



**REPUBLIC OF ALBANIA
-COMPETITION AUTHORITY-
COMPETITION COMMISSION**

**DECISION
No. 316 of 23 May 2014**

**On
opening an inquiry into the market of International maritime transportation of
passengers and vehicles**

The Competition Commission, composed of

- Lindita Milo (Lati) Chair
- Rezana Konomi Deputy Chair
- Servete Gruda Member
- Koço Broka Member
- Iva Zajmi Member

in its meeting of 23 May 2014 reviewed the Case with:

Subject-matter: Review of the monitoring report on the international maritime transport market in the Republic of Albania.

Legal basis: Articles 24 (d), 26 and 42 (1) of Law no. 9121 of 28 July 2003 “On Competition Protection”, Article 12 of the Regulation on the Functioning of the Competition Authority, and Article 4 of the Regulation on the Competition Authority investigative procedures.

After reviewing the monitoring report on the international maritime transport market in the Republic of Albania, submitted by the Secretariat of the Competition Authority, and the Competition Authority Secretary-General’s Report

THE COMPETITION COMMISSION NOTES THAT:

I. PROCEEDINGS

1. Pursuant to Article 28 (a) of Law No. 9121 of 28 July 2003 “On Competition Protection”, the Secretary General of the Competition Authority initiated the monitoring of the market of international maritime transportation of vehicles and passengers in the Republic of Albania.
2. In addition, the Ministry of Transport and Infrastructure informed the Competition Authority that it had repeatedly received complaints from various persons or

companies in relation to the competition and high fares of the ferryboats operating in the open ports in the Republic of Albania.

3. The Ministry of Transport and Infrastructure also attached the complaint from 21 private Macedonian companies operating as transit shippers in Albania to the abovementioned information letter. According to the complainants “the port service has increased while the ferryboat service is zero.” According to them, the ferryboat companies had monopolised the market for three years, with no room for competition.

II. LEGAL BASIS

4. Pursuant to Article 8 of Law No. 9251 of 8 July 2004 “The Maritime Code of the Republic of Albania”, as amended, the maritime transportation of people and goods is considered a maritime activity. The Maritime Code of the Republic of Albania is intended to govern the legal, economic and social relations in the area of seafaring, introducing rules on the rights and obligations of entities operating maritime activities and having legal responsibilities in the maritime space.
5. Under Article 3 of the Maritime Code, subjects of the maritime law include domestic or foreign public or private natural or legal persons who carry out an activity in the maritime area. Maritime subjects may be managers of maritime operators, vessel or maritime premises owners and operators in the area of seafaring, non-owner holders of sea vessels and activities, employees or beneficiaries of such activities.
6. Under Council of Ministers’ Decree No. 421 of 15 May 2013 “On some amendments to CMD No. 538 of 26 May 2009 On licenses and permits handled by or through the National Licensing Centre (NLC) and other common sublegal arrangements”, as amended, licences to carry out the business of international maritime transportation of vehicles and/or passengers are issued through the NLC, but only after submission of an inspection record and preliminary evaluation of the technical documentation of the vessel which is carried out by the Maritime Directorate General, and submission of a list of the vessel documentation.
7. In the context of regulating, disciplining, monitoring and facilitating the activities carried out or sought to be carried out by legal persons in the area of maritime transportation and further integrating them into the European market of maritime transportation, the Minister of Public Works and Transport issued Instruction No. 10 of 23 June 2008 “On the criteria and procedures for granting, suspending and revoking operation permits in the area of maritime transportation”, as amended.
8. Referring to the definitions in that Instruction:
 - *Operation of a regular line of international transportation of vehicles and/or passengers*: is a business operated in the area of transportation of vehicles and/or passengers with vessels that are specialised in carrying out such transportation from an open port in the Republic of Albania to another foreign port.
 - *Maritime agent*: is any legal entity that has been granted such a status and acts as a representative or the owner or operator of a vessel at a port in relation to the

interactions between the vessel owner and the state authorities and port authorities. The owner of a vessel may not act as an agent for his own vessels.

9. The undertakings applying for an operation licence for regular international maritime transportation lines for vehicles and/or passengers submit an application and the documentation laid down in Article 5 of the Instruction to the licence office at the Ministry of Public Works and Transport.
10. Among other documents, foreign entities not registered in Albania have to submit a contract between the owner of the vessel and the maritime agency at the port it intends to service, and a contract with the ports the vessel the vessel will service, together with a schedule of the days and times of service.

III. RELEVANT MARKET

11. Pursuant to Law No. 9121 of 28 July 2003 “On Competition Protection,” and Instruction No. 76 of 7 April 2008 “On approving the guidelines on the determination of the relevant market”, the relevant market is determined to be *“... the products that are deemed as substitutable by consumers or other clients in terms of their features, prices and functions, and which are supplied or demanded by undertakings in a geographic area under the same competition conditions that is separate from other bordering areas”*.

12. Thus, the definition of the relevant market includes:

- 1) The product market (goods/services)
- 2) The geographic area.

III.1 Product (Service) Market

13. The relevant product market is the international maritime transportation of vehicles and passengers carried out in the Port of Durres, Port of Vlora, Port of Saranda and Port of Shengjin.

III.2 Geographic Market

14. The relevant geographic market consists of the seaports in the Republic of Albania where the transportation of goods and passengers is carried out.
15. Based on the above, the relevant product market is the service of international maritime transportation of vehicles and passengers from/to the Republic of Albania.

IV. MARKET MONITORING

16. The data collected at the Seaport of Durres show that agencies Duni Shpk, Adria Ferries and Ionian Island Shpk sell all the tickets for the transportation service at that port. The partial data collected by the working group show that ticket prices in those agencies in 2012-2014 were higher than the ceiling set by the Ministry of Transport

and Infrastructure for both agencies and ferryboat lines serviced by those operators, which is an indication of potential competition restriction.

17. In the period covered by the monitoring only a ferryboat line serviced the Seaport of Vlora, connecting Vlora with Brindisi, the agent being Gerverni Travel. The data that agency Gerverni Travel submitted to the Competition Authority were inconsistent with the request for information from the Secretariat, and do not facilitate the carrying out of the monitoring in accordance with Law No. 9121 of 28 July 2003 “On Competition Protection,” as amended. The data on sold tickets are scarce and do not cover all the sales categories, which means that it is not possible to carry out the necessary analysis.
18. At the Port of Saranda travel services are provided by agency I.V.A. shpk. The information on applied fees by that agency in 2012-2014 in relation to the line Saranda-Corfu-Saranda for the entities it represents—MARINA MARITIME and FLYING DOLPHINS MARINE—requested by the Competition Authority Secretariat was not submitted by that undertaking. The maritime agent I.V.A. did not submit any information on the fees applied in 2012-2014 by the ferryboats servicing the Saranda-Corfu-Saranda line.
19. Based on the characteristics of the relevant market and the behaviour of the market operators referred to above, and the complaint sent by the Ministry of Transport and Infrastructure, the behaviour of maritime agencies operating in the international maritime market of transportation of vehicles and/or passengers or representation of vessel owners could amount to restriction, distortion or obstruction of competition pursuant to Articles 4 and 9 of Law No. 9121 of 28 July 2003 “On Competition Protection”.

FOR THESE REASONS:

The Competition Commission, pursuant to Articles 24 (d), 26 and 42 (1) of Law no. 9121 of 28 July 2003 “On Competition Protection”, Article 12 of the Regulation on the Functioning of the Competition Authority, and Article 4 of the Regulation on the Competition Authority investigative procedures”,

HAS DECIDED:

- I. An inquiry into the market of maritime International shipping of passengers and vehicles shall be opened.
- II. The inquiry shall include the period from 1 January 2013 till 31 August 2014.
- III. The preliminary inquiry and the submission of the inquiry report shall be completed no later than 30 September 2014.
- IV. The Secretary General shall be charged with enforcing this Decision.

This Decision shall enter into force immediately.

COMPETITION COMMISSION

Servete GRUDA

(_____)
Member

Koço BROKA

(_____)
Member

Iva ZAJMI

(_____)
Member

Rezana KONOMI

(_____)
Deputy Chair

Lindita MILO (LATI)

CHAIRPERSON