

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (First Chamber) of 6 December 2007 (reference for a preliminary ruling from the Tribunale Amministrativo Regionale per la Lombardia (Italy) — Federconsumatori, Adiconsum, ADOC, Ercole Pietro Zucca (C-463/04) and Associazione Azionariato Diffuso dell'AEM SpA, Filippo Cuccia, Giacomo Fragapane, Pietro Angelo Puggioni, Annamaria Sanchirico, Sandro Sartorio (C-464/04) v Comune di Milano**

(Joined Cases C-463/04 and C-464/04) <sup>(1)</sup>

**(Article 56 EC — Free movement of capital — Restrictions — Privatised undertakings — National provision under which the Articles of association of a company limited by shares may confer on the State or a public body holding shares in that company the power to appoint directly one or more directors to the board)**

(2008/C 22/02)

*Language of the case: Italian*

## Referring court

Tribunale amministrativo regionale per la Lombardia

## Parties to the main proceedings

*Applicants:* Federconsumatori, Adiconsum, ADOC, Ercole Pietro Zucca (C-463/04) and Associazione Azionariato Diffuso dell'AEM SpA, Filippo Cuccia, Giacomo Fragapane, Pietro Angelo Puggioni, Annamaria Sanchirico, Sandro Sartorio (C-464/04),

*Defendant:* Comune di Milano

*Interested parties:* AEM SpA (C-463/04 and C-464/04), Edison SpA (C-463/04)

## Re:

Reference for a preliminary ruling — Tribunale amministrativo regionale per la Lombardia — Interpretation of Article 56 EC — National law allowing public entities to appoint directors or auditors in privatised undertakings — Application by a territorial entity which retains a substantial holding in the privatised undertaking.

## Operative part of the judgment

Article 56 EC must be interpreted as precluding a national provision, such as Article 2449 of the Italian Civil Code, under which the Articles of association of a company limited by shares may confer on the State or a public body with a shareholding in that company the power to appoint directly one or more directors which, on its own or, as in the main proceedings, in conjunction with a provision such as Article 4 of Decree Law No 332 of 31 May 1994, which became, after amendment, Law No 474 of 30 July 1994, as amended by Law No 350 of 24 December 2003, which grants that State or public body the right to participate in the election on the basis of lists of the directors it has not appointed directly, is such as to enable that State or public body to obtain a power of control which is disproportionate to its shareholding in that company.

<sup>(1)</sup> OJ C 249, 14.10.2006.

**Judgment of the Court (Third Chamber) of 6 December 2007 — Commission of the European Communities v Italian Republic**

(Case C-280/05) <sup>(1)</sup>

**(Failure of a Member State to fulfil obligations — State aid — Incompatibility with the common market — Duty to recover — Non-fulfilment)**

(2008/C 22/03)

*Language of the case: Italian*

## Parties

*Applicant:* Commission of the European Communities (represented by: V. Di Bucci and E. Righini, acting as Agents)