

08 Annex - Competition policy

**31. DECISION ON APPROVAL OF THE CONCENTRATION
OF UNDERTAKINGS RESULTING FROM THE ACQUISITION
OF ENTIRE CONTROL BY ERSTE & STEIERMÄRKISCHE
BANK D.D. OVER OPPORTUNITY BANK**

31. DECISION ON APPROVAL OF THE CONCENTRATION OF UNDERTAKINGS RESULTING FROM THE ACQUISITION OF ENTIRE CONTROL BY ERSTE & STEIERMÄRKISCHE BANK D.D. OVER OPPORTUNITY BANK



Montenegro

Competition Protection Administration

No: 01 – 88/7-08

Podgorica, 10 February 2009

Pursuant to Article 196 paragraph 1 of the Law on General Administrative Procedure (Official Gazette of the Republic of Montenegro 60/03), and Article 30 paragraph 1 item 3 in conjunction with Articles 23 and 25 of the Law on Protection of Competition (Official Gazette of the Republic of Montenegro 69/05), and Article 3 of the Law on Amendments to the Law on Protection of Competition (Official Gazette of the Republic of Montenegro 37/07) in conjunction with Article 2 of the Decree on amendments to the Decree on internal organization and method of work of state administration (Official Gazette of Montenegro 06/07), deciding on the Application for issuance of concentration approval submitted by the Erste & Steiermärkische Bank d.d.¹, established and operating under the legislation of the Republic of Croatia, with the registered office at Jadranski Trg 3/a, Rijeka, entered into the register of the Commercial Court in Rijeka, the Republic of Croatia, under registration number 040001037, through their attorneys Natasa Zavisin, a lawyer from Belgrade, Ljutice Bogdana st. 1a, and Ilija Boljevic, a lawyer from Podgorica, Novaka Miloševa st. 37/II, hereby adopts the following

DECISION

The concentration of undertakings resulting from the acquisition of entire control by Erste & Steiermärkische Bank d.d. over Opportunity Bank a.d.² Podgorica is declared to be acceptable.

Statement of Reasons

In accordance with Article 25 of the Law on Protection of Competition, the Erste & Steiermärkische Bank d.d., submitted, on 10 December 2008, the Application for approval of concentration, supplemented on 18 December and 29 December 2008, to the Competition Protection Administration, which is the implementer of this Law. In accordance with Article 28 of this Law, the data from the Application for approval of concentration were published in the Official Gazette of Montenegro 06/09, on 28 January 2009.

Subject of the concentration

In terms of Article 23 of the Law on Protection of Competition, the Erste & Steiermärkische Bank intends, by implementing the concentration in question, to acquire control over Opportunity Bank a.d. Podgorica, on the basis of the Memorandum of Understanding, concluded on 3 December 2008.

The shareholders in the Opportunity Bank a.d. Podgorica are: Opportunity Transformation Investments Inc, with the amount of 70.58%, Balkan Financial Sector Equity Fund CV, with the amount of 12.38%, Richard Driehaus, with the amount of 10.21%, and other minor shareholders with the amount of 6.83%.

Parties to the concentration

¹ Joint stock company.

² Joint stock company.

31. DECISION ON APPROVAL OF THE CONCENTRATION OF UNDERTAKINGS RESULTING FROM THE ACQUISITION OF ENTIRE CONTROL BY ERSTE & STEIERMÄRKISCHE BANK D.D. OVER OPPORTUNITY BANK

Erste & Steiermärkische Bank is a joint stock company, established and operating under the legislation of the Republic of Croatia, with the registered office at Jadranski Trg 3/a, Rijeka, registered with the Commercial Court in Rijeka, the Republic of Croatia, under registration number 040001037. Erste & Steiermärkische Bank deals with: accepting all types of deposits, extending all types of credits, issuing documentary credits, issuing collaterals and bank guarantees, and assuming other commitments; payment operations in the country; foreign credit operations and foreign payment operations; exchange operations; operations related to bill of exchange, cheques and deposit certificates, for its own account or for the account of its clients; financial mediation; loan operations, sale and purchase for its own account or for the account of its clients; securities operations for its own account or for the account of third parties; issuing and managing means of payment (including card-based products, travellers cheques and bank orders); financial leasing and factoring; providing information on clients' solvency upon their own request; other financial services stipulated or determined by the Croatian National Bank, or laid down by its decisions on issuing bank licenses; operations related to ownership of securities; issuing agent operations; underwriter operations; and representation operations in insurance. The Erste & Steiermärkische Bank d.d. from Rijeka is the member of the Erste Group, whose registered office is in Austria.

Opportunity Bank Podgorica is a joint stock company, with the registered office at Marka Miljanova 46, Podgorica, Crna Gora. It is registered with the Central Register of the Commercial Court in Podgorica, under registration number 4-0001671/012; the code of activity is 65121- banking organizations.

The following shareholders of the Opportunity Bank a.d. Podgorica are also the undertakings in the concentration: Opportunity Transformation Investments Inc, Balkan Financial Sector Equity Fund CV, Richard Driehaus, Kenneth Vander Weele, Keith Flintham, Jules Kortenhorst, John Schubin, Nick Schubin, Stuart White, Mark Crawford, Richard Haimekangas, and Neil Cuthehbert.

Legal basis of the concentration

The Competition Protection Administration, as the competent law enforcement body, was submitted a copy of the Memorandum of Understanding, concluded on 3 December 2008, between Opportunity Transformation Investments Inc, Balkan Financial Sector Equity Fund CV, Richard Driehaus, Kenneth Vander Weele, Keith Flintham, Jules Kortenhorst, John Schubin, Nick Schubin, Stuart White, Mark Crawford, Richard Haimekangas, and Neil Cuthehbert, on the one side, and Erste & Steiermärkische Bank d.d., on the other side.

Thus, under the terms provided by the Memorandum of Understanding, the applicant, Erste & Steiermärkische Bank d.d., intends to acquire control over Opportunity Bank a.d. Podgorica by concluding the sales agreement with the abovenamed natural and legal persons, which will lead to the acquisition of the entire control over Opportunity Bank a.d. Podgorica.

The Application was drafted in full compliance with the Instruction on the form and content of the request for the issuance of concentration approval (Official Gazette of the Republic of Montenegro 77/05), and it represents a quality documentary and analytical basis for the adoption of the Decision pertaining to its approval. This is so because, upon the assessment of the concentration effects, and based on the criteria referred to in Article 29 of the Law on Protection of Competition, it can be established that this concentration does not prevent, restrict or distort the competition on the Montenegrin market.

In terms of Article 25 of the Law on Protection of Competition, the submission of the Application for approval of the concentration was mandatory because the total joint income of the undertakings in the concentration exceeds EUR 3,000,000 on the domestic market and EUR 15,000,000 on the world market.

Relevant market

The relevant geographic market in this case is the territory of Montenegro, while the relevant product and services market comprises the market of financial and banking services.

**31. DECISION ON APPROVAL OF THE CONCENTRATION OF UNDERTAKINGS RESULTING
FROM THE ACQUISITION OF ENTIRE CONTROL BY ERSTE & STEIERMÄRKISCHE BANK
D.D. OVER OPPORTUNITY BANK**

Prior to the intended concentration, Erste & Steiermärkische Bank d.d. was not present on the bank market of Montenegro, so the competition on the relevant bank market will not be endangered, as the above named does not have a dominant position.

Upon the request of the Competition Protection Administration, the Central Bank of Montenegro submitted the letter no. 0104-5952/2, dated 31 December 2008, which contains the percentage share of the Opportunity Bank a.d., Podgorica and of the other banks in Montenegro in the balance sheet total:

| | |
|---|--------|
| Opportunity Bank a.d. Podgorica | 4.71% |
| Podgoricka banka Societe Generale Group | 6.56% |
| Montenegro Commercial Bank member of OTP group | 34.55% |
| NLB Montenegrobank | 13.92% |
| Invest banka Montenegro | 0.60% |
| First Bank of Montenegro | 15.13% |
| Commercial Bank Budva | 2.31% |
| Hipotekarna Bank | 2.25% |
| Atlasmont Bank | 4.81% |
| Hypo-Alpe-Adria Bank | 14.73% |
| First Financial Bank | 0.43% |

Concentration effects

The applicant estimates that, in terms of interests of the undertakings in the concentration, the implementation of the concentration in question will introduce a quality participant on the Montenegrin market. Erste & Steiermärkische Bank d.d. will raise the quality and liquidity of the banking market through the network of its clients.

In terms of interests of the clients, Erste & Steiermärkische Bank d.d. will provide its clients with cheap and quality services through more favourable terms and lower tariffs.

Under the auspices of Erste Group, Opportunity Bank a.d. will follow development trends and continually improve its services and financial products.

Based on the analysis of the Application in question, it follows that this concentration will not lead to a significant change of the relevant market structure. Therefore, it was decided as stated in the wording of the Decision.

LEGAL REMEDY: This Decision shall be final, and an administrative action before the Administrative Court of Montenegro may be brought within 30 days following the date of its receipt.

ACTING DIRECTOR

Zoran Perisic