

**Judgment of the General Court of 19 May 2010 —  
Wieland-Werke and Others v Commission**

(Case T-11/05) <sup>(1)</sup>

*(Competition — Agreements, decisions and concerted practices — Copper plumbing tube industry — Decision finding an infringement of Article 81 EC — Continuous and multiform infringement — Ne bis in idem principle — Fines — Actual impact on the market — Size of the relevant market — Duration of the infringement — Attenuating circumstances)*

(2010/C 179/47)

Language of the case: German

**Parties**

Applicants: Wieland-Werke AG (Ulm, Germany); Buntmetall Amstetten GmbH (Amstetten, Austria); and Austria Buntmetall AG (Enzesfeld, Austria); (represented by: R. Bechtold and U. Soltész, lawyers)

Defendant: European Commission (represented by: F. Castillo de la Torre and É. Gippini Fournier, Agents, and by G. Eickstädt, lawyer)

Intervener in support of the defendant: Council of the European Union (represented by: J. Huber and G. Kimberley, Agents)

**Re:**

Application, first, for annulment of Commission Decision C(2004) 2826 of 3 September 2004 relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/E-1/38.069 — Copper plumbing tubes); second, in the alternative, for reduction of the fines imposed on the applicants by that decision; and third, by way of counterclaim by the Commission, for those fines to be increased.

**Operative part of the judgment**

The Court:

1. Dismisses the action;
2. Dismisses the European Commission's counterclaim;
3. Orders Wieland-Werke AG, Buntmetall Amstetten GmbH and Austria Buntmetall AG to bear their own costs and to pay 90 % of the costs incurred by the Commission;
4. Orders the Commission to bear 10 % of its own costs;

5. Orders the Council of the European Union to bear its own costs.

<sup>(1)</sup> OJ C 93, 16.4.2005.

**Judgment of the General Court of 19 May 2010 — IMI and  
Others v Commission**

(Case T-18/05) <sup>(1)</sup>

*(Competition — Agreements, decisions and concerted practices — Copper plumbing tubes sector — Decision finding an infringement of Article 81 EC — Continuous and multiform infringement — Interruption of participation — Fines — Limited participation in the cartel)*

(2010/C 179/48)

Language of the case: English

**Parties**

Applicants: IMI plc (Birmingham, Warwickshire, United Kingdom); IMI Kynoch Ltd (Birmingham); and Yorkshire Copper Tube (Liverpool, Merseyside, United Kingdom) (represented by: M. Struys and D. Arts, lawyers)

Defendant: European Commission (represented by: É. Gippini Fournier and S. Noë, Agents)

**Re:**

Application for (1) annulment of Article 1(h) to (j) and Article 2(f) of Commission Decision C(2004) 2826 of 3 September 2004 relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/E-1/38.069 — Copper plumbing tubes); and (2) in the alternative, reduction in the amount of the fine imposed on the applicants by that decision.

**Operative part of the judgment**

The Court:

1. Annuls Article 1(h) to (j) of Commission Decision C(2004) 2826 of 3 September 2004 relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/E-1/38.069 — Copper plumbing tubes) in so far as it relates to the period from 1 December 1994 to 11 April 1996;
2. Determines the amount of the fine imposed jointly and severally on IMI plc, IMI Kynoch Ltd and Yorkshire Copper Tube in Article 2(f) of Decision C(2004) 2826 at EUR 38.556 million;

3. Dismisses the action as to the remainder;
4. Orders the European Commission to pay its own costs and 40 % of the costs incurred by IMI, IMI Kynoch and Yorkshire Copper Tube;
5. Orders IMI, IMI Kynoch and Yorkshire Copper Tube to bear 60 % of their own costs.

(<sup>1</sup>) OJ C 69, 19.3.2005.

**Judgment of the General Court of 19 May 2010 — Boliden and Others v Commission**

(Case T-19/05) (<sup>1</sup>)

*(Competition — Agreements, decisions and concerted practices — Copper plumbing tube industry — Decision finding an infringement of Article 81 EC — Continuous and multiform infringement — Fines — Limitation period — Cooperation)*

(2010/C 179/49)

Language of the case: English

**Parties**

*Applicants:* Boliden AB (Stockholm, Sweden); Outokumpu Copper Fabrication AB, formerly Boliden Fabrication AB (Västerås, Sweden); Outokumpu Copper BCZ SA, formerly Boliden Cuivre & Zinc SA (Liège, Belgium) (represented: initially by C. Wetter and O. Rislund and subsequently by C. Wetter and M. Johansson, lawyers)

*Defendant:* European Commission (represented by: É. Gippini Fournier and S. Noë, Agents)

**Re:**

Application (i) for annulment of Article 1(a) to (c) of Commission Decision C(2004) 2826 of 3 September 2004 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/E-1/38.069 — Copper plumbing tubes) in so far as it was thereby found that the applicants participated in an infringement between 1 July 1995 and 27 August 1998 and between 10 December 1998 and 7 October 1999; (ii) for reduction of the fine imposed on the applicants by that decision; and (iii) by way of counterclaim by the Commission, for the amount of that fine to be increased.

**Operative part of the judgment**

The Court:

1. Dismisses the action;
2. Dismisses the European Commission's counterclaim;
3. Orders Boliden AB, Outokumpu Copper Fabrication AB and Outokumpu Copper BCZ SA to bear their own costs and to pay 90 % of the costs incurred by the Commission;
4. Orders the Commission to bear 10 % of its own costs.

(<sup>1</sup>) OJ C 82, 2.4.2005.

**Judgment of the General Court of 19 May 2010 — Outokumpu and Luvata v Commission**

(Case T-20/05) (<sup>1</sup>)

*(Competition — Agreements, decisions and concerted practices — Copper plumbing tube industry — Decision finding an infringement of Article 81 EC — Fines — Size of the relevant market — Aggravating circumstance — Repeat infringement)*

(2010/C 179/50)

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:* European Commission (represented by: É. Gippini Fournier and S. Noë, Agents)

**Re:**

Application for cancellation or reduction of the fine imposed on the applicants under Article 2(j) of Commission Decision C(2004) 2826 of 3 September 2004 relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/E-1/38.069 — Copper plumbing tubes).