



Press and Information

Court of Justice of the European Union

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Judgments in Cases C-289/11 P
Legris Industries SA v Commission and C-290/11 P Comap SA v
Commission

The Court upholds the fine of €46.8 million imposed on Legris Industries for its participation in a cartel on the copper fittings market

The Court also confirms that Comap, a subsidiary of Legris, is joint and severally liable for the payment of that fine in the amount of €18.56 million

By decision of 20 September 2006¹, the Commission imposed fines totalling €314.76 million on 30 companies for their participation, at various intervals from 31 December 1988 to 1 April 2004, in a cartel in the copper fittings sector. The infringement consisted of price fixing, agreements on reductions and rebates, price-increasing mechanisms, the division of national markets and clients, exchanging other commercial information, and participation in regular meetings.

Among the companies fined were Legris Industries and its subsidiary, Comap, in which it held 99.9% of the share capital at the time of the facts. The Commission found that they had participated in an infringement from 31 January 1991 to 1 April 2004. Legris was fined €46.8 million, €18.56 million of which to be paid joint and severally with its subsidiary. By judgments of 24 March 2011², the General Court rejected the applications made by the two companies seeking the annulment in part of the Commission's decision and a reduction of their fines.

Legris and Comap appealed to the Court of Justice seeking either that the judgments of the General Court be set aside, or the annulment or a reduction of the fines imposed on them³.

In today's judgments, the Court of Justice rejects, first of all, several of the arguments raised by Legris and Comap in so far as they were aimed at requesting the Court to examine the factual circumstances of the cartel. Where a company challenges a Commission cartel decision, it is for the General Court alone to examine and assess the facts capable of showing the existence of anti-competitive conduct. Thus, the Court is competent only to review the legal classification of those facts and the legal consequences drawn from them by the General Court.

Next, the Court finds that a situation such as that in the case at hand, in which a parent company holds almost all of the share capital – 99.9% – of its subsidiary, there is a rebuttable presumption that the parent company exerts decisive influence over its subsidiary, with the result that the subsidiary does not determine its own conduct on the market. Consequently, as long as that presumption has not been rebutted, a parent company and its subsidiary must be regarded as a single undertaking and the Commission may impute the anti-competitive conduct of the subsidiary to its parent company.

In that regard, the Court rejects the argument raised by Legris that it was practically impossible to rebut that presumption. The fact that it is difficult to furnish the evidence necessary to reverse a presumption does not imply, in itself, that it is irrebuttable. That is especially the case, as in this

¹ Commission Decision C(2006) 4180 of 20 September 2006 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F-1/38.121 – Fittings).

² Case [T-376/06](#) *Legris Industries v Commission* and Case [T-377/06](#) *Comap v Commission*. See also Press Release No [24/11](#).

³ Other cases concerning this cartel ([C-264/11 P](#), [C-276/11 P](#), [C-286/11 P](#) and [C-287/11 P](#)), are currently being examined on appeal by the Court of Justice.

instance, where the entity against which the presumption operates is best placed to find such evidence in the context of its activities.

Since all the arguments raised by Legris and Comap are inadmissible or unfounded, the Court **dismisses the appeals of the two companies in their entirety.**

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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