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Civil

Saturday, April 23, 2005

The Court of Rome denies the Court of 'Appeals on the refundability of the damage from cigarettes.

The Court of Rome denies the
Court of Appeal on the refundability of the damage "cigarette".
Court of Rome - Section
Thirteenth - April 4, 2005 judgment
Single Judge Rossetti
Conduct of case
In a writ
properly served, Anita Tonutto, John and Albert Agostinis Agostinis agreed before this Tribunal ETI Spa.
The actors exhibited in fact
that:
- Were, respectively, wife
and children of Mr. Agostinis Louis, died October 28, 2001 due to a lung cancer;
- The late Louis Agostinis
was born in 1938, and had started smoking at the age of 18;
- He always
smoked cigarettes brand "MS", marketed by the defendant and by his predecessors;
- The tumor that had caused the
death of Mr. Louis Agostinis was in turn
caused by smoking.
Appended, then, that in iure
the death of Mr. Louis Agostinis had to answer the defendant institution, under
two respects:
a) is in accordance with Article 2050 CC;
b) in any case, for fault
tort under Article 2043 CC, to have failed until 1991 to inform consumers of the dangers of using tobacco.
The Eti Spa is constituted
regularly, pleading:
- Due to lack of

sued, to be set up only in 1998, while the
culpable events ascribed to it by the actors (ie
information omitted) were maintained for up
1990;
- Limitation of rights
operated by the actors jure haereditatis;
- The substance is unfounded
of the application.
With the notes in accordance with Article 180,
paragraph 2, CPC, ETI sought and was granted after expiration of time ex
Article 184bis CPC, to be allowed to call into question the Ministry of Economy
Company and the State Monopoly, who asked to be held harmless in
the event that the plaintiff's claim.
The two institutions are called upon
formed regularly, also objecting due to lack of
sued and, in this respect, the invalidity
the main question.
In the course of education were acquired documents.
Exhausted education and specified
the findings, the case was adjourned for judgment at the hearing on 22
November 2004.

Reasons for Decision

1. The objection of lack of
legal status of actors must be rejected in
As impermissibly raised only in the closing statement.
How, then, according to the survey
that the matter would be detectable ex officio, it should be borne in mind in this regard
which, as repeatedly held by the SC, the fact that Article 167, paragraph
1, CPC, requiring the defendant to take a position
A response on the facts placed by the plaintiff on the basis of the question,
show the existence of a general principle that the failure to object
the adverse allegations has to be considered proven fact is not disputed,
with no possibility for the judge
of
go to the opposite opinion (761/02 Supreme Court, Supreme Court

10031/04, in "D & G"
26/2004 p. 33). Therefore, being late on the challenge
legal status of actors, the latter must be considered permissible.
2. The objection of lack of
sued (sic, not ownership of the passive side of the obligation for compensation) raised by ETI is unfounded.
The actors attached to foundation
his claim that the illegality of a conduct (failure to provide information about the dangers of tobacco products) held until 1991.
The illegal conduct, according to the
prospettazione plaintiff was therefore required by the Administration Autonomous Administration of State Monopolies.
The ETI was established by Legislative Decree 283/98, Article 3, paragraph 1, has provided
"The body is the owner of the assets and liabilities, and the rights and property
pertaining to the production and commercial activities have been allocated to the Administration
Autonomous Administration of State Monopolies. "
From the syntax of this rule,
clear and unambiguous, it is clear that:
a) ETI is by law "holds
expense reports, "that is owed;
b) these debts are those
"Pertaining to the production and business activities," the company Monopolies
State, namely the obligations arising from the activity of
production and sale of tobacco products. And they do not have to read any further distinction, it would be futile to expect
separate debts negotiating from those of a tort;
c) finally, the most important point, the
these liabilities borne by the ETI are those relating to
activity "already" assigned to the Company Monopoly. The use of the adverb "already" makes
clear that the legislature has provided for the assignment of debts to ETI
existing monopolies and imposed on the Company upon incorporation Eti, and therefore a possibility of liberating assumption
under the law of debt. Consider that, arguing otherwise, the
provision in question would be completely useless, being obvious that the debts incurred in the performance of the production and
sale of smoking products, starting from the moment of formation of the Eti,
would already burdened naturaliter thereon, without the need for a

standard
that he said so explicitly. And as between two conflicting interpretations
must be able to confer the preferred sense and utility to the standard
rather than be able to cancel the meaning, it must be concluded that all debts arising in the abstract
the activity of dealing or tort Company is the State Monopoly
required to meet the ETI, according to the mentioned article 3 of Legislative Decree 283/98.
2.1. Are irrelevant to
respect, the allegations carried out in this regard by
the defendant.
With regard to the alleged
"Officious relief" of the existence of ETI sued former
Article 3 of Legislative Decree 283/98, just remember that it
is a mere application of the principle iura novelty curia.
As regards
all'allegazione that the ETI could not possibly
be held responsible for the illegal act committed by the Company Monopoly
because in this case would not have occurred in a sequence
universum jus Eti Company Monopoly, it is not decisive.
Even if, in fact, you want to exclude in this case a phenomenon of succession
(Statement, this, in theory acceptable, provided that the Company Monopoly
was not suppressed: see. for the establishment of a
similar principle, the Supreme Court, Section One, 7258/01, in Foro it., 2003, I,
56), there is to be observed that the transfer of debts (also from the fact
illegal) from one subject to another well can be placed by the legislature,
in the exercise of its discretion, even if it is not a
succession genuine. And since, as we have seen, in this case the
transfer derives from the only possible interpretation of Article 3 of Legislative Decree 283/98, states that nothing in the present case can not
stricti juris talk to a real phenomenon of succession, as
however, an assumption can be configured
liberating provided by law. There is only to add, to the foregoing, as
the conclusions reached just are not contradicted by previous invoked
the defendant (represented by the Supreme Court, Section Two, 7381/01,

in Foro it. Rep. 2001, Civil Damages, no. 121).
In that case, in fact,
only the principle invoked by ETI is a mere obiter, although
massimato unexpectedly high and so apparently regula iuris of the decision, but - what matters most - the case decided by the
SC concerned a routine event of the transfer of an undertaking, subject
to the provisions of Article 2560 CC, and not a transfer of
debits and credits provided for, as has been the case Eti, by law.
3. On the merits, the Court finds that
The facts enclosed by the actors has often been decided by
this Court, again speaking reiettivo the claim (Court Rome, 11
February 2000, Courier swore., 2000, 1639;
Court Rome, April 4, 1997, in Damage and resp., 1997, 750).
From these decisions there is no reason
to depart, for the reasons that follow.
4. It must, in the first place,
possible that in this case the actors can invoke the presumption of
Article 2050 CC.
This is for three independent reasons.
4.1. The first reason is that
the possibility provided for in Article 2050 CC (responsible for the operation of dangerous activity) does not constitute a case of
liability, but simply a rebuttable presumption of guilt (formerly
plurimis, the Supreme Court, Section Three, 10382/02). As a result, it will release
victim of the damage from the proof of fault or willful misconduct of the tortfeasor, but not
that of the causal link between the damage suffered and the dangerous activity (ex
plurimis, the Supreme Court, Section Three, 4792/01).
Causation
that in the present case, as will be better explained later, is completely missing.
4.2. The second is that in any case in the present case does not meet the requirements for
the application of Article 2050 CC.
The provision in question does in fact refer to the "dangerous activities", and not
to mere "led" Dangerous occur when the first activity
present a significant potential for harm to others, and nothing detects whether
activity, normally harmless, becomes dangerous for the conduct of those who

exercises. Thus, for purposes of Article 2050 CC, it is not
significant conduct merely subjective dangerous, capable of rendering the
liability only in accordance with the rule of Article 2043 CC (Supreme Court
15334/04; The Supreme Court, Section Two, 13530/92).
In the present case, were
the same actors to attach the damage was caused from the omission of information
about the risks of smoking: they therefore ascribe to the defendant's conduct, and not an activity, dangerous, and consequently inapplicable Section 2050 Cc.
4.3. The third reason is that the
production and sale of cigarettes can not
considered dangerous activity, in the sense of Article 2050 CC.
The rule just
remembered specifies two criteria by which to evaluate the hazardous nature or
less activity, which resulted in the damage: the intrinsic nature of such activities, or the quality of the means used. The presumption in
Article under review therefore applies both to the activities objectively dangerous, both to those who, although not inherently dangerous, may become so in consequence of the particular type of
instruments adopted by the operator. According to the SC, are assets dangerous within the meaning of Section 2050 Cc not just those that are
qualified by law to public safety and other special laws, but
even those that by their very nature or characteristics of the means used resulting in a significant possibility of harm to
their strong offensive potential, and whether in practice
activity is to be considered dangerous is
task of the trial court whose decision is final evaluation in the
legitimacy if properly motivated (the Supreme Court, Section Three, 5341/98).
In the light of these criteria is
easy to detect that the production and sale of cigarettes:
a) has not inherently
dangerous, because the danger can only arise from the use immoderate that
of these products is made;
b) does not use dangerous means,
because the equipment used for packaging and marketing do not present
any special or potential harmful.

Added that the SC has
expressly ruled that the
dangerousness of an activity can be assessed
reference to the spread of the mode
with which is commonly
exercised. A certain activities, therefore, can not be held "dangerous"
simply because those who practice it usually does not take the precautions that would
appropriate, since this would assume
parameter in the evaluation
not already in the attitude of harm,
but the degree of care commonly found (Supreme Court, 7916/04).
This regula iuris is perfectly suited to the case in which the
players allege that the source of damage was not to the activities of the defendant
Former regarded itself, but the omission of an adequate and
Full information on the dangers of smoking.
5. Neither the
Eti responsibility may be invoked under Article 2043 CC.
Compared to the constructability of
a tort tort Eti, for failure to provide information
consumers about the dangers of smoking, missing first place in this case a good
causal link. The finding of a causal link between the conduct of omission
(Such as that ascribed by the plaintiff to today
defendant) and the event of damage is governed by Articles 40 and 41 Cp, which
pose a rule (the equivalence causal tempered) pervasive
the whole system (ex permultis, the Supreme Court, Section Three, 5962/00, in
Arch. Circolaz., 2000, 840), and therefore also applicable in the field of illicit
Civil (with respect to which the provisions of section 1223 CC, on the other hand,
discipline a very different causation, namely that between harmful event and
harmful consequences: cfr., ex multis, the Supreme Court, Section Three, 16163/01, in
Foro it. Rep., 2001, Social responsibility, no. 162). In the interpretation of the
Articles 40 and 41 Cp, and with special reference to the case of delictum for
omissionem commissum, the SC has recently abandoned its traditional

orientation, according to which in case of failure
negligent, the author is responsible for the damage many times the conduct alternative
correct would have "serious and significant opportunities" to avoid the damage
(In this sense, ex multis, the Supreme Court, Section Four, Minella, the Supreme Court,
Section Four, October 5, 2000, in Riv. Pen., 2001,
452; The Supreme Court, Section Four, 1 October 1999, Dir. Pen. and proc., 2001, 469).
Indeed
the Joint Sections of the criminal court of appeal, composing the contrast
meanwhile arisen within the simple sections, have abandoned the
old notion of "serious and significant opportunity" to avoid the event, and
against sanctioned by the obligation to have recourse to several logical criteria of
proof of causation, which can be summarized as follows:
a) as regards
to the establishment of a causal link between the failure and damage,
remains valid application to the "counterfactual judgment," or that
particular abstraction consists in assuming what were the
consequences of the failure to conduct proper alternative manager;
b) with regard to the degree of
probability, according to which abstractly determine if the execution of the
failure to conduct would have prevented the damage, it is necessary to have regard not to the
mere "statistical probability", but at different
concept of "logical probability", which must be close to certainty;
c) the "logical probability", in
time, to be determined by collating the statistical probability of success
failure to conduct with all the circumstances of the case, as they appear
from the evidence collected (Supreme Court, On 30328/02, in "D & G" n. 35 p. 21, and especially p. 26-27). A
criterion of "series and appreciable chance of success", therefore, is
came to replace that of "high or high credibility
rational "judgment counterfactual (so, for the law of this
Court, Civil Court. Rome 24.1.2004, Silvestri c. St. John's Hospital, unpublished;
Trib. Rome 3.12.2003, Mattresses c. Ventricelli, unpublished; Trib. Rome 22.7.2003,

New Year c. Hospital S. Giovanni-Addolorata, unpublished).
5.2. All this being the case in law,
is detected in facto the obligation to affix on the packaging of cigarettes, a
warning about the dangers of smoking was introduced
Article 46 of Law 428/90 (standard today, however, repealed by Article 11
paragraph 1, of Legislative Decree 184/03).
It is therefore evident that the conduct
illicit actors ascribed to the defendant ceased
in 1991. However, the same actors are attached to a spouse who is
died prematurely in 2000. Why, then, be taken to exist a
valid causal connection between the omission imputed to the defendant and the death of
Mr Agostinis, it is necessary to say that if prior to 1991 on
packs of cigarettes had been inscribed the words "smoking is harmful to
health "(that the content of the obligation introduced in 1991), Mr. Agostinis
would not have contracted cancer, "with high or high credibility
rational. "
This finding is evidence
unsustainable.
Lung cancer can not,
unanimously considered as medical science, have a latency period
asymptomatic for ten years (many of them have passed between the end of
negligent omission and the damage event).
Authoritative and international
Clinical studies have shown that in patients who are
mail early diagnosis of lung cancer, the survival at five
years is 50%, a percentage which may reach 85% in case it is possible
oncologically correct resection surgical intervention
(Pasquotti, Characteristics and clinical manifestations of tumors of the
Respiratory, Oncology Referral Centre IRCCS, Aviano, 2002). E 'was also
found that in 2002, the average survival rate of patients with cancer
Lung cancer not undergoing treatment was 4-5 months, with a
average rate at 1 year of 10%. By contrast, in the same year, the rate of
median survival of patients with lung cancer
metastatic subjected to treatment was approximately 8
months, with an average rate of 33% at 1 year (Rombolà, Lung cancer
-

Primary and secondary prevention, Humanitas-Gavazzeni Bergamo, 2003).
Therefore, the disease that led to
Mr. death. Agostinis necessarily revolted after
1991, and then after that the conduct was negligent omission ceased. And since
Mr. Agostinis for admission of the same players, had continued to
smoking after the introduction of the warnings marked on the packaging
cigarettes, can not prevail "with high or high credibility
rational "that if these
been provided even before 1991, he would quit smoking and not
would contract the disease.
It is worth adding that,
according to the authoritative Guidelines developed dall'Aiom (Italian Association
of Medical Oncology) "for those who quit smoking the
risk [of lung cancer] is progressively reduced over the 10-15
the following years, with latencies greater than ever at the age of interruption
habit "(various authors, Guidelines for thoraco-pulmonary neoplasms, Aiom,
Brescia 2003). So even want to admit that Mr. Agostinis would
quit smoking as soon as he was introduced warning stamped
packages, the fact remains that the disease is
however arising ten years later by the moment, and since, as soon as
mentioned, the risk of cancer decreases with the increase of the period of time
elapsed since the cessation of cigarette smoking, in this case the possibility
that the disease was not contracted in case of adequate information
could not possibly be "high or high," according to the dictum of the Supreme Court
30328/02, t ..
6. As mentioned, in addition to
absolute lack of causation, in this case there is no blame
legally relevant entity defendant. Or, rather, it could
also exist, but it would be absorbed by the
blame the victim, pursuant to Article 1227 CC.
6.1. That
cigarette smoking is harmful to health and can cause cancer, should
considered a common notion, widespread, well-known and obvious as handheld
many years.

As early as
The nineteenth century. medical science clearly ascertained that pipe smokers
showed frequent tumors of the lower lip, tongue and
the oral cavity. At first, the carcinogenic effect was
attributed more to the mouth of the heat pipe to the products of
burning of tobacco. In a second time was
suggested that respiratory diseases and lung cancer
were due to cigarette smoking.
In particular, already in 1836, some
Scientists admitted bluntly that "tobacco is a poison"
("Thousands and tens of Thousands die of diseases of the lungs Generally
brought` on by tobacco smoking (...); How is it possible to be otherwise? Tobacco is a poison. A man will die
of an infusion of tobacco as of a shot through the head "; so Green, New
England Almanack and Farmer's Friend (1836).
In 1845,
some German physiologists ascertained that on a sample of twenty deaths among
18 and 35, 10 were caused by smoking (as Benjamin I. Lane, The Mysteries of Tobacco, New York, Wiley and Putnam, 1845
pp. 131-132).
In 1876, Dr. Hippolyte A. Depierris (1810-1889) was asked in the form
rhetoric, "the tabac, here contient le plus violent des poisons, the nicotine
abrégé-t-il's existence? East-the causes of the dégénérescence physique et moral
des sociétés modernes? "(Depierris, Physiologie
Social, Paris, Dentu, 1876).
Alarms and recommendations
analogues are found in numerous scientific papers published between
late nineteenth and early twentieth century. (Meta Lander, The Tobacco Problem, Boston, Lee
and Shepard, 1882, p. 55; Bruce Fink, Tobacco, Cincinnati, The Abingdon Press,
1915, p 30; John Kellogg, Tobaccoism, or, How Tobacco Kills, Battle Creek, The
Modern Medicine Publishing Co., 1922, p. 118). Not surprisingly, in 1908
England was introduced a law prohibiting the
sale of cigarettes to children under 16 years.
In the early 1900s he set

report the association between smoking and vascular disease. Regarding the myocardial infarction, already starting from 1912
accumulated evidence on its association with smoking; data collected by the
prof. Inglese indicated an increased risk of 2-4 times, especially among the
40 and 60 years.
In 1938, the journal Science
published the results of a study carried out by Professor. Raymond Pearl,
the Johns Hopkins University. This study is still very well-known because it was the
first that exposed irrefutable results. After reviewing 6,813 patients, the author
concluded that 45% of smokers living in the media
up to 60 years, compared with 65% of non-smokers.
The dr. Pearl, in the conclusion
of his work, he wrote: "Smoking tobacco shortens life, in proportion
the number of cigarettes smoked daily. "
In the 50s and 60s these data,
well-known in the scientific world, became known to the
politicians and the mass public. In the annual report of the
Surgeon General (maximum US health authorities) of 1964,
reads, "cigarette smoking contributes substantially to mortality in
due to specific diseases and the overall death rate. "
Even in
Italy, in the 70s the fact that inhaling smoke is harmful
health, does cause cancer, could be considered a matter of common
experience. Advertising campaigns launched by non-profit organizations
launched in those years, warnings of some resonance ("Smokers also poisons
you, tell him to stop! "), and it is significant that already
Law 584/75 was introduced
Italy's ban on smoking in public places. It is not superfluous
add that such a law could not make the perceived opinion
public about the risks of smoking, since the ratio of it
could not be regarded, even for the most inexperienced of citizens,
in order to keep the public places clean from cigarette butts and cigarette butts.
It must therefore be concluded
that:
a) the fact that the smoke
cigarettes is harmful to health is a socially well-known fact;

b) awareness of the social
fact is well before 1990.
6.2. In light of the foregoing,
it is easy to conclude that one of two things:
a) or Mr. Agostinis well knew
the harmfulness of smoking, and then continuing to smoke has accepted the risk
the consequences of such conduct, so that the damage that is
derivative is not compensable, under Article 1227, paragraph 1, CC;
b) or was not aware of
such harmfulness: and also in this case, having the victim
a notion that has long ignored could be considered elementary and communis
omnium, the damage is not compensable, under Article 1227, paragraph 1, CC.
It is worth adding, with
with regard to this profile, as there may be
shared the view put forward by the plaintiff - not openly expressed, but
clearly deduced from all the reasons given - that
reporting requirements imposed on the producer
or the seller of consumer products would extend up to
encompass circumstances clearly fall within the wealth of knowledge
just the average man.
Indeed
each individual, especially in light of the general duty of solidarity that
Article 2 of the Constitution, shall be required to fulfill the "mandatory duties
social solidarity ', among which also falls to accept the
foreseen or foreseeable consequences of their actions peacefully. Say
otherwise, the one who keeps a negligent conduct, not
taking precautions minimum of prudence and very well known, it can then
complain of not being informed, as
the harmfulness of smoking was a mysterious and unspoken mystery known only to
very few.
7. The conclusions so far
exposed, in the opinion of this Court, do not deserve to be
magazines, not even after the difference of opinion recently adopted by the Court appeal
Rome 1015/05, unpublished.
In fact, this Court, having carefully considered the arguments
cited by the Court Capitoline believes, however, that they can not be

shared.
The Court of Appeal has based
its decision to sentence (in that case, the company was Monopoly) on two independent arguments: first, that the fault of the manufacturer Tobacco, in the case of the death of a smoker for lung cancer, it is assumed ex
Article 2050 CC; the other, however that the
producer-seller was at fault for not having informed
the buyer with the health risks of smoking.
7.1. The inapplicability
in this case the presumption referred to in Article 2050 CC has already been said
above, §§ 4 et seq., and therefore may here refer to the paragraph.
It only needs to be added as
does not appear apt parallel established by the Court
Appeals from the production of cigarettes and that of blood products, gamma globulin or blood transfusion (activities, the latter considered by court rulings hazardous under Article 2050 CC).
It is in fact
easy to detect, especially with regard to the production and distribution of
blood products than to that of plasma for transfusion, that:
a) whether this Court, and the
the same Court of Appeal, called to assess the applicability or less Section 2050 cc in such activities, desunsero the dangerous nature of these from a complex "blocking legislation", composed by rules
of the law and regulations governing carefully over the cycle
production and distribution of such substances: then, therefore, it was thought that
the very existence of such rules would make clear that the legislature itself
had considered "dangerous" the corresponding activity, since otherwise
would have covered every detail with all provisions vaults to protect
the health of patients (Rome Court November 27, 1998, in Giurispr. Roman, 1999, 169; Trib. Rome June 4, 2001, ibid, 2001, 301;
App. Rome, 23 October 2000 in damage and resp., 2001, 1067). A block regulatory
similar vainly seek in this case; the technical aspects of
production and distribution of cigarettes are not
indeed manned by ad hoc rules, except for the information
the harmfulness of smoking, as we have seen only introduced in 1990;
b) the damage potential
arrecabile from a blood product is damage from infection: therefore,

on the one hand, a
damage is not connected to the "product" itself, but caused by the onset of this
a pathogen; on the other hand, an injury which does not require the use of all
or abuse that is made of the substance. Also
intake once and a small dose of a drug infected blood product
can cause serious illness. It is evident that the production of blood products and that of cigarettes are not comparable,
in terms of the nature of the activity and of the means used;
c) finally, while contact with
a blood product infected undoubtedly generate a loss, use or misuse of smoking
generate probably, but not certainly, damage to health: even under
This third part, therefore, it is incorrect to extrapolate the regulae
juris minted in the event of damage from infected blood products, to apply sic
and simply that of smoke damage.
7.2. How much,
then the claim that ETI would be at fault for not having
duly informed buyers
on the harmful effects of cigarette smoke, the following is observed. Blame civil
consists of an alteration: laws, regulations, orders, discipline, rules
contractual rules of common prudence, leges artis.
To determine, therefore, whether a
conduct is negligent or not, you should consider whether it
is or is not "deviant" compared to a rule, the type of those just
indicated.
In this case, it is undisputed
that there were no legal or contractual,
before 1990, impose an obligation to inform the manufacturer
the purchaser of the dangers of smoking.
It is therefore necessary to determine whether,
omitting the information, the Company Monopoly
and it's Eti, has failed to fulfill the rules of common
prudence.
7.3. That
the Company Monopoly until 1990, has failed to fulfill a rule of common
caution must be excluded.
It is well-known and indisputable that
smoking is harmful in case of repeated or excessive. It is
the abuti, not the usefulness, it is harmful not seriously be challenged

that has little chance of getting lung cancer who smoke a
cigarette per month.
Well, activities or substances
which, if repeated frequently assumed or may be harmful to health, are
Unfortunately endless, so the abuse of the personal computer is harmful to the eye,
the alcohol to the liver functions, that of the fat cholesterol,
to the sugar glucose, prolonged exposure to sunlight
harmful to the skin, and the excessive laziness sinanche
harm to the circulatory system.
Support, then, that the
manufacturer of a substance or of a res that can
harmful if taken in massive quantities, is kept if the former, ie in the absence of
a rule that imposes, to inform
the user of such dangers, is an argument that proves too much, why
no one has even speculated that the only PC makers to
low vision, or to rotisserie and pastry for diseases
cardiovascular or diabetes, or the manufacturers of sofas and armchairs
damage caused by obesity.
The obvious reductio ad absurdum
test the fallacy of the premise, namely that the
manufacturer of a substance which is not pernicious former if, but only for use
excessive that it is made, is under no obligation to inform
the buyer, especially when the dangers arising from the abuse of it
fall peacefully in his wealth of knowledge of the average man.
8. In
Finally, the absence in this case is to blame, it is the causal link, the
question as formulated must be rejected.
9. The costs of these proceedings
by the losing party and you dismiss it as in the device.
In the relationship between ETI and the Ams
costs must be set against the first, taking into account the principle of so-called
Virtual unsuccessful. In fact, if the ETI was
was sentenced, the demand for indemnity was rejected, on the grounds
as stated above, §§ 4 ff ..

PQM

the
Court, finally saying, hereby orders as follows:
- Reject the application as
proposed by Anita Tonutto, John Agostinis, Alberto Agostinis against Eti Spa;
- Anita Tonutto sentence,
John Agostinis, Alberto Agostinis jointly recast in favor of Eti Spa of the costs of these proceedings, which
dismiss at € 100 for expenses; € 1,000 for rights attorney; EUR
1,500 for attorney's fees, for a total of € 2,600, plus overhead
Article 14 DM 127/04, Tax and CPA;
- Declares consumption demand
as proposed by Eti Spa in respect of the Ministry of Economy and Administration
Autonomous Administration of State Monopolies;
- Eti sentence Spa recast
in favor of the Ministry of Economy and Administration
Autonomous Administration of State Monopolies, jointly and severally, the costs of these proceedings,
you settle in for € 50 costs; € 800 for rights attorney;
€ 1,200 for attorney's fees, for a total of
€ 2050 over overheads by article 14 of Ministerial Decree 127/04, Tax and CPA.