



GAZDASÁGI
VERSENYHIVATAL

Another road construction cartel wound up by the GVH

Recidivist road construction companies were continuously concerting their practices within the framework of an overall plan

The Hungarian Competition Authority (GVH) imposed a fine amounting to almost HUF 3 billion on three road construction companies for cartelling. Strabag Zrt. and Egút Zrt. had concluded restricting agreements with the aim of winning public procurement tenders published for road-construction works in Heves and Nógrád counties. Colas Dunántúli Zrt. and He-Do Kft. had done alike in order to win the tender published by the municipality of Heves town for road-construction works. He-Do Kft. was concerned in both cases; however, it did not receive a fine as it helped the GVH in revealing the cartels in the framework of the leniency policy.

The GVH conducted proceedings against Strabag Építő Zrt., Egút Egri Útépítő Zrt., He-Do Útépítő, Swietelsky Építő Kft. and Colas Dunántúli Zrt. for violating the prohibition of agreements restricting economic competition. The investigation of the GVH was initiated on 18 September 2006 when the employees of the GVH held a dawn-raid at the premises of Strabag, Egút and He-Do.

The proceeding was closed on 29 January 2009. The GVH established in its decision that the practices of Strabag Zrt., Egút Zrt. belonging to the Colas-group and He-Do Kft. were eligible to restrict economic competition. Between 2002 and 2006, the three undertakings allocated the market and fixed their bidding prices when submitting bids as a response to several invitations for public procurement tender for road- and bridge-construction and renovation works in Heves and Nógrád counties. The total value of the tenders amounted to almost HUF 1 billion. The GVH deemed it a separate infringement that Colas Dunántúli Zrt. and He-Do Kft. restricted competition when they fixed their bidding prices in connection with the bids submitted as a response to the invitation to the tender published by the municipality of Heves town for the road-construction works at Heves Vásártér road. Based on all the above mentioned, the GVH imposed a fine of HUF 1,7 billion on Strabag Zrt., HUF 1,2 billion on Egút Zrt. Colas Dunántúli Zrt. was given a fine of HUF 6 million for the separate and much less serious infringement. The decision of the GVH underlines that cartelists who have committed serious and repeated infringements may expect to be fined for extremely high amounts.

He-Do Kft. did not receive a fine since the undertaking cooperated with the GVH in the proceeding in the framework of the leniency policy. Thanks to this cooperation the GVH could obtain pieces of information based on which the complex infringement mentioned could be proven. This proceeding, which has just been closed, shows that the leniency policy, which helps revealing cartels, works properly since the undertaking cooperating with the authority has received immunity from serious fines of several hundred million Hungarian forints.

According to the decision of the GVH, the three undertakings, which have been found guilty of cartelling, had made agreements between 2002-2006 in the framework of a kind of an overall plan in Heves and Nógrád counties. They had fixed the bidding prices and allocated the market in connection with the bids submitted as a response to invitation to tender published by the road management undertakings and municipalities in the given area. This infringement is considered the most serious violation of competition law by the GVH, similarly to its earlier decisions upheld by the supervisory/appealing courts.

In determining the amount of the fine imposed the GVH took into consideration the total value of the tenders concerned by the infringement. Moreover, it also deemed important to take into consideration some other aggravating factors as well that increased the amount of the fine. Hereby the fact must be emphasized that the GVH has established several times (four times up to 2006, the end of the revealed infringement) that Strabag Zrt. and Egút Zrt. belonging to the Colas-group by concerting their practices committed infringements similar to the one committed in this case.

In legal practice repeated infringements are called habitual recidivism. That means that the undertaking commits similar or same kind of infringements several times in a short period of time. According to the GVH, habitual and repeated recidivism is to be considered a significant aggravating factor when determining fines. Even the courts supervising the decisions of the GVH agree with this latter opinion. Based on all these mentioned, it is obvious that repeating infringements are not worth for the undertakings since the amount of the fine in these cases may be significantly higher.

Above all these mentioned, when determining the amount of the fine imposed, the GVH deemed it important to take into account the size, turnover of the undertaking (undertaking-groups) concerned so to deterrent the latter from committing further infringements.

In connection with Swietelsky Kft., in the course of the investigation there has not been any evidence found that it would have been involved in the infringement, thus the GVH terminated the proceeding against this undertaking.