

— is not disproportionate in relation to that objective, which means that the manner in which it is applied must be subject to a transparent procedure based on objective non-discriminatory criteria known in advance.

It is for the national court to determine whether those conditions are satisfied.

(<sup>1</sup>) OJ C 212, 2.9.2006.

**Judgment of the Court (Grand Chamber) of 11 December 2007 (reference for a preliminary ruling from the Consiglio di Stato — Italy) — Autorità Garante della Concorrenza e del Mercato v Ente tabacchi italiani — ETI SpA, Philip Morris Products SA, Philip Morris Holland BV, Philip Morris GmbH, Philip Morris Products Inc. and Philip Morris International Management SA; and Philip Morris Products SA, Philip Morris Holland BV, Philip Morris GmbH, Philip Morris Products Inc. and Philip Morris International Management SA v Autorità Garante della Concorrenza e del Mercato, Ente tabacchi italiani — ETI SpA; and Philip Morris Products SA, Philip Morris Holland BV, Philip Morris GmbH, Philip Morris Products Inc. and Philip Morris International Management SA v Autorità Garante della Concorrenza e del Mercato, Amministrazione autonoma dei monopoli di Stato, Ente tabacchi italiani — ETI SpA**

(Case C-280/06) (<sup>1</sup>)

*(Competition — Imposition of fines where undertakings succeed each other — Principle of personal responsibility — Entities belonging to the same group of undertakings or answering to the same public authority — National law referring to Community competition law as source of interpretation — Questions referred for a preliminary ruling — Jurisdiction of the Court of Justice)*

(2008/C 51/27)

Language of the case: Italian

#### Referring court

Consiglio di Stato

#### Parties to the main proceedings

Appellant: Autorità Garante della Concorrenza e del Mercato

Respondents: Ente tabacchi italiani — ETI SpA, Philip Morris Products SA, Philip Morris Holland BV, Philip Morris GmbH, Philip Morris Products Inc., Philip Morris International Management SA

Appellants: Philip Morris Products SA, Philip Morris Holland BV, Philip Morris GmbH, Philip Morris Products Inc. and Philip Morris International Management SA

Respondents: Autorità Garante della Concorrenza e del Mercato, Ente tabacchi italiani — ETI SpA

Appellants: Philip Morris Products SA, Philip Morris Holland BV, Philip Morris GmbH, Philip Morris Products Inc. and Philip Morris International Management SA

Respondents: Autorità Garante della Concorrenza e del Mercato, Amministrazione autonoma dei monopoli di Stato, Ente tabacchi italiani — ETI SpA

#### Re:

Preliminary ruling — Consiglio di Stato — Interpretation of Article 81 EC — Agreement concerning the sale price of cigarettes in breach of national anti-trust legislation — Attribution to the legal person which is the economic successor of an undertaking of liability in respect of breaches committed by that undertaking before its activities were taken over by that successor

#### Operative part of the judgment

Article 81 EC et seq. must be interpreted as meaning that, in the case of entities answering to the same public authority, where conduct amounting to one and the same infringement of the competition rules was adopted by one entity and subsequently continued until it ceased by another entity which succeeded the first, which has not ceased to exist, that second entity may be penalised for that infringement in its entirety if it is established that those two entities were subject to the control of the said authority.

(<sup>1</sup>) OJ C 224, 16.9.2006.

**Judgment of the Court (Third Chamber) of 18 December 2007 (reference for a preliminary ruling from the Bundesfinanzhof (Germany)) — Hans-Dieter Jundt, Hedwig Jundt v Finanzamt Offenburg**

(Case C-281/06) (<sup>1</sup>)

*(Freedom to provide services — Secondary teaching activity — Concept of ‘remuneration’ — Allowances for professional expenses — Legislation concerning tax exemption — Conditions — Remuneration paid by a national university)*

(2008/C 51/28)

Language of the case: German

#### Referring court

Bundesfinanzhof

#### Parties to the main proceedings

Applicants: Hans-Dieter Jundt, Hedwig Jundt

Defendant: Finanzamt Offenburg