



HELSINKI
DISTRICT COURT

HELSINKI DISTRICT COURT

Communications Officer Anni Lehtonen
Tel +358 2956 44221 or
+358 50 375 7026

MEDIA RELEASE

(Embargo until 28 Nov 2013, 10:00 a.m.)

ASPHALT CARTEL TRIAL CONCLUDED AT HELSINKI DISTRICT COURT

On the proposal of the Finnish Competition Authority, the Supreme Administrative Court ordered on 29 September 2009 Lemminkäinen Oyj, VLT-Trading Oy, Skanska Asfaltti Oy, NCC Roads Oy, SA-Capital Oy, Rudus Asfaltti Oy and Super Asfaltti Oy to pay a total of EUR 82.55 million of what are called infringement fines for their participation in a cartel that operated on the Finnish asphalt market in 1994–2002.

In 41 claims for damages brought at the Helsinki District Court, the State of Finland and 40 local authorities have claimed compensation from above mentioned companies and one other company for the overcharges they have paid for paving work. The companies have contested the claims. Judgments in the matter were announced today.

Claim for damages by the State of Finland

The State (Finnish Transport Agency) has claimed a compensation of EUR 56.7 million in total from the companies. The District Court has *dismissed* the action by the State in its entirety, and has obligated the State to compensate the companies for their legal costs by the total sum of EUR 2.6 million.

The District Court has received partly new evidence after the trial at the Supreme Administrative Court, and the District Court has found that the National Board of Public Roads and the Finnish Road Enterprise participated in a cartel concerning work commissioned by the State from the year 1998 at least. In addition, representatives of the National Board of Public Roads have been aware of the existence of the cartel as early as in 1994. The District Court considers that no damage has been caused to the State on the basis of the activity which the State has approved at the time when it took place, which the State has participated in, and from which the State itself considers to have benefited from.

The judgment is appended to this media release.

Claims for damages by Local Authorities (40 claims)

The claims by the local authorities have been *allowed* for the most part. Appended to this media release there is a list of the local authorities, their claims on capital, the percentages of overcharges paid and the capital sum of the damages awarded, a total of EUR 37.4 million. The interest based on rate of return and penal interest add considerably to the amount of damages awarded. The local authorities mostly have been overcharged by 15% for asphalt work; some by 20%. In 1996–1997, a period of a price war prevailed in Finland, and contracts concluded during these years did not usually involve overcharging.

Appended to this media release are the judgments concerning the cities of Helsinki and Espoo. The judgments concerning other local authorities (in Finnish) may be obtained from the District Court (sari.harma@oikeus.fi).

Court Proceedings

The claims became pending in 2008–2011. After preparation in writing, the District Court arranged two joint preparatory hearings, separate preparatory hearings for each claim during spring 2012 and a joint main hearing of seven months' duration in 2012–2013. More than 2,000 documents were submitted as evidence and 66 witnesses were heard during the main hearing. The combined number of pages in the judgments comes up to about 10,000.

The economic evidence related to the causes of cartel damage was extensive. Both plaintiffs and defendants had several studies made on the damage, in addition to which, hearing the testimonies of the expert witnesses took about one month.

Competition law is a strongly binding area of EU legislation; furthermore, the right of everyone to receive compensation for damage caused by infringements of competition law has been confirmed by the EU courts. The importance of EU law is emphasised parallel to national law despite the fact that the claim for damages is dealt with by national courts. Throughout the 2000s, the Commission of the European Union has made efforts to promote the enforcement of the right to damages. However, due to difficulties related to submitting evidence, among other things, trials involving claims based on competition law have so far been infrequent in Europe. Consequently, the extensive asphalt cartel trial in Finland has attracted the interest of the Commission and the other Member States of the EU.

The Helsinki District Court was the first in Finland to use videoconferencing during the main hearing. During the asphalt cartel trial, instead of travelling to Helsinki three to four times a week during the seven-month main hearing, attorneys from law offices from outside Helsinki took part in the hearing via video links from their own localities. Up to ten attorneys at a time took part in the main hearing in this way. This procedure led to a considerable decrease in the trial costs of the parties.

Fourteen other claims are still pending at the District Court, in which local authorities claim damages for overcharging. Over 700 claims dealing with a timber cartel are also waiting to be processed by the Court. To date, the District Court has not been assigned the personnel resources needed for processing these by the Finnish Ministry of Justice.

Plaintiff - Defendant(s)	Capital Claim	Capital Sum Awarded	Percentage Overcharged	Legal Costs
Espoo - Lemminkäinen Oyj - Skanska Asfaltti Oy - VLT Trading Oy estate in bankruptcy - NCC Roads Oy - SA-Capital Oy - Rudus Asfaltti Oy - Super Asfaltti Oy	5.319.944,14 euro - joint and several liability in part	1.843.227,37 euro - joint and several liability in part	15,00 %	490.000 euro - joint and several liability in part
Forssa - Lemminkäinen Oyj	602.065 euro	267.200,19 euro	15,00 %	190.000 euro
Haapajärvi - Lemminkäinen Oyj	57.937,14 euro	28.968,58 euro	15,00 %	210.000 euro
Helsinki - Lemminkäinen Oyj - VLT Trading Oy estate in bankruptcy	14.065.717,76 euro - joint and several liability	9.274.691,05 euro - joint and several liability	20,00 %	339.000 euro - joint and several liability
Hollola - Lemminkäinen Oyj	453.578 euro	175.371,22 euro	15,00 %	160.000 euro
Hyvinkään - Lemminkäinen Oyj	1.426.586,50 euro	586.011,61 euro	15,00 %	117.000 euro

Iisalmi -Lemminkäinen Oyj -VLT Trading Oy estate in bankruptcy	830.304,64 euro - joint and several liability	39.507,94 euro - Lemminkäinen Oyj 196.925,92 euro - VLT Trading Oy	15,00 %	115.000 euro - joint and several liability in part
Imatra - Lemminkäinen Oyj	698.608 euro	523.955,77 euro	15,00 %	42.000 euro
Joensuu - Lemminkäinen Oyj	530.349 euro	353.566,88 euro	20,00 %	165.000 euro
Jyväskylä - Lemminkäinen Oyj	2.006.215,82 euro	1.506.346,05 euro	15,00 %	64.000 euro
Kaarina - Lemminkäinen Oyj	1.132.947 euro	568.644,17 euro	20,00 %	87.000 euro
Kajaani -Lemminkäinen Oyj -NCC Roads Oy -Interasfaltti Oy	688.627,48 euro - joint and several liability	270.194,58 euro -Interasfaltti Oy and NCC Roads Oy joint and several liability Claim against Lemminkäinen Oyj is dismissed.	15,00 %	194.000 euro -Interasfaltti Oy and NCC Roads Oy joint and several liability 35.504,70 - Kajaani pays Lemmin- käinen Oyj
Kemi - Lemminkäinen Oyj	1.152.528,76 euro	Claim is dismissed.	----	45.949,60 euro - Kemi pays Lemminkäi- nen Oyj

Kemijärvi - Lemminkäinen Oyj - Skanska Asfaltti Oy	104.446,96 euro - joint and several liability	21.974,28 euro -Skanska Asfaltti Oy Claim against Lemminkäinen Oyj is dismissed.	15,00%	152.000 euro -Skanska Asfaltti Oy 22.351,66 euro -Kemijärvi pays Lemmin- käinen Oyj
Kerava - Skanska Asfaltti Oy	901.582,06 euro	211.068,40 euro	15,00%	90.000 euro
Kiiminki - Lemminkäinen Oyj	241.059 euro	130.091,60 euro	15,00%	
Kouvola - Lemminkäinen Oyj	964.205,12 euro	674.204,98 euro	15,00%	42.000 euro
Kuhmo - Lemminkäinen Oyj	215.635,00 euro	88.482,70 euro	15,00%	162.000 euro
Kuopio - Lemminkäinen Oyj	3.413.605,80 euro	877.102,69 euro	15,00%	126.000 euro
Lappeenranta - Lemminkäinen Oyj	416.460 euro	416.460 euro	15,00%	40.000 euro
Lieksa - Lemminkäinen Oyj	114.875 euro	57.438,56 euro	15,00%	32.000 euro
Mikkeli - Lemminkäinen Oyj	1.209.189,89 euro	604.547,56 euro	15,00%	207.000 euro

Naantali - Lemminkäinen Oyj	491.296,33 euro	327.530,91 euro	20,00%	125.000 euro
Nivala - Lemminkäinen Oyj	152.896,32 euro	76.448,18 euro	15,00%	195.000 euro
Nurmijärvi - Skanska Asfaltti Oy - NCC Roads Oy	664.594,90 euro - joint and several liability in part	100.734 euro - joint and several liability in part	15,00%	133.000 euro - joint and several liability in part
Oulu -Lemminkäinen Oyj	3.365.594 euro	1.849.227,83 euro	15,00%	68.000 euro
Paimio -Lemminkäinen Oyj	273.811 euro	182.540,40 euro	20,00%	175.000 euro
Pori -Lemminkäinen Oyj	869.331 euro	681.091,26 euro	15,00%	111.000 euro
Raasepori -Lemminkäinen Oyj	762.435,01 euro	65.243,51 euro	15,00%	60.000 euro
Raisio -Lemminkäinen Oyj -VLT Trading Oy estate in bankruptcy	921.553 euro - joint and several liability	326.397,08 euro - joint and several liability 399.381,25 euro - VLT Trading Oy	15,00%	100.000 euro - joint and several liability in part

Rovaniemi -Lemminkäinen Oyj -Skanska Asfaltti Oy	2.666.789,98 euro - joint and several liability	479.800,67 euro - joint and several liability 197.267,34 euro - Skanska Asfaltti Oy	15,00%	230.000 euro - joint and several liability in part
Salo -Lemminkäinen Oyj	1.510.747,70 euro	1.3467433.70 euro	15,00%	132.000 euro
Siilinjärvi - Lemminkäinen Oyj - Skanska Asfaltti Oy -VLT Trading Oy estate in bankruptcy	518.543,18 euro - joint and several liability	5.816,14 euro - Lemminkäinen Oyj 32.755,12 euro - VLT Trading Oy 138.111,14 euro - Skanska Asfaltti Oy	15,00%	100.000 euro - joint and several liability in part
Sodankylä -Lemminkäinen Oyj -Skanska Asfaltti Oy -SA-Capital Oy	51.467,07 euro - joint and several liability	21.171,15 euro - Lemminkäinen Oyj and Skanska Asfaltti Oy joint and several liability	15,00%	226.000 euro - Lemminkäinen Oyj and Skanska Asfaltti Oy joint and several liability 53.496,42 euro -Sodankylä pays SA-Capital Oy
Suomussalmi -Lemminkäinen Oyj -SA-Capital Oy	299.135,28 euro - joint and several liability in part	87.870,01 euro -Lemminkäinen Oyj Claim against SA-Capital Oy is dismissed.	15,00%	140.000 euro -Lemminkäinen Oyj 48.841,82 euro -Suomussalmi pays SA-Capital Oy

Tampere -Lemminkäinen Oyj	4.607.798,57 euro	2.974.076,82 euro	20,00%	175.000 euro
Turku - Lemminkäinen Oyj -VLT Trading Oy estate in bankruptcy	5.862.541,30 euro - joint and several liability	2.230.359,11 euro - VLT Trading Oy 2.744.460,34 euro - joint and several liability	15,00%	122.000 euro - joint and several liability in part
Tuusula -Lemminkäinen Oyj	1.169.780,35 euro	588.164,36 euro	15,00%	132.000 euro
Vantaa - Lemminkäinen Oyj - Skanska Asfaltti Oy -VLT Trading Oy estate in bankruptcy - NCC Roads Oy - SA-Capital Oy - Rudus Asfaltti Oy - Super Asfaltti Oy	5.111.862,05 euro - joint and several liability in part	3.807.092,55 euro - joint and several liability in part	20,00%	310.000 euro - joint and several liability in part
Äänekoski -Lemminkäinen Oyj	145.683,13 euro	70.445,85 euro	15,00%	33.000 euro
In total	65.992.598,31 euro	37.449.400,92 euro		5.797.144,20 euro

Plaintiff - Defendants	Capital Claim	Capital Sum Awarded	Percentage Overcharged	Legal Costs
The State of Finland - Lemminkäinen Oyj - Skanska Asfaltti Oy - VLT Trading Oy:n estate in bankruptcy - NCC Roads Oy - Interasfaltti - SA-Capital Oy - Rudus Asfaltti Oy - Super Asfaltti Oy	56.683.523,04 euro	Case is dismissed.	-----	The State of Finland pays: 1.295.443,80 euro - to Lemminkäinen Oyj 17.175,94 euro - to VLT Trading Oy:n konkurssipesä 480.599,53 euro - to Skanska Asfaltti Oy 69.822,81 euro - to SA-Capital Oy 218.435,47 euro - to NCC Roads Oy 218.435,47 euro - to Interasfaltti Oy 273.835,84 euro - to Rudus Asfaltti Oy 25.674,62 euro - to Superasfaltti Oy Total 2.599.423,48 euro