

Case C-292/92

Ruth Hünermund and Others

v

Landesapothekerkammer Baden-Württemberg

(Reference for a preliminary ruling from the
Verwaltungsgerichtshof Baden-Württemberg)

(Free movement of goods — Quasi-pharmaceutical products —
Prohibition on advertising outside the pharmacy)

Report for the Hearing	I - 6789
Opinion of Advocate General Tesauro delivered on 27 October 1993	I - 6800
Judgment of the Court, 15 December 1993	I - 6816

Summary of the Judgment

1. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Concept — Measures laid down by a professional body in the pharmacy sector (EEC Treaty, Art. 30)*
2. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Concept — Obstacles arising from non-discriminatory national rules on selling arrangements — Article 30 of the Treaty not applicable — Prohibition on advertising quasi-pharmaceutical products outside the pharmacy (EEC Treaty, Art. 30)*

1. Measures adopted by a professional association in the pharmacy sector constitute, if they are capable of affecting trade between Member States, 'measures' within the meaning of Article 30 of the Treaty in so far as, according to the national legislation,
 2. The application to products from other Member States of national provisions restricting or prohibiting certain selling arrangements is not such as to hinder directly or indirectly, actually or potentially, trade between Member States within the meaning of Article 30 of the Treaty, so long as those provisions apply to all relevant traders operating within the national territory and so long as they affect in the same manner, in law and in fact, the marketing of domestic products and of those from other Member States. Provided that those conditions are fulfilled, the application of such rules to the sale of products from another Member State meeting the requirements laid down by that State is not by nature such as to prevent their access to the market or to impede access any more than it impedes the access of domestic products. Such rules therefore fall outside the scope of Article 30 of the Treaty.
- the association in question is a public-law body with legal personality and regulated by the State, membership of which is compulsory for all pharmacists practising within the area over which it has jurisdiction;
- the association lays down rules of professional conduct applicable to pharmacists and monitors compliance by its members with their professional obligations;
- professional conduct committees, which are part of and whose members are nominated by the association, may impose disciplinary measures such as fines, disqualification as a member of bodies of the association or withdrawal of the right to vote or be elected to those bodies on pharmacists who have infringed professional conduct rules.
- Article 30 of the Treaty is therefore to be interpreted as not applying to a rule of professional conduct, laid down by a pharmacists' professional body in a Member State, which prohibits all pharmacists within the area over which it has jurisdiction from advertising outside the pharmacy quasi-pharmaceutical products which they are authorized to sell, in so far as that rule, which applies without distinction as to the origin of the products in question, does not affect the marketing of goods from other Member States differently from that of domestic products.