



LUXEMBOURG

ПЪРВОИНСТАНЦИОНЕН СЪД НА ЕВРОПЕЙСКИТЕ ОБЩНОСТИ
TRIBUNAL DE PRIMERA INSTANCIA DE LAS COMUNIDADES EUROPEAS
SOUĐ PRVNÍHO STUPNĚ EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABERS RET I FØRSTE INSTANS
GERICHT ERSTER INSTANZ DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROOPA ÜHENDUSTE ESIMISE ASTME KOHUS
ΠΡΩΤΟΔΙΚΕΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES
TRIBUNAL DE PREMIÈRE INSTANCE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT CHÉADCHÉIME NA GCOMHPHOBAL EORPACH
TRIBUNALE DI PRIMO GRADO DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU PIRMĀS INSTANCES TIESA

EUROPOS BENDRIŲ PIRMOSIOS INSTANCIJOS TEISMAS
Az EURÓPAI KÖZÖSSÉGEK ELSŐFOKÚ BÍRÓSÁGA
IL-QORTI TAL-PRIMISTANZA TAL-KOMUNITAJIET EWROPEJ
GERECHT VAN EERSTE AANLEG VAN DE EUROPESE GEMEENSCHAPPEN
SĄD PIERWSZEJ INSTANCIJ WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE PRIMEIRA INSTÂNCIA DAS COMUNIDADES EUROPEIAS
TRIBUNALUL DE PRIMĂ INSTANȚĂ AL COMUNITĂȚILOR EUROPENE
SÚD PRVÉHO STUPŇA EURÓPSKÝCH SPOLEČENSTEV
SODIŠČE PRVE STOPNJE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN ENSIMMÄISEN OIKEUSASTEEN TUOMIOISTUIN
EUROPEISKA GEMENSKAPERNAS FÖRSTAINSTANSRÄTT

Press and Information

PRESS RELEASE No°43/09

6 May 2009

Judgment of the Court of First Instance in Case T-116/04, T-122/04 and T-127/04

Wieland-Werke AG, Outokumpu Oy, Luvata Oy, KME Germany AG, KME France SAS and KME Italy SpA v Commission

THE COURT OF FIRST INSTANCE CONFIRMS THE COMMISSION'S DECISION CONCERNING A CARTEL IN THE COPPER INDUSTRIAL TUBES MARKET

It maintains the fines of EUR 78.73 million imposed by the Commission.

By decision of 16 December 2003,¹ the Commission imposed fines totalling EUR 78.73 million on the Finnish undertaking Outokumpu (EUR 18.13 million), the KME Group (39.81 million) and the German company Wieland-Werke (EUR 20.79 million) for their participation in a cartel, between May 1988 and March 2001, on the copper industrial tubes market. Those tubes are primarily intended for the air-conditioning and refrigeration industries.

The cartel consisted essentially in fixing prices, co-ordinating price increases and sharing markets, particularly by the allocation of customers and market shares and the exchange of confidential information.

All the undertakings concerned brought an action before the Court of First Instance to have their respective fines annulled or reduced.

In its judgments today, **the Court of First Instance has dismissed the actions by the undertakings and confirmed the Commission's decision.**

The Court has held that the Commission was not required, when assessing the size of the market, to deduct production costs. It has further held that the Commission correctly applied its rules in increasing the fines on Wieland-Werke and the KME Group by reason of the duration of the infringement and did not make any obvious error in assessing the cooperation of those two companies.

In addition, as regards the increase in the fine imposed on Outokumpu by reason of repeat infringement, the Court takes the view that, even if the previous cartel did not result in a fine by reason of special circumstances, that does not prevent the Commission from making a finding of

¹ Commission Decision 2003/4820/EC 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)

repeat infringement against that company. The simple fact that, despite an earlier finding of a near-identical infringement of the competition rules, Outokumpu decided to continue its participation in the cartel on the industrial tubes market justifies an increase in the fine.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: DE EL EN FR IT FI

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-116/04>

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-122/04>

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-127/04>

It can usually be consulted after midday (CET) on the day judgment is delivered.

For further information, please contact Christopher Fretwell

Tel: (00352) 4303 3355 Fax: (00352) 4303 2731