

MEDIA RELEASE

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Suburban train Budapest: Scandalous decision

The 36-page long new decision of the appeal commission was yesterday afternoon presented to Stadler in Hungarian. The contents are currently being professionally translated and examined by legal experts. Stadler reacted to this scandalous decision by the committee of the authority for public purchasing with great surprise and disappointment.

A quick analysis of the decision of the commission and the press release by the arbitration commission for the procedure of awarding contracts shows that MAV was not entitled to exclude Bombardier due to an unrealistically low price and therefore cancel awarding the contract to Stadler. MAV, however, justified the exclusion of Bombardier with Article 52 par. 2 subpara d of the Hungarian law on the awarding of contracts. This law stipulates that the party calling for a tender (in this case MAV) can determine at the time of opening the tenders, or thereafter, which tenders are invalid. Reasons for exclusion are: Subpara d: "that it does not correspond to the conditions laid down in the call for tenders or in the documentation." The documentation for the call for tenders from MAV called for clearly structured prices, with prices for maintenance and for cleaning laid down in a mathematical equation (with a corresponding technical description). The 0.01 Euro/seat/year offered by Bombardier for maintenance and cleaning are a clear violation of the tender documentation. This was the reason for the exclusion and not the unrealistically low prices as given in the decision of the arbitration court decision.

In addition, the arbitration commission ruled that in order to be able to conclude the invitation for tender, MAV was to allow a regrouping on the part of Bombardier of the prices offered (maintenance, cleaning, other costs), without altering the total sum of the Bombardier offer. Under these conditions, the tender would remain valid. This amounts to completely biased preferential treatment of Bombardier in a situation in which Bombardier has knowledge of all Stadler's prices while Stadler is not permitted to make any alterations.

Stadler is horrified by the decision made by the arbitration commission. It represents a clear perversion of justice. It is a scandal that Bombardier has unfairly been given biased and preferential treatment despite a clear violation on the part of Bombardier of the conditions for the call for tender. There is no way in which one can speak of equal opportunities. Bombardier now knows the individual prices of Stadler and can simply fix the pricing for cleaning, maintenance and other costs to outbid Stadler in points, although the overall tender made by Stadler was some 10 billion HUF (40 Mio. €) more attractive than that of Bombardier.

Peter Spuhler, CEO Stadler Bussnang AG: "To date, we had been of the opinion that the call for tenders was carried out in a legally correct manner. This decision by the appeal commission now throws great doubts on the constitutional correctness and independence of this appeal commission. Stadler will now exploit all possible Hungarian and European appeal channels and examine in particular the possibility of suing the decision-taking bodies for damages.

If you have any questions, please contact:

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