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Summary:

The Croatian Competition Agency (CCA) received a writing made by the undertaking Eko-Adria d.o.o., Pula stating that the Ministry for Environmental Protection and Nature adopted the Environmental Waste Management Course Plan, OG 77/15 that distorts competition on the basis of the request contained therein requiring from the legal person – applicant for the implementation of the training programme – to submit in its application the training unit price for the course and the structure of that price.

Following the legal analysis of the Environmental Waste Management Course Plan, particularly Article 10 paragraph 3 item 6 thereof, and Appendix 5 thereof, that both contain the provisions requesting from the applicant for the implementation of the training programme to set the price of the training unit and provide the structure of that price, the CCA found that these provisions may overtly distort competition in the market concerned. On one hand, this requirement is not a prerequisite for the provision of waste management training, whereas on the other hand, the publication and the availability of the price concerned to other undertakings – competitors in the same market – may undoubtedly have effect on competition in the relevant market concerned.

In addition, the CCA pointed out that within the meaning of competition rules the confidential information sharing and data exchange including costs and price structure where they are available to other competitors may lead to a concerted practice between these undertakings. Namely, in the sense of Article 8 of the Competition Act prohibited are all agreements, written or tacit, between two or more independent undertakings, decisions by associations of undertakings and concerted practices, which have as their object or effect the distortion of competition in the relevant market. Taking everything above said into account, the CCA stated in its opinion that the requirement defined under Article 10 paragraph 3 item 6 of the Environmental Waste Management Course Plan cannot be regarded as a condition or a criterion for the provision of the service concerned, whereas its publication and availability to other undertakings – competitors in the market – may overtly have effect on competition in the relevant market concerned. In other words, the information about the costs and price structure are considered to be purposeless and unjustified as requirements for the performance of the activity in question.