

WRITTEN QUESTION E-3928/05

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to the Commission

Subject: Checking the legitimacy of the appointment and remuneration of the General Director of the 'Umberto I' university polyclinic in the light of the relevant Community legislation and case-law

In a memorandum dated 11 July 2005 - file number G118424 - Professor Renato Guarini, the Rector of the 'La Sapienza' University in Rome, suggested to the President of the Lazio Regional Government, Piero Marrazzo, that Dr Ubaldo Montaguti be appointed Director of the 'Umberto I' polyclinic. The President of the Lazio Regional government gave his agreement in a note dated 12 July 2005 - file number 203. The applicable national legislation (Article 4(2) of Legislative Decree No 517/99) specifies that the General Director should be appointed by the Regional Government in agreement with the Rector, and not the other way round as in this case.

In view of the illegitimate nature of the procedure adopted for drawing up the contract between the 'La Sapienza' University and Dr Ubaldo Montaguti, does not the Commission consider that this official appointment contravenes Community principles and legislation governing the free movement of workers (Articles 38 et seq.) and right of establishment (Articles 43 et seq.) sanctioned by the EC Treaty and the case-law of the European Court of Justice regarding access to public service appointments? Furthermore, does not the Commission consider that the illegitimate nature of the appointment of a person to a public office in a sector as sensitive as public health in contravention of the national legislation of a Member State, may undermine the Community interest as regards fair and correct recognition of the professional qualifications for such a post (the General Director of a university hospital) sanctioned by general and sectoral EC directives regarding the recognition of professional qualifications (when, for example, Dr Montaguti took part in selection/recommendation procedures together with other Community candidates or if he takes part in European-level symposia, meetings and employment or negotiation panels, to which he is invited and hence recognised as the Director of a hospital)?

Dr Montaguti's salary is EUR 207 000, plus a 30% bonus. The rules governing the pay of general directors of health centres and hospitals provide for an annual salary of no more than EUR 150 000 and a maximum additional amount equivalent to 20%. Since the legislation in question, by virtue of Prime Ministerial Decree No 502 of 19 July 1995, amended by Prime Ministerial Decree No 319 of 31 May 2001, puts polyclinics and institutions established pursuant to Legislative Decree No 517/99 on the same footing, which means that the 'Umberto I' university polyclinic is subject to all these regulations, does not the Commission consider that this infringement of national legislation contravenes the principle of 'fair and appropriate pay' and 'access to public service appointments' established in Community case-law?

Does not the Commission consider that the illegitimate nature of the appointment and the relevant salary also constitutes a contravention of the 'European Charter of Fundamental Rights' referred to by the Court of Justice itself on a number of occasions?