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(Information)

COURT OF JUSTICE

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JUDGMENT OF THE COURT

(First Chamber)

of 18 November 2004

in Joined Cases C-10/02 and C-11/02 (reference for a preliminary ruling from the Tribunale amministrativo regionale per la Puglia): Anna Fascicolo and Others, Enzo De Benedictis and Others v Regione Puglia (C-10/02) and Grazia Berardi and Others, Lucia Vaira and Others v Azienda Unità Sanitaria Locale BA/4 and Others (C-11/02) ⁽¹⁾

(Free movement of doctors — Directives 86/457/EEC and 93/16/EEC — Recognition of diplomas, certificates and other evidence of formal qualifications — Requirement that Member States should make the exercise of the activities of general practitioner under their national social security scheme conditional on possession of a specific diploma — Acquired rights — Whether evidence of authorisation obtained before 1 January 1995 is equivalent to the specific training diploma — Drawing up of the list of general practitioners in order to fill posts available in a region on the basis of the qualifications possessed)

(2005/C 6/01)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Joined Cases C-10/02 and C-11/02: references for a preliminary ruling under Article 234 EC from the Tribunale amministrativo regionale per la Puglia (Italy), made by decisions of 10 October 2001, received at the Court on 15 January 2002, in the proceedings between Anna Fascicolo and Others, Enzo De Benedictis and Others v Regione Puglia, Maria Paciolla, Assessorato alla Sanità e Servizi Sociali della Regione Puglia, Coordinatore del Settore Sanità, Azienda Unità Sanitaria Locale BR/1, Felicia Galiotti and Others., Azienda Unità Sanitaria Locale BA/4, Madia Evangelina Magrì, Azienda Unità Sanitaria Locale BA/1, Azienda Unità Sanitaria Locale BA/3 (C-10/02), and Grazia Berardi and Others, Lucia Vaira and Others, v Azienda Unità Sanitaria Locale BA/4, Angelo Michele Cea,

Scipione De Mola, Francesco d'Argento, Azienda Unità Sanitaria Locale FG/2, Antonella Battista and Others, Nicola Brunetti and Others, Azienda Unità Sanitaria Locale BA/3, Azienda Unità Sanitaria Locale FG/3, Erasmo Fiorentino (C-11/02) — the Court (First Chamber), composed of: P. Jann, President of the Chamber, R. Silva de Lapuerta, K. Lenaerts, S. von Bahr and K. Schiemann (Rapporteur), Judges; J. Kokott, Advocate General; Múgica Arzamendi, Principal Administrator, has given a judgment on 18 November 2004, in which it has ruled:

1. Article 36(2) of Council Directive 93/16/EEC of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications does not require the Member States to consider authorisation obtained before 1 January 1995 to carry on the profession of general medical practitioner under the national health system to be equivalent to obtaining the certificate of specific training in general medical practice for the purpose of access to general practitioner posts.
2. It is not contrary to Article 36(2) of Directive 93/16 for Member States to provide for doctors in possession of both the certificate of specific training in general medical practice and authorisation on 31 December 1994 to practise as general practitioners under the national health system:

— a pool of reserved posts more extensive than that provided either for doctors in possession of that certificate or for doctors who have been granted authorisation, by permitting them to compete in those two classes of reserved posts simultaneously;

— yet more advantageous treatment by awarding them, when they compete for the quota of posts reserved to doctors authorised on 31 December 1999 to practise the profession, the number of additional points attributed on account of their having obtained that certificate.

⁽¹⁾ OJ C 68 of 16.3.2002.