

SUMMARY

ECJ 13 July 2023, case C-765/21 (Azienda Ospedale-Università di Padova), Other Fundamental Rights

D.M. – v – Azienda Ospedale-Università di Padova, Italian case

Summary

Questions regarding COVID 19-vaccination requirement in order to be granted access to the workplace found inadmissible.

Question

Are the conditional marketing authorisations granted for vaccines intended to prevent infection with and the spread of COVID-19 and the severity of the symptoms of that pathology valid, in the light of Article 4 of Regulation No 507/2006, read in the light of Articles 3 and 35 of the Charter, available at the date of the reference for a preliminary ruling, on the ground that alternative treatments which were effective against COVID-19 and less harmful to health had, at that date, already been approved in several Member States?

Must Regulation No 507/2006 be interpreted as precluding the use, for the purposes of satisfying an obligation to vaccinate health professionals against COVID-19 imposed by national legislation, of vaccines which have been the subject of a conditional authorisation granted under Article 4 of that regulation, even in a situation where those professionals have developed immunity to the virus causing that disease and the health authority has not specifically established that there are no contraindications to that vaccination. Secondly, it wishes to ascertain whether the penalty incurred by those professionals in the event of non-compliance with that obligation may, in view of Article 41 of the Charter, consist of suspension from their duties without remuneration rather than a graduated scale of penalties in accordance with the principle of proportionality and the adversarial principle?

Must Regulation 2021/953, read in conjunction with the principles of proportionality and non-

discrimination, be interpreted as precluding national legislation which imposes an obligation on health professionals to be vaccinated against COVID-19, although, first, it allows a category of professionals who are exempt from that requirement on medical grounds to continue to carry on their activities subject to compliance with the precautionary measures provided for by that legislation without, however, giving professionals who do not wish to be vaccinated the same opportunity, and, secondly, it is also capable of applying to nationals of other Member States carrying on a professional activity in Italy?

Ruling

The reference for a preliminary ruling made by the Tribunale ordinario di Padova (District Court, Padua, Italy) by decision of 7 December 2021 is inadmissible.

Creator: European Court of Justice (ECJ)

Verdict at: 2023-07-13

Case number: C-765/21