



Court of Justice of the European Union

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Judgments in Cases C-604/13 P Aloys F. Dornbracht GmbH & Co. KG v Commission, C-609/13 P Duravit AG, Duravit SA and Duravit BeLux SPRL/BVBA v Commission, C-611/13 P Hansa Metallwerke AG, Hansa Nederland BV, Hansa Italiana Srl, Hansa Belgium, Hansa Austria GmbH v Commission, C-613/13 P Commission v Keramag Keramische Werke GmbH, Koralle Sanitärprodukte GmbH, Koninklijke Sphinx BV, Allia SAS, Produits Céramiques de Touraine SA, Pozzi Ginori SpA and Sanitec Europe Oy, C-614/13 P Masco Corp., Hansgrohe AG, Hansgrohe Deutschland Vertriebs GmbH, Hansgrohe Handelsgesellschaft mbH, Hansgrohe SA/NV, Hansgrohe BV, Hansgrohe SARL, Hansgrohe Srl, Hüppe GmbH, Hüppe GesmbH, Hüppe Belgium SA/NV and Hüppe BV v Commission, C-618/13 P Zucchetti Rubinetteria SpA v Commission, C-619/13 P Mamoli Rubinetteria SpA v Commission, C-625/13 P Villeroy & Boch AG v Commission, C-626/13 P Villeroy & Boch Austria GmbH v Commission, C-636/13 P Roca Sanitario SA v Commission, C-637/13 P Laufen Austria AG v Commission, C-638/13 P Roca SARL v Commission, C-642/13 P Villeroy & Boch Belgium SA v Commission and C-644/13 P Villeroy & Boch SAS v Commission

Press and Information

The Court of Justice dismisses the majority of the appeals brought by companies that participated in the cartel on the bathroom fixtures and fittings market

By decision of 23 June 2010,¹ the Commission imposed fines totalling more than €622 million on 17 bathroom equipment manufacturers for participation in a single and continuous infringement in the bathroom fixtures and fittings sector. The Commission found that those undertakings had regularly taken part in anticompetitive meetings over various periods between 16 October 1992 and 9 November 2004 in the following Member States: Belgium, Germany, France, Italy, the Netherlands and Austria. The Commission concluded that the coordination of annual price increases and other pricing elements and the disclosure and exchange of sensitive business information, in which the undertakings were involved, amounted to a cartel. According to the Commission, the infringement covered taps and fittings, shower enclosures and accessories, and ceramic ware.

A number of the companies penalised by the Commission brought actions before the General Court seeking annulment of the Commission's decision and/or reduction of the fines.

By judgments of 16 September 2013,² the General Court (i) partly annulled the Commission's decision with regard to certain of those companies and, in some cases, reduced the fines imposed on them,³ and (ii) dismissed the actions brought by the other companies.⁴

¹ Commission Decision C(2010) 4185 final of 23 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39092 — Bathroom Fittings and Fixtures).

² Cases: [T-364/10](#), [T-368/10](#), [T-373/10](#), [T-374/10](#), [T-382/10](#) and [T-402/10](#), [T-375/10](#), [T-376/10](#), [T-378/10](#), [T-380/10](#), [T-386/10](#), [T-379/10](#) and [T-381/10](#), [T-396/10](#), [T-408/10](#), [T-411/10](#), [T-412/10](#), see Press Release No [108/13](#).

³ Namely, Keramag Keramische Werke (Germany), Koralle Sanitärprodukte (Germany), Koninklijke Sphinx (Netherlands), Allia (France), Produits Céramiques de Touraine (PCT, France), Pozzi Ginori (Italy), Sanitec Europe (Finland), Wabco Europe (Belgium), Wabco Austria (Austria), Trane (United States), Ideal Standard Italia (Italy), Ideal Standard (Germany), Roca Sanitario (Spain), Roca (France), Villeroy & Boch (Germany), Duravit (Germany, France and Belgium).

Certain companies and the Commission brought appeals before the Court of Justice against those judgments.

By today's judgments, **the Court dismisses the appeals brought by the following companies: Aloys F. Dornbracht, Duravit BeLux and the Duravit companies in Germany and France, Hansa Metallwerke, Hansa Nederland, Hansa Italiana, Hansa Belgium, Hansa Austria, Masco, Hansgrohe Deutschland Vertriebs, Hansgrohe Handelsgesellschaft, the Hansgrohe companies in Germany, Belgium, France, Italy and the Netherlands, Hüppe Belgium and the Hüppe companies in Austria, Belgium and the Netherlands, Zucchetti Rubinetteria, Mamoli Robinetteria, Villeroy & Boch Austria, Roca Sanitario, Roca, Villeroy & Boch Belgium and the Villeroy & Boch companies in France and Germany.** In certain of those cases, however, the Court, considering that the reasoning of the General Court contains errors of law, has substituted some grounds of the judgments under appeal.

As regards **Keramag Keramische Werke GmbH**, formerly Keramag Keramische Werke AG, **Koralle Sanitärprodukte, Koninklijke Sphinx, Allia, Produits Céramiques de Touraine, Pozzi Ginori and Sanitec Europe**, the Court has examined the Commission's appeal and finds that, first, the General Court infringed the obligation to state reasons and the rules applicable to the taking and appraisal of evidence inasmuch as it denied that the statements made by Roca in the context of its leniency application had any probative value, relying only on recital 586 of the decision at issue, which summarises another document, and not considering either recital 556 of that decision, which relates to those statements, or the content of those statements. Second, the General Court made an error of law in holding that the Commission was required to adduce additional proof because one leniency statement cannot corroborate another. Similarly, in requiring that the chart relating to the meeting of the Association française des industries de céramique sanitaire (AFICS) on 25 February 2004 should prove, by itself, the existence of the infringement at issue, without taking account of the other evidence and additional explanations, notably those contained in Ideal Standard's leniency application, the General Court made an error of law. The General Court also erred in failing to consider whether the statements of Ideal Standard and Roca could be corroborated by the monthly tables containing confidential sales figures. The Court thus annuls the judgment of the General Court in so far as the latter (i) annulled the Commission's decision in part following an incomplete examination of that decision and of the evidence, (ii) concluded that a piece of corroborating evidence could not corroborate price-fixing at the AFICS meeting, (iii) failed to examine the probative value of certain evidence mentioned in the Commission's decision and (iv) failed to ascertain whether the evidence, viewed as a whole, could be mutually supporting. The Court has decided to refer the case back to the General Court as regards the part of the judgment set aside.

Concerning **Laufen Austria**, the Court sets aside the judgment under appeal in so far as the General Court held that the Commission had not made an error in taking the turnover of the Roca Group into account for the purpose of applying the 10% ceiling in respect of the period for which Laufen Austria was held solely responsible for the infringement. The Court observes in that regard that, inasmuch as a parent company cannot be held responsible for an infringement committed by its subsidiary prior to the acquisition of that subsidiary, the Commission must, for the purpose of calculating the 10% ceiling, take account of the subsidiary's own turnover in the business year preceding the year in which the decision penalising the infringement was adopted. Consequently, the General Court made an error of law in holding that, where a distinction is drawn between an initial period, in respect of which the subsidiary is held to be solely responsible for the infringement, and a second period, in respect of which the parent company is held jointly and severally liable with its subsidiary for the infringement, EU law does not require the Commission to determine whether the part of the fine, for whose payment the parent company is not held to be jointly and severally liable, is below the ceiling of 10% of the subsidiary's own turnover. The Court has

⁴ Namely, Masco Corp (United States), Mamoli Robinetteria SpA (Italy), Zucchetti Rubinetteria SpA (Italy), Rubinetteria Cital SpA (Italy), Aloys F. Dornbracht GmbH & Co. KG (Germany), Hansa Metallwerke AG and Others (Germany), Laufen Austria AG (Austria), Villeroy & Boch Austria GmbH (Austria), Villeroy et Boch SAS (France) and Villeroy & Boch — Belgium (Belgium).

decided to refer the case back to the General Court for it to give judgment on the claim for reduction of the fine imposed.

Bathroom fixtures and fittings cartel

<u>Companies</u>	<u>Fines imposed by the Commission</u>	<u>Decision of the General Court</u>	<u>Decision of the Court of Justice</u>
<p>Duravit AG (Germany)</p> <p>Duravit SA (France)</p> <p>Duravit BeLux (Belgium)</p>	<p>€25.23 million on Duravit AG</p> <p>€2.47 million jointly and severally on Duravit BeLux and Duravit AG</p> <p>€1.57 million jointly and severally on Duravit SA and Duravit AG</p>	<p>Annulment in part</p> <p>Fines upheld</p> <p>T-364/10</p>	<p>Appeal dismissed</p> <p>C-609/13 P</p>
<p>Villeroy & Boch Austria (Austria)</p> <p>Villeroy & Boch AG (Germany)</p> <p>Villeroy & Boch (France)</p> <p>Villeroy & Boch Belgium (Belgium)</p>	<p>€54.44 million on Villeroy & Boch AG (parent company)</p> <p>€6.08 million jointly and severally on Villeroy & Boch Austria and Villeroy & Boch AG</p> <p>€2.94 million jointly and severally on Villeroy & Boch Belgium and Villeroy & Boch AG</p> <p>€8.07 million jointly and severally on Villeroy & Boch France and Villeroy & Boch AG</p> <p>TOTAL: €71.53 million</p>	<p>Annulment in part</p> <p>Fines upheld</p> <p>T-373/10</p> <p>T-374/10</p> <p>T-382/10</p> <p>T-402/10</p>	<p>Appeals dismissed</p> <p>C-625/13 P, C-626/13 P, C-642/13 P and C-644/13 P</p>
<p>Hansa Metallwerke (Germany)</p> <p>Hansa Nederland (Netherlands)</p> <p>Hansa Italiana (Italy)</p> <p>Hansa Belgium (Belgium)</p> <p>Hansa Austria (Austria)</p>	<p>€10.33 million on Hansa Metallwerke</p> <p>€2.25 million jointly and severally on Hansa Austria and Hansa Metallwerke</p> <p>€2.07 million jointly and severally on Hansa Italiana and Hansa Metallwerke</p> <p>€112 974 jointly and severally on Belgium and Hansa Metallwerke</p> <p>€0 on Hansa Nederland BV and Hansa Metallwerke AG</p>	<p>Action dismissed</p> <p>Fines upheld</p> <p>T-375/10</p>	<p>Appeal dismissed</p> <p>C-611/13 P</p>
<p>Mamoli Robinetteria (Italy)</p>	<p>€1.04 million</p>	<p>Action dismissed</p> <p>Fine upheld</p> <p>T-376/10</p>	<p>Appeal dismissed</p> <p>C-619/13 P</p>

<p>Masco (United States)</p> <p>Hansgrohe (Germany)</p> <p>Hansgrohe Deutschland Vertriebs (Germany)</p> <p>Hansgrohe Handelsgesellschaft (Austria)</p> <p>Hansgrohe (Belgium)</p> <p>Hansgrohe (Netherlands)</p> <p>Hansgrohe (France)</p> <p>Hansgrohe (Italy)</p> <p>Hüppe (Germany)</p> <p>Hüppe (Austria)</p> <p>Hüppe Belgium (Belgium)</p> <p>Hüppe (Netherlands)</p>	<p>No fine imposed</p>	<p>Action dismissed</p> <p>T-378/10</p>	<p>Appeal dismissed</p> <p>C-614/13 P</p>
<p>Keramag Keramische Werke (Germany)</p> <p>Koralle Sanitärprodukte (Germany)</p> <p>Koninklijke Sphinx (Netherlands)</p> <p>Allia (France)</p> <p>Produits Céramiques de Touraine (PCT, France)</p> <p>Pozzi Ginori (Italy)</p> <p>Sanitec Europe (Finland)</p>	<p>€9.87 million on Sanitec Europe</p> <p>€26.07 million jointly and severally on Keramag and Sanitec Europe</p> <p>€1.40 million jointly and severally on Sphinx and Sanitec Europe</p> <p>€4.58 million jointly and severally on Allia and Sanitec Europe</p> <p>€2.53 million jointly and severally on PCT, Allia and Sanitec Europe</p> <p>€4.52 million jointly and severally on Pozzi Ginori and Sanitec Europe</p> <p>€5.23 million jointly and severally on Koralle and Sanitec Europe</p> <p>€3.50 million on Koralle</p>	<p>Annulment in part</p> <p>Fines imposed on Allia and PCT annulled</p> <p>Amount of the fine imposed jointly and severally limited to €50.58 million instead of €57.69 million</p> <p>T-379/10</p> <p>T-381/10</p>	<p>Judgment set aside</p> <p>Case referred back to the General Court</p> <p>C-613/13 P</p>
<p>Aloys F. Dornbracht (Germany)</p>	<p>€12.52 million</p>	<p>Action dismissed</p> <p>Fine upheld</p> <p>T-386/10</p>	<p>Appeal dismissed</p> <p>C-604/13 P</p>
<p>Zucchetti Rubinetteria (Italy)</p>	<p>€4 million</p>	<p>Action dismissed</p> <p>Fine upheld</p> <p>T-396/10</p>	<p>Appeal dismissed</p> <p>C-618/13 P</p>

Roca Sanitario (Spain)	€17.70 million jointly and severally with Laufen Austria and EUR 6.70 million jointly and severally with Roca France	Fine imposed on joint and several basis with Roca France reduced: €6.298 million T-408/10	Appeal dismissed C-636/13 P
Laufen Austria (Austria)	€32 million, of which €17.70 million on a joint and several basis with Roca Sanitario and €14.30 million on an individual basis	Action dismissed Fine upheld T-411/10	Judgment set aside Case referred back to the General Court C-637/13 P
Roca (France)	Jointly and severally with Roca Sanitario: €6.70 million	Fine reduced: €6.298 million T-412/10	Appeal dismissed C-638/13 P

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 judgments [C-604/13 P](#), [C-609/13 P](#), [C-611/13 P](#), [C-613/13 P](#), [C-614/13 P](#), [C-618/13 P](#), [C-619/13 P](#), [C-625/13 P](#), [C-626/13 P](#), [C-636/13 P](#), [C-637/13 P](#), [C-638/13 P](#), [C-642/13 P](#), [C-644/13 P](#) is published on the CURIA website on the day of delivery.

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