



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

25/IV Savska Street, Belgrade

Number: 7/0-01- 397/2023-2

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ADMINISTRATION FOR JOINT SERVICES OF THE REPUBLIC BODIES

Nemanjina 22-26
Belgrade

The Administration for the joint services of the republic bodies (hereinafter referred to as: AJSRB) provided the Commission for Protection of Competition (hereinafter: the Commission) on February 24, 2023, with a request for opinion.

The request sought opinion on whether the provision of catering services by AJSRB in the office buildings of the republic's bodies and representation facilities, leads to distortion of competition.

The Council of the Commission for Protection of Competition, pursuant to Article 21 of the Law on Protection of Competition ("Official Gazette of the Republic of Serbia", number 51/09 and 95/13, hereinafter referred to as: Law) at the 117th session as of March 1, 2023, after considering the submitted material, renders the following

OPINION

In order for the Commission to assess whether any business entity can lead to distortion of competition through its business activity, it must first establish that, in accordance with Article 3 of the Law, it represents a market participant subject to the Law.

The said Article 3 of the Law, prescribes that the provisions of the Law are applied to all legal and natural persons who directly or indirectly, permanently, occasionally or once participate in the circulation of goods, i.e. services, regardless of their legal status, form of ownership or citizenship, i.e. state affiliation (market participants) , among others, domestic and foreign companies and entrepreneurs, state bodies, bodies of territorial autonomy and local self-government.

In the sense of the above, the Commission analyzed the allegations of AJSRB set forth in the request for opinion, and in particular the allegations that the Regulation on the administration of joint affairs of the republic bodies ("Official Gazette of RS" No. 63/13 73/17-other decree and 76/17) which regulates the conditions and manner of carrying out professional, technical and other joint work for the needs of the Government, ministries, special organizations and other state bodies, it is stipulated that

the work of AJSRB includes, among other, the provision of catering services in the office buildings of the republic's bodies and representation offices.

In the request for opinion, it was also stated that the selling price of the products sold as part of catering services is equal to the purchase value of the goods (without margin), as well as that the costs related to the provision of said services and the salaries of employees are financed from the budget of the Republic of Serbia.

The request specifies that AJSRB catering facilities are closed and can only be used by employees, officials and foreign diplomats who are on an official visit, that the working hours of the AJSRB catering facilities are adjusted to the working hours of employees and officials, and that the facilities are safeguarded by members of the MoI because they are not available to all citizens.

Contrary to the aforesaid, the provisions set forth in Article 4 The Law on Hospitality ("Official Gazette of the Republic of Serbia" No. 17/19) stipulates that a company, another legal entity and an entrepreneur can perform the catering activity, **ako jeif** it is registered and entered in the appropriate register.

In line with the aforesaid, the Commission is able to conclude the following:

- AJSRB was established by a by-law in order to perform certain professional or technical tasks for the needs of the Government of the Republic of Serbia,, ministries, special organizations and other state bodies;
- AJSRB is not registered in the tourism register, so it does not perform catering activities in terms of the provisions of the Law on Hospitality;
- provides catering services in office buildings of the republic bodies and representation facilities exclusively for the needs of employees of state bodies, officials and for the needs of official visits by foreign and domestic delegations;
- it does not generate its own income from the provision of catering services in the office buildings of the republic bodies and representation facilities, i.e. the goods in the catering facilities are sold at purchase prices, without a margin, and the realized income is budget income;
- AJSRB does not rent its available capacities for commercial purposes.

Based on all of the above, the Commission cannot conclude that the provision of catering services in the office buildings of the republic bodies and facilities for representation for the needs of the Government, ministries, special organizations and other state bodies constitutes a commercial activity, as a result of which AJSRB, which was established for the purpose of performing these activities, does not represent a market participant in the sense of Article 3 of the Law.

PRESIDENT OF THE COMMISSION
Nebojša Perić, m.p.