

Public administrative body participation in capital companies

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When public administrative bodies are allowed to engage in entrepreneurship

[The State Administration Structure Law](#) stipulates that a public administrative body may establish capital companies or obtain participation in an already existing capital company for efficient performance of own functions, if at least one of the following conditions is met:

- market deficiency is eliminated;
- products or services that are strategically significant for development of the state or local government, or the state security, are created;
- properties that are strategically significant for development of the state or local government, or the state security, are managed.

The restrictions mentioned above are set for public administrative bodies to prevent the state from competition distortion on the market and engaging in entrepreneurship as a competitor of private business market participants only in cases, when it is necessary for fulfillment of the state policy, security or functions.

In what cases a permission of the authority must be requested

If a public administrative body operates in an area, where products and services can be supplied by market participants under conditions of free competition, there is a high risk to deform competition and not only cause negative impact on the environment of commercial activity, but also the interests of consumers in a long-term perspective.

According to Section 88 of the State Administration Structure Law, since 2016 public administrative bodies have to consult with the Competition Council before establishment of planned capital companies or revaluation of participation in the existing capital companies.

Before starting a new business or extension of the existing one, a public administrative body is obliged to carry out economic assessment of the intended action. A public administrative body is also obliged to reassess each direct participation in a capital company at least once in every five years.

Observing the principle of competition neutrality

If it is detected during the assessment that achieving of the objectives stated in Section 88 of the State Administration Structure Law is impossible without participation of public administrative body in a capital company, the principle of competition neutrality has to be observed, which prohibits public administrative bodies and their capital companies from competition restriction or deformation.

If a public administrative body or its capital company fails to observe the principle of competition neutrality pursuant to [Section 14\(1\) of the Competition Law](#), the Competition Council may start investigation and initiate an infringement case. The amendments to the Competition Law came into effect on 1 January 2020. [More about the principle of competition neutrality.](#)

<https://www.kp.gov.lv/en/public-administrative-body-participation-capital-companies>