant markets are to be defined for each case separately and that there are two relevant markets: one is referred to the request on subsidy to the transport for particular categories of persons in public transport and second is referred to the cantonal routes.

According to the said Regulation, the relevant market is defined as a market of particular products (services) which are the subject of the business activities of the undertaking in the particular geographic territory.

The relevant product (services) market comprises all products which consumers and/or users consider mutually substitutable under acceptable conditions, having in mind the products' substantial characteristics, quality, general use, way of usage, conditions of sale and prices.

Relevant geographic market comprises whole territory or significant part of the territory of Bosnia and Herzegovina where undertakings operate in sale and/or purchase of a relevant product (service) under equal or sufficiently homogenous conditions and which are significantly distinguished from the conditions of competition in neighboring geographic markets.

#### (1) Subventions to the transport for particular categories of persons in public city traffic

In the case in question the relevant market is service market of transport in public traffic in Sarajevo Canton area for retired persons living in Sarajevo Canton as their place of residence, retired returnees in the territory of the former Sarajevo City whose pensions are paid by the Federal Institute for Pension and Disability Insurance and blind persons whose eyesight acuity is less than 10% (0,10). The costs for transport services is defined according to the monthly pension of the said categories of persons, therefore the retired persons with a pension up to 215,00 convertible marks, are granted a fully subsidy, the other retired persons whose pension exceeds 215,00 convertible marks are granted a subsidy in eight different categories, and as for the blind and partially sighted persons, they are to be a member of the respective associations.

The Law on transport in internal road traffic stipulates, in Article 17, paragraph (2) that the route is the functioning of transport in road traffic from the starting bus stop to the final bus stop where the transport of passengers is functioning according to the registered schedules of one or more departures, and paragraph (5) of the same Article stipulates that the cantonal bus route is a route which connects inhabited places in one canton.

In the case concerned, the relevant geographic market is a service market of Sarajevo Canton area, that means the territory of the former Sarajevo City where all undertakings having

registered schedules for transport in city traffic operates, that means the approved schedules according to law.

Hence, in this case, the relevant market is service market of transport of retired persons and blind persons in public transport in Sarajevo Canton area, that means in the former territory of Sarajevo City where all undertakings with approved cantonal bus routes and schedules for transport in public traffic operate.

After analyzing the Resolution passed by the Government of Sarajevo Canton, No. 02-05-18797-17/03, from 17 October 2002, effective from 01 January 2003, Resolution passed by the Government of Sarajevo Canton, No. 02-05-4701-7/03, from 27 March 2003, effective in the year 2003, Resolution passed by the Government of Sarajevo Canton, No. 02-05-11064-15/03, from 25 June 2003, effective in the year 2003, Decision on subvention the transportation charges in the public transportation in Sarajevo Canton area in 2004, No. 02-05-24876-1/03, from 17 December 2003, and Guidelines for application of the Decision on subsidy to the transport costs in the public transportation in Sarajevo Canton area in 2004, No. 02-05-24876-1/03 from 16 February 2004, it follows that a bearer of the subsidy is particular category of retired persons and blind persons who is granted the right to use services, based on the mentioned acts.

That is proved by the nature of the granted funds assigned for support to endangered category of the population and by the name and content of the Law on Social protection, protection of civilian war victims and protection of families with children, as a legal basis for adoption of the said acts.

The stipulation included in all acts of the Government of Sarajevo Canton, stipulating either the obligation to KJKP Gras Sarajevo, Ministry for Work, Social Policy, Displaced persons and Refugees of Sarajevo Canton or regulating the procedure for realization of the said right, shows clearly that only KJKP Gras Sarajevo may carry on the transport of the relevant services in the Sarajevo Canton area and to remunerate the subsidy from the responsible Ministry which is assigned purposely in the budget.

The Law on transport in internal road traffic stipulates in Article 2, paragraph (1) that the public transport of passengers and goods, for the adequate refund under the equal conditions is available to all users of the services, paragraph (3) of the same Article stipulates that the carrier is the undertaking or other legal person carrying on the public transport registered in the court registry for carrying on that business and meets the stipulated conditions, Article 16, paragraph (1) stipulates that the public transport of passengers in route road traffic is transport of passengers and goods in the particular routes according to the predetermined registered schedule. It follows out of the said regulations in the case concerned that the users of the granted subsidy to the services have a right to use all registered routes with registered schedules in Sarajevo Canton area.

According to the cited regulations of the Government of Sarajevo Canton the right to use the subsidy to the said services is not granted if there is no approved route of the KJKP Gras Sarajevo that means that the right to choose a carrier is denied if there are two carriers at the route, they can't use substitute service. All that prevents access to the relevant services market in public transport to other undertakings-carriers with approved route traffic in city traffic in Sarajevo Canton area and that makes a legal and administrative barrier to entry to the determined relevant market.

It follows that the Government of Sarajevo Canton as an administrative body who in the sense of Article 2, paragraph (2) item b) directly or indirectly affects the market and by its acts provides and strengthens the dominant position (monopoly) to the KJKP Gras Sarajevo as a

legal body in his property, making barriers to other undertaking to entry the relevant market, retracts, limits and distorts the market competition in the determined relevant market.

According to the above mentioned acts of the Government of Sarajevo Canton, the Ministry for Work, Social Policy, Displaced persons and Refugees of Sarajevo Canton was ordered to realize the stipulations of the acts (submit the list of users, refund the granted funds) and on the basis of that it was not in position to affect directly or indirectly the relevant market and distort the competition, so it didn't breach the stipulations of the Article 11, paragraph (1) of the Law.

## (2) Cantonal routes

In accordance with the Regulation on Definition of relevant Market concerning the cantonal routes, the relevant market is defined as a market of the particular products (services) which are the subject of business operations of undertakings in the particular geographic territory. Relevant market is a service market of the public transport of passengers and goods in public city traffic performed on the defined cantonal bus routes according to the determined registered schedule.

Relevant geographic market is a territory of Sarajevo Canton where all undertakings, with approved cantonal bus routes for transport in the road traffic and with approved schedules in bus route transport, operate according the law.

That means, that relevant market in this case is the service market of transport of passengers and goods in public city traffic in Sarajevo Canton area, where all undertakings with approved cantonal bus routes in road traffic according the predetermined registered schedule, operate.

The Council of Competition considering the submitted documentation established that the Ministry of transport and communication of Sarajevo Canton, upon request of KJKP Gras Sarajevo, issued in 2004 and 2005 more decisions on extension of the registration time for schedules in more cantonal routes, with validity date of one year. It can be concluded, as it was stated in its exposition, that the extended schedules for the requested routes was approved to the mentioned carrier mainly in 1997, 1998 and 2000.

The Council of Competition established that the Ministry approved to the applicant upon his request in the end of 2003 more schedules in more cantonal routes, which can be considered as new schedules due to the fact that according to the decision it can not be established that they were approved before to anyone else or to applicant.

However, the known fact is that those schedules existed before the war and were approved to the applicant on the basis of the previous regulations.

The KJKP Gras Sarajevo is public enterprise mainly operating in public city transport in tram, trolley, combi-bus and bus traffic in Sarajevo Canton; it is founded by the Sarajevo City (taken over by Sarajevo Canton) and it is now 100% in property of Sarajevo Canton.

The enterprise Centrotarns-Eurolines d.d. Sarajevo is a private property and it carries out the services of public transport in city traffic in Sarajevo Canton area and intercantonal, inter-towns and international traffic.

The schedules on the routes in two or more cantons are approved by the Federal Ministry of traffic and communication, and schedules for the inter-cantonal and international routes are approved by the Ministry of traffic and communication of Bosnia and Herzegovina according the specific state Law.

Relevant regulations, applied in the procedure of approving the schedules in the road route transport, are the Law on transport in internal road traffic, which has come to the effect in 19 June 1998 and Regulation on criteria, procedure and way of harmonization and registration of the schedules («Official Gazette of FBiH», No. 34/03) which replaced the previous Regulation on criteria, procedure and way of harmonization and registration of the schedules («Official Gazette of FBiH», No. 36/98).

The applicant has more approved schedules in federal routes (mainly approved in 2003 and 2004) with times of starting from the bus stations, stations and the routes concurred with the cantonal schedules exceeded in 2004 to the KJKP Gras Sarajevo by means of a Decision of the Ministry of traffic and communication of Sarajevo Canton. Those exceeded schedules are changed so it can not be considered as altered old schedules because the number of departures is increased (4 to 5 times during the day) comparing to the main schedule, but as a new schedules. Therefore the Ministry was obliged to not only to allow the applicant a right to complain according to the Law on Administration procedure but also to start a public procedure for harmonization and registration of schedules in the cantonal route.

The Council of Competition has estimated that the Ministry of traffic and communication of Sarajevo Canton has never until now, since the time when the Law on transport in internal road traffic is in effect, acted according Article 8 and 70 of the same law and it has not, according to that law, adopted within 90 days a special regulation on the conditions, ways and organization of carrying on the public transport of passengers and goods in Sarajevo Canton area, where particularly will be regulated: a way and procedure of carrying on the route and out-route road traffic, conditions, way and procedure of the carrier engagement in route transport of passengers and goods, rights and duties of the responsible staff and enterprise, other legal persons carrying on the route transport of persons, etc.

The Council of Competition estimates that the Ministry of traffic and communication of Sarajevo Canton has never initiated a procedure of the public harmonization of schedules in Sarajevo Canton area according the regulated procedure in Rulebook on criteria, procedure and the way of harmonization and registration of schedules.

It is estimated that the Federal Ministry of traffic and communication and other cantons in Federation of Bosnia and Herzegovina carried on the same procedure for many times according the same regulations, as it is Srednjobosanski, Zeničko-Dobojski and Tuzlansko-Podrinjski etc. The Ministry of traffic and communication of Bosnia and Herzegovina also carried on the procedure of the public harmonization of schedules.

Cantonal ministry of traffic and communication of Sarajevo Canton has mainly approved and extended a period of validity of the schedules in cantonal bus routes upon request of a carrier, which were assigned previously and before the war. Actual problems regarding the anticoincidence of the departure times of carriers, common routes, stations etc, are to be solved in the regular procedure which is to be carried on according the Rulebook

On the basis of the regulations of the previously mentioned relevant regulations and established factual circumstances founded upon the submitted evidences, written or oral statements in the oral hearing, the Council of Competition's point of view is that the relevant regulations allow a competition to the some extent, that means that there is regulated way of entry to the market but the Ministry failed to follow the regulations of the Rulebook and failed to adopt by-law act to regulate conditions, ways and organization of functioning of public transport of passengers and goods in Sarajevo Canton area what has resulted in the competition disorder and has complicated entry to the defined relevant market.

The failure to adopt the obliged regulations and to act according the law, the failure to remove the barriers to normal functioning of the defined relevant services, distorts directly the

competition and complicates the entry to the relevant services market of the public transport to other undertakings-carriers registered for route traffic in city and cantonal bus traffic in Sarajevo Canton area so it constitutes a legal and administrative barriers to access to the defined relevant market.

Concerning the all above mentioned it comes out that the Ministry of traffic and communication of Sarajevo Canton as a administration body who in the sense of Article 2, paragraph (2), item b) by its position directly or indirectly effects the market and who by its acts and by a failure to adopt the acts constitutes barriers to access to the determined relevant service market of the public transport to other undertakings-carriers in Sarajevo Canton area which prevents, restricts and distorts a market competition in Sarajevo Canton area.

As the Act on Competition has come into the effect on 16 December 2001, since the time when Council of Competition has been able to establish the breaches and that the relevant facts and evidences are valid, it considers and analyses the former functioning of the said undertakings, in a sense of Article 1 of the old and Article 2 of the actual Act on Competition in order to consider the complete situation in the relevant markets, and that has approved the fact of absence of well market competition and presence of the continuous prevention, restriction and distortion of the market competition in the relevant market of public transport services of passengers and goods in public city traffic in Sarajevo Canton area.

### (3) Bus stations

Considering and analyzing the relevant facts collected during the proceedings, the Council of Competition thinks that the question regarding the use of stations of the applicant the undertaking Centrotrans-Eurolines d.d. Sarajevo by KJKP Gras Sarajevo is to be solved according to Article 46 of the Law on transport in internal road traffic where paragraph (2) of the same Article stipulates that the conditions and way of use the bus- station services is to be regulated by the parties by means of the agreement as a legal action and the failure to adopt or to apply the cited regulations is under the responsibility of courts so the Council of Competition is not competent for it.

This Decision shall be published in the «Official Gazette of BH» and in official gazettes of Entities and Brcko District of Bosnia and Herzegovina.

### **Instruction of legal remedy**

This Decision is final. 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 acceptance of this Decision, i.e. from the date of its publication.

**President  
of the Council of Competition**

**Sena Hatibović**