

Cartel damages claims:
How courts have assessed cartel overcharges

Edition 2017

Selection for ICCA Conference, 9-10 November 2017

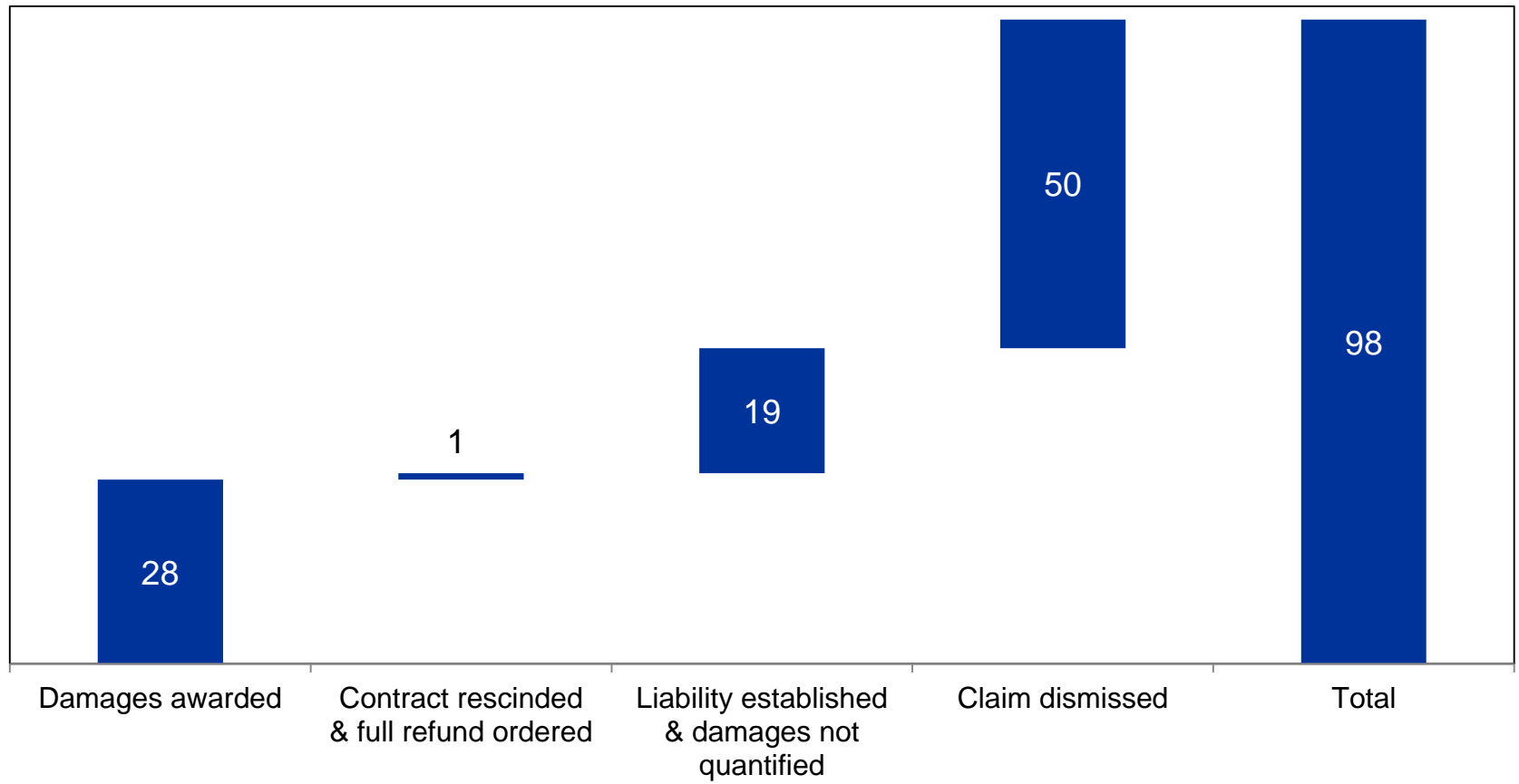
Research objective and methodology

- In its second edition, the Minds & Hearts study analyses how courts in Europe have assessed cartel overcharges.
- The study is based on a comprehensive review of cartel damages claims in which courts have handed out one or several judgment on the merits.
 - *Cases settled before any judgment on the merits are not included*
- The edition 2017 was completed between June and Sept. 2017, and it covers the EU 28 + Norway and Switzerland
- The identification of the cases was carried out with the assistance of 110 lawyers, law professors and experts (at least two in each country).
- This research is subject to three main limitations :
 - *Cases have possibly been omitted*
 - *Some judgments are not final*
 - *As judgments were written in 10 different languages, errors in interpreting some of their content cannot be excluded*

Number of cases

By type of decision

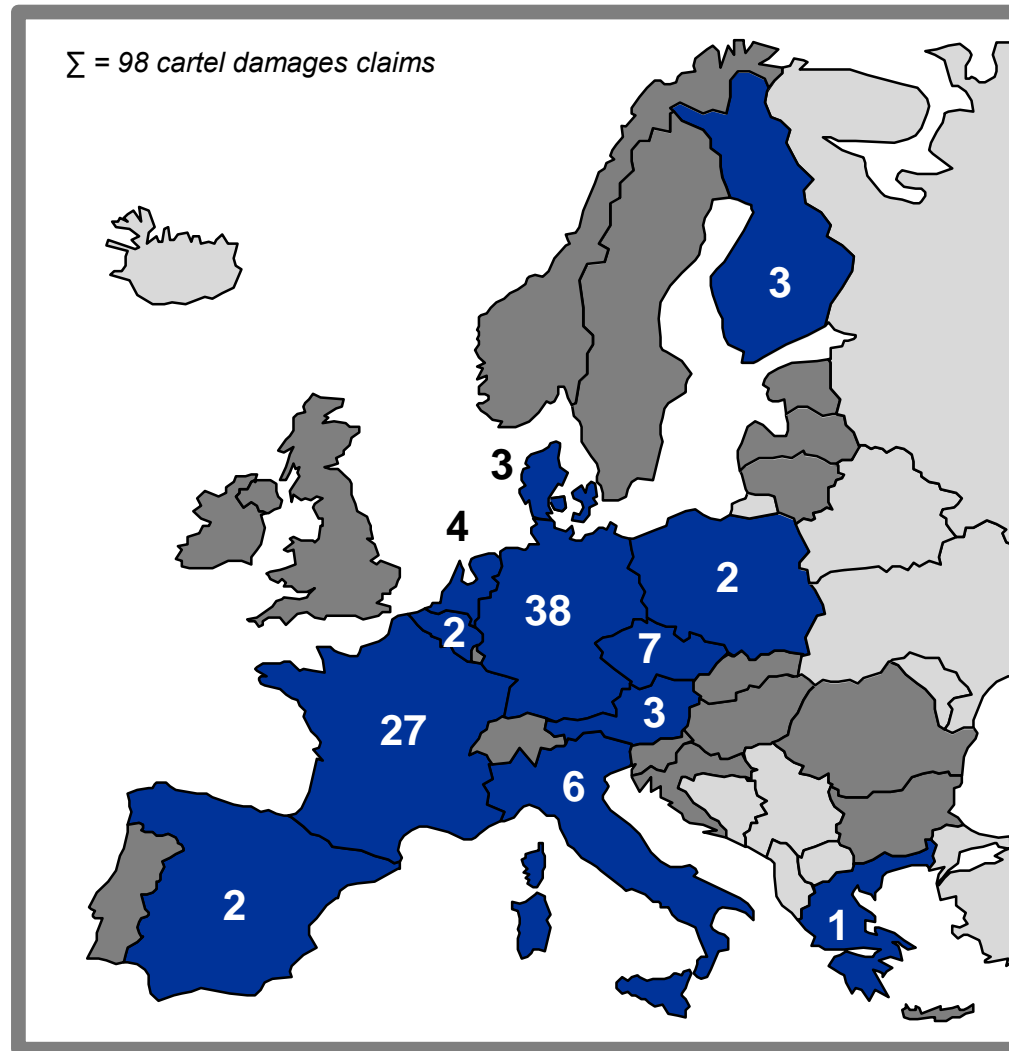
Courts in Europe have handed down judgments on the merits in 98 cartels damages claims (at least)



Number of cases

By country

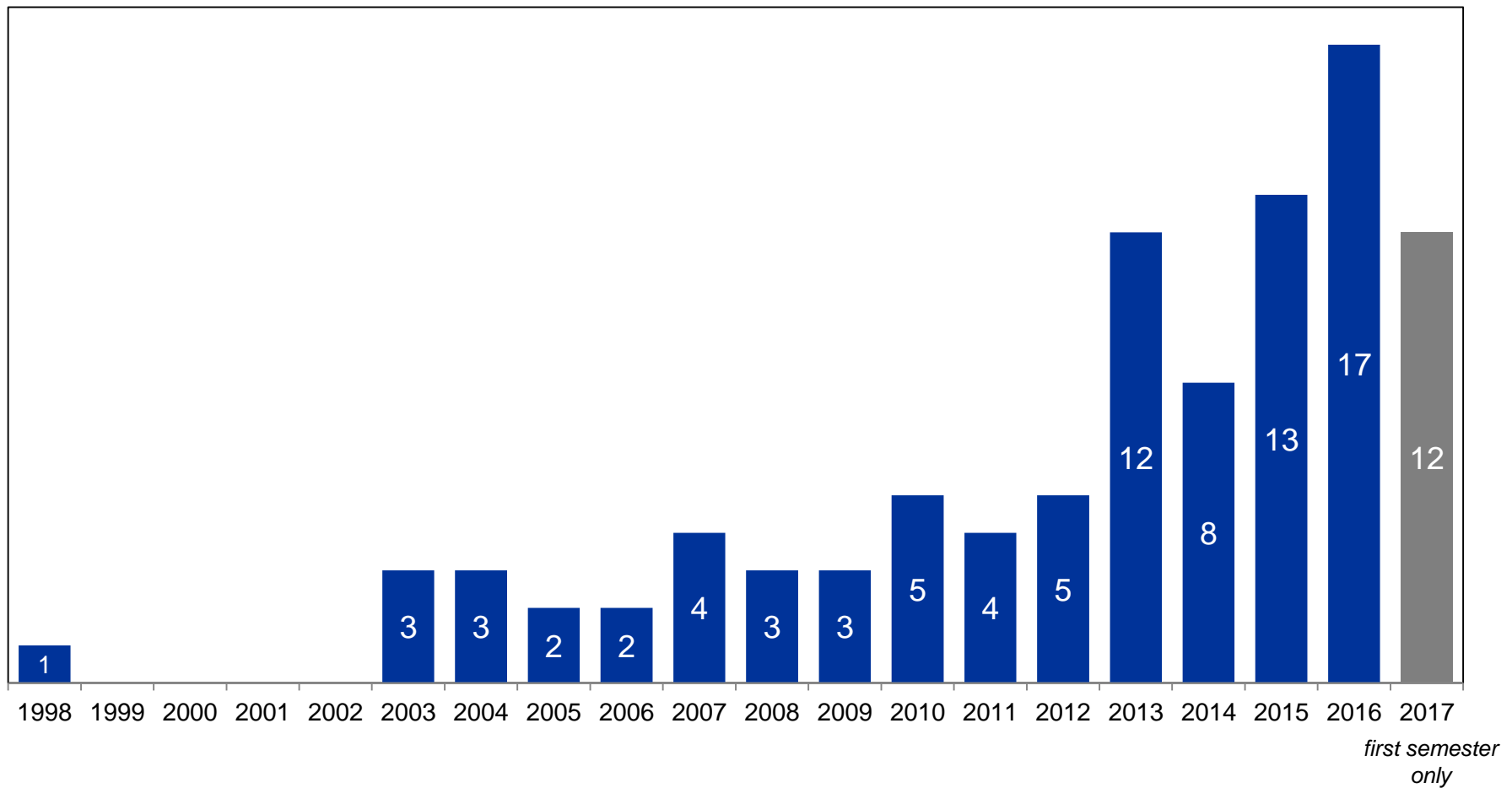
Cartel damages claims have been assessed by courts in 12 European countries



Cartel damages claims in Europe

Number of lower court judgments per year

The number of cases is growing



Claimants and defendants

Claimants and defendants are widely diverse

Claimants

- Claim Vehicles
- Construction companies
- Consumers
- Financial services companies
- Governments and government agencies
- Industrial companies (many types)
- Local authorities
- Milk, poultry and wood producers
- Railways and other transportation companies
- Utilities
- Others
- *Including several indirect buyers*

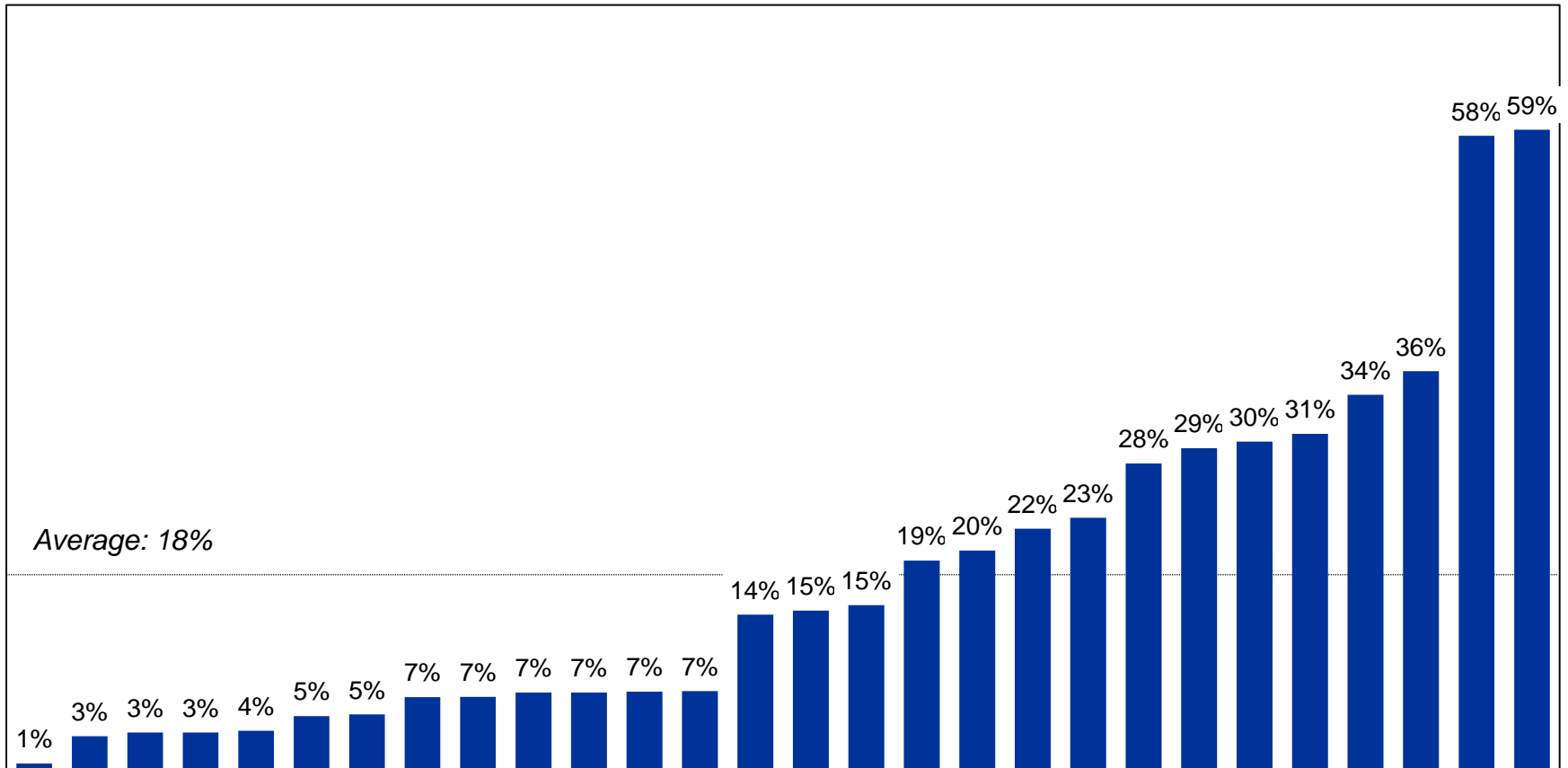
Defendants

- Addresses of 45 infringement decisions, in a range of sectors

Overcharges

As a percentage of affected prices

Overcharges cover a broad spectrum



Average: 18%

Selected recent decisions

Courts have given in many judgments a wealth of insights on how to assess cartel overcharges

Country	Court	Date	Case Reference	Topic of interest
Germany	Oberlandesgericht Nürnberg	19 July 2016	3 U 116/16	Scope of infringement decision
Denmark	Maritime and Commercial Court	4 Nov. 2016	U-5-15	Bid-rigging
Germany	Oberlandesgericht Karlsruhe	9 Nov. 2016	6 U 204/15 Kart	Passing-on and quantity effect, umbrella effect
France	Tribunal Administratif de Rouen	31 Jan. 2017	1500943	Public procurement contract rescinded
The Netherlands	Rechtbank Gelderland	29 March 2017	ECLI:NL:RBGEL:2017:1724	Tax impact of overcharge, passing-on in regulated industry
Italy	Tribunale di Palermo	16 May 2017	N° 2587/2017	Causal link
Austria	Oberster Gerichtshof	30 May 2017	4 Ob 86/17a	Quantification of harm
France	Tribunal de Grande Instance de Lille	6 June 2017	15/00938	Proof of purchase
Finland	Helsinki District Court	31 Aug. 2017	L 11/53753	Econometrics

• Appeals have been lodged against several of these decisions.

Source: Minds & Hearts study, edition 2017

For more information



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