

## ECJ 3 March 2022, case C-590/20 (Presidenza del Consiglio dei Ministri e.a. (Médecins spécialistes en formation)), Free Movement, Work and Residence Permit

Presidenza del Consiglio dei Ministri and Others – v – UK, IG and others, Italian case

### Summary

Medical students who started their training before directive 82/76 was adopted (29 January 1982) and continued with this training after the directive came into force (1 January 1983) are entitled to appropriate remuneration for this training, provided that the training meets the applicable criteria.

### Question

Are Article 2(1)(c) and Article 3(1) and (2) of Directive 75/363 as amended, together with the annex thereto, to be interpreted as meaning that any full-time or part-time specialist medical training begun before the entry into force, on 29 January 1982, of Directive 82/76 and continued after the expiry, on 1 January 1983, of the period prescribed for the transposition of that directive must be subject to appropriate remuneration within the meaning of that annex, and, second, must such appropriate remuneration, in that case, be paid for the entire period of training or only from that date of expiry onwards?

### Ruling

Article 2(1)(c) and Article 3(1) and (2) of Council Directive 75/363/EEC of 16 June 1975 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors, as amended by Council Directive 82/76/EEC of 26 January 1982, as well as the annex thereto, must be interpreted as meaning that any full-time or part-time specialist medical training begun before the entry into force, on 29 January 1982, of Directive 82/76 and continued after the expiry, on 1 January 1983, of the period prescribed for the transposition of that directive must,

in respect of the period of that training running from 1 January 1983 until the end of that training, be subject to appropriate remuneration within the meaning of that annex, provided that that training concerns a medical specialty which is common to all the Member States or to two or more of them and is mentioned in Article 5 or Article 7 of Council Directive 75/362/EEC of 16 June 1975 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services.

## ECJ 3 March 2022, case C-634/20 (Sosiaali- ja terveystieteiden lupa- ja valvontavirasto), Free Movement, Work and Residence Permit

A – v – Sosiaali- ja terveystieteiden lupa- ja valvontavirasto, Finnish case

### Summary

The UK may not impose requirements to be a doctor on a person if he possesses all formal qualifications, except for a minor certificate, as the imposed requirements are not proportionate.

### Question

Must Articles 45 and 49 TFEU be interpreted as precluding the competent authority of the host Member State from granting, on the basis of national legislation, a person a right to pursue the profession of doctor which is limited to a period of three years and subject to the twofold condition, first, that the person concerned may practise only under the direction and supervision of a licensed doctor and, second, that he or she must successfully complete three years of special training in general medical practice during the same period in order to obtain authorisation to pursue the profession of doctor independently in the host Member State, taking account of the fact that the person concerned, who has obtained an undergraduate degree in medicine in the home Member State, holds the evidence of formal qualifications, with regard to the United Kingdom, referred to in point 5.1.1 of Annex V to Directive 2005/36, but not the certificate referred to therein attesting to the completion of

a professional traineeship of one year's duration, which is required as a further condition for obtaining the professional qualification in the home Member State?

## Ruling

Articles 45 and 49 TFEU must be interpreted as precluding the competent authority of the host Member State from granting, on the basis of national legislation, a person a right to pursue the profession of doctor which is limited to a period of three years and subject to the twofold condition, first, that the person concerned may practise only under the direction and supervision of a licensed doctor and, second, that he or she must successfully complete three years of special training in general medical practice during the same period in order to obtain authorisation to pursue the profession of doctor independently in the host Member State, taking account of the fact that the person concerned, who has obtained an undergraduate degree in medicine in the home Member State, holds the evidence of formal qualifications, with regard to the United Kingdom of Great Britain and Northern Ireland, referred to in point 5.1.1 of Annex V to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as amended by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013, but not the certificate referred to therein attesting to the completion of a professional traineeship of one year's duration, which is required as a further condition for obtaining the professional qualification in the home Member State.

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## ECJ 8 March 2022, case C-205/20 (Bezirkshauptmannschaft Hartberg-Fürstenfeld), Posting of Workers and Expatriates

NE – v – Bezirkshauptmannschaft Hartberg-Fürstenfeld, Austrian case

## Summary

National courts must ensure that penalties for non-compliance with administrative obligations are proportionate. The ECJ's summary of the case is available on:

<https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-03/cp220043en.pdf>.

## Questions

1. Does Article 20 of Directive 2014/67, in so far as it requires the penalties provided for therein to be proportionate, have direct effect and may it thus be relied on by individuals before national courts against a Member State which has transposed it incorrectly?
2. Must the principle of primacy of EU law be interpreted as imposing on national authorities the obligation to disapply, in its entirety, national legislation contrary to the requirement of proportionality of penalties laid down in Article 20 of Directive 2014/67 or whether it means that those national authorities are to disapply such legislation only to the extent necessary to enable the imposition of proportionate penalties?

## Ruling

1. Article 20 of Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation'), in so far as it requires the penalties provided for therein to be proportionate, has direct effect and may thus be relied on by individuals before national courts against a Member State which has transposed it incorrectly.
2. The principle of the primacy of EU law must be interpreted as imposing on national authorities the obligation to disapply national legislation of which a part is contrary to the requirement of proportionality of penalties laid down in Article 20 of Directive 2014/67 only to the extent necessary to enable the imposition of proportionate penalties.