

## COURT OF FIRST INSTANCE

### Judgment of the Court of First Instance of 6 May 2009 — Wieland-Werke v Commission

(Case T-116/04) <sup>(1)</sup>

*(Competition — Agreements, decisions and concerted practices — Market for copper industrial tubes — Decision finding an infringement of Article 81 EC — Price-fixing and market-sharing — Fines — Principle that penalties must have a sound legal basis — Size of the market concerned — Deterrent effect — Duration of the infringement — Cooperation)*

(2009/C 153/60)

*Language of the case: German*

#### Parties

*Applicant:* Wieland-Werke AG (Ulm, Germany) (represented by: R. Bechtold and U. Soltész, Lawyers)

*Defendant:* Commission of the European Communities (represented initially by: É. Gippini Fournier and H. Gading, and subsequently É. Gippini Fournier, O. Weber and K. Mojzesowicz, Lawyers)

#### Re:

Annulment or reduction of the fine imposed on the applicant under Article 2(a) of Commission Decision C(2003) 4820 final of 16 December 2003 relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/E-1/38.240 — Industrial tubes).

#### Operative part of the judgment

*The Court:*

1. *Dismisses the action;*
2. *Orders Wieland-Werke AG to pay the costs.*

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<sup>(1)</sup> OJ C 118, 30.4.2004.

### Judgment of the Court of First Instance of 6 May 2009 — Outokumpu and Luvata v Commission

(Case T-122/04) <sup>(1)</sup>

*(Competition — Agreements, decisions and concerted practices — Market for copper industrial tubes — Decision finding an infringement of Article 81 EC — Price-fixing and market-sharing — Fines — Size of the market concerned — Aggravating circumstances — Repeat infringement)*

(2009/C 153/61)

*Language of the case: English*

#### Parties

*Applicants:* Outokumpu Oyj (Espoo, Finland); and Luvata Oy, formerly Outokumpu Copper Products Oy (Espoo) (represented by: J. Ratliff, Barrister, F. Distefano and J. Luostarinen, Lawyers)

*Defendant:* Commission of the European Communities (represented by: É. Gippini Fournier, Agent)

#### Re:

- (1) Application for annulment or reduction of the fine imposed on the applicant by Article 2(b) of Commission Decision C(2003) 4820 final of 16 December 2003 relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/E-1/38.240 — Industrial tubes); and (2) Counterclaim by the Commission that the amount of the fine should be increased.

#### Operative part of the judgment

*The Court:*

1. *Dismisses the action.*
2. *Orders Outokumpu Oyj and Luvata Oy to pay the costs.*

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<sup>(1)</sup> OJ C 118, 30.4.2004.