



## Reports of Cases

### JUDGMENT OF THE COURT (Eighth Chamber)

3 March 2022\*

(Reference for a preliminary ruling – Coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors – Directives 75/363/EEC and 82/76/EEC – Specialist medical training – Appropriate remuneration – Application of Directive 82/76/EEC to training begun before its entry into force and continuing after the date of expiry of the period prescribed for its transposition)

In Case C-590/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Corte suprema di cassazione (Supreme Court of Cassation, Italy), made by decision of 22 September 2020, received at the Court on 10 November 2020, in the proceedings

**Presidenza del Consiglio dei Ministri,**

**Ministero dell'Economia e delle Finanze,**

**QA,**

**JA,**

**Ministero dell'Istruzione, dell'Università e della Ricerca,**

**Ministero della Salute**

v

**UK and Others,**

**IG and Others,**

THE COURT (Eighth Chamber),

composed of N. Jääskinen, President of the Chamber, M. Safjan (Rapporteur) and N. Piçarra, Judges,

Advocate General: J. Richard de la Tour,

Registrar: A. Calot Escobar,

\* Language of the case: Italian.

having regard to the written procedure,

after considering the observations submitted on behalf of:

- UK and Others and IG and Others, by M. Tortorella, avvocato,
- the Italian Government, by G. Palmieri, acting as Agent, and by M. Cherubini, Procuratore dello Stato, as well as F. Fedeli, avvocato dello Stato,
- the European Commission, by L. Armati and L. Malferrari, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

### **Judgment**

- 1 This request for a preliminary ruling concerns the interpretation of the third paragraph of Article 189 TEU, as well as Articles 13 and 16 of Council Directive 82/76/EEC of 26 January 1982 amending Directive 75/362/EEC 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 and Directive 75/363/EEC concerning the coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors (OJ 1982 L 43, p. 21).
- 2 The request has been made in proceedings between the Presidenza del Consiglio dei Ministri (Prime Minister's Office, Italy), the Ministero dell'Economia e delle Finanze (Ministry of Economy and Finance, Italy), QA, JA, the Ministero dell'Istruzione, dell'Università e della Ricerca (Ministry of Education, University and Research, Italy) and the Ministero della Salute (Ministry of Health, Italy), on the one hand, and UK and Others and IG and Others ('the specialist doctors concerned'), on the other, concerning the obligation to pay those specialist doctors appropriate remuneration within the meaning of the annex to 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 (OJ 1975 L 167, p. 14), as amended by Directive 82/76 ('Directive 75/363 as amended'), as well as compensation for the damage which those doctors claim to have suffered as a result of a failure to transpose Directive 82/76 in an appropriate and timely manner.

## Legal context

### *European Union law*

#### *Directive 75/363*

3 Article 2(1) of Directive 75/363 provided:

‘Member States shall ensure that the training leading to a diploma, certificate or other evidence of formal qualifications in specialised medicine, meets the following requirements at least:

- (a) it shall entail the successful completion of six years’ study within the framework of the training course referred to in Article 1;
- (b) it shall comprise theoretical and practical instruction;
- (c) it shall be a full-time course supervised by the competent authorities or bodies;
- (d) it shall be in a university centre, in a teaching hospital or, where appropriate, in a health establishment approved for this purpose by the competent authorities or bodies;
- (e) it shall involve the personal participation of the doctor training to be a specialist in the activity and in the responsibilities of the establishments concerned.’

4 Article 3 of that directive provided:

‘1. Without prejudice to the principle of full-time training as set out in Article 2(1)(c), and until such time as the Council makes a decision in accordance with paragraph 3, Member States may permit part-time specialist training, under conditions approved by the competent national authorities, when training on a full-time basis would not be practicable for well-founded reasons.

2. The total period of specialised training may not be shortened by virtue of paragraph 1. The standard of the training may not be impaired, either by its part-time nature or by the practice of private, remunerated professional activity.

3. Four years at the latest after notification of this Directive and in the light of a review of the situation, acting on a proposal from the Commission, and bearing in mind that the possibility of part-time training should continue to exist in certain circumstances to be examined separately for each specialty, the Council shall decide whether the provisions of paragraphs 1 and 2 should be retained or amended.’

5 Article 7 of that directive was worded as follows:

‘As a transitional measure and notwithstanding Article 2(1)(c) and Article 3, Member States whose provisions laid down by law, regulation or administrative action permit a method of part-time specialist training at the time of notification of this Directive may continue to apply these provisions to candidates who have begun their training as specialists no later than four years after the notification of this Directive. This period may be extended if the Council has not taken a decision in accordance with Article 3(3).’

- 6 Directive 75/363 was notified to the Member States on 20 June 1976.

*Directive 82/76*

- 7 Under Article 9(1) of Directive 82/76, Article 2(1)(c) of Directive 75/363 was replaced by the following wording:

‘Member States shall ensure that the training leading to a diploma, certificate or other evidence of formal qualifications in specialised medicine, meets the following requirements at least:

...

- (c) it shall be a full-time course supervised by the competent authorities or bodies pursuant to point 1 of the Annex hereto;

...’

- 8 Pursuant to Article 10 of Directive 82/76, Article 3 of Directive 75/363 was replaced by the following wording:

‘1. Without prejudice to the principle of full-time training as set out in Article 2(1)(c), and until such time as the Council takes decisions in accordance with paragraph 3, Member States may permit part-time specialist training, under conditions approved by the competent national authorities, when training on a full-time basis would not be practicable for well-founded individual reasons.

2. Part-time training shall be given in accordance with point 2 of the Annex hereto and at a standard qualitatively equivalent to full-time training. This standard of training shall not be impaired, either by its part-time nature or by the practice of private, remunerated professional activity.

The total duration of specialised training may not be curtailed in those cases where it is organised on a part-time basis.

3. The Council shall decide, not later than 25 January 1989, whether the provisions of paragraphs 1 and 2 are to be maintained or amended, in the light of a re-examination of the situation and on a proposal by the Commission, with due regard to the fact that the possibility of part-time training should continue to exist in certain circumstances to be examined specialty by specialty.’

- 9 Under Article 12 of Directive 82/76, Article 7 of Directive 75/363 was replaced by the following wording:

‘As a transitional measure and notwithstanding Articles 2(1)(c) and 3, Member States whose provisions, laid down by law, regulation, or administrative action, provided for part-time specialist training at the time of notification of [Directive 75/363] may continue to apply these provisions to candidates who have begun training as specialists not later than 31 December 1983.

Each host Member State shall be authorised to require the beneficiaries of the above paragraph to produce, in addition to their diplomas, certificates and other evidence of formal qualifications, an

attestation certifying that for at least three consecutive years out of the five years preceding the issue of the attestation they have in fact been lawfully practising as specialists in the field concerned.’

- 10 Article 13 of Directive 82/76 added an annex to Directive 75/363, entitled ‘Characteristics of full-time and part-time training of specialists’. That annex provided:

‘1. Full-time training of specialists

Such training shall be carried out in specific posts recognised by the competent authority.

It shall involve participation in all the medical activities of the department where the training is carried out, including on-call duties, so that the trainee specialist devotes to this practical and theoretical training all his professional activity throughout the duration of the standard working week and throughout the year according to provisions agreed by the competent authorities. Accordingly these posts shall be subject to appropriate remuneration.

Training may be interrupted for reasons such as military service, secondment, pregnancy or sickness. The total duration of the training shall not be reduced by reason of any interruption.

2. Part-time training of specialists

This training shall meet the same requirements as full-time training, from which it shall differ only in the possibility of limiting participation in medical activities to a period at least half of that provided for in the second subparagraph of point 1.

The competent authorities shall ensure that the total duration and quality of part-time training of specialists are not less than those of full-time trainees.

Appropriate remuneration shall consequently be attached to such part-time training.’

- 11 Article 14 of Directive 82/76 provided:

‘Part-time specialist training begun before 1 January 1983 under Article 3 of [Directive 75/363] may be completed in accordance with that Article.’

- 12 Under Article 16 of Directive 82/76:

‘Member States shall take the necessary measures to comply with this Directive by 31 December 1982 at the latest. They shall forthwith inform the Commission thereof.’

- 13 Directive 82/76 was notified to the Member States on 29 January 1982 and entered into force on the same day, in accordance with the second paragraph of Article 191 of the EEC Treaty.

- 14 Directive 75/363 as amended was repealed on 15 April 1993 by 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 (OJ 1993 L 165, p. 1), which was itself repealed by 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).

### ***Italian law***

- 15 Directive 82/76 was transposed into Italian law by decreto legislativo n. 257 – Attuazione della direttiva n. 82/76/CEE del Consiglio del 26 gennaio 1982, recante modifica di precedenti direttive in tema di formazione dei medici specialisti, a norma dell'art. 6 della legge 29 dicembre 1990, n. 428 (Legislative Decree No 257 [of 8 August 1991] implementing Council Directive 82/76/EEC of 26 January 1982 amending the previous directives on the training of specialist doctors, on the basis of Article 6 of Law No 428 of 29 December 1990 (the Law of Community Interest)) (GURI No 191 of 16 August 1991). That legislative decree entered into force 15 days after the date of its publication and was subsequently replaced by decreto legislativo n. 368 – Attuazione della direttiva 93/16/CEE in materia di libera circolazione dei medici e di reciproco riconoscimento dei loro diplomi, certificati ed altri titoli e delle direttive 97/50/CE, 98/21/CE, 98/63/CE e 99/46/CE che modificano la direttiva 93/16/CEE (Legislative Decree No 368 [of 17 August 1999] implementing Directive 93/16/EEC on the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications, as well as Directives 97/50/EC, 98/21/EC, 98/63/EC and 99/46/EC amending Directive 93/16/EEC) (Ordinary Supplement to GURI No 250 of 23 October 1999).
- 16 Article 8(2) of Legislative Decree No 257 provided that its provisions were to apply from the 1991/1992 academic year onwards.

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

- 17 The specialist doctors concerned have all undergone specialist medical training in Italy. Some of those doctors began their training before 1982; others began their training later.
- 18 On 16 April 2008, the specialist doctors concerned brought actions before the Tribunale di Roma (District Court, Rome, Italy) against the Prime Minister's Office, the then Ministry of Education, University and Research, the then Ministry of Health and the Ministry of Economy and Finance, seeking an order requiring those authorities, first, to pay them appropriate remuneration, within the meaning of the annex to Directive 75/363 as amended, for the specialist medical training which they had completed and, second, to compensate them for the damage which they claim to have suffered as a result of the failure to transpose Directive 82/76 in an appropriate and timely manner.
- 19 By a judgment delivered in 2012, the Tribunale di Roma (District Court, Rome) dismissed those actions.
- 20 Hearing appeals brought against that judgment, the Corte d'appello di Roma (Court of Appeal, Rome, Italy), by judgment of 27 September 2016, upheld that judgment in respect of the specialist doctors concerned who had begun their training before the 1983/1984 university year and in respect of those who had attended specialisation courses for which no provision was made by Directive 75/363 as amended.
- 21 The Prime Minister's Office has brought an appeal against that judgment before the referring court, the Corte suprema di cassazione (Supreme Court of Cassation, Italy). In addition, some of the specialist doctors concerned have brought a cross-appeal against that judgment.

- 22 The referring court notes that the cases in the main proceedings concern the assessment of the legal regime applicable to specialist doctors who began their specialist medical training before 1 January 1983 and completed it after that date. That court indicates that, following the delivery of the judgment of 24 January 2018, *Pantuso and Others* (C-616/16 and C-617/16, EU:C:2018:32), it has distinguished, in accordance with that judgment, between different situations which may apply to specialist doctors. More specifically, specialist doctors who began their training before the entry into force of Directive 82/76, which took place on 29 January 1982, have no right to any remuneration for their training.
- 23 Regarding that scenario, there is a difference of interpretation within the various chambers of the referring court as regards the question whether doctors who have undergone specialist medical training, such as the specialist doctors concerned, may claim, on the basis of EU law, remuneration for their training, which began before the entry into force of Directive 82/76.
- 24 In those circumstances the Corte suprema di cassazione (Supreme Court of Cassation) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- ‘(1) Do the third paragraph of Article 189 [TEU] and Articles 13 and 16 of [Directive 82/76] preclude an interpretation according to which the right to appropriate remuneration provided for by Article 13 of [that directive] for doctors undergoing full-time or part-time training is afforded also to doctors who enrolled at a specialist school prior to 1982 and were undergoing training on 1 January 1983, provided that all other requirements deriving from EU law and the case-law of the Court of Justice are satisfied?
- (2) Is the right to compensation for damage resulting from the Italian State’s delay in transposing [Directive 82/76] consequently afforded also to such doctors, in respect of the proportion of compensation attributable to the period from 1 January 1983 onwards?’

### **Procedure before the Court**

- 25 The referring court has requested that the present case be determined pursuant to an expedited procedure, pursuant to Article 105(1) of the Rules of Procedure of the Court of Justice. In support of its request, that court argues that, in view of the differences of interpretation of the EU legislation applicable in the present case given by the various chambers of the Corte suprema di cassazione (Supreme Court of Cassation), as well as the considerable number of cases currently pending before that court, which bear witness to a situation of serious and continuing uncertainty as to the extent of judicial protection of the rights which the persons concerned derive from EU law, there is an interest in quickly dispelling doubts as to the correct interpretation of that legislation and thus removing serious uncertainties regarding fundamental issues of national importance, including constitutional ones, such as those underlying the questions referred for a preliminary ruling.
- 26 It follows from Article 105(1) of the Rules of Procedure that, at the request of the referring court or tribunal or, exceptionally, of his or her own motion, the President of the Court may, where the nature of the case requires that it be dealt with within a short time, after hearing the Judge-Rapporteur and the Advocate General, decide that a reference for a preliminary ruling is to be determined pursuant to an expedited procedure derogating from the provisions of those rules.

- 27 On 14 December 2020, the President of the Court decided, after hearing the Judge-Rapporteur and the Advocate General, to refuse the request for an expedited procedure.
- 28 It is clear from the Court's settled case-law that the large number of persons or legal situations which may be affected by the decision that a referring court must give after making a reference to the Court for a preliminary ruling does not, as such, constitute an exceptional circumstance justifying the application of the expedited procedure. The same is true where a large number of cases may be stayed pending the preliminary ruling of the Court (judgment of 2 September 2021, *OTP Jelzálogbank and Others*, C-932/19, EU:C:2021:673, paragraph 23 and the case-law cited).
- 29 It is also apparent from the Court's case-law that the mere interest of litigants in determining as quickly as possible the scope of their rights under EU law, while legitimate, is not such as to establish the existence of an exceptional circumstance for the purposes of Article 105(1) of the Rules of Procedure (judgment of 11 November 2021, *Energieversorgungscenter Dresden-Wilschdorf*, C-938/19, EU:C:2021:908, paragraph 43).
- 30 In addition, it must be stated that a difference in the interpretation of a provision of EU law within the national courts is not sufficient, in itself, to justify that the reference for a preliminary ruling be determined pursuant to an expedited procedure. The importance of ensuring uniform application within the European Union of all the provisions which form part of its legal order is inherent in any request made under Article 267 TFEU (judgment of 2 September 2021, *OTP Jelzálogbank and Others*, C-932/19, EU:C:2021:673, paragraph 24 and the case-law cited).
- 31 Furthermore, while it has been held that, where a case raises serious uncertainties which affect fundamental issues of national constitutional law and EU law, it may be necessary, having regard to the particular circumstances of such a case, to deal with it within a short time pursuant to Article 105(1) of the Rules of Procedure (order of the President of the Court of 19 October 2018, *Wightman and Others*, C-621/18, not published, EU:C:2018:851, paragraph 10 and the case-law cited), it is not apparent from the referring court's request that the circumstances referred to in paragraph 25 of the present judgment, relating, in essence, to the extent of judicial protection of the rights which the persons concerned derive from the provisions of EU law in question, are such as to justify the present case being dealt with in such a way.

### **Consideration of the questions referred**

- 32 As a preliminary point, it should be borne in mind that, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to decide the case before it. To that end, the Court should, where necessary, reformulate the questions referred to it (judgment of 26 October 2021, *PL Holdings*, C-109/20, EU:C:2021:875, paragraph 34 and the case-law cited).
- 33 The Court has previously held that Article 2(1)(c) and Article 3(1) and (2) of Directive 75/363 as amended, together with the annex thereto, must be interpreted as meaning that any period of full-time or part-time specialist medical training begun in 1982 and continued up to 1990 must, in principle, be subject to appropriate remuneration, within the meaning of that annex (see, to that effect, judgment of 24 January 2018, *Pantuso and Others*, C-616/16 and C-617/16, EU:C:2018:32, paragraph 38).



- 34 In addition, the Court has held that those same provisions must be interpreted as meaning that, with regard to such training, remuneration must be paid for the period running from 1 January 1983 until the end of the training undertaken (see, to that effect, judgment of 24 January 2018, *Pantuso and Others*, C-616/16 and C-617/16, EU:C:2018:32, paragraph 57).
- 35 In the present case, the referring court seeks to ascertain whether, for the purposes of compensation for the damage caused by the failure to transpose the remuneration obligation laid down by Directive 82/76 in an appropriate and timely manner, the interpretation of EU law thus used by the Court is also valid with regard to 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. Contrary to the situation at issue in the case which gave rise to the judgment of 24 January 2018, *Pantuso and Others* (C-616/16 and C-617/16, EU:C:2018:32), some of the specialist doctors concerned began their specialisation before 1982 and thus before the entry into force of Directive 82/76.
- 36 In those circumstances, the questions referred, which it is appropriate to consider together, must be understood as seeking, in essence, to determine, first, whether Article 2(1)(c) and Article 3(1) and (2) of Directive 75/363 as amended, together with the annex thereto, are 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, whether such appropriate remuneration must, in that case, be paid for the entire period of training or only from that date of expiry onwards.
- 37 In that regard, it should be borne in mind that, pursuant to the provisions referred to in the preceding paragraph, repealed on 15 April 1993 by Directive 93/16, training leading to a diploma, certificate or other evidence of formal qualifications in specialised medicine, whether full-time or part-time, is normally subject to appropriate remuneration (judgment of 24 January 2018, *Pantuso and Others*, C-616/16 and C-617/16, EU:C:2018:32, paragraph 27).
- 38 In addition, the obligation for Member States to provide appropriate remuneration is binding only in respect of the medical specialties which are common to all the Member States or to two or more of them and are 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 (OJ 1975 L 167, p. 1) (judgment of 24 January 2018, *Pantuso and Others*, C-616/16 and C-617/16, EU:C:2018:32, paragraph 28 and the case-law cited).
- 39 It is apparent from the Court's settled case-law that that obligation to provide remuneration for periods of training in medical specialties, laid down in the annex to Directive 75/363 as amended, is, in itself, unconditional and sufficiently precise (judgment of 24 January 2018, *Pantuso and Others*, C-616/16 and C-617/16, EU:C:2018:32, paragraph 29 and the case-law cited).
- 40 Furthermore, that remuneration obligation, which was not provided for initially by Directive 75/363, was introduced by Directive 82/76, entered into force on 29 January 1982 and the Member States, in accordance with Article 16 thereof, were required to comply with it by 31 December 1982 at the latest (judgment of 24 January 2018, *Pantuso and Others*, C-616/16 and C-617/16, EU:C:2018:32, paragraph 30).

- 41 Regarding the question whether periods of 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 fall within the scope *ratione temporis* of that directive, it should be borne in mind that, according to the Court's settled case-law, a new rule of law applies from the entry into force of the act introducing it, and, while it does not apply to legal situations that have arisen and become definitive under the old law, it does apply to their future effects, as well as to new legal situations. The position is otherwise if the new rule is accompanied by special provisions which specifically lay down its conditions of temporal application, giving it retroactive effect (see, to that effect, judgment of 15 January 2019, *E.B.*, C-258/17, EU:C:2019:17, paragraph 50 and the case-law cited).
- 42 In that regard, it should be noted that enrolment at a specialist training establishment before the entry into force, on 29 January 1982, of Directive 82/76, in order to receive training under the conditions applicable at that time, gave rise to a legal situation which became definitive before the entry into force of that directive.
- 43 Such enrolment, together with the periods of training relating thereto, cannot therefore, in the absence of any special provisions to that effect in Directive 82/76, be brought within the scope of that directive in respect of the period preceding the expiry of the period prescribed for its transposition (see, by analogy, judgment of 15 January 2019, *E.B.*, C-258/17, EU:C:2019:17, paragraph 52 and the case-law cited).
- 44 It was only upon the expiry of the period prescribed for the transposition of Directive 82/76, that is to say, from 1 January 1983 onwards, that that directive brought the effects of an enrolment completed before its entry into force within the scope of EU law (see, by analogy, judgment of 15 January 2019, *E.B.*, C-258/17, EU:C:2019:17, paragraph 53 and the case-law cited).
- 45 As regards training continued after the expiry, on 1 January 1983, of the period prescribed for the transposition of that directive, such an enrolment continued to produce its effects for the entire duration of that training, including after that date of expiry.
- 46 Thus, it must be held that the situation of a doctor who enrolled at a specialist medical training establishment before 29 January 1982 is a situation which arose before the entry into force of Directive 82/76 but whose future effects are governed by that directive as from the expiry, on 1 January 1983, of the period prescribed for its transposition.
- 47 Consequently, since, as is apparent from paragraph 34 of the present judgment, any full-time and part-time specialist medical training begun in 1982 must, for the period running from 1 January 1983 until the end of the training undertaken, be subject to appropriate remuneration within the meaning of the annex to Directive 75/363 as amended, such a remuneration obligation is also valid, under the same conditions, in respect of training begun before the entry into force, on 29 January 1982, of Directive 82/76.
- 48 The Court has previously held that the transitional rules set out in Articles 12 and 14 of Directive 82/76 cannot be regarded as having temporally limited the obligation to pay doctors appropriate remuneration in relation to their part-time specialist medical training (see, to that effect, judgment of 24 January 2018, *Pantuso and Others*, C-616/16 and C-617/16, EU:C:2018:32, paragraphs 33 and 35).

- 49 Regarding, moreover, the possibility, for the specialist doctors concerned, to obtain appropriate compensation for the damage caused through failure to transpose Directive 82/76 in relation to periods of 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, it should be borne in mind that if, owing to the absence of national measures transposing Directive 82/76, the result prescribed by that directive cannot be achieved by way of interpretation of national law in conformity with EU law, EU law requires the Member State concerned to make good damage caused to individuals through failure to transpose that directive, provided that three conditions are satisfied: the rule of law infringed is intended to confer rights on individuals and the content of those rights can be identified; the breach is sufficiently serious; and there is a direct causal link between the breach of the State's obligation and the damage suffered by the persons affected (see, to that effect, judgment of 24 January 2018, *Pantuso and Others*, C-616/16 and C-617/16, EU:C:2018:32, paragraph 49 and the case-law cited).
- 50 It is for the referring court to verify whether those conditions are satisfied so that, under EU law, the liability of that Member State is triggered.
- 51 In the light of all the foregoing considerations, the answer to the questions referred is that Article 2(1)(c) and Article 3(1) and (2) of Directive 75/363 as amended, 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 Directive 75/362.

### **Costs**

- 52 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Eighth Chamber) hereby rules:

**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.**

[Signatures]