

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

**Judgment of the Court (Third Chamber) of 15 March 2007
— British Airways plc v Commission of the European
Communities, Virgin Atlantic Airways Ltd**

(Case C-95/04 P) ⁽¹⁾

*(Appeals — Abuse of dominant position — Airline — Agree-
ments with travel agents — Bonuses linked to growth in sales
of that airline's tickets over a given period in comparison with
a reference period — Bonuses granted not only for tickets sold
once the sales target achieved, but for all tickets sold during
the period in question)*

(2007/C 95/02)

Language of the case: English

Parties

Appellant: British Airways plc (represented by: R. Subiotto, soli-
citor, R. O'Donoghue, barrister, W. Wood QC)

Other parties to the proceedings: Commission of the European
Communities (represented by: P. Oliver, A. Nijenhuis and
M. Wilderspin, Agents), Virgin Atlantic Airways Ltd (represented
by: J. Scott, solicitor, C. West, barrister, N. Green QC)

Re:

Appeal against the judgment of the Court of First Instance (First
Chamber) of 17 December 2003 in Case T-219/99 *British
Airways v Commission* dismissing as unfounded an application for
annulment of the decision of the Commission of 14 July 1999
relating to a proceeding under Article 82 [EC] (IV/D-2/34.780
— Virgin/British Airways) concerning agreements concluded
between British Airways and travel agencies establishing
commission schemes and other benefits linked to the increase
in volume of ticket sales of that airline

Operative part of the judgment

1. *The appeal is dismissed.*
2. *British Airways plc is ordered to pay the costs.*

_____ ⁽¹⁾ OJ C 106, 30.4.2004.

**Judgment of the Court (Grand Chamber) of 6 March 2007
(Reference for a preliminary ruling from the Finanzgericht
Köln — Germany) — Wienand Meilicke, Heidi Christa
Weyde, Marina Stöffler v Finanzamt Bonn-Innenstadt**

(Case C-292/04) ⁽¹⁾

*(Income tax — Tax credit for dividends paid by resident
companies — Articles 56 EC and 58 EC — Limitation of the
temporal effects of the judgment)*

(2007/C 95/03)

Language of the case: German

Referring court

Finanzgericht Köln

Parties to the main proceedings

Applicants: Wienand Meilicke, Heidi Christa Weyde, Marina Stöf-
fler

Defendant: Finanzamt Bonn-Innenstadt

Re:

Reference for a preliminary ruling — Finanzgericht Köln — Interpretation of Articles 56 EC and 58 EC — Income-tax rules providing for a 'tax credit' for dividends distributed by national companies but not for dividends distributed by companies which have their seat in another Member State

Operative part of the judgment

Articles 56 EC and 58 EC are to be interpreted as precluding tax legislation under which, on a distribution of dividends by a capital company, a shareholder who is fully taxable in a Member State is entitled to a tax credit, calculated by reference to the corporation tax rate on the distributed profits, if the dividend-paying company is established in that same Member State but not if it is established in another Member State.

⁽¹⁾ OJ C 228, 11.9.2004.

Judgment of the Court (Grand Chamber) of 6 March 2007 (references for preliminary ruling from the Tribunale di Larino, Tribunale di Teramo — Italy) — Criminal proceedings against Massimiliano Placanica (Case C-338/04), Christian Palazzese (Case C-359/04), Angelo Sorricchio (Case C-360/04)

(Joined Cases C-338/04, C-359/04 and C-360/04) ⁽¹⁾

(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)

(2007/C 95/04)

Language of the case: Italian

Referring court

Tribunale di Larino, Tribunale di Teramo

Parties in the main proceedings

Massimiliano Placanica (Case C-338/04), Christian Palazzese (Case C-359/04), Angelo Sorricchio (Case C-360/04),

Re:

Preliminary ruling — Tribunale di Larino — Interpretation of Article 43 et seq and Article 49 EC and of the judgment of the Court of Justice in Case C-243/01 *Gambelli and Others* — National law which imposes penalties in relation to the organising of the taking of bets, and the collecting of bets, on various events and, in particular, on sporting events — Collection of bets online by an unlicensed betting operator on behalf of a company operating with a licence in another Member State

Operative part of the judgment

The Court:

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.

⁽¹⁾ OJ C 273, 6.11.2004.
OJ C 262, 23.10.2004.