

DECISION

**Notification on concentration of the undertaking „Neftegazojava Innovacionnaja
Korporacija, Moskow Russian Federation and undertaking „Naftna industrija
Srbije“ a.d., Novi Sad, Republic of Serbia**

Sarajevo, May 2011

Broj: 02-26-1-031-19-II/10
Sarajevo, 26th May 2011

Pursuant to Article 25 paragraph (1) item e), Article 42 item d), in accordance with Articles 12, 14, 16, 17 and 18 and Article 48 paragraph (1) item e) of the Competition Act ("Official Gazette of BiH" no. 48/05, 76/07 and 80/09), upon the joint Notification on concentration of the undertaking Open Joint Stock Company "Neftegazojava Innovacionnaja Corp", Kalančevskaja Street No. 11, building 2, 107 078 Moscow, Russian Federation and the undertaking of the Company for exploration, production, processing, distribution and trading of petroleum and natural gas production, "NIS" a.d., Narodnog Fronta 12, 21000 Novi Sad, Republic of Serbia, received on 30th December 2010 under the number: 02-26-1-031-II/10, the Council of Competition on the 14th (fourteenth) session held on 26th May 2011, has issued the following

DECISION

(1) Concentration in the market of research and production of oil and gas in Republic of Srpska, which has resulted in the creation of an undertaking "Jadran - Naftagas" d.o.o. for research and production of oil and gas, Ivana Frane Jukica 7, 78000 Banja Luka, Bosnia and Herzegovina, through the common long-term investment of the undertakings Open joint stock company "Neftegazojava Innovacionnaja Corp", Kalančevskaja street number 11, Building 2, 107 078 Moscow, Russian Federation and the Company for research, production, processing, distribution and trading of petroleum and natural gas production, "NIS" a.d., the Narodnog Fronta 12, 21000 Novi Sad, Republic of Serbia.

(2) Due to the the enforcement of concentration before the decision of the Council of Competition on compliance of the concentration with Articles 12 and 14 of the Competition Act, a fine is imposed on the undertaking Open-stock company "Neftegazojava Innovacionnaja Corporation" Moscow, Russian Federation and the undertaking Company for research, production, processing, distribution and trading of petroleum and natural gas production "Naftna industrija Srbije" a.d., Novi Sad, Republic of Serbia, in the amount of KM 70,000.00 (seventythousand), which the abovementioned are obliged to pay within 8 days of receipt of this Decision.

(3) In case that the imposed fine is not paid within the specified time, penalty interest will be charged for the time exceeding the deadline, according to the applicable regulations of Bosnia and Herzegovina.

(4) The fine under paragraph (2) shall be paid by the undertaking "Jadran - Naftagas" d.o.o. for research and production of oil and gas, Ivana Frane Jukica 7, 78000 Banja Luka, or by the companies associated parties to the concentration in Bosnia and Herzegovina - undertaking "Optima Group" Ltd. Banja Luka, Kralja Alfonsa XIII 37A, 78000 Banja Luka, the undertaking "Rafinerija ulja" a.d. Brod, Svetog Save bb, 74 450 Sarajevo, undertaking "Rafinerija ulja Modriča" a.d. Modriča, Vojvode Stepe Stepanovića 49, 74480 Modriča, undertaking "Nestrol Petrol" a.d. Banja Luka, Kralja Alfonsa XIII 9, 78000 Banja Luka.

(5) This Decision on concentration shall be entered in the Register of concentrations.

(6)) This decision is final and shall be published in "Official Gazette of BiH", official gazettes of Entities and Brcko District of Bosnia and Herzegovina.

Exposition

Council of Competition received a joint Notification on concentration (hereinafter: Joint Notification), under the number 02-26-1-031-II/10 on 30th December 2010 (submitted through registered mail on 28th December 2010), whereby undertaking Open joint stock company "Neftegazojava Innovacionnaja Corp", Kalančevskaja street number 11, Building 2, 107 078 Moscow, Russian Federation (hereinafter: NeftegazInKor or Applicant) and the undertaking Company for the research, production, processing, distribution and trading of petroleum and natural gas production, "NIS" a.d., Narodnog Fronta, 12, 21000 Novi Sad, Republic of Serbia (hereinafter referred to as the NIS, or the Applicant) intend to jointly invest on the long term basis establishing a new economic entity "Jadran - Naftagas" d.o.o. for research and production of oil and gas, Ivana Frane Jukica 7, 78000 Banja Luka, Bosnia and Herzegovina (hereinafter: Jadran - Naftagas).

Having reviewed the submitted Notification, the Council of Competition established that it is not complete in the sense of Article 30 (1) of the Competition Act (hereinafter: the Act) and Articles 9 and 11 Decisions on notification and criteria for assessment of concentrations of undertakings ("Official Gazette of BiH", No. 34/10), and requested supplements in accordance with Article 31 of the Act (Document No. 02-26-1-031-1-II/10 of 2nd February 2011, No. 02-26-1-031-5-II/10 of 4th March 2011 and No. 02-26-1-031-11-II/10 of 8th April 2011).

In compliance with the requirements of the Council of Competition, the Applicants amended the notification with the required documentation (submissions No. 02-26-1-031-4-II/10 of February 14th 2011, No. 02-26-1-031-8 -II/10 of 24th March 2011 and No. 02-26-1-031-14-II/10 of 18th April 2011).

Having recieved the required documentation, the Council of Competition found the Notification complete and issued a certificate of receipt of complete and adequate Notification, pursuant to Article 30 paragraph (3) of the Act (document No. 02-26-1-031-16 - II/10 of 27th April 2011).

The applicants have stated, in terms of Article 30 paragraph (2) of the Act, that they are not under the obligation to request a review of the concentration of another competition authority beyond the territory of Bosnia and Herzegovina.

The Council of Competition issued, in accordance with Article 16 paragraph (4) of the Act, Notice on filed Notification (document number: 02-26-1-031-9-II/10 of 8th April 2011) in the daily newspapers in Bosnia and Herzegovina, in which it announced details of a proposed concentration , and invited all interested parties to submit written comments regarding the implementation of the same. There were no comments of interested parties on the relevant Notice.

During the assessment of the concentration Council of Competition established the following facts:

The Notification application was timely filed in accordance with Article 16 paragraph (1) of the Act.

1. Participants to the concentration

Participants to the concentration are undertaking Open joint stock company "Neftegazovaja Innovacionnaja Corp", Kalančevskaja street number 11, 107 078 Moscow, Russian Federation and the undertaking Company for research, production, processing, distribution and trading of petroleum, exploration and production of natural gas "Naftna industrija Srbije "a.d., Narodnog fronta 12, 21000 Novi Sad, Republic of Serbia.

1.1. NeftegazInKor

Undertaking Open joint stock company "Neftegazovaja Innovacionnaja Corp", Kalančevskaja street number 11, 107 078 Moscow, Russian Federation, is registered in the Unified State Register of Legal Persons in Moscow on 2nd August 1999 under the number: 1027708003256 with the basic capital in the amount of KM 577,088.00 (12,000,000.00 rubles).

Undertaking NeftegazInKor is majority state owned enterprise of the Russian foreign trade association "Zarubezhneft" from Moscow, which has a 95.0% of equity.

Main registered activities of the undertaking NeftegazInKor are production of crude oil and natural gas, and services for oil and gas production.

1.1.1. Subsidiaries of the undertaking NeftegazInKor

Undertaking NeftegazInKor owns more than 10,0% of equity in the following undertakings in Bosnia and Herzegovina.

- "Optima Grupa" d.o.o. Banja Luka, Kralja Alfonsa XIII 37A, 78000 Banja Luka - 100,0% of equity;
- „Rafinerija nafte“ a.d. Brod , Svetog Save bb, 74450 Brod – 79,999602% of equity;
- „Rafinerija ulja Modriča“ a.d. Modriča, Vojvode Stepe Stepanovića 49, 74480 Modriča - 75,651467% of equity;
- „Nestrol Petrol“ a.d. Banja Luka, Kralja Alfonska XIII 9, 78000 Banja Luka - 80,000031% of equity.

1.1.1.1. „Optima Grupa“ d.o.o. Banja Luka

Undertaking "Optima Group" limited liability company for the trade of petroleum and petroleum products (hereinafter: "Optima Group"), Kralja Alfonsa XIII 37a, 78000 Banja Luka is registered in the District Court in Banja Luka, on 22nd August 2008 under the number: 1-16709-00, with the basic capital of 50.000,00 KM.

Main registered activities of the undertaking "Optima Group" is a wholesale of oil and petroleum products.

Undertaking "Optima Group" makes the purchase of raw materials for production of petroleum products for the associated undertaking "Rafinerija ulja" a.d. Brod and the undertaking "Rafinerija ulja Modriča" a.d. Modriča, raw material processing and marketing of petroleum products to customers in the market of Bosnia and Herzegovina, as well as abroad (www.rafinerija.com).

1.1.1.2. „Rafinerija nafte“ a.d. Brod

Undertaking "Rafinerija ulja" a.d. Brod, Svetog Save bb, 74 450 Sarajevo, is registered in the District Commercial Court of Doboj (Decision number: 085-0-REG-07-000528 since 30th January 2008) under registration number: 85-02-0001-10 (Old No. 1-4616-00), the basic capital in the amount of KM 262,914,061.00.

Main registered activities of the undertaking "Rafinerija ulja" a.d. Brod is the production of petroleum products (the only manufacturer in the territory of Bosnia and Herzegovina).

Oil products that are produced in the economic entity "Rafinerija ulja" a.d. Brod are Eurodiesel (50 ppm), BMB 95, BMB 98, bitumen oil medium (fuel oil), oil medium (up to 3% sulfur), fuel oil medium light (LUEL), light and bitumen platformat.

1.1.1.3. „Rafinerija ulja Modriča“ a.d. Modriča

Undertaking "Rafinerija ulja Modriča" a.d. Modriča, Vojvode Stepe Stepanovića 49, 74480 Modriča, is registered in the District Commercial Court of Doboj (Decision number: 085-0-REG-07-000 on 536 of 29th February 2008) under registration number: 60-02-0007 - 10 (old No. 1-4627-00), with the basic capital in the amount of KM 203,487,123.00.

Main registered activities of undertaking "Rafinerija ulja Modriča" a.d. are the production of oil and lubricants (the only manufacturer in the territory of Bosnia and Herzegovina).

1.1.1.4. „Nestrol Petrol“ a.d. Banja Luka

Undertaking "Nestrol Petrol" a.d. Banja Luka, Kralja Alfonsa XIII 9, 78000 Banja Luka, is registered in the District Commercial Court of Banja Luka (Decision No. 071-0-reg-002 511 of 25th February 2008) under registration number: 1-10073-00, with the basic capital in the amount of 4,009,274.00 KM.

Main registered activities of undertaking "Nestrol Petrol" is the retail of petroleum products.

Undertaking „Nestrol Petrol“ a.d. Banja Luka, Kralja Alfonsa XIII 9, 78000 Banja Luka, is registered in the District Commercial Court of Banja Luka (Decision number: 071-0-reg-002 511 of 25th February 2008) under registration number: 1-10073-00, with the basic capital in the amount of 4,009,274.00 KM.

Main registered activities of undertaking "Nestrol Petrol" is the retail of petroleum products.

1.2. „Naftna industrija Srbije“ a.d.

The undertaking Company for the research, production, processing, distribution and trading of petroleum exploration and production of natural gas "NIS" ad, Narodnog Fronta 12, 21000 Novi Sad, Republic of Serbia, is registered as a commercial entity of the Republic of Serbia on the 1st October 2005 under the number 20084693, with the basic capital in the amount of KM 77,667,960.13 (EUR 39,711,000.00).

Main registred activity of undertaking NIS is the exploitation of crude oil.

The ownership structure of the undertaking of NIS on 22nd December 2010 is as follows:

Table 1.

R.b.	Undertaking	Share in %
1.	Open joint stock company „GASPROM NEFT“ Sant Peterburg, Russian Federation	51,00
2.	Republic of Serbia	29,8781
3.	Other shareholders	19,1219
	TOTAL	100,00

Source: data from Notification

The majority owner of the undertaking NIS, Open joint stock company "Gazprom Neft" Galjernaža 5, 790 000 Sant Petersburg, Russian Federation, does not own 10.0% or more of the share capital, or 10.0% or more of the voting rights in undertakings in relevant market or achieves revenues on the market of Bosnia and Herzegovina.

1.3. „Jadran – Naftagas“ d.o.o.

Undertaking "Jadran - Naftagas" d.o.o. Banja Luka, Ivana Frane Jukica 7, 78000 Banja Luka, is registered in the District Commercial Court of Banja Luka under the number: 57-01-0312-10 on 23rd December 2010, with the basic capital of 2.000,00 KM, and with 66.0% equity share of the undertaking NeftegazInKor and 34.0% equity share of the undertaking NIS.

Main registered activities of undertaking Jadran - Naftagas is the exploration and production of oil and gas, extraction of crude oil and natural gas services in the oil and gas, test drilling and boring, real estate for its own account, research and experimental development in technical and technological sciences.

2. Obligation to notify the concentration

The obligation to notify concentration of undertakings exists if the cumulative requirements of Article 14 paragraph (1) items a) and b) of the Act are fulfilled, i.e. if total annual turnover of all parties to the concentration realized through the sale of goods and / or services on the world market is KM 100,000,000.00 according the balance of the year preceding the concentration, and if the total annual turnover of at least two parties to the concentration realized through the sale of goods and / or services on the market of Bosnia and Herzegovina is at least KM 8,000,000.00 in the final account in the year preceding the concentration, or if their combined share in the relevant market is greater than 40.0%.

Total annual turnover of parties to the concentration as of 31st December 2009:

Table 2.

No.	Undertaking	Bosnia and Herzegovina	World
1.	NIS Novi Sad	(..)** ¹ KM	(..)**KM
2.	NeftegazInKor	(..)**KM	(..)**KM

Source: Data from Notification

Total annual turnovers of the subsidiaries of the undertaking NeftegazInKor, as of 31st December 2009:

Table 3.

No	Undertaking	Bosnia and Herzegovina	World
-----------	--------------------	-------------------------------	--------------

¹ (..)** data represent business secret

1.	Optima Grupa d.o.o. Banja Luka	(..)**KM	(..)**KM
2.	Rafinerija nafte a.d. Brod	(..)**KM	/
3.	Rafinerija ulja a.d. Modriča	(..)**KM	(..)**KM
4.	Nestrol Petrol a.d. Banja Luka	(..)**KM	/

Source: Data from Notification

Annual turnovers of the parties to the concentration represent total turnovers (excluding value added tax and other taxes directly related to the participants to concentration in the market of Bosnia and Hercegovine), pursuant to Article 9 item h) of the Decision on notification and criteria for assessment of concentrations of undertakings.

When calculating total annual turnover of the participants to concentration, Council of Competition used criteria and standards of the European Commission Information about the calculation of total turnover in accordance with Council Regulation (EEC) No. 4064/89 on the control of concentrations between undertakings of the subject.

Based on these data on the total annual turnover within the meaning of Article 14 paragraph (1) items a) and b) of the Act, it was found that the parties to the concentration were required to submit a notification.

3. Legal framework of the concentration assesment

During the procedure of the assessment of the concentration Council of Competition applied the provisions of the Act, Decision on determining the relevant market ("Official Gazette of BiH" no. 18/06 and 34/10), Decision on defining categories of dominant positions ("Official Gazette of BiH", no. 18/06 and 34/10) and Decision on notofication and criteria for assessment of concentration of the subject.

Also, during the proceedings the Council of Competition took into consideration the provisions of the Law on Mining of the Republic of Srpska ("Official Gazette of the Republic of Srpska" no. 10/95, 18/95, 10/98, 63/02, 69/02 and 86/03) and Law on Concessions of Republic of Srpska ("Official Gazette of the Republic of Srpska" no. 25/02, 91/06 and 92/06).

Council of Competition, in accordance with Article 43 paragraph (7) of the Act, calculating the total annual turnover of the participants to concentration, used the criteria and standards of the European Commission Information about the calculation of total turnover in accordance with Council Regulation (EEC) No. 4064/89 on the control of concentrations of undertakings.

4. Legal basis and form of the concentration

The Notification stated that the legal basis of the concentration - Agreement establishing the undertaking "Jadran - Naftagas" d.o.o. was concluded between the undertaking NeftegazInKor and the undertaking NIS on 14th December 2010.

Council of Competition accepted the Agreement as the legal basis of the concentration pursuant to Article 16 (1) of the Act, in accordance with Article 30 paragraph (1) item a) of the Act and Article 9 point f), line 13 of the Decisions on notification and assessment of concentration of the undertakings.

In accordance with the foregoing, and pursuant to Article 12 paragraph (1) item c) of the Act, the legal form of concentration is a joint venture on a long term basis of two independent economic entities in the new independent economic entity.

5. Relevant market of the concentration

The relevant market of the concentration, in terms of Article 3 of the Act and Articles 4 and 5 of the Decision on determining the relevant market, is the market of certain products / services that are the subject of business operation in a particular geographic market.

According to Article 4 of the Decision on determining the relevant market, relevant product market comprises all products and / or services that consumers and / or users consider mutually substitutable, under acceptable conditions, especially bearing in mind their essential characteristics, quality, common purpose, usage, sale conditions and prices .

Furthermore, according to Article 5 of the Decision on the determining the relevant market, the relevant market in the geographical sense includes the whole or a substantial part of the territory of Bosnia and Herzegovina in which the undertakings operate in the sale and / or purchase of the relevant product under equal or sufficiently homogeneous conditions and which are significantly different from the conditions of competition on neighboring geographic markets.

The relevant product market and / or services in this case is the exploration and production of oil and gas, which is the main activity of the newly founded undertaking Jadran - Naftagas.

Since the undertaking Jadran - Naftagas operates only on the territory of Republic of Srpska, the relevant market in geographic terms is the territory of Republic of Srpska.

Consequently, the relevant market of the concentration is considered to be market of research and production of oil and gas on the territory of the Republic of Srpska.

6. Assessment of the concentration

Having analyzed relevant data, Council of Competition assessed that there were no economic entities operating on the relevant market of research and production of oil and gas on the territory of the Republic of Srpska before the implementation of this concentration (as confirmed by the act of the Ministry of Industry, Energy and Mining of the Republic of Srpska: 05.06 ./312-28/11 of 8th March 2011) and that this concentration thereof is the opening of this market.

During the analysis of the concentration, Council of Competition took into consideration Article 14 of the Law on Mining of Republic of Srpska, establishing that the exploitation of mineral resources can be performed by a company that meets the statutory requirements, and that a company acquires the right of exploitation of mineral resources in accordance with the Law on Concessions of Republic of Srpska (Article 28 states that concession contract is signed for a fixed period which shall not be longer than 30 years, or may not be longer than 50 years in special cases). Also, companies that perform exploitation should receive the approval of the Ministry of Industry, Energy and Mining of the Republic of Srpska.

Having analysed relevant data Council of Competition, in terms of Article 17 Act, stated that the concentration will have some long-term positive economic effects for the market of Bosnia and Herzegovina in terms of reducing dependence on oil imports, which will have effect on the economy, as well as technical and economic development of the relevant market.

Also, the Council of Competition took into account the activities of the Government of the Republic of Srpska in the further opening of the market of research and production of oil and gas and its intention to grant a concession to other commercial entities which will ensure the strengthening of competition.

The Council of Competition assessed the concentration permitted in terms of Article 18 paragraph (2) item a) of the Act.

7. Fine

In the process of verifying data on the respective concentration submitted in the Notification data has been requested from the relevant institutions of the Republic of Srpska. Council of Competition has sent a request to District Commercial Court of Banja Luka, Gundulićeva 108, 78000 Banja Luka, for information from the court register for undertaking Naftagas Adriatic d.o.o. Banja Luka, through the document number 02-26-1-031-17-II/10 of 27th April 2011.

District Commercial Court of Banja Luka has submitted the requested information, submission number: Reg-R-963/11 on 3rd May 2011 (received under the number 02-26-1-031-18-II/10 of 9th May 2011).

After examining the submitted Registration Excerpt, the Council of Competition established that the undertaking "Jadran - Naftagas" Limited Liability Company Banja Luka, Ivana Frane Jukica 7, 78000 Banja Luka was registered on 23rd December 2010 under the number: 57-01-0312-10, on the basis of the Agreement on establishment, number OPU 1795/10 on 14th December 2010 by the undertaking open joint stock company "Neftegazojava Innovacionnaja Corp", Kalančevskaja street number 11, Building 2, 107 078 Moscow, Russian Federation (34.0% ownership stake) and the Company for research, production, processing, distribution and sale of oil and petroleum and natural gas production "Naftna Industrija Srbije" a.d., Narodnog fronta 12, 21000 Novi Sad, Republic of Serbia (66.0% ownership stake).

From the above it is clear that the applicants have carried out a concentration without the prior decisions of the Council of Competition, within the meaning of Article 18 paragraph (9) of the Act, certifying compliance of the concentration with Articles 12 and 14 of the Act.

In accordance with Article 48 paragraph (1) item e) of the Act, the Council of Competition shall impose fines amounting to upto 10% of the total annual turnover from the year preceding the concentration, for the undertakings which carry out a concentration without a prior decision on the merger, pursuant to Article 18 paragraph (9) of the Act.

Also, within the meaning of Article 52 of the Act, when determining the amount of the fine Council of Competition takes into account the purpose and duration of the violation.

Council of Competition has determined the amount of the fine, bearing in mind the fact that fining the undertaking NeftegazInKor "and undertaking NIS" is not the primary goal, but the fine is intended to draw attention to the mandatory application of the Act.

Council of Competition took into that in this case parties are not ignorant, and the parties have already been involved in proceedings of reviewing the concentration before the Council, and

are familiar with the provisions of the Act, and this applies particularly to the undertaking NeftegazInKor, and its affiliates, which have previously filed notifications of concentration (the conclusions of the Council No. 01-04-26-008-9-II/07 dated 23rd May 2007, No. 01-02-26-009-7 -II/07 dated 23rd May 2007 and no 01-01-26-007-26-II/07 dated 23rd May 2007 and the decision no 01-05-26-033-22 - II/09 dated 23rd March 2010).

Council of Competition has also considered the fact that the applicants notified the concentration within the statutory time, and that during the assessment procedure cooperated delivered all requested relevant documentation and information within the deadlines.

Also, the Council of Competition took into account the fact that there were no undertakings on the relevant market of research and production of oil and gas on the territory of the Republic of Srpska before the implementation of this concentration, and that this concentration is its opening and contributes to the development of the market.

Based on the above the Council of Competition imposed a fine on the undertaking "NeftegazInKor" and undertaking "NIS" in the amount of KM 70,000.00 (seventy thousand) or (..)***% of total earned income of participants to the concentration in 2009 (Tables 2 and 3).

A fine under paragraph (2) enacting the decision will be paid by the undertaking "Jadran - Naftagas" d.o.o. for research and production of oil and gas, Ivana Frane Jukica 7, 78000 Banja Luka, or by companies associated parties to the concentration in Bosnia and Herzegovina - undertaking "Optima Group" d.o.o.. Banja Luka, Kralja Alfonsa XIII 37A, 78000 Banja Luka, the undertaking "Rafinerija ulja" a.d. Brod, Svetog Save bb, 74 450 Sarajevo, undertaking "Rafinerija ulja Modriča" a.d. Modriča, Vojvode Stepe Stepanovića 49, 74480 Modriča, undertaking "Nestrol Petrol" a.d. Banja Luka, Kralja Alfonsa XIII 9, 78000 Banja Luka.

In case the Applicants do not pay the fine within the set time, the Council of Competition shall demand forced execution thereof from the relevant authorities, and charge penalty interest for the time exceeding the time for the payment of fines, in accordance with the regulations of Bosnia and Herzegovina.

Therefore the Council of Competition has decided as in items (2) and (3) of the exposition of this Decision.

8. Administrative tax

In accordance with Article 2 tariff number 107 paragraph (1) item d) point 1) of the Regulation on administrative taxes related to procedural actions before the Council of Competition («Official Gazette of BiH», No. 30/06 i 18/11) the Applicants are obliged to pay administrative tax for this Decision in amount of 2.500,00 KM for the benefit of the Budget of institutions of Bosnia and Herzegovina.

9. Legal remedies

Appeal against this Decision is not allowed.

Unsatisfied party can initiate administrative procedure before the Court of Bosnia and Herzegovina within 30 days from the day of receipt or publication of this Conclusion.

President

Stjepo Pranjić, PhD