



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

25/IV Savska Street, Belgrade

Number: 9/0-02-472/2023-03

Date: May 11, 2023

**MINISTRY OF  
CONSTRUCTION, TRANSPORT AND INFRASTRUCTURE**

22-26 Nemanjina Street  
Belgrade

The Ministry of Construction, Transport and Infrastructure addressed the Commission regarding the Draft Law on the Amendments and Supplements to the Law on Utility Activities (hereinafter referred to as: Draft Law).

The Council of the Commission for the Protection of Competition, based on Article 22 and in connection with Article 21, Paragraph 1, item 7) of the Law on the Protection of Competition ("Official Gazette of the RS", no. 51/09 and 95/13), at the 122nd session as of May 11, 2023, renders the following:

**OPINION**

Prior to commenting on the Draft Law, it is necessary to refer to the opinion of the Commission for the Protection of Competition (hereinafter: the Commission) number 1/0-08-356/2016-2 as of May 10, 2016 which was given to the Draft Law on Amendments and Supplements to the Law on Utility Activities from 2016.

The basic recommendations of the Commission from the aforementioned opinion referred to the need for certain services that are related to utility activities, and can be performed independently, to be designated as services of a commercial nature, which as such can be provided by all market participants under equal conditions. The opinion emphasized that the conditions and criteria for the performance of these activities must be defined in such a way that they do not limit market access to existing and future service providers, nor impose conditions that are not justified.

It was also assessed that one of the most important goals of the Draft Law on Amendments and Supplements to the Law on Utility Activities is to provide equal conditions for the operation of all market participants on the market, assuming that they meet the necessary conditions and that only through competing competitors in terms of quality and price, they can achieve economic progress and the welfare of society, especially the benefit of consumers, which at the same time represents the goal of the Law on Protection of Competition.

Considering the Draft Law, the Council of the Commission assesses that it is very important that the proposed changes to the law mentioned in the first paragraph of Article 9a do not deviate from the position that the funeral service is defined as an activity that is not entrusted, but can be performed by all economic entities that meet the prescribed conditions .

The Council of the Commission also indicates that by act No. 9/0-02-549/2019-2 as of July 5,2019, an opinion was also given on the Proposal for a regulation on amendments and supplements to the regulation on the ways and conditions for launching the performance of utility activities, in which the Commission pointed out the potential danger posed by unreasonably high criteria, i.e. technical and personnel conditions for starting the performance of activities, which could represent barriers for the entry of some participants to a certain relevant market and thus affect the reduction of the number of possible partners in the process of entrusting utility activities (when it comes to utility activities that are entrusted), i.e. the reduction of the number of interested participants who would perform activities that are exempt from delegation (funeral activity).

In this regard, and as regards the changes in the Draft Law in relation to the current law in terms of the basis<sup>1</sup> for the adoption of a by-law which more closely determines the general conditions, i.e. the conditions on the way of performing utility activities, on the manner of verifying the fulfillment of the conditions for starting the performance of the activities in question, as well as other issues, the Commission has no objections, but notes that when designing the aforementioned by-laws, it is necessary to ensure that technical, personnel and other conditions are not prescribed at a level that would lead to a reduction of potential competitors on the markets related to various funeral activities referred to in Article 2, paragraph 3, item 6a) of the Law on Utility Activities.

From the perspective of the competence of the Commission, the Council of the Commission has no other suggestions/proposals regarding the content of the Draft Law in question.

**COUNCIL CHAIRMAN**

Čedomir Radojčić, Council Member, duly

Addenda:

- Commission Opinion No. 1/0-08-356/2016-2 as of May 10, 2016.
- Commission Opinion No. 9/0-02-549/2019-2 as of July 05, 2019.

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<sup>1</sup> The Law on Utility Activities ("Official Gazette of RS", no. 88/2011, 104/2016 and 95/2018) stipulates that the Government shall regulate the content, manner and conditions for commencing the performance of utility activities, and the Draft Law stipulates that the competent minister for utility activities issues shall define in more detail the general conditions on the way of performing utility activities for entrusted activities (if this is not regulated by other regulations), that is, that the minister shall prescribe the conditions that economic entities must fulfill in order to perform utility activities referred to in Article 2, paragraph 3, item 6a (funeral activity).