

Other parties to the proceedings: European Commission, Council of the European Union

Form of order sought

The appellants claim that the Court should:

I. set aside the judgment of the General Court delivered on 16 September 2013 in Case T-375/10 *Hansa Metallwerke AG and Others v Commission* and make a definitive determination as follows:

1. annul the Commission's decision of 23 June 2010, notified to the appellants on 30 June 2010, relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union ("TFEU") and Article 53 of the EEA Agreement (Case COMP/39.092 — Bathroom Fittings and Fixtures) in so far as it concerns the appellants;

in the alternative,

reduce the amount of the fine;

2. order the respondent to pay the costs of the proceedings.

II. in the further alternative,

set aside the judgment under appeal and refer the case back to the General Court for a decision.

Pleas in law and main arguments

The appellants first of all allege infringement by the General Court of the EU-law principle that penalties must be specific to the offender and to the offence. In particular, the General Court failed to take into account the fact that the recast version of the Commission's Guidelines for fines in 2006 brought with it a radical change to the general method of calculation, particularly for undertakings with a limited range of products and services. As a consequence of its legally defective approach, the General Court failed to carry out its comprehensive duty of verification with regard to the setting of the fine by the respondent, or alternatively did so only in a legally deficient manner.

In addition, the appellants allege that the General Court provided insufficient reasons for its comments on the principle that penalties must be specific to the offender and to the offence. In particular, the General Court failed entirely to examine the leading judgment of the Eighth Chamber in Case T-211/08 ⁽¹⁾ and the evidently changed view of the Commission in its order in the proceedings in COMP/39452, although the appellants had set out detailed submissions on this issue at the hearing.

Finally, the appellants allege infringement of the EU-law principle of the protection of legitimate expectations. In assessing the Commission's action in not granting a reduction in the fine in its decision, contrary to the assurance which it had given during the administrative procedure, the General Court failed to have regard for the overriding significance which is

attached to loyal cooperation with the Commission within the context of its notice on immunity from fines and reduction of fines in cartel cases.

⁽¹⁾ Judgment of 16 June 2011, *Putters International v European Commission* [2011] ECR II-3729.

Appeal brought on 26 November 2013 by European Commission against the judgment of the General Court (Fourth Chamber) delivered on 16 September 2013 in joined Cases T-379/10 and T-381/10: Keramag Keramische Werke AG and Others, Sanitec Europe Oy v European Commission

(Case C-613/13 P)

(2014/C 52/49)

Language of the case: English

Parties

Appellant: European Commission (represented by: F. Castillo de la Torre, F. Ronkes Agerbeek, agents)

Other parties to the proceedings: Keramag Keramische Werke AG and Others, Sanitec Europe Oy

Form of order sought

The appellant claims that the Court should:

- set aside point 1 of the operative part of the judgment under appeal insofar as it annuls article 1 of the contested Decision as regards the events in AFICS and the liability of Allia SAS, Produits Céramique de Touraine SA and Sanitec for them;
- set aside in full point 2 of the operative part of the judgment under appeal;
- if the Court of Justice gives final judgment, to dismiss the action for annulment also insofar as it concerns the events in AFICS and to reinstate the fines imposed on Allia SAS, Produits Céramique de Touraine SA and Sanitec; and, in any event,
- to order the applicants at first instance (now other parts in the proceedings) bear the costs of this appeal, and, to the extent that the Court of Justice gives final judgment on the action for annulment, of such case as well.

Pleas in law and main arguments

First ground: failure to comply with duty to state reasons and the rules of evidence; the General Court failed to examine several relevant pieces of evidence and applied too high evidentiary requirements for those pieces of evidence that the General Court did examine.

Second ground: contradictory reasoning; the assessment of the evidence is in direct contradiction with that in three other judgments delivered the same day relating to the same decision and the same facts.

Appeal brought on 4 December 2013 by Roca Sanitario, S.A. against the judgment of the General Court (Fourth Chamber) delivered on 16 September 2013 in Case T-408/10 Roca Sanitario v Commission

(Case C-636/13 P)

(2014/C 52/50)

Language of the case: Spanish

Parties

Appellant: Roca Sanitario, S.A. (represented by: J. Folguera Crespo, abogado)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- uphold the arguments put forward by Roca Sanitario, S.A. in the present case;
- set aside in part the judgment of the General Court of 16 September 2013 in Case T-408/10; and accordingly,
- uphold Roca Sanitario's claims by reducing the fine imposed on it jointly and severally with its subsidiaries Roca France and Laufen Austria;
- in the alternative, since Roca Sanitario did not participate directly in the infringement and its liability arises purely from the attribution to it of its subsidiaries' conduct, in the event that the Court rules on the parallel appeals which Laufen Austria and Roca France intend to bring against the judgments of the General Court of 16 September 2013 in Cases T-411/10 and T-412/10 and reduces the fine imposed on those subsidiaries jointly and severally with Roca Sanitario, apply an equivalent reduction of the fine to Roca Sanitario, in accordance with the principles established in paragraph 203 of the judgment under appeal;
- order the Commission to pay the costs incurred by Roca Sanitario in the present case, as well as those incurred in Case T-408/10 in so far as the same grounds are concerned.

Grounds of appeal and main arguments

1. **First ground of appeal**, alleging an erroneous application of Article 23(2) of Regulation No 1/2003 ⁽¹⁾ and of the principles of proportionality and individual liability in relation to the fine imposed jointly and severally on Roca Sanitario, S.A. with its subsidiary Laufen Austria, AG.

2. **Second ground of appeal**, alleging error of law in the application of the case-law of the Court of Justice of the European Union and breach of the principles of equal treatment and proportionality, of the principle that reasons must be stated and of the principle of the protection of legitimate expectations in the application of the Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003. ⁽²⁾

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101 TFEU] and [102 TFEU] (OJ 2003 L 1, p.1).

⁽²⁾ OJ 2006 C 210, p. 2

Appeal brought on 4 December 2013 by Laufen Austria AG against the judgment of the General Court (Fourth Chamber) delivered on 16 September 2013 in Case T-411/10 Laufen Austria v Commission

(Case C-637/13 P)

(2014/C 52/51)

Language of the case: Spanish

Parties

Appellant: Laufen Austria AG (represented by: E. Navarro Varona, abogado)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- uphold the arguments put forward by Laufen Austria AG in the present case;
- set aside in part the judgment of the General Court of 16 September 2013 in Case T-411/10;
- uphold Laufen Austria AG's claims by reducing the fine imposed on it;
- order the Commission to pay the costs incurred by Laufen Austria AG in the present case, as well as those incurred in Case T-411/10 in so far as the same grounds are concerned.

Grounds of appeal and main arguments

1. **First ground of appeal**, alleging an erroneous application of Article 23(2) of Regulation No 1/2003 ⁽¹⁾ and of the principles of proportionality and individual liability in relation to the fine imposed individually on Laufen Austria, AG for the infringement committed prior to its acquisition by Roca Sanitario, S.A.