2. It is for the national courts to determine whether, in so far as national legislation limits the number of operators active in the betting and gaming sector, it genuinely contributes to the objective of preventing the exploitation of activities in that sector for criminal or fraudulent purposes.

3. Articles 43 EC and 49 EC must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which excludes — and, moreover, continues to exclude — from the betting and gaming sector operators in the form of companies whose shares are quoted on the regulated markets.

4. Articles 43 EC and 49 EC must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which imposes a criminal penalty on persons such as the defendants in the main proceedings for pursuing the organised activity of collecting bets without a licence or a police authorisation as required under the national legislation, where those persons were unable to obtain licences or authorisations because that Member State, in breach of Community law, refused to grant licences or authorisations to such persons.

Order of the Court (Sixth Chamber) of 6 March 2007 — Criminal proceedings against Di Maggio and Buccola

(Case C-397/05)

First paragraph of Article 104(3) of the Rules of Procedure — Freedom of establishment — Freedom to provide services — Interpretation of Articles 43 EC and 49 EC — Games of chance — Collection of bets on sporting events — Licensing requirement — Exclusion of certain operators by reason of their type of corporate form — Requirement of police authorisation — Criminal penalties

Freedom of movement for persons — Freedom of establishment — Freedom to provide services — Restrictions (Arts 43 EC and 49 EC) (see para. 7, operative part 1-4)

Re:

Reference for a preliminary ruling — Tribunale di Palermo — Interpretation of Articles 31, 43, 49 and 81 to 89 EC — National legislation making the collection of bets subject to a licensing requirement.

Operative part

1. National legislation which prohibits the pursuit of the activities of collecting, taking, booking and forwarding offers of bets, in particular bets on sporting events, without a licence or a police authorisation issued by the Member State concerned, constitutes a restriction on the freedom of establishment and the freedom to provide services, provided for in Articles 43 EC and 49 EC respectively.

2. It is for the national courts to determine whether, in so far as national legislation limits the number of operators active in the betting and gaming sector, it genuinely contributes to the objective of preventing the exploitation of activities in that sector for criminal or fraudulent purposes.

3. Articles 43 EC and 49 EC must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which excludes — and, moreover, continues to exclude — from the betting and gaming sector operators in the form of companies whose shares are quoted on the regulated markets.

4. Articles 43 EC and 49 EC must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which imposes a criminal penalty on persons such as the defendants in the main proceedings for pursuing the organised activity of collecting bets without a licence or a police authorisation as required under the national legislation, where those persons were unable to obtain licences or authorisations because that Member State, in breach of Community law, refused to grant licences or authorisations to such persons.

Order of the Court (Sixth Chamber) of 6 March 2007 — Criminal proceedings against Damonte

(Case C-466/05)

First subparagraph of Article 104(3) of the Rules of Procedure — Freedom of establishment — Freedom to provide services — Interpretation of Articles 43 EC and 49 EC — Games of chance — Collection of bets on sporting events — Licensing requirement — Exclusion of certain operators by reason of their type of corporate form — Requirement of police authorisation — Criminal penalties