

National Reports

Austria

ANTI-COMPETITIVE PRACTICES

Restrictive business practices—construction industry—cartel—coordination of tenders—fine—leniency

☞ Anti-competitive practices; Austria; Cartels; Collusive tendering; Construction industry; Fines; Market sharing; Price fixing

Fine imposed on German construction company for cartel activity

At the request of the Austrian Federal Competition Authority (FCA—*Bundeswettbewerbsbehörde*), the Cartel Court (*Kartellgericht*) has imposed another fine in relation to the so-called construction cartels, totalling €27.15 million, on Swietelsky AG and its subsidiaries C. Peters Baugesellschaft m.b.H. and Kontinentale Baugesellschaft m.b.H. (collectively Swietelsky). The fine was imposed for infringing the ban on cartels in the form of price fixing, market sharing and exchange of information with competitors in breach of cartel law concerning public and private tenders in the field of building construction and civil engineering in large parts of Austria from July 2002 to October 2017.

Since mid-June 2017, the FCA has been investigating, in cooperation with the Public Prosecutor's Office for Economic Affairs and Corruption (*Wirtschafts- und Korruptionsstaatsanwaltschaft*) and the Federal Office for the Prevention of and Fighting Corruption (*Bundesamt zur Korruptionsprävention und Korruptionsbekämpfung*), suspicion of an Austria-wide infringement of the ban on cartels in the construction industry. The cartel included price fixing, market sharing and the exchange of competition-sensitive information in connection with tenders in the construction and in the building and civil engineering sectors.

Primarily, public authority tenders were affected; however, tenders in the private sector were also covered by the cartel. A total of over 40 construction companies, albeit in varying degrees, are suspected of having participated in the infringement over several decades. Since then, numerous construction companies have been fined, such as the PORR Group with a fine of €62,35 million in 2022.

Swietelsky benefited under the leniency programme (*Kronzeugenregelung*) as the second construction company to fully cooperate with the FCA.

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Austria

COMPETITION GOVERNANCE

*New Federal Competition
Authority Director General*

👉 Appointments; Austria;
National competition authorities

New Director General of Austrian Federal Competition Authority appointed

After almost two years, the two Austrian governing parties have finally agreed on a replacement for the vacant post of Director General of the Federal Competition Authority and have appointed the previous interim director Natalie Harsdorf-Borsch. This a step that has been widely welcomed by the Austrian competition law community.

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