



## PRESS RELEASE No 157/24

Luxembourg, 4 October 2024

Judgments of the Court of Justice in Joined Cases C-29/23 P | Ferriera Valsabbia and Valsabbia Investimenti v Commission and C-30/23 P | Alfa Acciai v Commission and in Case C-31/23 P | Ferriere Nord v Commission

### Competition: the Court of Justice rules on the cartel on the Italian market for concrete reinforcing bars

*It confirms the fines imposed by the Commission, with the exception of that imposed on Ferriere Nord SpA*

In 2002,<sup>1</sup> the European Commission imposed fines on eight undertakings and on an association of undertakings for an anti-competitive agreement on the Italian market for concrete reinforcing bars, between December 1989 and July 2000.

In 2007, the General Court annulled that decision<sup>2</sup> on the ground that its legal basis was no longer in force when it was adopted.<sup>3</sup> Subsequently, on 30 September 2009, the Commission adopted a new decision,<sup>4</sup> addressed to the same undertakings as the 2002 decision and reproducing, in essence, the content and the conclusions of that decision. In particular, the amount of the fines imposed remained unchanged.

Having been upheld, in principle, by the General Court,<sup>5</sup> the 2009 decision was annulled, with regard to five undertakings, by the Court of Justice on account of irregularities vitiating the administrative procedure which led to its adoption.<sup>6</sup>

After the resumption of that procedure, the Commission adopted, on 4 July 2019, a decision establishing the same infringement as that forming the subject of the 2009 decision.<sup>7</sup> That decision was addressed to the five undertakings in respect of which the 2009 decision was annulled.<sup>8</sup> In the light of the duration of the procedure, the amount of the fines was reduced by 50%.

In September 2019, three of those undertakings – Ferriera Valsabbia SpA and Valsabbia Investimenti SpA, Alfa Acciai SpA and Ferriere Nord SpA<sup>9</sup> – brought actions for annulment of the 2019 decision. Having been unsuccessful before the General Court,<sup>10</sup> they brought appeals before the Court of Justice.

**The Court of Justice dismisses the appeals brought by Ferriera Valsabbia SpA and Valsabbia Investimenti SpA and by Alfa Acciai SpA**, thus upholding the judgments of the General Court and the 2019 decision of the Commission. **The Court of Justice upholds the appeal of Ferriere Nord SpA in part**, reducing the amount of the fine imposed on that company.

The Court of Justice takes the view, in particular, that **the General Court did not err in law** in holding that the decision at issue was adopted following a procedure conducted in accordance with EU law<sup>11</sup> and that **the Commission did not impede the appellant companies' rights of defence**.

As regards the imposition of the fines, the Court of Justice confirms that **the Commission could consider that, given the serious nature of the infringement established, the penalty was justified**. The Court of Justice recalls

in that regard that fines are designed to penalise the unlawful acts of the undertakings concerned and to deter all economic operators from infringing, in future, the rules of EU competition law. **The deterrent effect of such a fine is not limited to preventing the recurrence of a specific anti-competitive cartel.**

As regards the fine imposed on Ferriere Nord SpA, the Court of Justice notes that the Commission granted that undertaking a reduction on account of its temporary non-participation in a part of the cartel. That reduction was lower (for each month of non-participation) than that granted to Riva Acciaio SpA for its temporary non-participation in that same part of the cartel. **Taking the view that the application by the Commission of different rates of reduction, without a valid justification, infringed the principle of equal treatment, the Court of Justice reduces the amount of the fine imposed on Ferriere Nord SpA from €2 237 000 to €2 165 000.**

**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.

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

The full text and, as the case may be, an abstract of the judgments ([C-29/23 P](#) and [C-30/23 P](#) and [C-31/23 P](#)) are published on the CURIA website on the day of delivery.

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

Images of the delivery of the judgments are available from '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

## Stay Connected!



<sup>1</sup> Decision [C\(2002\) 5087 final](#) of 17 December 2002 relating to a proceeding under Article 65 of the ECSC Treaty against Alfa Acciai S.p.A., Feralpi Siderurgica S.p.A., Ferriere Nord S.p.A., IRO Industrie Riunite Odolesi S.p.A., Leali S.p.A., Acciaierie e Ferriere Leali Luigi S.p.A. in liquidazione, Lucchini S.p.A., Siderpotenza S.p.A., Riva Acciaio S.p.A., Valsabbia Investimenti S.p.A., Ferriera Valsabbia S.p.A. and the association of undertakings Federacciai (Federazione delle Imprese Siderurgiche Italiane) (Case C.37.956 – Reinforcing bars).

<sup>2</sup> Judgments of the General Court of 25 October 2007 in Joined Cases *SP and Others v Commission*, [T-27/03](#), [T-46/03](#), [T-58/03](#), [T-79/03](#), [T-80/03](#), [T-97/03](#), [T-98/03](#), and in Cases [T-45/03](#), [T-77/03](#) and [T-94/03](#) (see also Press Release [No 78/07](#)).

<sup>3</sup> The Commission relied on Article 65(4) and (5) of the ECSC Treaty. However, that treaty had expired five months earlier on 23 July 2002. Accordingly, the General Court held that the Commission did not have competence, on the basis of those provisions, to establish and sanction an infringement of competition law.

<sup>4</sup> Commission Decision C(2009) 7492 final of 30 September 2009 relating to a proceeding under Article 65 of the ECSC Treaty (Case COMP/37.956 – Reinforcing bars, re-adoption), as amended by Commission Decision [C\(2009\) 9912 final](#) of 8 December 2009. That decision was adopted on the basis of the procedural rules of the EC Treaty and of [Council Regulation \(EC\) No 1/2003](#) of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

<sup>5</sup> Judgments of the General Court of 9 December 2014, *Ferriera Valsabbia and Valsabbia Investimenti and Others v Commission*, [T-472/09](#) and [T-55/10](#), [T-69/10](#), [T-70/10](#), [T-83/10](#), [T-85/10](#), [T-90/10](#), [T-91/10](#), [T-92/10](#), [T-489/09](#), [T-490/09](#) and [T-56/10](#).

<sup>6</sup> Judgments of the Court of Justice of 21 September 2017, *Ferriera Valsabbia and Others v Commission*, [C-85/15 P](#), [C-86/15 P](#), [C-87/15 P](#), [C-88/15 P](#) and [C-89/15 P](#).

<sup>7</sup> Decision [C\(2019\) 4969 final](#) of 4 July 2019 relating to a proceeding under Article 65 of the ECSC Treaty (Case AT.37956 – Reinforcing bars).

<sup>8</sup> Ferriere Nord SpA, Alfa Acciai SpA, Feralpi Holding SpA, Partecipazioni Industriali SpA, Valsabbia Investimenti SpA, Ferriera Valsabbia SpA.

<sup>9</sup> In the 2019 decision, the Commission imposed a fine of €3.587 million on Alfa Acciai SpA, a fine of €5.125 million on Ferriera Valsabbia SpA and Valsabbia Investimenti SpA, jointly and severally, and a fine of €2.237 million on Ferriere Nord.

<sup>10</sup> Judgments of the General Court of 9 November 2022, *Ferriera Valsabbia and Valsabbia Investimenti v Commission*, [T-655/19](#), *Alfa Acciai v Commission*, [T-656/19](#), and *Ferriere Nord v Commission*, [T-667/19](#) (see also Press Release [No 180/22](#)).

<sup>11</sup> Regulation (EC) No 1/2003 and [Commission Regulation \(EC\) No 773/2004](#) of 7 April 2004 relating to the conduct of proceedings by the Commission

pursuant to Articles 81 and 82 of the EC Treaty.