

Defendant: Ministère des affaires sociales et de la santé

Questions referred

1. Does the specificity requirement for the profession of dental practitioner, laid down by Article 36 of Directive 2005/36/EC, ⁽¹⁾ prevent the creation of a postgraduate university training course leading to a qualification which is common to medical students and dental students?
2. Must the provisions of the Directive on specialties related to medicine be construed as meaning that disciplines such as those listed in point 3 of this decision ⁽²⁾ may not be included in a dental training course?

⁽¹⁾ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ 2005 L 255, p. 22).

⁽²⁾ Namely, on the one hand, theoretical training in oral surgery including in particular training in surgery on the periapex and on odontogenic and non-odontogenic cysts of the jaws, pre-prosthetic and implant surgery, the study of benign tumour conditions, salivary conditions and orthodontic-surgical and orthognathic treatment, and on the other, practical training lasting at least three semesters in a specialist dentistry department and three semesters in a specialist maxillofacial department.

Reference for a preliminary ruling from First-tier Tribunal (Tax Chamber) (United Kingdom) made on 5 November 2012 — *Dixons Retail Plc v Commissioners for Her Majesty's Revenue and Customs*

(Case C-494/12)

(2013/C 26/48)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicant: Dixons Retail Plc

Defendant: Commissioners for Her Majesty's Revenue and Customs

Questions referred

1. Is Article 14.1 of Council Directive of 28 November 2006 (2006/112/EU ⁽¹⁾) to be interpreted as applying when the physical transfer of goods is obtained by fraud in that the payment provided by the transferee is by means of a card which the transferee knows he has no authority to use?
2. When the physical transfer of goods is obtained by fraudulent use of a card, is there a 'transfer of the right to dispose of tangible property as owner' within Article 14.1?

3. Is Article 73 to be interpreted as applying when payment is obtained by the transferor of goods under an agreement with a third party to make such payment in respect of a card transactions notwithstanding that the transferee of the goods knows that he has no authority to use the card?
4. When payment is made by a third party pursuant to an agreement between the transferor of the goods and the third party as a consequence of the presentation to the transferor of a card which the transferee of the goods has no authority to use is the payment obtained from the third party 'in return for the supply' within Article 73?

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax OJ L 347, p. 1

Reference for a preliminary ruling from the Tribunale Amministrativo Regionale per la Sicilia (Italy), lodged on 7 November 2012 — *Davide Gullotta, Farmacia di Gullotta Davide & C. Sas v Ministero della Salute, Azienda Sanitaria Provinciale di Catania*

(Case C-497/12)

(2013/C 26/49)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per la Sicilia

Parties to the main proceedings

Applicants: Davide Gullotta, Farmacia di Gullotta Davide & C. Sas

Defendants: Ministero della Salute, Azienda Sanitaria Provinciale di Catania

Questions referred

1. Do the principles of freedom of establishment, non-discrimination and the preservation of competition under Article 49 et seq TFEU preclude national legislation which does not allow a pharmacist, who is qualified and entered in the relevant professional register but does not own a pharmacy included on the '*pianta organica*' [territorial grid], also to offer for retail sale, in the para-pharmacy owned by that pharmacist, pharmaceutical products which are subject to a prescription in the form of a '*ricetta bianca*' — that is to say, pharmaceutical products the cost of which is borne, not by the Italian national health service, but wholly by the citizen — and which thereby also establishes in that sector a prohibition on the sale of certain categories of pharmaceutical products, as well as a quota in relation to the number of commercial outlets which may be established within the national territory?

2. Must Article 15 of the Charter of Fundamental Rights of the European Union be interpreted as meaning that the principle therein established also applies, without restriction, to the profession of pharmacist, and that the public-interest aspect of that profession does not justify the application of different arrangements to the proprietors of pharmacies and to the proprietors of para-pharmacies as regards the sale of the medicinal products referred to in Question (1) above?
3. Must Articles 102 [TFEU] and 106 [TFEU] be interpreted as meaning that the prohibition of the abuse of a dominant position must apply without restriction to the profession of pharmacist, inasmuch as a pharmacist who owns a traditional pharmacy, and sells medicinal products under a contractual arrangement with the Italian national health service, benefits from the ban on the sale of Class C medicinal products by proprietors of para-pharmacies, without this being properly justified on the basis of the undeniably special features of the profession of pharmacist arising from the public interest in safeguarding public health?

Reference for a preliminary ruling from the Tribunale di Tivoli (Italy) lodged on 7 November 2012 — Antonella Pedone v Maria Adele Corrao

(Case C-498/12)

(2013/C 26/50)

Language of the case: Italian

Referring court

Tribunale di Tivoli

Parties to the main proceedings

Applicant: Antonella Pedone

Defendant: Maria Adele Corrao

Questions referred

- Does Article 130 of Presidential Decree No 115 of 30 May 2002 on legal aid in Italian law — insofar as it stipulates that amounts payable to the defending council, the auxiliary to the judge and the court legal assessor are to be reduced by half — comply with Article 47(3) of the Charter of Fundamental Rights of the European Union, which stipulates that legal aid is to be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice?
- Does Article 130 of Presidential Decree No 115 of 30 May 2002 on legal aid in Italian law — insofar as it stipulates that amounts payable to the defending council, the auxiliary

to the judge and the court legal assessor are to be reduced by half — comply with Article 6 of the European Convention for the Protection of Human Rights, as transposed into Community law by Article 52(3) of the Charter of Fundamental Rights of the European Union and by Article 6 [TFEU]?

Reference for a preliminary ruling from the Tribunale di Tivoli (Italy) lodged on 7 November 2012 — Elisabetta Gentile v Ufficio Finanziario della Direzione Ufficio Territoriale di Tivoli and Others

(Case C-499/12)

(2013/C 26/51)

Language of the case: Italian

Referring court

Tribunale di Tivoli

Parties to the main proceedings

Applicant: Elisabetta Gentile

Defendants: Ufficio Finanziario della Direzione Ufficio Territoriale di Tivoli, Fabrizio Penna, Gianfranco Di Nicola

Question referred

Does Article 130 of Presidential Decree No 115 of 30 May 2002 on legal aid in Italian law — insofar as it stipulates that amounts payable to the defending council, the auxiliary to the judge and the court legal assessor are to be reduced by half — comply with Article 47(3) of the Charter of Fundamental Rights of the European Union, which stipulates that legal aid is to be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice?

Action brought on 6 November 2012 — European Commission v Republic of Poland

(Case C-500/12)

(2013/C 26/52)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: J. Hottiaux and H. Støvlbæk, Agents)

Defendant: Republic of Poland