



Republic of Cyprus



Decision CPC: 25/2017

Case Number: 11.17.016.05

THE PROTECTION OF COMPETITION LAWS OF 2008 AND 2014

Complaint of the Municipality of Paphos against the Association of Contractors of Mechanical and Electrological Works of Cyprus (SEMEEK)

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou Chairperson

Mr. Andreas Karidis, Member

Mrs. Eleni Karaoli, Member

Mr. Charis Pastellis, Member

Mr. Panayiotis Oustas, Member

Date of decision: 13 June 2017

SUMMARY OF THE DECISION

The Commission for the Protection of Competition (hereinafter the "CPC"), following the completion of a preliminary investigation and having evaluated the evidence before it, issued on the 13th June 2017 a decision no: 25/2017, with which it unanimously decided that the Association has infringed Article 3(1)(b) of the Protection of Competition Law No. 13(I)/2008 as amended by Law 41(1)/2014 (hereafter the "Law") by the Association of Contractors of Mechanical and Electrological Works of Cyprus (SEMEEK).

The case concerned the complaint of the Paphos Municipality dated 16/06/2016 against SEMEEK for alleged infringement of Article 3(1)(b) resulting from the decision taken at the Annual General Meeting of SEMEEK following which, its members were called not to submit tenders for procurements announced under the subcontracting method, as the one for which the Paphos Municipality submitted the complaint and published a relevant press release and circular.

The Paphos Municipality Council, with its decision dated 04/04/2016, decided to conduct a public open tender for the restoration and landscaping of the Paphos municipal market. This procurement was announced with the number 10/2016 and was posted on the website of the Treasury of the Republic on 12/04/2016. The procurement budget amounted to € 2,000,000 excluding VAT.

According to the complainant, the decision taken at the Annual General Meeting of SEMEEK, called upon its members not to submit offers to the project announced by the Municipality of Paphos because this was announced by the internal subcontracting method, which is a decision of a group of undertakings that restricts competition, in violation of Article 3(1)(b) of the Law.

The CPC unanimously concluded that the relevant market for services is defined as the market for construction work under the subcontracting method. The relevant geographical market was defined as the entire Republic of Cyprus.

The CPC unanimously concluded that the relevant press release and circular issued by the Annual General Meeting had the purpose of preventing SEMEEK's members from participating in the complainant's procurement and had restricted competition by object and by effect in violation of Article 3(1)(b) of the Law.

On the basis of the above findings, the CPC, by decision dated 13/06/2017, obliged SEMEEK to terminate the infringement immediately and in the future not to conduct similar restrictive practices in its activities.

In addition, the CPC obliged SEMEEK to issue a notice to be posted on its website informing the CPC of this decision and the steps it would take to put an end to the infringement.

The CPC also instructed SEMEEK to inform all its members in writing of this decision and to issue a circular informing them that they are now free to bid on projects announced both by the subcontracting method and by the method of assigned subcontracting and notify the CPC in writing.

The CPC, in deciding the amount of the fine, took into account the nature, gravity and duration of the infringement, and acting within the framework of the Law, decided to impose an administrative fine on SEMEEK of €2.121,12. The CPC states that the turnover of SEMEEK as an Association is derived from the subscriptions of its members and is therefore limited. In that context, despite the gravity of the infringement, the amount of the administrative fine cannot be set at a higher level.

The relevant decision of the Commission dated 13/06/2017 has been published in the Official Gazette of the Republic and posted on the Commission's website.

LOUKIA CHRISTODOULOU

Chairperson of the
Commission for the Protection of Competition