



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

Number: 5/0-03-92/2011-1

Date: January 27, 2011

Belgrade

Pursuant to Article 22(2), Article 38(1), Article 57 and Article 68(1/1) and Article 68(2) of the Law on Protection of Competition (Official Gazette of the RS 51/09), Article 192 of the Law on General Administrative Procedure (Official Gazette of the FRY 33/97, 31/01, and Official Gazette of the RS 30/2010), 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 thereof and conditions for determination of respective measures (Official Gazette of the RS 50/2010), in proceedings instituted *ex officio* against Public utility company “Gradska groblja” from Kragujevac, with registered office at bb Jovanovačka St., whose legal representative is Dragan Radović, CEO, in order to establish acts in violation of competition, at the 15<sup>th</sup> session held on January 27, 2011, the Council of the Commission for Protection of Competition enacts the following

**DECISION**

**I IT SHALL BE ESTABLISHED** that Public utility company “Gradska groblja” from Kragujevac, with registered office at bb Jovanovačka St., registered in the Business Registers Agency of the Republic of Serbia under company number 07343949, holds a dominant position in the relevant market for grave lease services in the territory of cemetery Bozman in Kragujevac.

**II IT SHALL BE ESTABLISHED** that Public utility company “Gradska groblja” from Kragujevac, with registered office at bb Jovanovačka St., **has abused its dominant position**, by:

- imposing on leaseholders a commitment that for each leased grave plot entrust the manufacture and assembly of headstones from the product portfolio of Public utility company “Gradska groblja” to this company, pursuant to the decisions enacted by the Management Board of Public utility company “Gradska groblja” No. 265i of March 10, 2010, and No. 140b of June 17, 2005, on the allocation of parts of separate land parcels at Bozman cemetery under a special management regime,
- concluding the standard work contracts for the placement and manufacture of kerb sets in parallel to concluding the grave lease contracts relating to the allocated parts of separate land parcels at Bozman cemetery, which in Article 3 envisaged the obligation of leaseholders to build the leased grave plots according to the provisions of the physical plans for city cemeteries by entrusting the manufacture and assembly of headstones (burial monuments) solely to Public utility company “Gradska groblja” Kragujevac, with the option of choosing images, sizes and type of materials, etc., and
- providing the commercial services of the placement and manufacture of kerb sets in the form of entrusted tasks,

thus committing an act of conditioning the conclusion of contracts in a manner where the counterparties were obligated to accept supplementary obligations which, given their nature and trading customs and practices, are not related to the subject of agreement, as well as an act of market restriction which caused a significant restriction and prevention of competition.

**III** The request for suspension of proceedings **SHALL BE DENIED** as unfounded, submitted by Public utility company “Gradska groblja” to the Commission in official letter No. 634i of May 6, 2010.

**IV IT SHALL BE ORDERED** to Public utility company “Gradska groblja” from Kragujevac, with registered office at bb Jovanovačka St., to:

1. amend decisions on the allocation of parts of separate land parcels at Bozman cemetery under a special management regime, by deleting the provision envisaging the obligation of leaseholders to entrust the manufacture and assembly of headstones for each leased grave plot in the allocated parts of separate land parcels solely to Public utility company “Gradska groblja” Kragujevac;

2. delete the provision from the standard work contracts for the placement and manufacture of kerb sets relating to the allocated parts of separate land parcels at Bozman cemetery, envisaging the obligation of leaseholders that for each leased grave plot entrust the manufacture and assembly of headstones (burial monuments) solely to Public utility company “Gradska groblja” Kragujevac;

3. draft a notice explicitly indicating that leaseholders of grave sites at Bozman cemetery are not obligated to entrust the placement and manufacture of kerb sets solely to Public utility company “Gradska groblja” Kragujevac, and to forward such notice to all leaseholders with whom the party has concluded the work contracts for the placement and manufacture of kerb sets where the works have not yet been initiated, inviting the leaseholders to declare their intent to keep or terminate said contracts, with no adverse consequences, with an option of entrusting the unfinished works to other contractors in full compliance with all mandatory standards and requirements established for the execution of these works;

4. offer the leaseholders of parts of separate land parcels at Bozman cemetery with whom the party has not yet arranged the manufacture and assembly of headstones but the works on the placement and manufacture of kerb sets are performed or ongoing, in accordance with the standard work contracts for the manufacture and assembly of headstones (burial monuments) entrusted solely to Public utility company “Gradska groblja” Kragujevac, to conclude an annex which will suspend this contract obligation for leaseholders of respective grave sites;

5. invite the leaseholders of parts of separate land parcels at Bozman cemetery with whom the contracts on the manufacture and assembly of headstones are concluded but where the works have not yet been initiated, to declare their intent to keep or terminate said contracts, with no adverse consequences, and to entrust the works to other contractors in full compliance with all mandatory standards and requirements established for the execution of these works;

6. draft and publish a notice in a local daily newspaper and own website, in addition to posting it in a conspicuous place in its business premises, informing the public that the leaseholders of grave sites at Bozman cemetery are not obligated to entrust the placement and manufacture of kerb sets solely to Public utility company “Gradska groblja”, as well as that the leaseholders of grave sites in parts of separate land parcels at Bozman cemetery are not obligated to entrust the manufacture and assembly of headstones solely to Public utility company “Gradska groblja”.

**V DEADLINE SHALL BE SET OUT** to 45 days from the date of receipt of this decision for the execution of orders referred to in Paragraph IV, Items 1-5, of enacting terms herein, and deadline of 15 days from the date of receipt of this decision for the execution of orders referred to in Paragraph IV, Item 6, of enacting terms herein.

**VI IT SHALL BE ORDERED** to Public utility company “Gradska groblja” from Kragujevac, with registered office at bb Jovanovačka St., to submit proof of execution of orders referred to in Paragraph IV of enacting terms herein to the Commission for Protection of Competition, no later than 5 business days from the date of execution of said orders.

**VII MEASURE FOR PROTECTION OF COMPETITION SHALL BE IMPOSED** against Public utility company “Gradska groblja” from Kragujevac, with registered office at bb Jovanovačka St., in the form of commitment to pay a monetary amount at 2.3% of the aggregate annual turnover generated in 2009.

**VIII IT SHALL BE ORDERED** to Public utility company “Gradska groblja” from Kragujevac, with registered office at bb Jovanovačka St., to make payment in respect of the measure for protection of competition referred to in Paragraph VII of enacting terms herein, namely RSD 2,682,000.00 (in words: two million six hundred eighty-two thousand dinars) into the Budget account of the Republic of Serbia, reference number: the number of this decision.

**IX DEADLINE SHALL BE SET OUT** to six (6) months from the date of receipt of this decision for the execution of the order referred to in Paragraph VIII of enacting terms herein under the threat of enforcement measure.

**X** A separate conclusion on the costs of the proceedings shall be enacted subsequently.

**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.

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**CHAIRWOMAN OF THE COUNCIL**

Vesna Janković, President of the Commission