

In the alternative, the claimant submits that the Commission incorrectly determined the amount of the fine imposed on it. The Commission imposed a fine based on a period of two years and five months during which the claimant allegedly held 100 % of the shares in BAM NBM, whereas that period in fact amounted only to one year and five months.

**Action brought on 5 December 2006 — Koninklijke
Wegenbouw Stevin v Commission**

(Case T-357/06)

(2007/C 20/36)

Language of the case: Dutch

**Action brought on 5 December 2006 — Koninklijke Volker
Wessels Stevin v Commission**

(Case T-356/06)

(2007/C 20/35)

Language of the case: Dutch

Parties

Claimant: Koninklijke Volker Wessels Stevin NV (represented by: E.H. Pijnacker Hordijk and Y. de Vries, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- set aside Articles 1, 2 and 3 of the Decision of 13 September 2006 relating to a proceeding under Article 81 EC (Case No COMP/38.456 — Bitumen — NL), or at least set that decision aside to the extent to which it is addressed to Koninklijke Volker Wessels Stevin;
- order the Commission to pay its own costs and also those of Koninklijke Volker Wessels Stevin.

Pleas in law and main arguments

The claimant is challenging the Commission's decision of 13 September 2006 relating to a proceeding under Article 81 EC (Case No COMP/38.456 — Bitumen — NL), which imposed a fine on the claimant for breach of Article 81 EC.

In support of its action, the claimant invokes a breach of Article 81 EC and of Articles 7 and 23(2) of Regulation No 1/2003. According to the claimant, the Commission applied an incorrect standard for the purpose of determining the liability of a parent company and in so doing wrongly concluded that the claimant was principally liable for the alleged conduct of Koninklijke Wegenbouw Stevin B.V.

Parties

Claimant: Koninklijke Wegenbouw Stevin BV (represented by: E. H. Pijnacker Hordijk and Y. de Vries, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- set aside, in relation to the claimant, the Commission's decision of 13 September 2006, notification of which Koninklijke Wegenbouw Stevin received on 25 November 2006, relating to a proceeding under Article 81 EC (Case No COMP/38.456 — Bitumen — NL — C(2006) 4090 final);
- in the alternative, annul Article 2 of the decision in relation to the claimant, or in any event reduce substantially the fine imposed on the claimant by Article 2 of the decision;
- order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

The claimant is challenging the Commission's decision of 13 September 2006 relating to a proceeding under Article 81 EC (Case No COMP/38.456 — Bitumen — NL), by which a fine was imposed on the claimant for breach of Article 81 EC.

In support of its action, the claimant alleges, in the first place, that there was an incorrect analysis of the facts, resulting in a defective appraisal of the conduct of the road construction companies in the light of Article 81 EC. According to the claimant, the suppliers of bitumen were involved in a classic and extremely serious breach of the European competition rules. It states that the five leading customers for bitumen for road construction attempted to establish a counter-balance to this cartel with the primary objective of securing for themselves collective rebates that were as favourable as possible.