

- annul in part Article 1 of the decision finding that the applicants participated in a single and continuous infringement in the (extra) high voltage underground and/or submarine power cable sector insofar as the finding extends to all accessories relating to underground power cable projects with voltages of 110 kV and above (and not only accessories relating to underground power cable projects with voltages of 220 kV and above);
- annul in part Article 1 of the decision insofar as it finds that the applicants' participation in the infringement started on 1 April 2000;
- order the Commission to pay the costs.

### **Pleas in law and main arguments**

By its present action, the applicants seek the annulment, in part, of Commission Decision C(2014) 2139 final of 2 April 2014 in case AT.39610 — Power Cables.

In support of the action, the applicants rely on six pleas in law.

1. First plea in law, alleging that the Commission failed to meet its burden of proof and committed a manifest error of assessment in assuming that the infringement covered all underground power cable projects with voltages of 110 kV and above, when the Commission's file contained clear indications that not all projects with voltages below 220 kV were subject to the infringement.
2. Second plea in law, alleging that the Commission did not meet its burden of proof in establishing the applicants' participation in such an infringement covering all underground power cable projects with voltages of 110 kV and above.
3. Third plea in law, alleging that the Commission committed a manifest error of assessment in including within the scope of the infringement all underground power cable accessories relating to underground cable projects with a voltage of 110 kV and above, when the evidence in the Commission's file showed that the infringement extended only to power cables accessories relating to underground power cable projects with a voltage of 220 kV and above.
4. Fourth plea in law, alleging that the Commission erred in law when finding that the applicants participated in the infringement as from 1 April 2000.
5. Fifth plea in law, alleging that the Commission made a manifest error of assessment and breached the presumption of innocence by assuming that the applicants' participation in the infringement started on the earliest possible date.
6. Sixth plea in law, alleging that the contested decision is inadequately reasoned contrary to Article 296 TFEU.

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**Action brought on 17 June 2014 — Sumitomo Electric Industries and J-Power Systems v Commission**

**(Case T-450/14)**

(2014/C 303/48)

*Language of the case: English*

### **Parties**

*Applicants:* Sumitomo Electric Industries Ltd (Osaka, Japan); and J-Power Systems Corp. (Tokyo) (represented by: M. Hansen, L. Crocco, J. Ruiz Calzado and S. Völcker, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- annul the decision insofar as it holds the applicants liable for a single complex continuous infringement including the European and the A/R configuration or, in the alternative, substantially reduce the fine;
- in the alternative, annul Article 1(8)(a)-(c) of the decision insofar as it holds the applicants liable for an infringement in the period between 26 July 2006 and 10 April 2008;
- in the further alternative, annul Article 2(m) of the Commission decision and reduce the amount of the fine imposed on the applicants in view of the applicants' substantially limited involvement in the period between 26 July 2006 and 10 April 2008; and
- annul the decision in its entirety as it relies to a decisive extent on evidence illegally seized at the premises of Nexans SA and Nexans France;
- ordering the Commission to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicants rely on four pleas in law.

1. First plea in law, alleging that the Commission failed to prove a single complex continuous infringement involving an agreement between Asian and European producers to stay out of each other's home territories and an agreement to allocate among European companies projects within the European Economic Area (EEA).
2. Second plea in law, alleging that the Commission committed errors in fact and in law in the application of Article 101 TFEU, in so far as the contested decision failed to prove to the required legal standard the applicants' involvement over the entire duration of the infringement.
3. Third plea in law, alleging that the Commission committed errors of law and assessment in calculating the fine imposed on the applicants, as the fine imposed does not reflect the gravity of the infringement and the applicants' substantially limited role for a significant duration thereof.
4. Fourth plea in law, alleging infringement of an essential procedural requirement and rights of defence as the contested decision relies to a decisive extent on evidence that the Commission illegally seized during inspections at the premises of Nexans.

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**Action brought on 16 June 2014 — Fujikura v Commission**

(Case T-451/14)

(2014/C 303/49)

*Language of the case: English*

**Parties**

*Applicant:* Fujikura Ltd (Tokyo, Japan) (represented by: L. Gyselen, lawyer)

*Defendant:* European Commission