



GAZDASÁGI
VERSENYHIVATAL

GVH concerns justified in the Terézváros parking case

At the end of last week the Local Government of Terézváros withdrew its invitation to tender announced for the operation of pay parkings in public areas of the district. The Hungarian Competition Authority (GVH) had already objected the tender when it was published, because in its view, the invitation was designed for a tenderer already chosen in advance. Therefore, the member of the Public Procurement Council delegated by the GVH requested the Council to launch a remedy procedure. Thanks to this measure, the Public Procurement Arbitration Board declared the tender unlawful and annulled the points objected by the GVH.

The member of the Public Procurement Council (Közbeszerzések Tanácsa, KT) delegated by the GVH was the one requesting a remedy procedure in the so-called Terézváros parking case. In connection with the invitation published by the Local Government of Terézváros, district VI, relating to the operation of pay parkings in public areas the GVH detected that the financial and technological requirements included in the invitation to tender might restrict competition. In addition to this, the planned ten-year-long period of the contract would foreclose the market without any justification for an excessive long period of time. The GVH informed the president of the KT about its concerns on July 24 2009. According to the notification, the requirement of the HUF 1.2 billion turnover in the past three years - HUF 600 million of which would have had to originate from parking services - was not proportional to the object of the procurement (the operation of 6641 parking places and 142 ticket terminals for a concession fee amounting to at least HUF 166 million). Among others, this requirement indicated to the GVH that the invitation was practically designed for a tenderer already chosen in advance.

As a result of the measures taken by the GVH, the Public Procurement Arbitration Board (Közbeszerzési Döntőbizottság, KDB) commenced its proceeding ex officio on 28 July 2009. The KDB claims that the required amount of the aggregate turnover of the last three years preceding the public procurement was twice as much as the estimated value of HUF 600 million of the ten-year-long contract, thereby infringing the provisions of Act CXXIX of 2003 on Public Procurement. The KDB also investigated whether the technological and professional minimal requirements included in the invitation to tender were too strict and whether it was justified to set high requirements for entering the market in a case when the risks of operation would not to be taken by the operator of parking places, but by the contracting authority.

On 25 August 2009, the KDB suspended the tender, as an interim measure, thus the parties could not sign the contract. After the completion of the investigation, on 30 September 2009 the KDB established that the invitation infringes the Act on Public Procurement and fined the Local Government of Terézváros HUF 3 million (approx. EUR 10 thousand). Furthermore,

the KDB annulled the points of the tender considered to restrict competition by the GVH. Finally, as a consequence of all mentioned above, on 9 October 2009 the local government decided to withdraw the invitation to tender.

The GVH has welcomed the decision of the KDB and the steps taken by the local government. This way the possibility is given for a lawful operation of the parking places in Terézváros.

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