

COUNCIL DIRECTIVE

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 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

(82/76/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57 and 66 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas changes in the legislation of the Member States and experience gained from the application of Directives 75/362/EEC and 75/363/EEC ⁽⁴⁾ have made certain technical amendments necessary;

Whereas, moreover, Article 3 (3) of Directive 75/363/EEC provided that four years at the latest after notification of that 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 speciality, the Council shall decide whether the provisions of paragraphs 1 and 2 should be retained or amended;

Whereas pursuant to the principle of full-time training for medical specialists, the derogation in favour of part-time training, while being continued, should be more strictly defined and controlled;

Whereas the period referred to in Article 7 of Directive 75/363/EEC should be extended to 31 December 1983 to enable those Member States where part-time training

for medical specialists does not comply with Articles 2 and 3 of that Directive to complete the process of reform introduced in order to end this type of training,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 3 of Directive 75/362/EEC, item 2 under '(g) in Luxembourg' and the figure 1 which precedes the resulting single subparagraph shall be deleted.

Article 2

Article 5 (3) of Directive 75/362/EEC shall be amended as follows:

(a) in the German version, the following headings shall be replaced as follows:

- '— Anästhesie-Wiederbelebung' by '— Anästhesiologie',
- '— Ophthalmologie' by '— Augenheilkunde',
- '— Otorhinolaryngologie' by '— Hals-Nasen-Ohrenheilkunde',
- '— Pädiatrie' by '— Kinderheilkunde';

(b) in all versions:

1. under '— anaesthetics', the subheading concerning Germany and Belgium shall be replaced as follows:
 - 'Germany: Anästhesiologie',
 - 'Belgium: anesthésiologie/anesthesiologie';
2. under '— obstetrics and gynaecology', the subheading concerning Belgium and France shall be replaced as follows:
 - 'Belgium: gynécologie-obstétrique/gynecologie-verloskunde',
 - 'France: gynécologie-obstétrique';

⁽¹⁾ OJ No C 121, 23. 5. 1981, p. 4.

⁽²⁾ OJ No C 260, 12. 10. 1981, p. 99.

⁽³⁾ OJ No C 230, 10. 9. 1981, p. 12.

⁽⁴⁾ OJ No L 167, 30. 6. 1975, pp. 1 and 14.

3. under '— oto rhino laryngology', the subheadings concerning Germany and Belgium shall be replaced as follows:

'Germany: Hals-Nasen-Ohrenheilkunde',

'Belgium: oto-rhino-laryngologie/otorhinolaryngologie';

4. under '— paediatrics', the subheading concerning Belgium shall be replaced by:

'Belgium: pédiatrie/kindergeneeskunde'.

Article 3

Article 7 (2) of Directive 75/362/EEC shall be amended as follows:

(a) in the German version, the headings shall be replaced as follows:

1. 'Mikrobiologie-Bakteriologie' by 'Mikrobiologie und Infektionsepidemiologie';

2. 'Pathologische Anatomie' by 'Pathologie';

3. 'Pädiatrische Chirurgie' by 'Kinderchirurgie';

4. 'Neuro-Psychiatrie' by 'Nervenheilkunde (Neurologie und Psychiatrie)';

5. 'Kinderpsychiatrie' by 'Kinder- und Jugendpsychiatrie';

(b) in the Dutch version, under 'zenuw- en zielsziekten' the subheading concerning Belgium shall be replaced by:

'België: neuropsychiatrie/neuropsychiatrie';

(c) in all versions:

1. under 'microbiology-bacteriology':

— the following subheading shall be added:

'Germany: Mikrobiologie und Infektionsepidemiologie',

— the subheading concerning the Netherlands shall be replaced by:

'Netherlands: medische microbiologie';

2. under 'pathological anatomy' the subheading concerning Germany shall be replaced by:

'Germany: Pathologie';

3. under 'biological chemistry' the subheading concerning Luxembourg shall be replaced by:

'Luxembourg: chimie biologique';

4. under 'paediatric surgery' the subheading concerning Luxembourg shall be replaced by:

'Luxembourg: chirurgie pédiatrique';

5. under 'physiotherapy':

— the subheading concerning Belgium shall be replaced by:

'Belgium: médecine physique/fysische geneeskunde',

— the following subheading shall be inserted:

'Luxembourg: rééducation et réadaptation fonctionnelles';

6. under 'neurology' the following subheading shall be inserted:

'Greece: Νευρολογία';

7. under 'psychiatry' the following subheading shall be inserted:

'Greece: Ψυχιατρική';

8. under 'neuro-psychiatry' the subheading concerning Germany shall be replaced by:

'Germany: Nervenheilkunde (Neurologie und Psychiatrie)';

9. under 'diagnostic radiology':

— the subheading concerning Belgium shall be replaced by:

'Belgium: radiodiagnostic/röntgen-diagnose',

— the following subheadings shall be inserted:

'Greece: 'Ακτινοδιαγνωστική',

'Luxembourg: radiodiagnostic';

10. under 'radiotherapy':

— the subheading concerning Belgium shall be replaced by:

'Belgium: radio- et radiumthérapie/radio-en radiumtherapie',

— the following subheading shall be inserted:

'Luxembourg: radiothérapie';

11. under 'child psychiatry' the following subheadings shall be inserted and added respectively:

'Luxembourg: psychiatrie infantile',

'United Kingdom: child and adolescent psychiatry'.

Article 4

Article 11 (3) of Directive 75/362/EEC is hereby replaced by the following:

'3. If the host Member State has detailed knowledge of a serious matter which has occurred, prior to the establishment of the person concerned

in that State, outside its territory and which is likely to affect the taking up within its territory of the activity concerned, it may inform the Member State of origin or the Member State from which the foreign national comes.

The Member State of origin or the Member State from which the foreign national comes shall verify the accuracy of the facts. Its authorities shall decide on the nature and extent of the investigation to be made and shall inform the host Member State of any consequential action which they take with regard to the certificates or documents they have issued.

Member States shall ensure the confidentiality of the information which is forwarded.'

Article 5

Article 12 (2) of Directive 75/362/EEC shall be replaced by the following text:

'2. If the host Member State has detailed knowledge of a serious matter which has occurred, prior to the establishment of the person concerned in that State, outside its territory and which is likely to affect the pursuit within its territory of the activity concerned, it may inform the Member State of origin or the Member State from which the foreign national comes.

The Member State of origin or the Member State from which the foreign national comes shall verify the accuracy of the facts. Its authorities shall decide on the nature and extent of the investigation to be made and shall inform the host Member State of any consequential action which they take with regard to the information which they have forwarded in accordance with paragraph 1.'

Article 6

The following Article shall be inserted in Directive 75/362/EEC:

'Article 15a

Where a host Member State requires its own nationals wishing to take up or pursue one of the activities referred to in Article 1 to take an oath or make a solemn declaration and where the form of such an oath or declaration cannot be used by nationals of other Member States, that Member State shall ensure that an appropriate and equivalent form of oath or declaration is offered to the person concerned.'

Article 7

The following subparagraph shall be inserted after the second subparagraph of Article 16 (1) of Directive 75/362/EEC:

'For this purpose and in addition to the declaration provided for in paragraph 2 relating to the services to be provided, Member States may, so as to permit the implementation of the provisions relating to professional conduct in force in their territory, require either automatic temporary registration or *pro forma* membership of a professional organization or body or, as an alternative, registration, provided that such registration or membership does not delay or in any way complicate the provision of services or impose any additional costs on the person providing the services.'

Article 8

Article 19 of Directive 75/362/EEC shall be deleted.

Article 9

In Article 2 (1) of Directive 75/363/EEC:

1. Point (c) shall be replaced by the following:

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

2. Point (d) shall be replaced, in the German version, by the following:

'(d) sie muß in einem Universitätszentrum, einer Universitätsklinik oder gegebenenfalls in einer hierzu von den zuständigen Behörden oder Stellen zugelassenen Einrichtung der ärztlichen Versorgung erfolgen;'

Article 10

Article 3 of Directive 75/363/EEC shall be replaced by the following:

'Article 3

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 specialized training may not be curtailed in those cases where it is organized 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.'

Article 11

In the German version of Directive 75/363/EEC:

(a) the following titles shall be replaced in Article 4:

- '— Krankheiten der Atemwege' by '— Lungen- und Bronchialheilkunde',
- '— Anästhesie-Wiederbelebung' by '— Anästhesiologie',
- '— Hals-, Nasen-, Ohrenheilkunde' by '— Hals-Nasen-Ohrenheilkunde;

(b) the following titles shall be replaced in Article 5:

- '— Neuropsychiatrie' by '— Nervenheilkunde (Neurologie und Psychiatrie)',
- '— Pädiatrische Chirurgie' by '— Kinderchirurgie',
- '— Gastro-Enterologie' by '— Gastroenterologie',
- '— Kinderpsychiatrie' by 'Kinder- und Jugendpsychiatrie',

'— Mikrobiologie-Bakteriologie' by '— Mikrobiologie und Infektionsepidemiologie',

'— Pathologische Anatomie' by '— Pathologie',

'— Dermato-Venerologie' by '— Dermatologie und Venerologie'.

Article 12

Article 7 of Directive 75/363/EEC shall be replaced by the following:

'Article 7

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 Directives 75/362/EEC and 75/363/EEC 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 authorized 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.'

Article 13

The following Annex shall be added to Directive 75/363/EEC:

'ANNEX

Characteristics of full-time and part-time training of specialists

1. Full-time training of specialists

Such training shall be carried out in specific posts recognized 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.'

Article 14

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

Article 15

Member States which, before notification of this Directive, have repealed the provisions laid down by law, regulation or administrative action on the award of diplomas, certificates and other evidence of formal qualification in neuropsychiatry or radiology and have, before the said notification, adopted measures relating to acquired rights on behalf of their own nationals, shall accord the right to benefit from such measures to nationals of the Member States, provided their diplomas, certificates and other evidence of formal qualifications in neuropsychiatry or radiology fulfil the conditions laid down in this respect either in Article 9 (2) of Directive 75/362/EEC or in Articles 2, 3 and 5 of Directive 75/363/EEC.

Article 16

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.

Article 17

This Directive is addressed to the Member States.

Done at Brussels, 26 January 1982.

For the Council

The President

L. TINDEMANS