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Cartel damages claims in Europe: How courts have assessed overcharges

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ABSTRACT

National courts in Europe have handed out over fifty judgments in cartel damages claims, and have awarded damages in at least 23 cases. In these cases, the courts have reviewed various methods for quantifying cartel overcharges. Rather than economic or econometric modelling which is sometimes perceived as complex, courts seem to prefer straightforward comparator-based approaches founded on facts and calculations that they can verify.

Plus de cinquante jugements ont été rendus par des magistrats en Europe dans des actions indemnitaires faisant suite à des ententes. L'existence d'un préjudice de surcoût a été retenue dans 23 de ces affaires. Les magistrats ont dans ces occasions été exposés à différentes méthodes de quantification du préjudice. Ils semblent avoir donné leur préférence aux méthodes de comparaison dites «simples», fondées sur des faits et des calculs qu'ils peuvent vérifier, plutôt qu'aux techniques de modélisation économique ou économétrique parfois perçues comme complexes.

Cartel damages claims in Europe: How courts have assessed overcharges

1. The number of cartel damages claims in the European Union has increased sharply in recent years. In January 2009, the aggregate number of such claims was estimated to be only 18; in October 2016, this figure had increased to at least 70.¹ As the transposition of Directive 2014/104/EU on antitrust damages actions² is now well on its way in many Member States, the number of claims is likely to increase further.³

2. The harm in most cartel damages claims is an overcharge. It is the difference between prices resulting from a cartel infringement, and what these prices would have been if set solely by market forces. Published in 2013, the Commission's Practical Guide on Quantifying Harm in Actions for Damages describes methods considered by the Commission to be potentially suitable for assessing damages caused by competition law infringements, in particular overcharges.⁴

3. For both claimants and defendants, selecting a method from those listed in the Practical Guide is not an easy task. There are many methods to choose from. They are often quite different from one another, for example in terms of complexity, data requirements, expected accuracy or costs. Conflicting opinions have been expressed about the advantages and disadvantages of each of them.⁵

4. Understanding the courts' views on distinct methods should assist the parties in making an informed choice about the most appropriate one. There is, however, very limited data on this particular issue. As cartel damages claims are frequently settled, there are relatively few judgments. Moreover, such judgments are not always well publicized, as defendants tend to prefer their case to draw little attention. The Commission's database of national court cases can help identify some judgments but it is currently far from exhaustive. The frequency by which courts in Europe have accepted each particular method is thus unknown. Seeking to predict the likelihood that a quantification of damages will be accepted by a court is anyone's guess.

1 Figures given by Hausfeld & Co. LLP, GCR Competition Litigation Conference, 7 October 2014, and 17 November 2016.

2 Directive 2014/104/EU of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union [2014] OJ L 349/1.

3 For an update on the transposition of the directive in EU Member States, see http://ec.europa.eu/competition/antitrust/actionsdamages/directive_en.html; and R. Amaro, Le contentieux indemnitaire des pratiques anticoncurrentielles, *Concurrences* No. 4-2016 (in French).

4 Commission Staff Working Document, Practical Guide on Quantifying Harm in Actions for Damages Based on Breaches of Article 101 or 102 TFEU, 16 June 2013.

5 See for example consultations held by the Commission in 2011 available at http://ec.europa.eu/competition/consultations/2011_actions_damages/index_en.html.

5. With the assistance of lawyers and law professors in thirty European countries, a comprehensive review of judgments handed out by national courts on cartel damages claims has been carried out.⁶ This article presents the results of this endeavour. Section I describes the methodology, Section II provides general figures on the cases identified, and Section III shows how often various quantification methods have been used.

I. Research methodology and limitations

6. In this article, the term “cartel” has the meaning given by the Commission: “a cartel is a group of similar, independent companies which join together to fix prices, to limit production or to share markets or customers between them.”⁷ A “case” means a damages claim, with one or several plaintiffs alleging that a cartel caused an overcharge, and in which a court awarded damages.⁸ Importantly, cartel damages claims in which an out-of-court settlement was reached before any judgment on the merits fall outside the scope of this research and are not counted as “cases”.

7. Counting cases required setting a rule for this purpose. Sometimes several judgments are relatively similar. For example, on 1 October 2009, the Berlin Higher Regional Court handed down two judgments awarding damages to distinct buyers of ready-mix concrete.⁹ These two judgments are counted as two cases. When a large number of judgments are similar, however, an exception to this rule had to be made. For instance, on 20 October 2016, the Helsinki Court of Appeal handed down 40 judgments in actions following the Finnish asphalt cartel and awarded damages to 29 claimants.¹⁰ Counting each of the 29 successful claims as an individual case would give them excessive weight relative to other cases. Each large set of similar judgments is for this reason regarded as a single case.¹¹

6 This research took place for the most part in the summer 2016.

7 See http://ec.europa.eu/competition/cartels/overview/index_en.html. Cases mentioned in this document fall under this definition with perhaps a small number of exceptions.

8 Leaving aside cases in which the principle of damages was decided but their amount was not quantified; other cases in which the amount of damages was a symbolic euro; and all cases in which the nature of the damage was not an increase in price.

9 Cases P and Q; for a report on the cases in English, see S. Thomas and C. Stock, The Berlin Higher Regional Court rules on key issues of standing and standard of proof in cartel damages suits, *e-Competitions Bulletin* October 2009, No. 42670.

10 Case D; for a report on the lower court judgments in this case, see K. Havu, The Helsinki District Court awards significant damages against asphalt cartel (“Asphalt cartel damages claims”), *e-Competitions Bulletin* November 2013, No. 62284; and J. Connor and T. Kalliokoski, The Finnish Asphalt Cartel Court Decision on Damages: An Important EU Precedent and Victory for Plaintiffs, *CPI Antitrust Chronicle*, February 2014.

11 Besides the 29 judgments of the Helsinki Court of Appeal (case D), 31 judgments rendered by the Administrative Court of Paris on 13 and 27 March 2009 were grouped (case H); and multiple judgments, rendered by various Italian courts in favour of consumers of automotive insurance, are also considered similar on the quantification of damages (case T).

8. This research covers the 28 EU Member States together with Norway and Switzerland. Depending upon location, two research methodologies were used. In France, I identified the cases, obtained copies of the judgments, and analysed this material with Professor Suzanne Carval.¹² In other countries, lawyers and law professors were asked whether they were aware of potentially relevant cases in their jurisdictions, and when relevant cases were identified to assist with the analysis. Secondary sources listing cases or providing case descriptions in English or French were also used. For cases of particular interest, experts involved in the quantification of damages were contacted.

9. There was at least one contributor in each country covered and, in larger countries, often several. As a result, 68 individuals directly contributed to this study. This research would not have been possible without the invaluable assistance of Philip Andrews, Marcos Araujo, Zoltan Barakonyi, Daniel Barry, Jochen Bernhard, Klaas Bisschop, Gabriel Bleser, Sanne Bouwers, Bas Braeken, Alessandro Di Mario, Emmanuel Dryllarakis, Piero Fattori, Miguel Sousa Ferro, Mia Anne Gantzhorn, Carri Ginter, Katri Havu, Franz Hoffet, Marek Holka, Isabelle Innerhofer, Marius Juonys, Laurynas Juozapaitis, Toni Kalliokoski, Claus Kastberg Nielsen, Erik Kjær-Hansen, Anna Kowalska, Mario Krka, Petra Lea Láncoš, Frederieke Leeflang, Lionel Lesur, Cormac Little, Vlatka Butorac Malnar, Francisco Marcos, Tomas Maretta, Claire Massiera, Manos Mastromanolis, Liga Merwin, Henri Mizzi, Małgorzata Modzelewska de Raad, Ákos Nagy, Martin Nedelka, Robert Neruda, Florian Neumayr, Irmantas Norkus, Cristoforo Osti, Pavle Pensa, Michal Petr, Peter Petrov, Henrik Peytz, Silvia Pietrini, Petra Joanna Pipková, Eszter Ritter, Barry Rodger, Thomas Rouhette, Anders Ryssdal, Ulrich Schnelle, Orsolya Staniszewski, Tihamér Tóth, Janne Tukiainen, Raluca Vasilache and Weyer VerLoren van Themaat.¹³

10. This research is subject to three important limitations. First, the list of cases identified is despite best efforts unlikely to be exhaustive. Some cartel damages claims receive very limited attention. Given the wide scope of this research, some cases may not have been identified. I should be grateful to anyone who would bring to my attention any case I may not be aware of.

11. Second, some judgments in the list are not final. Appeals are believed to be ongoing in at least four cases and the quantum of damages remains provisional in three others. The main purpose of this research is to assess how often courts have accepted specific methods

12 I am indebted to Professor Carval for her contribution to this research. See S. Carval and J.-F. Laborde, L'évaluation du surcoût causé par une entente anticoncurrentielle : l'expérience française, *Gaz. Pal.* 4 Oct. 2016, p. 11.

13 I also wish to thank Professors John M. Connor and Robert H. Lande for their comments on a draft version of this study. A few other contributors cannot be mentioned for confidentiality reasons.

to quantify an overcharge. With regards to this objective, taking into account judgments that are not final seems unlikely to affect this research's findings. Nevertheless, for completeness the appendix specifies which judgments are believed not to be final yet.

12. Third, this research was faced with the language barrier on multiple occasions. Most judgments identified are neither in English nor in French.¹⁴ For any such case, an overcharge has been calculated and the case has been affected to one method of quantification. For these purposes, secondary sources have been used, together with expert advice from contributors. However, as I could not read the original judgments, I cannot completely exclude the potential for me to have made an error.

II. General observations

13. In the 30 European countries covered, 23 cases in which damages have been awarded have been identified.¹⁵ These cases are from eight countries: France (10 cases), Germany (5 cases), Denmark (2 cases¹⁶), Spain (2 cases), Austria, Finland, Italy and the Netherlands (1 case each). The list of cases is given in the appendix.

14. This research also identified 30 cases in which cartel damages claims were dismissed on the merits (including cases in Belgium, Hungary, Poland and the above listed countries). In three additional cases, the principle of damages was established but their amount was not quantified. While this article focuses on the 23 successful cases, it seems interesting to notice that the cumulative experience of courts in Europe on cartel damages claims is to date exceeding 50 cases.

15. Of the 23 cases in which damages were awarded, only one is a stand-alone action. It is also the oldest case in the set: on 30 June 1998, a criminal court in Grenoble (France) imposed a prison sentence and awarded damages of 24,348,730 French francs (approximately €3.7 million) for bid-rigging. The court of appeal confirmed the award, and the French Supreme Court upheld the court of appeal's decision.¹⁷

16. The remaining 22 cases are follow-on actions: 18 follow an infringement decision of a National Competition Authority (NCA), and 4 follow a Commission's decision.

17. The jurisdictions of origin of the cases might be unexpected. Although English courts are a popular forum for cartel damages claims, they have not provided any judgment to date; all cases so far in the UK have been settled before judgment.¹⁸ On the other hand, while France has sometimes been described as an unattractive jurisdiction for claimants, French courts have awarded damages in no less than ten cases. Eight of these cases are following a decision of the French NCA. Between May 2004 and December 2015, the French Autorité de la concurrence and the German Bundeskartellamt have, according to European Competition Network statistics, been the most active NCAs in Europe.¹⁹ It seems that private enforcement in these two countries was for a large part fuelled by their NCAs' decisions.

18. Each of the 23 reference cases contained data allowing calculation or estimation of the overcharge.²⁰ Although assessing levels of overcharges was not an initial objective of this study, it is a potentially relevant observation. In accordance with the choice made in the study prepared for the European Commission in 2009,²¹ overcharges are presented as a percentage of affected prices.²²

14 The author's working languages.

15 This number does not include cases in which a lower court awarded damages and a court of appeal subsequently quashed the judgment. It includes, however, an order from a French administrative court quashed by an administrative court of appeal on grounds unrelated with the quantification of damages. The decision of the Administrative Court of Appeal was subsequently overruled by the French Supreme Administrative Court, and the case was remanded to the Administrative Court of Appeal. See A. Camus, Contractual action: The French Supreme Administrative Court considers that a public person, whose consent has been undermined by anticompetitive and deceptive practices, can exercise an interim payment (*Département de l'Eure*), 24 Feb. 2016, *Concurrences* No. 3-2016.

16 In two further cases, the Copenhagen Maritime and Commercial Court awarded damages as a result of concerted practices that fall outside the Commission's definition of "cartel"; see Judgment of 3 October 2002, *EKKO v. Brandt Group Norden et al.* (*EKKO I*), U.2004.2600S; and Judgment of 15 October 2004, *EKKO v. Electrolux Home Products Denmark et al.* (*EKKO II*), U.2005.388S.

17 Case E; see E. David, The French Criminal Supreme Court upheld sentences inflicting prison and damages for bid-rigging ("*Isère tarmac*"), *e-Competitions Bulletin* September 2001, No. 13708.

18 We did not include in the 23 reference cases the judgment handed out by the Competition Appeal Tribunal (CAT) on 14 July 2016 in *Sainsbury's Supermarkets Ltd v. Mastercard Incorporated et al.*, considering that the CAT itself observed that price-fixing cartels are "almost invariably secret" while the Mastercard Scheme Rules were not. See M. Dietrich and K. Dietzel, Strategic Considerations in Cartel Follow-On Litigation, 2 June 2016, available at <http://www.concurrences.com/seminaires/strategic-considerations-in-cartel-follow-on-litigations-brussels-2-june-2016/?lang=en>.

19 See <http://ec.europa.eu/competition/ecn/statistics.html>.

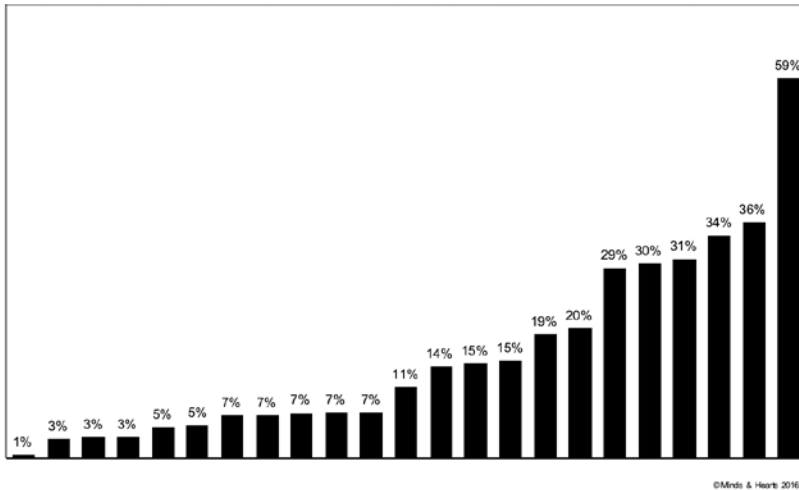
20 The data was usually taken directly or indirectly from judgments. Sometimes relevant information was found from other sources. For example, for the claims that followed the Spanish sugar cartel, a report produced by the claimants' economic advisor was also used, available at http://www.competitioneconomics.org/dyn/files/basic_items/353-file/101112%20Fernando%20Jim%C3%A9nez%20ACE%20UK.pdf.

21 Oxera/Komninos et al., Quantifying antitrust damages – Towards non-binding guidance for courts, Study prepared for the European Commission, Dec. 2009.

22 Other studies sometimes express overcharges as a percentage of the unaffected price.

19. The range of overcharges is shown in figure 1. The lowest overcharge is less than 1% and the highest greater than 59%. There is a consensus in the academic community that overcharges vary widely from one cartel to another. The spread of court-awarded damages does reflect such variations.

Figure 1 - Range of overcharge



20. The study undertaken for the Commission in 2009 estimated that the average cartel overcharge was around 20%.²³ The average of the 23 overcharges obtained from the reference cases is 16%. This figure should probably be interpreted with caution, bearing in mind in particular that at least seven judgments are not final yet.²⁴ It is, however, not particularly surprising that the average overcharge in the 23 reference cases is lower than 20%. Many of these cases followed local or national cartels (19 out of 23). Compared to international cartels, local or national ones tend to result in lower overcharges. The study prepared for the Commission mentions an average overcharge of 16% for national cartels and 26% for international ones.²⁵

21. In theory at least, damages awarded in cartel damages claims should not necessarily be equal to the estimated overcharge. Defendants often argue that claimants faced with an overcharge may have mitigated their losses by raising their own prices, thereby passing-on all or part of the overcharge down the chain of customers. Of the 23 reference cases, the passing-on of a fraction of the overcharge is factored into the calculation of damages in one instance. In *Cheminova v. Akzo Nobel*, the court followed the opinion of the court-appointed expert and considered that half of the overcharge had been passed on.²⁶

23 This figure is based on a sample of 114 cartel overcharges obtained from peer-reviewed academic articles and chapters in published books; it does not include any overcharge estimate taken from court decisions (see Oxera/Komninos et al. p. 90 for a description of the full methodology).

24 The average overcharge for judgments believed not to be final is 22%; it is 13% for the others.

25 See also J. Connor, Price-Fixing Overcharges, revised 3rd edition, 24 February 2014, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2400780.

26 Case C.

III. Methods to quantify overcharges

22. There are three logical steps when assessing the impact of a cartel. The first step consists of gathering prices observed during the cartel period (known as “factual” or “affected” prices). The second step requires assessing prices absent the cartel (known as “counterfactual,” “unaffected” or “but-for” prices). The third step is the calculation of the overcharge, which is simply the difference between factual and counterfactual prices. The most difficult step is the second one, as it involves assessing prices which would have prevailed in a fictional scenario (as if there had been no cartel). The methods described in the Commission’s Practical Guide are different ways to build this scenario.

23. A method was assigned to each of the 23 reference cases. This task has generally been straightforward. Sometimes a difficulty was encountered, in particular when several methods were used in parallel. In the German ready-mix concrete cases, for example, the Berlin Higher Regional Court considered both a comparison over time and a comparison with an unaffected market.²⁷ In such instances, the method assigned to the case is the one that seemed to bear most weight in the court’s assessment.

24. In the 23 reference cases, damages were quantified based upon the following methods:

Table 1 - Actual use of overcharge quantification methods

Methods	Number of cases
Comparison over time (also called “before -and-after”)	11 cases
Comparison with an unaffected market (also called “yardstick”)	4 cases
Cost-based and financial methods	4 cases
Regression analysis (also called “econometrics”)	0 case
Simulation model	0 case
Other methods	4 cases

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27 Cases P and Q.

25. A comparison over time compares prices during the cartel period and prices when the cartel was not active (whether before it was created or after it ended²⁸). Thus, in the case of the driving schools cartel in Austria, the court found that the price during the infringement period was not less than €1,140. This price decreased to €922 when the cartel ended. The resulting overcharge was estimated to be €1,140 - €922 = €218.²⁹

26. The “yardstick” method is an alternative comparator-based approach. Rather than assessing the cartel-free price at a different point of time, it uses a price observed in a market that was not affected by the cartel. In the Berlin ready-mix concrete cases, for example, the court compared prices in Berlin (the affected market) with prices outside the territorial scope of the cartel (the rest of Germany).³⁰

27. Sometimes a direct comparison of prices is likely to be misleading, as shown by the Spanish sugar cartel cases. The expert assessed the effect of the cartel through a comparison over time. He noted, however, that variations in sugar prices could be caused by variations in the cost of sugar beets. In order to cancel out the effect of this external factor, the expert used a cost-based approach; he considered only the variations of sugar prices that could not be explained by fluctuations of one major input cost (or several). Such cost-based and financial methods were used in four cases.³¹

28. Regression analysis has been the subject of heated debates. Some (mostly economists) have argued that it is a potentially powerful and accurate method because it can account for multiple external factors that may have influenced prices.³² Others (mostly lawyers) find it overly complicated.³³ As Frédéric Jenny recently summarized, “there is some skepticism to the fact that econometric models can be useful to assess damages in civil proceedings.”³⁴ Regression models were presented to courts in two of the 23 reference cases, but to date their conclusions have not been accepted. In the Finnish asphalt case, claimants’ advisors submitted one set of regression models and defendants’ advisors another. Each side criticized the other side’s data and methodology. The Helsinki Court of Appeal decided to dismiss both sets of models, and based its assessment on other evidence.³⁵ Econometrics was also

used in a French case in which the defendant’s advisor argued that “the alleged agreement did not have any statistically identifiable impact over the prices of lysine paid.” The court did not follow this conclusion and awarded damages in the amount requested by the claimant³⁶.

29. No instance was found in which a simulation model was accepted by a court as a basis to calculate a cartel overcharge. The use of a simulation model was suggested in the Danish case *Cheminova v. Akzo Nobel*, but it was rejected by the court-appointed expert.³⁷ The judgment states that “industry economic models should often only be used as a supplement and not as the underlying basis of a statement of loss.” Another simulation model was presented by a claimant in a French case, but the court rejected the claim, noting amongst other considerations that “the accuracy [of the model was] difficult to verify.”³⁸

30. Other methods were used in four instances. In two German cases, the courts accepted the use of a contractual clause which stipulated the level of damages in the event of a competition law infringement. On 4 May 2012, the Regional Court of Mannheim allowed a claimant to rely on a clause which provided that “in the event that the contractor (*Auftragnehmer*) has made an agreement which constitutes an unlawful restriction of competition in the public procurement proceedings, the contractor has to pay 15% of the (factual) price unless it can be proved that the amount of damages differs from this sum.”³⁹ On 16 December 2014, the Regional Court of Berlin accepted a similar clause setting damages at 5%.⁴⁰ In its judgments handed down on 20 October 2016, the Helsinki Court of Appeal based for the most part its assessment of damages on statements of witnesses who had worked for the infringing companies. Finally, there is also a French case in which the court awarded a lump sum without detailing its calculation.⁴¹

28 Occasionally during a price war within the cartel period.

29 Case A; see S. Polster and M. Zellhofer, An Austrian Court awards for the first time damages to the customers of cartel members (“Driving schools cartel”), *e-Competitions Bulletin* August 2007, No. 14153.

30 Cases P and Q.

31 Cases U and V; see F. Marcos, Damages claims in the Spanish sugar cartel, *Journal of Antitrust Enforcement* 2015-3, pp. 205–225.

32 See for example C. Ehmer and F. Rosati, Science, myth and fines: Do cartels typically raise prices by 25%? *Concurrences* No. 4-2009; R. De Coninck, Quantifying damages in civil proceedings: Can economist and should competition authorities help? *Concurrences* No. 2-2011.

33 See for example *TV Sports Market Magazine*, 26 March 1999, pp. 11–12, quoting Mr. Justice Ferris.

34 F. Jenny, New Frontiers of Antitrust 2015, *Concurrences* No. 3-2015.

35 Case D; the Helsinki District Court had initially seemed to give some weight to the models presented by the claimants’ advisors.

36 Case K; for a description of the case in English, see M. Giner Asins, M. Thill-Tayara, The Paris Court of Appeal orders to compensate companies in an amount of over €1.6 million due to their damages resulting from an anti-competitive agreement on prices and sales volumes of synthetic lysine prohibited by the European Commission (*Ajinomoto Eurolysine*), *e-Competitions Bulletin* February 2014, No. 72344; see also M. Chagny and B. Deffains, *Réparation des dommages concurrentiels*, Dalloz 2015, pp. 130–131 (in French).

37 Case C; translation from the original judgment kindly provided by C. Kastberg Nielsen.

38 The Administrative Court of Paris, 1 April 2014, *SNCF v. Hoffman et al.*, No. 1308641. The judgment was appealed. The author advised one of the defendants.

39 Case R; this decision was upheld on 31 July 2013 by the Higher Regional Court of Karlsruhe; see I. Oest, A German Regional Court grants damages to a customer of fire-fighting vehicle manufacturer cartel, *e-Competitions Bulletin* May 2012 No. 48817.

40 Case S; see F. Bien, Le Tribunal régional de Potsdam déclare nulle la clause, contenue dans les conditions d’attribution d’un marché public, qui stipule des dommages et intérêts forfaitaires à hauteur de 15% du montant du marché en cas de violation des règles du droit de la concurrence, tandis que le Tribunal régional de Berlin, dans une affaire similaire, fonde le calcul des dommages et intérêts sur une telle clause, *Concurrences* No. 2-2016, pp. 220–223.

41 The Paris commercial court, 16 July 2012, *SAS Alp’Verre Paul Vallanzasca et al. v. SAS Randstad*, No. 2012-013030.

31. In 2011, the Commission published a draft guidance paper on Quantifying harm in actions for damages and held a consultation on its content.⁴² Responding to this consultation, the Italian Supreme Court stated at the time a preference for comparator-based approaches, and it explained its rationale: “*we are inclined to prefer – as a general rule and as far as possible – the comparative approach (...) because it is more objectively verifiable.*”⁴³ This research suggests that many courts in Europe are sharing this view. ■

Appendix Table 2 - List of cases

Case	Country	Court	Date	Case Reference	Case Name	Main Method to Quantify Overcharge
A	Austria	Landesgericht für Zivilrechtssachen Graz	17 August 2007	17 R 91/07 p	Bundesarbeitskammer v. Powerdrive Fahrschule Andritz GmbH	Comparison over time
B	Denmark	Retten i Gentofte (City Court of Gentofte - now Lyngby)	5 May 2006	BS 18/2005	Copenhagen Council v. Peter Dahl A/S	Cost-based and financial
C	Denmark	Sø- og Handelsretten (Maritime and Commercial Court)	15 January 2015	SH2015.U-0004-07	Cheminova A/S v. Akzo Nobel Functional Chemicals BV et al.	Cost-based and financial
D*	Finland	Helsingin hovioikeus (Helsinki Court of Appeal)	20 October 2016	S 14/1368 and others (1)	Suomen valtio et al. v. Lemminkäinen Oyj et al.	Other (witness statements)
E	France	Cour d'appel de Grenoble (chambre correctionnelle)	6 July 2000	No. 99/01022	Construction works at Grenoble Hospital	Yardstick
F	France	Cour administrative d'appel de Paris	26 June 2007	No. 99PA01032	SNCF v. Société Fougerolle-Ballot	Comparison over time
G	France	Tribunal de grande instance de Rouen (chambre correctionnelle)	11 September 2008	No. 2850/08	Roads in Seine-Maritime Department	Comparison over time
H	France	Tribunal administratif de Paris	27 March 2009	No.9708002/6-1 (2)	SNCF v. Société Bouygues et al.	Comparison over time
I*	France	Tribunal de commerce de Paris	16 July 2012	No. 2012-013030	SAS Alp'Veerre Paul Vallanzasca et al. v. SAS Randstad	Other (lump sum)
J*	France	Cour d'appel de Rouen (chambre correctionnelle)	19 December 2012	No. 12/00205	Renovation of historic buildings	Comparison over time
K	France	Cour d'appel de Paris	27 February 2014	No. 10/18285	SNC Doux Aliments Bretagne et al. v. Société Ajinomoto Eurolyosine	Comparison over time
L*	France	Tribunal administratif de Rouen	3 March 2015	No. 1402337 (3)	Eure Department v. Société Signalisation France et al.	Comparison over time

42 Draft guidance paper, Quantifying harm in actions for damages based on breaches of Article 101 or 102 of the Treaty on the Functioning of the European Union, Public Consultation, June 2011.

43 Corte di Cassazione Italiana, Comments on the guidance paper on damages for breach of antitrust law, undated, available at http://ec.europa.eu/competition/consultations/2011_actions_damages/index_en.html.

Case	Country	Court	Date	Case Reference	Case Name	Main Method to Quantify Overcharge
M*	France	Cour administrative d'appel de Nantes	2 February 2016	No. 15NT00865	Société Signalisation France v. Orne Department	Comparison over time
N*	France	Cour administrative d'appel de Nantes	2 February 2016	No. 15NT01264	Société Signalisation France v. Calvados Department	Comparison over time
O	Germany	Landgericht Dortmund	1 April 2004	13 O 55/02 Kart	Vitaminpreise Dortmund (prices of vitamins)	Comparison over time
P	Germany	Kammergericht Berlin	1 October 2009	2 U 10/03 Kart	Berliner Transportbeton (ready-mix concrete in Berlin)	Yardstick
Q	Germany	Kammergericht Berlin	1 October 2009	2 U 17/03 Kart	Berliner Transportbeton (ready-mix concrete in Berlin)	Yardstick
R	Germany	Oberlandesgericht Karlsruhe	31 July 2013	6 U 51/12 Kart	Feuerwehrfahrzeuge (fire fighting vehicles)	Other (contractual clause)
S	Germany	Landgericht Berlin	16 December 2014	16 O 384/13 Kart	Schienen (rails)	Other (contractual clause)
T	Italy	Corte di Cassazione	2 February 2007	No. 2305 (4)	Fondiaría SAI SpA v. Nigriello	Yardstick
U	Spain	Tribunal Supremo	8 June 2012	No. 344/2012, STS 5462/2012	Galletas Gullón et al. v. ACOR	Cost-based and financial
V	Spain	Tribunal Supremo	7 November 2013	No. 651/2013, STS 5819/2013	Nestlé et al. v. Ebro Foods	Cost-based and financial
W*	The Netherlands	Rechtbank Gelderland	10 June 2015	No. 208814, ECLI:N-L:RBGEL:2015:3713	TenneT TSO BV et al. v. Alstom et al.	Comparison over time

* cases believed not to be final

(1) For example - 29 judgements awarding damages rendered.

(2) For example - 31 judgments awarding damages rendered.

(3) Order quashed by the Douai Administrative Court of Appeal on 27 November 2015; ruling of the Douai Administrative Court of Appeal cancelled by the French Supreme Administrative Court on 24 February 2016.

(4) For example (multiple judgments followed the same infringement decision).

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