



Press and Information

Court of Justice of the European Union

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Judgment in Case C-510/11 P
Kone and Others v Commission

The Court upholds the fines imposed on the Kone group for its participation in a cartel on the elevator and escalator market

Kone Oyj is an undertaking established in Finland which sells, manufactures, installs, maintains and modernises elevators and escalators and services automatic building doors. It carries on business through national subsidiaries such as Kone GmbH in Germany and Kone BV in the Netherlands.

In 2003 the European Commission received information concerning the possible existence of a cartel among the principal European manufacturers of elevators and escalators carrying on business in the EU¹. Early in 2004, the Commission carried out inspections at the premises of those undertakings in Belgium, Germany, Luxembourg and the Netherlands.

The Kone group applied for immunity under the 2002 Leniency Notice², in return for information relating to the Belgian cartel, and subsequently supplemented its application with information concerning Germany and the Netherlands.

The Commission adopted a decision³ in which it found that the undertakings concerned had participated in four infringements of the competition rules in four Member States, sharing markets by agreeing or concerting to allocate tenders and contracts for the sale, installation, maintenance and modernisation of elevators and escalators.

The Kone group was, on account of its cooperation, granted immunity from fines in respect of the infringements in Belgium and Luxembourg. However, the Finnish parent company, **Kone Oyj, was held jointly and severally liable with its German subsidiary Kone GmbH for a fine of €62.37 million and with its Netherlands subsidiary Kone BV for a fine of €79.75 million** for the infringements in Germany and the Netherlands respectively.

The undertakings in the Kone group brought an action before the Court of First Instance (now the General Court) for annulment of the Commission's decision or reduction of their fines.

By a judgment delivered in 2011⁴, the General Court rejected all the arguments put forward by the Kone group and consequently decided to maintain the fines imposed on it.

¹ Kone Belgium SA, Kone GmbH, Kone Luxembourg Sàrl, Kone BV Liften en Roltrappen, Kone Oyj, Otis SA, Otis GmbH & Co. OHG, General Technic-Otis Sàrl, General Technic Sàrl, Otis BV, Otis Elevator Company, United Technologies Corporation, Schindler SA, Schindler Deutschland Holding GmbH, Schindler Sàrl, Schindler Liften BV, Schindler Holding Ltd as well as ThyssenKrupp Liften Ascenseurs NV, ThyssenKrupp Aufzüge GmbH, ThyssenKrupp Fahrtreppen GmbH, ThyssenKrupp Elevator AG, ThyssenKrupp AG, ThyssenKrupp Ascenseurs Luxembourg Sàrl and ThyssenKrupp Liften BV.

² Commission Notice on immunity from fines and reduction of fines in cartel cases (OJ 2002 C 45, p. 3).

³ Commission Decision C(2007) 512 final of 21 February 2007 relating to a proceeding under Article 81 [EC] (Case COMP/E-1/38.823 – Elevators and Escalators), a summary of which is published in the Official Journal of the European Union (OJ 2008 C 75, p. 19).

⁴ Case [T-151/07](#) Kone and Others v Commission (see also Press Release No [72/11](#)).

The companies in the Kone group brought proceedings before the Court of Justice seeking to have the General Court's judgment set aside.

By today's judgment, the Court of Justice has dismissed the appeal brought by the companies in the Kone group and has maintained their fines⁵. The Court finds that the General Court did not make an error of law in the interpretation of the 2002 Leniency Notice and that the review carried out by the General Court met the requirements of due process.

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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⁵ The Court of Justice has already decided the other cases brought by undertakings that participated in the cartel. It **dismissed the appeals** in Case [C-493/11 P](#) United Technologies v Commission, Case [C-494/11 P](#) Otis Luxembourg and Others v Commission and Case [C-501/11 P](#) Schindler Holding and Others v Commission (see also Press Release No [97/13](#)). The following cases were removed from the register because **the appellants withdrew their appeals**: Case [C-503/11 P](#) ThyssenKrupp Elevator CENE (formerly ThyssenKrupp Aufzüge) and ThyssenKrupp Fahrtreppen v Commission, Case [C-504/11 P](#) ThyssenKrupp Ascenseurs Luxembourg v Commission, Case [C-505/11 P](#) ThyssenKrupp Elevator v Commission, Case [C-506/11 P](#) ThyssenKrupp v Commission and Case [C-519/11 P](#) ThyssenKrupp Liften v Commission.