

The GVH imposed fines for coordination of bids in tenders of hospitals

In its decision the Gazdasági Versenyhivatal (Hungarian Competition Authority) established that, in order to influence the tender notice, share the market and fix prices, B. Braun Medical Magyarország Orvostechnológiai Kft., CHIRMAX HUNGARY Kereskedelmi Kft., Johnson & Johnson Egészségügyi és Babaápolási Termékeket Gyártó és Forgalmazó Kft., SurgiCare Kereskedelmi és Szolgáltató Kft. and VARIOMEDIC Kereskedelmi és Szolgáltató Kft. had coordinated their bids concerning four public procurement projects of hospitals. A total fine of 270 million HUF (approx. 843.800 EUR) was imposed on the undertakings for the infringement.

In the so-called “surgical catgut case” the GVH investigated tenders which were published by hospitals between 2011-2014 for procuring surgical sutures and surgical equipment. These products are medical devices which are used in hospitals for operations. The buyers of the undertakings under investigation distribute medical products and medical devices and their activities give them a combined decisive share of the domestic surgical sutures and surgical gown sewing machine market.

The case was initiated based on the leniency application of Johnson & Johnson Kft. in 2013. During its proceeding the GVH extended its investigation several times and all in all more than 30 public procurement actions were analysed to ascertain whether the bidders had coordinated their bids for supplying surgical products for tenders. The GVH found violations in the following four public procurement procedures:

- planned procurement of surgical sutures for Zala County Hospital for 2011;
- procurement of surgical sutures for Semmelweis University for 2012;
- procurement of surgical sutures for the University of Pécs for 2012 and
- procurement of surgical sutures for Petz Aladár County Educational Hospital for 2012.

The GVH imposed the following fines:

	HUF	EUR (approx.)
B. Braun Medical Magyarország Orvostechnológiai Kft	100,973,619	315,540
CHIRMAX HUNGARY Kereskedelmi Kft	14,303,520	44,700

SurgiCare Kereskedelmi és Szolgáltató Kft	46,570,100	145,530
VARIOMEDIC Kereskedelmi és Szolgáltató Kft	106,481,060	332,750

Johnson & Johnson Kft. received full immunity from the imposition of a fine, thereby avoiding a fine of more than 115 million HUF (approx. 360 thousands EUR), due to the fact that the GVH became aware of the infringement through the leniency application of Johnson & Johnson Kft. In addition to Johnson & Johnson Kft, CHIRMAX HUNGARY Kft., and B. Braun Medical Hungary Medical Technology Co.Ltd. submitted leniency applications, and having regard to their active participation in enabling the cartel to be discovered, they received a 30 percent and a 20 percent reduction in their fines respectively.

In bid-rigging cases, the submission of a [leniency application](#) may be of significant importance as cooperation with the GVH not only affects the amount of the fine imposed in the competition supervision proceeding, but it may also put the employees of the undertaking that has submitted a leniency application in a significantly favourable situation in a potentially initiated criminal procedure.

When determining the fine, the GVH took into account as aggravating factors that bid-rigging amounts to one of the most serious competition law infringements and the fact that the undertakings are collectively significant market participants that must have been aware of the unlawfulness of their behaviour. The fine imposed on Surgicare Kft. was further increased because the role it played as the organiser in the cartel was established in connection with more infringements.

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Hungarian Competition Authority

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