

Class: UP/I 034-03/19-01/025
Reg.no: 580-10/70-2019-002
Zagreb, 30 December 2019

CCA vs. Town of Dubrovnik, Dubrovnik

- Initiative relating to alleged distortion of competition – abuse of a dominant position

Decision: Initiative dismissed due to lack of standing to act

Case summary:

Acting in line with the writing of 21 June 2019 received from the Ministry of the Sea, Transport and Infrastructure and the subsequent complaint by the undertaking Urban ride 301 j.d.o.o. from Dubrovnik of 16 July 2019 regarding the alleged prevention, restriction and distortion of competition in the form of abuse of a dominant position by the Town of Dubrovnik and after having carried out a preliminary market investigation the Croatian Competition Agency (CCA) dismissed the initiative of the complainant due to lack of standing to act within the meaning of the Competition Act.

Concretely, the complainant stated in his writing that in May 2019 the Town of Dubrovnik brought a Decision on the amendments to the Decision on organisation and charges for the parking space in the Town of Dubrovnik on the basis of which the former taxi stand became a parking space with reserved parking spaces. In addition, all the reserved parking spaces under the new regime were allocated exclusively to the Association of Taxi Drivers of Dubrovnik (Dubrovnik Taxi Union) under the price which was, in the words of the complainant, well below the market price that could have been achieved had the Town of Dubrovnik called for public tender in the matter concerned.

In the preliminary market investigation, the CCA received the opinion from the Town of Dubrovnik, the Association of Taxi Drivers of Dubrovnik and the additional opinion of the complainant. After having investigated all the facts it dismissed the case based on the following reasoning:

With regard to the Decision on organisation and charges for the parking space in the Town of Dubrovnik adopted by the Town of Dubrovnik its legal review has been ensured by the High Administrative Court of Croatia in line with the Administrative Dispute Resolution Act. In the proceeding opened before the High Administrative Court of Croatia on 25 July 2019 the court adopted a decision on the basis of which the implementation of the provisions raising concerns has been suspended until the final ruling of the Administrative Court of Croatia in the matter concerned.

With respect to the application of competition rules in this concrete case the CCA decided that the mere adoption of the challenged Decision on organisation and charges for the parking space in the Town of Dubrovnik of 7 May 2019 could not be regarded as an economic activity within the meaning of Article 3 paragraph 1 of the Competition Act, which means that competition rules do not apply in this concrete case.

However, in the sense of Article 5 paragraph 3 of the Competition Act, in accordance to which the CCA gives opinions to the local and regional self-government units regarding the compliance of the legislation in effect with competition rules, the CCA used this opportunity to point out in this decision that when adopting any legal acts, the Town of Dubrovnik should observe competition rules despite its unquestionable powers as a self-government unit, particularly regarding the possible consequences that would involve acting in favour of any organisation of undertakings in the market, for instance where the members of one association would enjoy advantage in the market relative to the members of any other union or association or any undertakings outside such organisations.

Lacking the legal grounds for opening and infringement proceedings the CCA decided to dismiss the case concerned.