

Case C-347/90

Aldo Bozzi

v

Cassa Nazionale di Previdenza ed Assistenza a favore
degli Avvocati e dei Procuratori Legali

(Reference for a preliminary ruling
from the Pretura di Milano, Sezione Lavoro)

(Interpretation of Article 33 of the Sixth VAT Directive)

Report for the Hearing	I - 2948
Opinion of Advocate General Jacobs delivered on 19 March 1992	I - 2959
Judgment of the Court (Sixth Chamber), 7 May 1992	I - 2965

Summary of the Judgment

Tax provisions — Harmonization of laws — Turnover tax — Common system of value added tax — Prohibition of collecting other national taxes having the character of turnover taxes — Purpose — Concept of 'turnover taxes' — Scope — Contributions like the Italian 'contributo integrativo' paid to the Lawyers' National Provident Fund — Excluded
(Council Directive 77/388, Art. 33)

Whilst Article 33 of the Sixth VAT Directive (77/388/EEC), with the purpose of preventing the introduction of taxes, duties or charges which, through being levied on the movement of goods and services in a way comparable to VAT, would jeopardize the functioning of the common system of VAT, prohibits the maintenance or introduction of taxes which have the essential characteristics

of VAT, it does not preclude the maintenance or introduction of other kinds of taxes, duties or charges which do not have those characteristics.

Consequently, Article 33 does not preclude the introduction or maintenance of a contribution like the supplementary contribution

(‘contributo integrativo’) payable in Italy by advocates and *procuratori legali* to the Lawyers’ National Provident Fund and calculated in principle by applying a surcharge to the earnings making up their turnover. The

supplementary contribution is not a general levy; it is not always proportional to the fees payable by clients for professional services rendered and it is payable at one stage only, with no provision for deduction.

REPORT FOR THE HEARING in Case C-347/90 *

I — Facts and procedure

Under that Law, the Provident Fund has two sources of revenue:

A — *The relevant legal provisions*

1. National legislation

1. The Cassa Nazionale di Previdenza ed Assistenza a favore degli Avvocati et dei Procuratori legali (Lawyers’ National Provident Fund, hereinafter the ‘Provident Fund’) was created by Law No 6 of 8 January 1952 (Gazzetta Ufficiale della Repubblica Italiana — GURI — No 16 of 19 January 1952). All *avvocati* and *procuratori legali* (hereinafter ‘lawyers’) in Italy are required to be members.

2. The contributions to the Provident Fund and the benefits that it provides are governed by Law No 576 of 20 September 1980 (Reform of the lawyers’ provident scheme, GURI No 266 of 27 September 1980).

(a) an ‘individual contribution’ (Article 10), proportional to the lawyer’s net professional earnings for income tax purposes, fixed at 10% up to a certain limit, and 3% on income above that limit, a minimum contribution being payable by every member of the Provident Fund.

(b) a ‘supplementary contribution’, referred to in the question submitted by the Milan magistrate and defined in Article 11 in the following terms:

‘Supplementary contribution — From the first day of January in the second year following the coming into force of the present Law, every person registered as an *avvocato* or *procuratore*, including *praticanti procuratori* affiliated to the Fund, shall apply a percentage increase to all earnings forming part

* Language of the case: Italian.