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Advocate General's Opinion in Case C-522/24 | Ministero della Difesa (Obligation for military personnel to be vaccinated)

Advocate General Ćapeta: EU anti-discrimination legislation does not prevent a Member State from introducing compulsory vaccination for members of the military, even if it is contrary to their personal views

Personal views based on health concerns about a vaccine's effects and disagreement with a government's vaccination policy do not constitute a "belief" that falls within the prohibited grounds of discrimination

During the COVID-19 pandemic, the Italian legislation at issue introduced a compulsory coronavirus vaccination for members of the military working for the Ministry of Defence. The military staff who chose not to vaccinate were temporarily suspended from work without pay.

The applicant in the present case refused to receive that vaccine for two reasons. First, he believed that it was ineffective and unsafe. Second, he was dissatisfied with the government's policy, finding the government's reluctance to accept any responsibility for the potential side effects caused by the vaccine unacceptable. Consequently, he was suspended from work without pay for roughly two months, after which the compulsory vaccination requirement was lifted. He challenged the decision arguing that the suspension had been discriminatory, relying on, inter alia, the Framework Directive on equal treatment in employment and occupation.¹

In order to assess the compatibility of the Italian legislation with that directive, the Italian court referred questions to the Court of Justice for a preliminary ruling.

In her Opinion delivered today, **Advocate General Tamara Ćapeta** takes the view that **the Framework Directive on equal treatment in employment and occupation does not apply to the case at hand.**

She explains that that directive precludes discrimination on several enumerated grounds, one of which is the ground of 'religion or belief'. The Court has made a distinction between beliefs of a religious, philosophical or spiritual nature, which are covered by the directive, and other views, for example, political or trade union beliefs, which fall outside of the scope of that directive.

Therefore, a **personal conviction**, based on either health concerns or disagreements with governmental policies, **does not constitute a 'belief'** for which the directive prohibits discrimination in employment and occupation, as it **does not qualify as a genuine philosophical belief but rather as a critical opinion on compulsory vaccination.**

Alternatively, should the Court find that such a personal opinion regarding a vaccination requirement is a 'belief' within the meaning of that directive, the Advocate General considers that that requirement would amount to **indirect discrimination**, which, however, may be **justified by the legitimate aim of protecting public health.** The compulsory vaccination was a necessary and proportionate measure to achieve that objective in the context of the emergency caused by the spread of the coronavirus.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the Opinion are available from '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ [Council Directive 2000/78/EC](#) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.