

The Serbian Administrative Court has annulled a fine of some 2.8 million euros, previously imposed to EPS Distribucija, a subsidiary of state-owned power utility EPS, by the Commission for the Protection of Competition.

Thus, after several years of legal battle and three judgments, the decision of the Commission has been annulled and EPS, besides the restoration of the total amount, is also eligible to additional 300,000 euros based on default interest.

The legal representative of EPS said that the court confirmed that the imposed penalty was contrary to the basic principles of domestic and European competition law, as well as human rights guaranteed by the European Convention on Human Rights.

In late 2016, the Council of the Commission for Protection of Competition determined that as the sole operator in electricity distribution market in Serbia, EPS Distribucija abused its dominant position. The imposed fine of some 2.8 million euros was the highest antitrust fine imposed by the Serbian regulator so far.

During the procedure, the Commission found that EPS Distribucija had abused its dominant position by placing individual commercial electricity suppliers, especially EPS Snabdevanje, in an advantageous position compared to other competitors in the market. Such behavior is, among other things, a result of non-transparent business policy of EPS Distribucija. For the access to electricity distribution system EPS Distribucija imposed an obligation of depositing a collateral for all commercial suppliers, except EPS Snabdevanje.

At the same time, the amount of collateral was not the same for all suppliers, as in some cases it was calculated on the basis of monthly value of provided services, while in other cases it was calculated on the basis of quarterly value. Almost all commercial suppliers were obliged to deposit a collateral in just one commercial bank, which is determined by EPS Distribucija. In addition, EPS Snabdevanje had significantly longer period for payment of due liabilities compared to other suppliers.