

LAW ON PROTECTION OF COMPETITION

Contents

LAW ON PROTECTION OF COMPETITION.....	3
I. GENERAL PROVISIONS	3
Subject of the law.....	3
Territory of application	3
Scope of application.....	3
Labour relations	4
Affiliated undertakings	4
Relevant market	4
Annual turnover	5
Foreign currency clause	5
II. INFRINGEMENTS OF COMPETITION.....	5
Definition	5
1. Restrictive agreements	6
Definition and prohibition of restrictive agreement.....	6
Conditions for Exemption from Prohibition	6
Individual exemptions.....	6
Block exemptions.....	7
Agreements of minor importance	7
2. Abuse of a dominant position	7
Dominant position on the market.....	7
Abuse of a dominant position	8
III. CONCENTRATION OF UNDERTAKINGS	8
Definition of Concentration	8
Exemptions.....	9
Permissibility of concentration	9
IV. COMMISSION FOR PROTECTION OF COMPETITION	10
Position of Commission	10
Competencies of the Commission.....	10
Bodies of Commission	11
Election of the bodies of the Commission	11
Term of office	12
Activities of the Council	12
Technical Service	13
Incompatibility of functions and jobs	13
Conflict of interest	13
Compensation.....	14
Statute of the Commission	14
Financing of the Commission	14
Financial Plan.....	14
V. PROCEDURE BEFORE THE COMMISSION	15
1. General provisions of the Procedure before the Commission	15
Party in the procedure	15
Applicability of Rules of General Administrative Procedure	15
Initiation of procedure ex officio	15
Initiation of the procedure upon request of the party	16

Summary procedure	16
Decisions passed by the Commission	16
Delivery.....	17
Publishing.....	17
Investigation procedure.....	17
Official identification card	18
Access to file and the right to be informed on the course of procedure	18
Obligation to submit documents for inspection	18
Protected information.....	19
Reopening of the procedure	19
2. Specific regulations of procedure regarding the infringement of competition	19
Sector inquiries	19
Obligation to provide required information	20
Cooperation of state authorities and organizations	20
Cooperation with the police	20
Privileged communication	21
Authorizations in inspection	21
Unannounced inspection (down raid)	21
Entering the premises.....	22
Temporary seizure of documents and objects.....	22
Interim measures	22
Administrative measures imposed by the Commission	23
Suspension of procedure	23
Measures for elimination of competition infringements.....	24
3. Separate provision on procedure for individual exemption of restrictive agreements	24
Procedure upon request for individual exemption	24
4. Separate provisions on procedure of assessment of concentrations.....	25
Obligation to notify the concentration	25
Investigation of concentration ex officio	25
Notification of concentration	26
Suspension of concentration	26
Decisions on appraisal of concentration	27
Conditional approval of concentration.....	27
Measure of de-concentration.....	27
5. Measures for protection of competition and sanctions for procedural breaches.....	28
Measure for protection of competition.....	28
Relief from measure for protection of competition	28
Measure of Procedural Penalty	29
VI. JUDICIAL REVIEW	29
Judicial review of the decisions of the Commission.....	29
The court procedure	30
Compensation for damage	30
VII. TRANSITIONAL AND FINAL PROVISIONS	30

LAW ON PROTECTION OF COMPETITION

("Official Gazette of the RS", no.51/2009)

I. GENERAL PROVISIONS

Subject of the law

Article 1

This law shall regulate protection of competition on the market of the Republic of Serbia, with the aim of economic progress and welfare of the society, and in particular to the benefit of the consumers, as well as the establishment, position, organization and competencies of the Commission for Protection of Competition (hereinafter: the Commission).

Territory of application

Article 2

The provisions of this Law shall apply to acts and practices performed on the territory of the Republic of Serbia, as well as on acts and practices performed outside its territory, that affect or are likely to affect the competition on the territory of the Republic of Serbia.

Scope of application

Article 3

The provisions of this law shall apply to all legal and natural entities that directly or indirectly, permanently, occasionally or ad hoc, perform economic activities in trade of goods and services, regardless of their legal status, ownership affiliation or citizenship or state of origin (hereinafter: undertakings), including:

- 1) domestic and foreign companies and entrepreneurs;
- 2) state institutions, bodies of territorial autonomy and local self-governments;
- 3) other natural and legal entities and associations (unions, business associations, sports organizations, institutions, cooperative associations, holders of intellectual property rights and other);
- 4) public enterprises, companies, entrepreneurs and other undertakings, performing the activities of public interest, or those that have been given the fiscal monopoly, through the act of the state authority in charge, except if through the application of this law, they are prevented to perform activities of public interest or tasks assigned to them.

Labour relations

Article 4

The provisions of this law shall not apply to labour relations between employers and employees, nor to the labour relations that are covered by collective agreement between employer and labour unions.

Affiliated undertakings

Article 5

Pursuant to this Law, affiliated undertakings are two or more undertakings that are affiliated in a way that one or more undertakings are in control of the other undertaking or undertakings (hereinafter: affiliated undertakings).

Pursuant to this Law, control over an undertaking represents the possibility of decisive influence on managing activities of another undertaking or other undertakings, in particular:

- 1) if the controlling undertaking, solely or acting jointly with another undertaking, has the characteristic of a controlling (parent) company, and/or controlling party or shareholder, in line with rules pertaining to affiliated companies, as stipulated by the Law on Companies;
- 2) on the basis of ownership or other property rights over a property or part of the property of another undertaking;
- 3) on the basis of rights deriving from a contract, an agreement or securities;
- 4) on account of receivables, security instruments or terms of a particular business practice determined by the controlling undertaking.

Pursuant to this Law, affiliated undertakings are considered to be a single undertaking.

Rules pertaining to affiliated parties and affiliated companies stipulated by the Law on Companies regulating the position of companies, shall be applied accordingly to affiliated undertakings, unless contrary to this Law.

Relevant market

Article 6

Pursuant to this Law, relevant market is the market determined by the relevant product market and the relevant geographic market.

Relevant product market is a set of goods and/or services considered as interchangeable by consumers and other users with respect to their quality, regular use and price.

Relevant geographic market is a territory within which the undertakings have been involved in a demand or supply process and where the conditions of competition are identical or similar, whereas the same significantly differ from conditions of competition on neighboring territories.

The Government shall prescribe in more details criteria defining relevant market.

Annual turnover

Article 7

Pursuant to this Law, annual turnover of undertakings is calculated in the amount of total annual turnover, prior to tax deduction, taken for the financial year preceding the year in which the procedure has been initiated.

For undertakings providing financial services, as well as for insurance and reinsurance companies, total turnover referred to in paragraph 1 of this Article shall be calculated in the following manner:

- 1) for undertakings providing financial services, after deduction of taxes which apply directly to them, the sum of following income items shall be used:
 - (1) interest income and similar income;
 - (2) income from securities (income from shares and other variable yield securities, income from shares in undertakings, income from share capital in affiliated undertakings);
 - (3) income from fees and commissions;
 - (4) net profit on financial operations;
 - (5) other operating income.
- 2) For insurance and reinsurance companies, amount of charged premiums on the basis of insurance or reinsurance contracts concluded by, or on behalf of, insurance companies, after deduction of taxes charged on individual premiums or on the total amount of premiums.

For various forms of associations of undertakings, the total annual turnover referred to in paragraph 1 of this Article, is calculated as the sum total of annual turnovers of the associated parties.

Foreign currency clause

Article 8

Amounts given in euros in this Law, as well as in the acts based on this Law, shall be calculated in dinars at the medium exchange rate of the National Bank of Serbia on the day of calculation of annual turnover, or the day of payment or collection of the amount determined by imposed measures.

II. INFRINGEMENTS OF COMPETITION

Definition

Article 9

Pursuant to this Law, infringements of competition are the acts or practices of undertakings having or likely to have as their object or effect, significant restriction, distortion or prevention of competition.

1. Restrictive agreements

Definition and prohibition of restrictive agreement

Article 10

Restrictive agreements are agreements between undertakings the object or effect of which is to considerably restrict, distort or prevent competition on the territory of the Republic of Serbia.

Restrictive agreements could be contracts, single provisions in contracts, tacit or explicit collusion, concerted practices, as well as decisions of associations of undertakings, in particular those which:

1. directly or indirectly fix purchase or selling prices or any other trading conditions;
2. limit or control production, markets, technical development or investment;
3. apply dissimilar conditions to equivalent transactions with other undertakings, thereby placing them at a competitive disadvantage;
4. make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts;
5. share markets or sources of supply;

Restrictive agreements are prohibited and void, unless exempted from prohibition pursuant to this Law.

Conditions for Exemption from Prohibition

Article 11

Restrictive agreements may be exempted from prohibition if they contribute to improvement of the production and distribution i.e. facilitate a technical or economic progress, while allowing consumers a fair share of resulting benefit, under condition they do not impose on undertakings concerned restrictions which are not indispensable for achieving the objective of the agreement, i.e. do not eliminate competition in a relevant market or its substantial part.

Individual exemptions

Article 12

At the request of parties to the restrictive agreement, the Commission may decide on exemption of particular restrictive agreement from prohibition (hereinafter: individual exemption).

The party that submitted the request for individual exemption bears the burden of proof for the fulfillment of the conditions contained in the Article 11 of this Law.

Period to which individual exemptions from paragraph 1 of this Article refer, cannot be longer than eight years.

The Government shall prescribe in more details the content of the request referred to in paragraph 1 of this Article.

Block exemptions

Article 13

Exemption from the prohibition of a restrictive agreement may pertain to certain categories of agreements, if conditions referred to in Article 11 of this Law, as well as other special conditions pertaining to the kind, contents of the agreement and its duration have been fulfilled.

Restrictive agreements that fulfill the conditions pursuant to paragraph 1 of this Article shall not be submitted to the Commission for exemption.

The Government shall define the categories of agreements and prescribe in details special conditions, pursuant to paragraph 1 of this Article.

Agreements of minor importance

Article 14

Agreements of minor importance are agreements between undertakings with total market share on the relevant market of goods and services on the territory of the Republic of Serbia not exceeding:

- 1) 10% of market share, if the parties to the agreement operate at the same level of production and distribution (horizontal agreements);
- 2) 15% of market share, if the parties to the agreement operate at different levels of production and distribution (vertical agreements);
- 3) 10% of market share, if the agreement has the characteristics of both, horizontal and vertical agreements, or where it is difficult to determine whether the agreement is vertical or horizontal;
- 4) 30% of market share, in case of agreements with similar effects on the market concluded by different undertakings, if individual market share of each undertaking does not exceed 5% on each particular market, on which the effects of the agreement are manifested;

Agreements of minor importance are allowed, unless the objective of a horizontal agreement is to fix prices or limit production or sale, or share markets or sources of supply, as well as if the objective of a vertical agreement is to fix prices or share markets.

2. Abuse of a dominant position

Dominant position on the market

Article 15

Dominant position on a relevant market is the position of an undertaking that has no competition or the competition is insignificant, or it has a significantly better position than competitors considering its market share, economic and financial strength, access to supply and distribution chains, as well as legal and factual barriers to entry by other undertakings.

An undertaking is presumed to have a dominant position, if its market share on a relevant market is equal to or exceeds 40 %.

Two or more undertakings are presumed to have a dominant position on the market if no significant competition exists between them and if their aggregate market share is equal to or exceeds 50 % (collective dominance).

If the undertaking, or undertakings do not meet the conditions concerning market share contained in paragraphs 2 and 3 of this Article, the burden of proof of existence of the dominant position is on the Commission.

Abuse of a dominant position

Article 16

The abuse of a dominant position on the market shall be prohibited.

Abuse of a dominant position are particularly considered to be such practices which:

- 1) directly or indirectly impose unfair purchase or selling price or other unfair trading conditions;
- 2) limit production, markets or technical development;
- 3) apply dissimilar conditions to equivalent transactions with other undertakings, thereby placing them at a competitive disadvantage;
- 4) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

III. CONCENTRATION OF UNDERTAKINGS

Definition of Concentration

Article 17

The concentration of undertakings shall be deemed to arise in following cases:

- 1) merger and other status changes leading to acquisition of undertaking, pursuant to the Law stipulating the position of companies;
- 2) acquisition by one or more undertakings of direct or indirect control over other undertaking or undertakings, within the meaning of Article 5, paragraph 2 of this Law;
- 3) joint venture by two or more undertakings aimed at setting up of a new undertaking or acquiring joint control, within the meaning of Article 5, paragraph 2 of this Law, over an existing undertaking performing its operations on a long-term basis and with all functions of an autonomous undertaking.

Two or more transactions between the same undertakings, conducted within the period shorter than two years, shall be deemed to constitute one concentration, whereas the day of its occurrence shall be the day on which the last transaction was effected.

Exemptions

Article 18

A concentration shall not be deemed to arise where:

- 1) bank or other financial institution or insurance company, in the course of its regular activities, acquires on a temporary basis shares or share capital for further resale, provided that any such disposal takes place at the latest within the period of one year from the date of their acquisition and that they do not exercise their rights in order to influence business decisions of undertaking in respect to its market behavior;
- 2) company for management of investment fund or an investment fund acquires a share in an undertaking, provided that the rights in respect to such share are exercised only to maintain the full value of those investments and not to determine the competitive conduct of that undertaking;
- 3) joint venture is aimed at coordinating market activities of two or more undertakings maintaining their legal autonomy, whereas such joint venture shall be assessed pursuant to Articles 10 and 11 of this Law;
- 4) bankruptcy manager acquires control over an undertaking.

Commission may extend the period contained in paragraph 1 item 1) of this Article, at the request of a share or share capital acquirer, under condition that the acquirer proves that the selling of share or share capital was not reasonably possible within that period, but for the period not longer than additional six months.

Permissibility of concentration

Article 19

Concentrations of undertakings are allowed, except if they would considerably restrict, distort or prevent competition on the market of the Republic of Serbia as a whole or in a relevant part thereof, particularly if such restriction, distortion or prevention is a result of creation or strengthening of a dominant position.

Permissibility of a concentration of undertakings shall be determined on the basis of:

- 1) structure of a relevant market;
- 2) actual and potential competitors;
- 3) market position of parties to the concentration and their economic and financial power;
- 4) possibility to choose suppliers and users;
- 5) legal and other barriers to entry on the relevant market;
- 6) level of competitiveness of parties to the concentration;
- 7) supply and demand trends for relevant goods or services;

- 8) technical and economic development trends;
- 9) interests of consumers.

IV. COMMISSION FOR PROTECTION OF COMPETITION

Position of Commission

Article 20

Commission is an independent and autonomous organization performing public competencies in accordance with this Law.

Commission has a status as a legal entity.

Commission is accountable for its work to the National Assembly, to which it submits Annual Report on its activities by the end of February of the current year for the preceding year.

Competencies of the Commission

Article 21

Commission is competent to:

- 1) decide on rights and obligations of undertakings, in accordance with the law;
- 2) impose administrative measures according to this law;
- 3) participate in drafting regulations in the field of protection of competition;
- 4) propose to the Government the adoption of regulations for implementation of this Law;
- 5) enact instructions and guidelines for implementation of this Law;
- 6) monitor and analyse competition conditions on particular markets and in particular sectors;
- 7) submit opinions to competent authorities on draft regulations, as well as on existing regulations that effect the competition on the market;
- 8) issue opinions in view of implementation of rules in the field of protection of competition;
- 9) establish international cooperation in the field of protection of competition for fulfillment of international obligations in this area, and gather information on protection of competition in other countries;
- 10) cooperate with state authorities, territorial autonomy and local self-government bodies, for providing conditions for implementation of this Law and other rules that regulate the issues of importance for protection of competition;
- 11) perform activities in order to develop awareness on the need for protection of competition;

- 12) keep records on notified agreements, on undertakings holding dominant position on the market, as well as on concentrations, according to this Law;
- 13) organize, perform and control implementation of measures providing protection of competition;
- 14) perform other activities in accordance with the Law.

The Commission performs activities referred to in paragraph 1, items 1), 2), 3), 4), 5), 6), 7), 8), 9), 10) and 13) of this Article, as entrusted competencies.

Bodies of Commission

Article 22

The bodies of the Commission are the Council of the Commission (hereinafter: the Council) and the President of the Commission.

The Council passes all decisions and acts on the issues within the competence of the Commission, unless it is prescribed differently by the Law and the Statute.

The Council consists of the President of the Commission and four members.

The President of the Commission represents and acts on behalf of the Commission, passes decisions and performs other duties in accordance with the Law and the Statute.

Election of the bodies of the Commission

Article 23

The President of the Commission and the members of the Council are elected among eminent experts in the field of law and economics, with at least ten years of relevant working experience, and considerable achievements and practice in relevant area, in particular in the field of competition protection and *acquis communautaire*, and with reputation of being objective and impartial persons.

The President of the Commission and the members of the Council are elected and relieved by the National Assembly, upon the proposal of the Committee in charge of trade operations.

The election of the President of the Commission and the members of the Council is made on the basis of two separate candidate lists that contain at least the same, or at the most a double number of candidates, than the number to be elected.

The candidates that receive the most of the votes on every list are elected for the President of the Commission and the members of the Council, on the basis of majority votes received out of the total number of all members of the National Assembly.

The same person may be a candidate on both lists and if elected on the list for the President of the Commission, the results of voting for that person on the other list shall not be considered.

The election of the bodies of the Commission is made through a public contest invited by the Chairperson of the National Assembly, at least three months before the expiry of the mandate of the President of the Commission and the members of the Council or immediately upon termination of their term of office or relief, pursuant to Article 24 of this Law.

Term of office

Article 24

President of the Commission and members of the Council are elected for a five year term of office, with a possibility to be re-elected.

Term of office of the President of the Commission and members of the Council shall terminate:

- 1) with expiration of the term of office;
- 2) by relief under reasons foreseen by the law;
- 3) by legal or factual reasons that make it impossible to perform duty (resignation, fulfillment of conditions for retirement, loss of ability to perform duties, serious health condition that disables the fulfillment of the duties etc).

The reasons for relief from duty pursuant to paragraph 1 items 1) and 3) of this Article, shall be determined by the relevant National Assembly Committee.

National Assembly shall relieve the President of the Commission or a member of the Council from duty, upon proposition of the Council or the relevant National Assembly Committee, if:

- 1) it is undeniably determined that the information stated during the candidacy is incorrect, or incomplete in the sense of omitting of information which could significantly diminish the possibility of election;
- 2) circumstances referred to in Article 27 of this Law should occur;
- 3) in case of serious violation of this Law and the reputation of the Commission in public.

Activities of the Council

Article 25

The Council passes decisions on the ground of majority votes of all members.

In the infringement procedure, a reporter from among the members of the Council is appointed who shall prepare, in cooperation with the official assigned to lead the procedure, the proposition of the decision and report to the Council on the reasons and all important facts and circumstances in the case.

President of the Commission shall appoint the reporter at the moment the procedure has been initiated.

President of the Commission presides and manages the activities of the Council, signs decisions and other acts and ensures their execution.

The Council shall delegate from among its members a person to perform duties referred to in paragraph 4 of this Article, in case of the exclusion or prevention from duty of the President of the Commission, in the manner defined by the Statute of the Commission.

Technical Service

Article 26

Technical Service of the Commission (hereinafter: Technical Service) shall perform professional activities within the competency of the Commission, in accordance with this Law, the Statute and other acts of the Commission.

General labor regulations shall be applied to the rights and obligations of the employees in Technical Service.

With regard to legality, expertise, political neutrality, impartiality, use of official language, qualifications for employment, as well as regular office work, regulations relevant for public administration shall be applied.

Technical Service of the Commission is managed by Secretary.

Secretary is appointed by the Council by majority of the votes.

Person eligible for the position of Secretary shall hold a university degree in law or economics, with at least ten years of work experience in relevant field and knowledge of competition protection.

Secretary shall be accountable for its work to the Council.

Incompatibility of functions and jobs

Article 27

President of the Commission and members of the Council cannot perform any other public function or professional activity during their term of office, i.e. they cannot conduct any other public or private affair with a fee, including consulting and advisory services.

Prohibition from paragraph 1 of this Article does not apply to scientific activity, lecturing at the university and activities concerning specialized training.

President of the Commission and members of the Council cannot be members of bodies of political parties, nor promote program or views of political parties in public.

Conflict of interest

Article 28

President of the Commission and members of the Council have a status of officials pursuant to the law regulating the conflict of interest relating to performance of public functions.

President of the Commission and member of the Council, whose term of office expired, cannot be proxies in a procedure conducted before the Commission according to this Law, for at least two years upon expiry of their mandate i.e. employment.

President of the Commission and member of the Council, at the beginning of the duty, provide a written statement that there are no obstructions for their election, as determined in paragraph 1 of this Article.

With regard to employees in Technical Service, regulations relevant for conflict of interest, pursuant to law regulating rights and obligations of public servants, shall be applied.

Compensation

Article 29

President of the Commission and members of the Council are entitled to earnings i.e. compensation for the work in the Commission.

Statute of the Commission

Article 30

Statute of the Commission determines in detail internal organization, manner of operation and implementation of procedures before the Commission, as well as authorizations to issue other acts of the Commission.

The Statute of the Commission is passed by the Council, with the previous consent of the Government.

The Statute shall be published in the Official Gazette of the Republic of Serbia.

Financing of the Commission

Article 31

Funds necessary for the activities of the Commission shall be provided out of income generated particularly from:

- 1) fees to be paid to the Commission pursuant to the provisions of this Law;
- 2) donations, except for donations of undertakings to which this Law shall apply;
- 3) income gained by sale of publications of the Commission;
- 4) other sources pursuant to the Law.

Fees referred to in paragraph 1 item 1) of this Article shall be determined by the Tariff made by the Commission with the consent of the Government.

Tariff referred to in paragraph 2 of this Article shall be published in the Official Gazette of the Republic of Serbia.

Financial Plan

Article 32

Financing of the Commission shall be made according to the Financial Plan made by the Commission for each year and submitted to the Government for approval at the latest until November 1, of the current year for the following year.

If Financial Plan would not be approved in line with provision of paragraph 1 of this Article, prior to the beginning of the year for which Financial Plan is made, financing of the Commission shall be

effected, at the most, up to the amount of total expenditures from the previous year, in proportion to the period until approval for Financial Plan has been obtained.

Financial Plan shall determine total income and expenditures of the Commission, as well as factors on the basis of which salaries shall be determined.

Total expenditures of the Commission contained in Financial Plan cannot be higher than the expenditures necessary for efficient performance of competencies of the Commission.

If, on the grounds of annual calculation of income and expenditures of the Commission, it is established that its total generated income exceeds expenditures, such surplus in income shall be paid to the budget of the Republic of Serbia.

If operation of the Commission would be jeopardized due to insufficient income, the Commission shall inform the Government and propose measures within its competency aimed to adjust income and expenditures, including possibility of budget support.

Annual Financial Statement of the Commission shall be subject to auditing by state auditing institution.

The Commission shall issue its Annual Financial Statement at the latest three months upon the completion of the financial year.

V. PROCEDURE BEFORE THE COMMISSION

1. General provisions of the Procedure before the Commission

Party in the procedure

Article 33

The party in the procedure before the Commission is the undertaking that submitted notification of concentration or request for individual exemption, or an undertaking against which the investigation procedure is initiated.

Pursuant to this Law, parties that submit initiatives for investigating infringements of competition, providers of information and data, experts and organizations whose analyses are used in the procedure as well as other state authorities and organizations cooperating with the Commission in the procedure, are not considered as parties in the procedure.

Applicability of Rules of General Administrative Procedure

Article 34

The provisions of the Rules of General Administrative Procedure shall apply to the procedure before the Commission, unless otherwise prescribed by this Law.

Initiation of procedure ex officio

Article 35

The Commission initiates the procedure of investigating the infringement of competition ex officio when, on the basis of submitted initiatives, information and otherwise available data, reasonably

presumes the existence of competition infringement, as well as in the case of investigation of concentration pursuant to Article 62 of this Law.

The President of the Commission issues the resolution on initiation of the procedure, which shall in particular contain a description of practices or acts that might present the infringement of competition, legal basis and reasons to initiate the procedure as well as invitation to all parties to provide the Commission with available data, documents and other relevant information.

Appeal against the resolution on initiation of the procedure is not allowed.

Commission shall inform on the outcome each party that submitted initiative for investigating infringements of competition, within the period of 15 days following the day of submission of initiative.

Initiation of the procedure upon request of the party

Article 36

The procedure upon the notification of concentration as well as procedure for individual exemption shall be initiated and conducted at the party's request, unless otherwise prescribed by this Law.

Summary procedure

Article 37

The Commission may pass a decision directly, without conducting investigation procedure, if in procedure initiated on notification of concentration based on submitted evidence and other facts known to the Commission, it may be reasonably assumed that the concentration fulfills requirements of Article 19 of this Law, unless conditions for ex officio investigation of concentration are met or created.

The decision in the summary procedure shall be passed by the President of the Commission.

Decisions passed by the Commission

Article 38

On the infringement of competition as well as on individual exemption and approval or prohibition of concentration, Commission shall pass a decision.

Before passing a decision on infringement of competition, Commission shall notify the party to the procedure on relevant facts, evidence and other elements on which its decision would be based upon and it shall invite the party to present its case within given time limit.

Integral part of the decision establishing the infringement of competition is a decision on measures for protection of competition i.e. other administrative measure determined by the Commission pursuant to this Law.

Decision of the Commission is final, and administrative dispute against it can be initiated.

Procedural decisions, interim measures and presentation of evidence shall be passed in the form of resolution.

The resolution shall be in written form if it is to be delivered to the party or to the third party, or to be published.

The resolution on presentation of evidence is passed by authorized official conducting procedure, unless otherwise prescribed by this Law.

Separate appeal against resolution is allowed, unless otherwise prescribed by this Law.

The President of the Commission shall decide upon the appeal against resolution passed by an authorized official, whereas the Council shall decide upon the appeal against resolution passed by the President of the Commission.

Appeal against the resolution shall not postpone its execution.

Delivery

Article 39

Delivery of letters (invitation, decision, resolution and alike) shall be in accordance with Rules of General Administrative Procedure.

Exceptionally, in case of repeated delivery, i.e. in case of delivery in the form of public statement, contents of the letters shall be published on the Commission's web site and shall be considered delivered after 15 days from the date of publication, unless the Commission decides to extend that period.

The party may not object to inappropriate delivery, if the letter is delivered to the address of the party's seat as registered in the Companies Register.

In the procedure against affiliated undertakings pursuant to Article 5 of this Law, the delivery to one undertaking shall be considered as delivery to all affiliated undertakings.

Publishing

Article 40

The decision on the infringement of competition as well as the resolution on initiation of the ex officio procedure shall be published in the Official Gazette of the Republic of Serbia and on the Commission's web site.

The resolution on initiation of procedure shall not be published, if the President of the Commission assesses that the course of events in the procedure might be jeopardized due to its publication.

Investigation procedure

Article 41

Investigation procedure comprises activities in providing evidence with objective of correct finding of the state of the matter, in particular by taking statements from parties and witnesses, expert opinion, collecting data, documents and objects, performing inspections and temporary seizure of objects.

Investigation procedure shall be executed by an authorized official from the Technical Service, appointed by the President of the Commission for each particular case.

Resolution on inspection and expertise to be conducted is passed by the President of the Commission.

The list of experts and institutions which may be appointed to give their professional opinion in procedure before the Commission, is determined by the Council.

Official identification card

Article 42

The officials of the Commission authorized to conduct the activities in the investigation procedure shall be provided with official identification cards.

Official identification cards stipulated in paragraph 1 of this Article shall be issued by the President of the Commission.

The Government shall specify the form and contents of the official identification card stipulated in paragraph 1 of this Article.

Access to file and the right to be informed on the course of procedure

Article 43

The party shall have the right to inspect the file and to copy certain documents at its own expense.

Records on voting, official reports and draft decisions, records labeled as confidential, as well as protected data cannot be either inspected or copied.

Parties who submit initiative for investigating infringements of competition, information providers and other parties able to prove their legally-founded interest in monitoring the procedure have the right to be informed about the course of the procedure.

The Council shall pass the act regulating in details the contents and manner of providing information referred to in paragraph 3 of this Article.

Obligation to submit documents for inspection

Article 44

Parties to the procedure shall be ordered, by resolution, to submit or to provide for inspection relevant information in written, electronic or any other form, documents, items that contain information as well as other items that may be subject to presentation of evidence in the procedure, that party is obliged to possess, or the possession can be reasonably assumed.

In case the party would not submit, or provide required document, information or item for inspection by the time the procedure is closed, the Commission shall pass the decision by taking into account available evidence in the case, where doubts that may arise from lack of evidence shall be used against the party that did not proceed in accordance with the order.

Protected information

Article 45

At the request of the party, the person that submitted initiative for investigating infringements of competition, or a third party that submitted or provided required information in the procedure for inspection, a measure on protecting the source of information or particular information (protected information) may be ordered, if assessed that the interest of the party in question is justified and substantially more important than public interest regarding the subject of that request.

The party that submitted the request referred to in paragraph 1 of this Article shall be obliged to present the possibility of substantial damage as likely due to disclosure of the source of information i.e. information specified in the request.

The resolution on the protection of sources of information and protection of information shall be passed by the President of the Commission.

Protected information shall not be considered as information of public importance with respect to the law that defines the free access to information of public importance.

Reopening of the procedure

Article 46

Procedure before the Commission could be reopened according to provisions stipulated by the General Administrative Procedure, as well as in case of infringements of conditional approval of concentration.

2. Specific regulations of procedure regarding the infringement of competition

Sector inquiries

Article 47

Where a trend in price flow or other circumstances indicate the possibility of restriction, distortion or prevention of competition, the Commission may conduct an analysis into competition conditions in a particular sector of the economy or into particular categories of agreement within various sectors (sector inquiries).

With objective to execute sector analyses referred to in paragraph 1 of this Article, the Commission may request that undertakings submit all necessary information or documents and may carry out any inspections necessary for that purpose.

The Commission may particularly require that undertakings submit all agreements, decisions or notes with respect to concerted practice.

The Commission is obliged to publish the report on executed sector inquiry in appropriate manner and in particular on its web site, and may invite undertakings to comment on it.

Obligation to provide required information

Article 48

If it is reasonably presumed that required information, documents or objects are in possession of a third party, the Commission shall issue the request for their submission, i.e. inspection.

Parties required to comply with request referred to in paragraph 1 of this Article are obliged to submit, or provide for inspection information, documents or items which are the subject of the request, except in cases stipulated by the law.

A request for providing information especially contains details about who and what it relates to, the time limit for acting, as well as warnings about consequences if information is not provided, or if false information is provided.

At the request of a party obliged to submit, or provide information for inspection, the Commission may inspect and collect the information in that person's premises.

Cooperation of state authorities and organizations

Article 49

Commission may submit a request for information to other state authorities and organizations.

State authorities and organizations are obliged to cooperate with the Commission and to act upon request as stipulated in paragraph 1 of this Article, within the given time limit, i.e. to submit the information, documents or other required evidence they possess or to provide a reasoned statement about the subject of the request.

Obligation referred to in paragraph 2 of this Article particularly refers to authorities and organizations in charge of statistics, tax authorities, local self-government authorities and organizations, chambers of commerce and other organizations that perform public competencies.

In case of an untimely or incomplete action, i.e. lack of action of the authority or organization as stated in paragraph 1 of this Article, the Commission may inform the body that is monitoring the operations of the authority or organization concerned, i.e. to which it is accountable for its operations, with a request to take necessary actions aimed at acquiring requested information.

In case of a lack of cooperation after acting in accordance with the paragraph 4 of this Article, i.e. multiple failed attempts of the Commission to establish cooperation with a certain state authority or organization, the Commission may publish the information related to the matter.

Cooperation with the police

Article 50

At the request of the Commission, police will provide its assistance during certain actions in the procedure, and particularly with inspections and temporary seizure of objects, pursuant to the law regulating police forces.

Provisions of Article 49 paragraphs 4 and 5 refer to cooperation with the police as well.

Privileged communication

Article 51

Letters, notices and all other forms of communication between the party against which the procedure is ongoing and its attorneys, directly related to the procedure itself, shall be considered as privileged communication.

Provisions of this Law on protected information will be applicable to privileged communication, accordingly.

In case of doubt that the misuse of privileged communication occurred, the resident of the Commission may reassess the content of communication, i.e. decide on abolishing that option in relation to some of its forms.

Authorizations in inspection

Article 52

Authorized officials in the course of inspection, may:

- 1) enter and search business premises, vehicles, land and other premises at the seat of the party and other places where the party or a third party perform their business and other activities;
- 2) inspect business and other documents, regardless of the manner in which these documents are stored;
- 3) take, photocopy or scan business documentation, and if this is not possible due to technical reasons, the authorized official may seize business documentation and keep it for the time necessary to make copies of this documentation;
- 4) seal all business premises and business documents for the time of the investigation;
- 5) take oral or written statements from the representative of the party or its employees, as well as documents on the facts that are the subject of the investigation, and if a written statement is necessary, the authorized official must set a date until such statement must be delivered;
- 6) perform other actions that are in accordance with the objective of the procedure.

The party must be provided with the possibility to be present at the scene of investigation if demanded, unless the intention of the demand is to prolong or impede the procedure.

Unannounced inspection (down raid)

Article 53

If there is a reasonable doubt of danger of disposal or altering evidence that are in possession of the party or third party, a down raid may be ordered.

Down raid is performed by an unexpected control of premises i.e. information, documents and objects on the spot, on which the party, or holder of premises and objects is notified at the time of investigation and on the spot.

Entering the premises

Article 54

If it is necessary that the inspection is performed in the premises of the party or third party, the authorized official of the Commission conducting the inspection is obligated to show his official identification card to the owner i.e. holder of premises and to present a resolution on conducting the inspection in that premise, i.e. demand to enter the premises.

If the owner, i.e. holder of that premise unduly opposes the inspection, forced entering to the premises can be made with the assistance of the police.

If it is necessary to conduct the inspection in the apartment or premise with identical, similar or related purpose, and the owner, i.e. holder of the premises opposes, the President of the Commission shall immediately, in written form, ask for an appropriate court order.

The court order shall be issued by the court competent to decide upon complaint against decisions of the Commission on the grounds of rules of civil proceedings relating to preservation of evidence.

Holder of the apartment or any other premise is entitled to be present during the inspection of the apartment in person or by representation, along with two adult witnesses.

If the holder of the apartment or his/her representative is not present, two adult witnesses must be present at the investigation.

Temporary seizure of documents and objects

Article 55

If during the inspection, documents, objects i.e. objects that contain information or other items relevant for decision making in the process are found, they can be temporarily seized until all relevant information and facts from these documents or objects are established, or at the latest until the closure of procedure.

The resolution on temporary seizure of documents i.e. objects, and their return is issued by the authorized official conducting the inspection, i.e. procedure.

A written certificate on temporary seizure is issued on the spot to the party from whom documents or objects are taken.

Expenses of the seizure and storage of documents i.e. objects, as well as possible damage thereof, fall under expenses of the procedure.

Interim measures

Article 56

In case there is a danger of irreparable damage to parties to which practices or acts being subject of the procedure directly refer to, the Commission can pass a resolution containing an order to suspend particular action or execution of acts, i.e. order obligatory action aimed to prevent or remove harmful effects.

The resolution referred to in paragraph 1 of this Article is passed by the President of the Commission.

Interim measures referred to in paragraph 1 of this Article may last until the decision relating to that procedure has been passed.

Administrative measures imposed by the Commission

Article 57

If the Commission finds that an infringement of competition was made i.e. any other violation of this Law is committed, it shall impose a measure for protection of competition, measure for eliminating competition infringement i.e. other administrative measure prescribed by this Law.

In determining the amount to be paid under the measure for protection of competition i.e. measure of procedural penalty, intention, gravity, effects and duration of established infringement of competition shall be taken into account.

Payment of funds under particular administrative measure is made into the account of budget of the Republic of Serbia.

If the amount of payment is decreased or administrative measure revoked, the budget of the Republic can be burdened only up to the level of funds which have been paid up into the budget of the Republic of Serbia on the ground of such administrative measure.

Interest and other costs occurring in case of decreased amount or revoking of administrative measure, shall be reimbursed at the account of funds of the Commission.

For measures determined against associations of undertakings, all members of the association are jointly liable and may jointly or individually make payments, if the association is unable to effect payment or does not possess its own funds.

If a party does not effect payment of the amount of particular measure within the period set in decision, enforced payment will be made by the tax administration according to the rules applying to forced tax collection.

Government prescribes in more details criteria for defining the amount to be paid under the measure for protection of competition and procedural penalty, as well as manner and time limits of the relevant payment and prescribes in more details conditions for determining measures referred to in paragraph 1 of this Article.

Suspension of procedure

Article 58

If a negligible infringement of competition is established, the Commission may pass a resolution on suspension of procedure initiated ex officio, and the party has to commit itself not to continue or repeat the act that substantially restricts, distorts or prevents competition, i.e. that it shall compensate or eliminate any damage caused.

Suspension of procedure referred to in paragraph 1 of this Article may not exceed six months.

The Commission shall supervise ex officio the acting under commitment in line with paragraph 1 of this Article.

If a party against which a procedure is conducted does not comply with or breaks its commitments prior to the expiry of the period of six months or in the meantime performs another act of infringement, the Commission shall continue the procedure.

Resolution on suspension i.e. continuation of procedure is passed by the President of the Commission.

Measures for elimination of competition infringements

Article 59

The Commission may, by the decision establishing the infringement of competition, issue measures aimed to eliminate established competition infringement, i.e. prevent the possibility for creation of the same or similar infringement, by ordering certain actions or banning certain behavior (behavioral measures).

Measures referred to in paragraph 1 of this Article shall be proportionate to the gravity of competition infringement in question and in direct relation with acts or practices that caused that infringement.

If a significant danger of repeating the same or similar infringement of competition is determined as a result of the structure of the undertaking, the Commission can issue a measure aimed at changing the structure of undertaking in order to eliminate such danger i.e. to re-establish the structure as it existed before the infringement was determined (structural measures).

Structural measure shall be issued only if there is no possibility to determine equally or similarly effective behavioral measure, or if behavioral measure would present larger burden for undertaking than structural measure in question, i.e. if earlier behavioral measure related to the same infringement of competition was incompletely fulfilled.

Structural measure may require divestiture of the structure of undertaking, particularly through sell-off of its parts or property to other parties that are not connected to that undertaking.

The Government shall prescribe in more details conditions for determining protective measures referred to in paragraphs 1 and 3 of this Article.

3. Separate provision on procedure for individual exemption of restrictive agreements

Procedure upon request for individual exemption

Article 60

Decision upon request for individual exemption of restrictive agreement shall be passed within 60 days from the date of submitting the request.

Decision on individual exemption comprises in particular duration period of the individual exemption, as well as conditions for the exemption.

The party may request extension of the duration period for individual exemption by a separate request submitted at the latest two months before the expiry date.

Upon request referred to in paragraph 3 of this Article, the same or different conditions and duration period for individual exemption can be determined.

For issuing decision upon submitted request referred to in paragraphs 1 and 3 of this Article, the party shall pay a fee in the amount that was established by the Tariff referred to in Article 31 paragraph 2 of this Law.

4. Separate provisions on procedure of assessment of concentrations

Obligation to notify the concentration

Article 61

A concentration must be notified to the Commission in case:

- 1) aggregate annual worldwide turnover of all parties to the concentration in the preceding financial year is above €100 million, whereby at least one party's turnover realized on the market of the Republic of Serbia exceeds €10 million;
- 2) aggregate annual turnover of at least two parties to the concentration realized on the market of the Republic of Serbia is above € 20 million in the preceding financial year, whereby at least two parties' annual turnover realized on the market of the Republic of Serbia exceeds €1 million each, in the same period.

On calculation of the aggregate annual turnover referred to in paragraph 1 of this Article, the income that undertakings concerned realize between themselves will not be included.

Concentration made through a company bid pursuant to regulations on takeover of shareholding companies, must be notified, even if conditions contained in paragraph 1 of this Article have not been met.

Investigation of concentration ex officio

Article 62

After having learned that a concentration has been implemented, the Commission may conduct investigation, if it finds that the aggregate market share of the parties to the concentration realized on the market of the Republic of Serbia is at least 40%, or if it reasonably presumes that the relevant concentration does not comply with conditions of permissibility referred to in Article 19 of this Law as well as in case of other concentration which was not approved according to this Law.

If in the course of assessment of notified concentration the Commission finds that conditions for investigation procedure ex officio are met, as stated in paragraph 1 of this Article, procedure shall be continued ex officio, in line with the resolution passed by the President of the Commission.

The burden of proof of the market share and conditions contained in paragraph 1 of this Article is on the Commission.

The Commission is obliged to pass a decision in the investigation of concentration within the period of three months from the date of initiating the investigation ex officio.

Notification of concentration

Article 63

Notification of concentration shall be submitted to the Commission within the period of 15 days from the date of performing the first of the following acts:

- 1) conclusion of agreement or contract;
- 2) announcement of public invitation i.e. bid or closing of public bid;
- 3) acquisition of control.

Notification referred to in paragraph 1 of this Article may be submitted when undertakings show genuine intent for conclusion of agreement by signing the letter of intent, announcing the intent to make a bid or in any other manner preceding the act stated in paragraph 1 of this Article.

When the control over the entire or the parts of one or more undertakings is acquired by another undertaking, the notification shall be submitted by the undertaking acquiring control, and in case of joint venture, the notification must be submitted jointly by all undertakings establishing joint venture.

The Government shall specify the content and the manner for notification of concentration in more details.

Suspension of concentration

Article 64

Until the decision of the Commission, parties to the concentration are obliged to suspend its implementation.

In the case referred to in Article 62 of this Law, parties to the concentration are obliged to suspend implementation of concentration as of the date of receipt of resolution on initiation of procedure relating to approval of concentration.

Obligation to suspend concentration contained in paragraph 1 and 2 of this Article shall not prevent the takeover which has been notified to the competent body in accordance with the law regulating takeovers of shareholding companies, or privatization procedure, provided that the notification of concentration is timely, that the acquirer of controlling interest does not exercise its managing rights attached to the rights acquired, or does so only to maintain the full value of those investments and on the basis of special approval provided by the Commission.

The President of the Commission decides upon request for approval referred to in paragraph 3 of this Article, by resolution.

Decisions on appraisal of concentration

Article 65

The Commission is obliged to pass a decision upon notification of concentration within one month from the date of submission of notification pursuant to Article 37 of this Law, i.e. resolution on conducting investigation referred to in Article 62, paragraph 2 of this Law.

If the decision upon notification is not passed within the time limit referred to in paragraph 1 of this Article or decision in ex officio investigation of concentration is not passed within the time limit stated in Article 62, paragraph 4 of this Law, concentration is considered to be approved.

The Commission shall pass a decision on approval of concentration if conditions stipulated in Article 19 are fulfilled i.e. prohibit if contrary to the stated.

If notification would not meet the conditions as in Article 61 of this Law, it shall be rejected by resolution issued by the President of the Commission.

For passing the decision upon notification of concentration, notifying party shall pay a fee in the amount determined by the Tariff referred to in Article 31, paragraph 2 of this Law.

Conditional approval of concentration

Article 66

If the Commission determines that conditions for approval of concentration are not fulfilled, it shall inform the notifying party on important facts, evidence and other elements which the decision will be based on and will invite the party involved to present its case within the given time limit.

The notifying party may propose special conditions that it is willing to accept so that concentration could meet the requirements for approval.

The Commission may issue approval of concentration with regard of proposed special conditions, if it estimates that they are acceptable for meeting the requirements as in Article 19 of this Law and it shall impose special conditions and time limit, according to which they have to be fulfilled as well as manner for monitoring the implementation thereof (conditional approval).

Measure of de-concentration

Article 67

If the Commission determines that a concentration has been implemented without prior approval, or in case of conditional approval on the grounds of which the obligations and conditions have not been fulfilled, it can pass a decision, imposing measures on parties to the concentration, necessary for re-establishment or preservation of competition on a relevant market (measures of de-concentration) ordering them to conduct divestiture of company, dispose of shares or share capital, cancel a contract or perform other actions in order to establish conditions existing before the implementation of concentration.

Decision referred to in paragraph 1 of this Article in particular contains the time limit and special conditions of implementation of given order.

5. Measures for protection of competition and sanctions for procedural breaches

Measure for protection of competition

Article 68

A measure for protection of competition, in the form of obligation to pay pecuniary amount up to 10% of total annual turnover, shall be imposed on an undertaking, calculated pursuant to Article 7 of this Law, if it:

- 1) abuses dominant position on the relevant market pursuant to Article 16 of this Law;
- 2) concludes or implements a restrictive agreement pursuant to Article 10 of this Law, i.e. restrictive agreement which was not exempted under Article 60 of this Law;
- 3) does not perform or execute measures for elimination of competition infringement i.e. measure of de-concentration pursuant to Articles 59 and 67 of this Law;
- 4) implements concentration despite being obliged to suspend it within the meaning of Article 64 of this Law, i.e. for which the approval within the meaning of Article 65 of this Law has not been issued;

Time limit to pay the amount set as a measure for protection of competition shall be determined by the same decision containing such measure and cannot be shorter than three months nor longer than one year from the date of the receipt of decision.

Measures for protection of competition cannot be determined nor collected upon the expiry of the period of three years from the day of action performed or failure to fulfill obligation, i.e. from the last day of time period on which action was taken as referred to in paragraph 1 of this Article.

Relief from measure for protection of competition

Article 69

The party to the agreement referred to in Article 10 of this Law that was the first to inform on the existence of agreement or provide evidence on the basis of which the Commission passed a decision on infringement under Article 10, paragraph 1 of this Law, is to be relieved of obligation to pay pecuniary amount as the measure for protection of competition.

The relief of obligation to pay pecuniary amount referred to in paragraph 1 of this Article shall be applied under condition that Commission did not have knowledge on existence of agreement referred to in Article 10, paragraph 1 of this Law at the moment of the submission of evidence, or it did have knowledge but without sufficient evidence to pass a resolution on initiation of procedure.

If a party to the agreement from Article 10, paragraph 1 of this Law does not meet the conditions for relief of obligation to pay pecuniary amount, and yet over the course of the procedure before the Commission provides evidence that was not available until that moment, that would lead to closing of procedure and to decision on infringement under Article 10 paragraph 1 of this Law, pecuniary amount may be reduced.

Provisions of paragraphs 1 to 3 of this Article shall not apply to party to the agreement that initiated conclusion of agreement referred to in Article 10 paragraph 1 of this Law.

The Government shall determine conditions for relief of obligation to pay pecuniary amount stipulated in paragraphs 1 to 4 of this Article in more details.

Measure of Procedural Penalty

Article 70

Against undertaking that is acting contrary to the orders of the Commission in given procedure, or does not comply to these orders in view of Article 57 of this Law, a measure of procedural penalty shall be imposed in the amount between €500 and €5.000 per day, for each day of such conduct, if it:

- 1) fails to fulfill the request of the Commission to deliver or provide information that was requested, or deliver or provide incorrect, incomplete or false information within the meaning of Articles 44 and 48 of this Law;
- 2) fails to act pursuant to interim measure issued under Article 56 of this Law;
- 3) fails to notify concentration within the time limit stipulated in Article 63, paragraph 1 of this Law.

Procedural penalty may not exceed the amount of 10% of total annual turnover, calculated pursuant to Article 7 of this Law.

Time limit for payment of procedural penalty shall be determined by the same decision containing such measure and cannot be shorter than one nor longer than three months from the date of receipt of decision.

Measure of procedural penalty cannot be imposed nor collected upon the expiry of the period of one year from the date of failure to perform as referred to in paragraph 1 of this Article.

VI. JUDICIAL REVIEW

Judicial review of the decisions of the Commission

Article 71

A complaint against the final decision of the Commission may be filed within 30 days from the date the decision was submitted to the party concerned, before the Administrative Court.

The filing of complaint shall not postpone the execution of the decision.

The Commission may postpone the execution of the decision at the request of claimant, until the final court decision, if this execution would cause irreparable damage for the claimant, in particular if it could most likely lead to its bankruptcy or cause termination of business activities of claimant, provided that such postponement is not against public interest.

The evidence of filed complaint is attached to the request for postponement.

Decision upon request for postponement shall be passed by the Council, at the latest until the expiration of time limit for payment determined in decision.

The court procedure

Article 72

In procedure of judicial review of the legality of the decision issued by the Commission, provisions of the Law stipulating administrative disputes shall be applied, unless otherwise prescribed.

The legality of Commission's decision with respect to the pecuniary amount of the imposed administrative measure shall be reviewed under conditions for that decision prescribed by this Law and relevant secondary legislation.

If the court determines that the contested decision of the Commission is unlawful, only in the part with respect to the pecuniary amount of the imposed administrative measure, it shall, as a rule, alter the contested decision in that part by its ruling, under conditions prescribed by the law regulating administrative disputes.

Time limit for submission of complaint, containing attachments, to the Commission for response is 8 days from the date of its receipt by court, whereas the Commission should provide response within 15 days from the date of receipt of counter statement.

The Court shall decide upon complaint at the latest within two months, from the date of its receipt.

Compensation for damage

Article 73

Compensation for damage caused by acts and practices which represent infringements of competition within the meaning of this Law, and determined by the decision of the Commission, could be realized in a lawsuit before the competent court.

The decision of the Commission referred to in paragraph 1 of this Article does not assume that the damage occurred, but it has to be proved in a court procedure.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 74

On procedures initiated prior to the day this Law became applicable, rules according to which these were initiated shall be applied.

Article 75

On the day of the beginning of application of this Law, Commission for Protection of Competition that was established under the Law on Protection of Competition (Official Gazette of the Republic of Serbia, No. 79/2005), shall continue its activities pursuant to provisions stipulated by this Law.

Article 76

The President and the members of the Council of the Commission shall perform the duty of the President of the Commission and members of the Council, pursuant to this Law, until the new bodies of the Commission are elected, in accordance with this Law.

Article 77

The High Commercial Court shall be the competent court for complaints filed against the decisions of the Commission, until the Administrative Court begins its operation in accordance with the law regulating court organization.

Until the election of President and judges of The Supreme Cassation Court, salary of the President of the Commission and members of the Council shall be determined at the level of salary of the President and judges of the Supreme Court, respectively.

Article 78

The Law on Protection of Competition (Official Gazette of the Republic of Serbia, No. 79/05) shall cease to be in force from the date of the beginning of application of this Law.

Article 79

Secondary legislation shall be adopted on the grounds of authorization, as stipulated by this Law, until the date of the beginning of application of this Law.

Article 80

Until secondary legislation is adopted, as stipulated by this Law, secondary legislation that were in force until the date of implementation of this Law shall be applied, except for provisions that are contrary to this Law.

Article 81

This Law shall enter into force on the eight day following its publication in the Official Gazette of the Republic of Serbia, and shall be applicable as of November 1, 2009.