



Press and Information

General Court of the European Union
PRESS RELEASE No 81/20
Luxembourg, 8 July 2020

Judgment in Case T-758/14 RENV
Infineon Technologies AG v Commission

The General Court orders that the fine imposed on Infineon for its participation in a cartel in the smart card chip market be reduced by almost €6 million, from €82,784,000 to €76,871,600

The Commission took insufficient account of the limited number of the anticompetitive contacts which Infineon had had with its competitors and also found that that company had had a contact without succeeding in proving its existence

By decision of 3rd September 2014,¹ the Commission established the existence, from 2003 to 2005, of a cartel in the smart card chip sector in the European Economic Area (EEA). In the context of that cartel, several undertakings, namely Infineon, Philips, Samsung and Renesas,² had coordinated their pricing policy through a network of bilateral contacts and exchanges of commercially sensitive information.

For that infringement of the EU competition rules, the Commission had imposed fines totalling approximately €138 million. Given that Infineon had only participated in collusive arrangements with Renesas and Samsung and that it was not demonstrated that it was aware of the anticompetitive contacts between the other cartel participants, that company obtained a fine reduction of 20% on account of mitigating circumstances and thus received a fine of €82,784,000.

Infineon brought an action before the General Court seeking the annulment of the Commission's decision. It contested, in essence, firstly, the existence of a cartel, and, secondly, the amount of the fine imposed on it.

By its judgment of 15th December 2016,³ the General Court dismissed that action and upheld the fine imposed on Infineon by the Commission.

Infineon lodged an appeal against the judgment of the General Court before the Court of Justice.

By its judgment of 26th September 2018,⁴ the Court of Justice found that the General Court had examined only five of the eleven contacts which, according to the Commission, Infineon had had with Renesas and Samsung whereas, in its action, Infineon had, for its part, disputed all those contacts. In addition, the Court of Justice held that the General Court had failed to respond to the argument raised by Infineon that the Commission had infringed the principle of proportionality by setting the amount of the fine without taking into account the limited number of contacts in which Infineon participated.

Since that incomplete judicial review of the Commission's decision led to an insufficient review of the fine imposed on Infineon, the Court of Justice set aside in part the judgment of the General

¹ Decision C(2014) 6250 final of 3 September 2014 relating to proceedings under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39574 — Smart Card Chips).

² Namely (1) Infineon Technologies, (2) Koninklijke Philips Electronics and its subsidiary Philips France SAS, (3) Samsung Electronics and Samsung Semiconductor Europe, and (4) Renesas Electronics, which succeeded Renesas Technology and Renesas Electronics Europe.

³ Case: [T-758/14](#) Infineon Technologies v Commission; see also Press Release No. [136/16](#).

⁴ Case: [C-99/17 P](#) Infineon Technologies AG v Commission; see also Press Release No [139/18](#).

Court and referred the case back to the General Court for it to assess the proportionality of the fine imposed in relation to the number of contacts found against Infineon.

In today's judgment in the light of the judgment of the Court of Justice, the General Court examines the six contacts found against Infineon which had not been the subject of judicial review and finds that **that company had participated in at least five of those six bilateral contacts, and that those five contacts were all anticompetitive**. However, the General Court finds that the Commission did not succeed in proving the existence of one of the alleged anticompetitive contacts, namely that which Infineon is reported to have had with Renesas around 10th September 2004.

Accordingly, the General Court finds that, contrary to what was established in the Commission Decision, **only 10 anticompetitive bilateral contacts can be found, in total, against Infineon**.

As regards the determination of the fine to be imposed on Infineon for its role in the cartel at issue, the General Court finds that, **by applying**, on account of mitigating circumstances, **a reduction of 20% in the amount of the fine imposed on Infineon, the Commission did not take sufficient account of the limited number - namely 10 out of a total of 41 contacts found in respect of the cartel as a whole - of the anticompetitive contacts in which that company had participated**.

Consequently, the General Court finds that the Commission did not properly take into account Infineon's individual participation in the infringement and that the 20% reduction in the amount of the fine imposed on that company was not sufficient.

Thus, the General Court finds that **an additional reduction of 5% of the amount of the fine imposed on Infineon must be applied, to be added** to the reduction of 20% originally granted by the Commission in respect of mitigating circumstances. **The General Court therefore sets the total amount of the fine imposed on Infineon at €76,871,600.**

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

Unofficial document for media use, not binding on the General Court.

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

Press contact: Jacques René Zammit ☎ (+352) 4303 3355