OPINION OF THE COMMISSION

pursuant to Article 251 (2) (c) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the
proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL


AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 250 (2) of the EC Treaty
1. **BACKGROUND**


b) On 27 May 1998, the Economic and Social Committee gave its opinion\(^2\).

c) On 2 July 1998, the European Parliament adopted at first reading a favourable opinion containing 19 amendments to the Commission's proposal\(^3\).

d) On 20 March 2000, the Council adopted a common position\(^4\).

e) On 27 March 2000, the Commission accepted that common position and communicated its opinion to the European Parliament.

f) On 6 July 2000, the European Parliament adopted at second reading 11 amendments to the common position.

2. **PURPOSE OF THE PROPOSAL**

The proposal has a twofold objective:

– to implement the recommendations of the SLIM Team on "recognition of diplomas" by making it easier to update the lists of diplomas eligible for mutual recognition;

– to take the opportunity to introduce other amendments, many of them technical in nature, aimed at improving legal certainty or facilitating interpretation of the Directives in question.

3. **OPINION OF THE COMMISSION ON THE AMENDMENTS BY THE EUROPEAN PARLIAMENT**

The European Parliament adopted at second reading 11 amendments to the common position of the Council.

3.1. **Amendments retained by the Commission**

Amendment 4 is aimed at amending recital 12 by deleting the explicit reference to the judgment of the Court of Justice of the European Communities on which the

---


proposed amendment regarding the recognition of certain Italian diplomas in pharmacy is based.

It is true that such a reference is not essential, although there is a reference to another judgment of the Court in another recital (9) of similar scope in the same preamble.

The Commission can accept this amendment.

Amendments 5 and 6 are aimed at amending Article 1(1) of the common position by replacing, in some language versions, the expression "establishment of the same level" by "establishment of equivalent level".

This matter has also been discussed in the Council, which decided to retain the present wording in each language version in order to avoid any difficulty in interpretation.

The Commission would point out that the contradiction between the two expressions is only apparent. The etymology of the word "equivalent" leaves no room for doubt in this respect.

Under these circumstances, the Commission can accept these amendments.

Amendment 11 is aimed at amending Article 12 of the common position to specify the duration of the transitional period set out for the recognition of certain Italian diplomas in pharmacy.

The amendment proposes that the end of the transitional period be set at 1 November 2003. This means that the transitional period will last ten years, which appears adequate.

The Commission can accept this amendment.

3.2. Amendments not accepted by the Commission

Amendment 1 is intended to introduce a new recital (5a) calling upon the Commission to present consolidated versions of the Directives.

The European Parliament regularly requests the Commission to codify Community law. While the Commission has no objection in principle to such a request, it must be pointed out that it would be contrary to the rules of legislative drafting and the Interinstitutional Style Guide to reiterate this call in a recital. What is more, as regards the Directives on the freedom of movement and the recognition of professional qualifications, a considerable amount of codification work has in fact just been completed and implemented by the adoption of Directive 1999/42/EC of the European Parliament and of the Council. This Directive in fact consolidates 35 Directives.

The Commission is therefore unable to accept this amendment.

Amendment 2 is aimed at introducing a new recital (6a) calling on the Commission to draw up studies and, possibly, legislative proposals on the question of recognition of training acquired in third countries.

As set out in relation to Amendment 1, it would be contrary to the rules of legislative drafting and the Interinstitutional Style Guide to make such a call in a recital. What is more, the common position of the Council already obliges Member States to examine diplomas obtained in a third country when those diplomas have been recognised in a Member State, as is also the case for training and/or professional experience acquired in a Member State. In addition, the Member State’s decision must be reached within three months of submission of the full documentation by the person concerned. These obligations are set out in Articles 3(6), 5(9), 7(4), 9(5), 11(1), 13(5) and 14(12) of the common position.

The Commission is therefore unable to accept this amendment.

Amendments 3 and 10 are aimed at amending Article 14(9) of the common position by making ongoing training obligatory for general practitioners.

There are various reasons why these amendments cannot be accepted.

Firstly, as their title indicates, the Directives on freedom of movement and recognition of diplomas are aimed solely at fostering the mobility of professionals and, to that end, they provide for the mutual recognition of diplomas. That recognition is based on a minimum coordination of training. In accordance with the principle of subsidiarity and Articles 149 and 150 of the Treaty, the organisation and content of the systems of education and training are primarily and essentially a matter for the Member States. Those Articles specifically exclude any possibility of harmonisation.

With a view to promoting freedom of movement, it is simply and solely a matter of providing for minimum coordination of certain conditions of training which are regarded as being sufficient and satisfactory in that respect.

Under those circumstances, extending the minimum coordination of the conditions of training beyond what is necessary to ensure freedom of movement would be contrary to the Treaty and to the objective of the Directives on freedom of movement and the recognition of diplomas.

Moreover, it must be pointed out that, in its present wording, Amendment 10 might even be a barrier to freedom of movement. Article 31 of Directive 93/16/EEC lays down the minimum requirements for the specific training in general medical practice. That specific training is acquired immediately after the basic training and before the entitlement to exercise the profession of general practitioner. At that stage, therefore, there can be no question of ongoing training. By definition, ongoing training is acquired while exercising the profession. Under those circumstances, it is impossible to require a doctor who has not yet started practising to produce “evidence of regular participation in periods of ongoing training, the intervals between which must be consistent with progress in medicine”.

Finally, nothing justifies making ongoing training mandatory for a single profession and, a fortiori, one single category of doctors.
The Commission is therefore unable to accept these amendments.

Amendment 7 aims to introduce a new condition concerning training for specialists, viz. "adequate knowledge of general medical practice".

The Commission would draw attention to the arguments set out above in relation to Amendments 3 and 10: extending the minimum coordination of the conditions of training beyond what is necessary to ensure freedom of movement would be contrary to the Treaty and to the objective of the Directives on freedom of movement and the recognition of diplomas.

As this concerns the conditions for the training of specialists, it must be pointed out that the specialist has already acquired the necessary knowledge of general medical practice during the six years of basic training. That knowledge was sufficient to practise general medicine up to 1 January 1995. From then on, specific training in general medical practice is required. As the preamble to Directive 93/16/EEC indicates, this specific training is aimed, in particular, at making the consultation of specialists more selective. Amendment 7 thus serves no purpose, as the specialist already has sufficient knowledge of general medical practice thanks to the basic training, and it is also contrary to the objective pursued by the recent introduction of specific training in general medical practice.

The Commission is therefore unable to accept this amendment.

Amendments 8 and 9 are aimed at extending by one year the minimum period of specific training in general medical practice. This minimum period would therefore be three years instead of two.

The Commission would draw attention to the arguments set out above in relation to Amendments 3 and 10: extending the minimum coordination of the conditions of training beyond what is necessary to ensure freedom of movement would be contrary to the Treaty and to the objective of the Directives on freedom of movement and the recognition of diplomas.

Moreover, the proposal to extend the period of specific training in general medical practice is part of an approach to basic training which involves supplementing the training as much as possible before starting to exercise the profession, whereas another approach involves supplementing the basic training on an ongoing basis throughout one's professional life. In that sense, Amendments 8 and 9 to some extent contradict Amendments 3 and 10.

It this context, there is a general point to be made that the various amendments on medical training principally concern general medical practice and do not appear justified by an overall consideration of the role of the general practitioner and that of the specialist, and of the respective importance of basic training, specific training, specialised training and ongoing training. Furthermore, as already stated above, the objective of the Directives on freedom of movement and the recognition of diplomas cannot be ignored.

The Commission is therefore unable to accept these amendments.
4. **CONCLUSION**

Under the terms of Article 250(2) of the EC Treaty, the Commission amends its proposal according to the above.