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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 16 June 1975

concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services

(75/362/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57, 66 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾;

Whereas, pursuant to the Treaty, all discriminatory treatment based on nationality with regard to establishment and provision of services is prohibited as from the end of the transitional period; whereas the principle of such treatment based on nationality applies in particular to the grant of any authorization required to practise as a doctor and also to the registration with or membership of professional organizations or bodies;

Whereas it nevertheless seems desirable that certain provisions be introduced to facilitate the effective exercise of the right of establishment and freedom to provide services in respect of the activities of doctors;

Whereas, pursuant to the Treaty, the Member States are required not to grant any form of aid likely to distort the conditions of establishment;

Whereas Article 57 (1) of the Treaty provides that directives be issued for mutual recognition of

diplomas, certificates and other evidence of formal qualifications; whereas the aim of this Directive is the recognition of diplomas, certificates and other evidence of formal qualifications whereby activities in the field of medicine can be taken up and pursued and the recognition of diplomas, certificates and other evidence of formal qualifications in respect of specialists;

Whereas, with regard to the training of the specialist, mutual recognition of training qualifications is advisable where these qualifications, while not being a condition of access to take up the activities of a specialist, nonetheless entitle him to use a specialist title;

Whereas, in view of the differences between the Member States, regarding the number of medical specialties and the type or the length of training courses for such specialties, certain coordinating provisions intended to enable Member States to proceed with the mutual recognition of diplomas, certificates and other evidence of formal qualifications should be laid down; whereas such coordination has been effected by Council Directive No 75/363/EEC ⁽³⁾ of 16 June 1975 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of the activities of doctors;

Whereas the coordination referred to above was not intended to harmonize all the provisions of the Member States on the training of specialists and it is nevertheless appropriate to proceed with the mutual recognition of diplomas, certificates and other evidence of formal qualifications as a specialist

⁽¹⁾ OJ No C 101, 4. 8. 1970, p. 19.

⁽²⁾ OJ No C 36, 28. 3. 1970, p. 17.

⁽³⁾ See page 14 of this Official Journal.

which are not common to all the Member States, without however excluding the possibility of subsequent harmonization in this field; whereas it was considered in this connection that recognition of diplomas, certificates and other evidence of formal qualifications as a specialist must be restricted to those Member States where such specialization is known;

Whereas, with regard to the possession of a formal certificate of training, since a directive on the mutual recognition of diplomas does not necessarily imply equivalence in the training covered by such diplomas, the use of such qualifications should be authorized only in the language of the Member State of origin or of the Member State from which the foreign national comes;

Whereas, to facilitate the application of this Directive by the national authorities, Member States may prescribe that, in addition to formal certificates of training, the person who satisfies the conditions of training required by this Directive must provide a certificate from the competent authorities of his country of origin or of the country from which he comes stating that these certificates of training are those covered by the Directive;

Whereas this Directive does not affect the provisions laid down by law, regulation or administrative action in the Member States, which prohibit companies or firms from practising medicine or impose on them certain conditions for such practice;

Whereas, in the case of the provision of services, the requirement of registration with or membership of professional organizations or bodies, since it is related to the fixed and permanent nature of the activity pursued in the host country, would undoubtedly constitute an obstacle to the person wishing to provide the service, by reason of the temporary nature of his activity; whereas this requirement should therefore be abolished; whereas however, in this event, control over professional discipline, which is the responsibility of these professional organizations or bodies, should be guaranteed; whereas, to this end, it should be provided, subject to the application of Article 62 of the Treaty, that the person concerned may be required to submit to the competent authority of the host Member State particulars relating to the provision of services;

Whereas, with regard to the requirements relating to good character and good repute, a distinction should be drawn between the requirements to be satisfied on first taking up the profession and those to be satisfied to practice it;

Whereas, as far as the activities of employed doctors are concerned, Council Regulation (EEC) No 1612/68 ⁽¹⁾ of 15 October 1968 on freedom of movement

for workers within the Community, lays down no specific provisions relating to good character or good repute, professional discipline or use of title for the professions covered; whereas, depending on the individual Member State, such rules are or may be applicable both to employed and self-employed persons; whereas the activities of doctors are subject in all Member States to possession of a diploma, certificate or other evidence of formal qualification in medicine; whereas such activities are pursued by both employed and self-employed persons, or by the same persons in both capacities in the course of their professional career; whereas, in order to encourage as far as possible the free movement of those professional persons within the Community, it therefore appears necessary to extend this Directive to employed doctors,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

SCOPE

Article 1

This Directive shall apply to the activities of doctors.

CHAPTER II

DIPLOMAS, CERTIFICATES AND OTHER EVIDENCE OF FORMAL QUALIFICATIONS IN MEDICINE

Article 2

Each Member State shall recognize the diplomas, certificates and other evidence of formal qualifications awarded to nationals of Member States by the other Member States in accordance with Article 1 of Directive No 75/363/EEC and which are listed in Article 3, by giving such qualifications, as far as the right to take up and pursue the self-employed activities of a doctor is concerned, the same effect in its territory as those which the Member State itself awards.

Article 3

The diplomas, certificates and other evidence of formal qualifications referred to in Article 2 are as follows:

(a) *in Germany:*

1. 'Zeugnis über die ärztliche Staatsprüfung' (the State examination certificate in medicine) awarded by the competent authorities and the 'Zeugnis über die Vorbereitungszeit als Medizinalassistent' (certificate stating that the

⁽¹⁾ OJ No L 257, 19. 10. 1968, p. 2.

preparatory period as medical assistant has been completed) in so far as German law still requires such a period to complete medical training;

2. the certificates from the competent authorities of the Federal Republic of Germany stating that the diplomas awarded after 8 May 1945 by the competent authorities of the German Democratic Republic are recognized as equivalent to those listed in point 1 above;

(b) *in Belgium:*

'diplôme légal de docteur en médecine, chirurgie et accouchements/Wettelijk diploma van doctor in de genees-, heel- en verloskunde' (diploma of doctor of medicine, surgery and obstetrics required by law) awarded by the university faculties of medicine, the Central Examining Board or the State University Education Examining Board;

(c) *in Denmark:*

'bevis for bestået lægevidenskabelig embeds-eksamen' (diploma of doctor of medicine required by law) awarded by a university faculty of medicine and 'dokumentation for gennemført praktisk uddannelse' (certificate of practical training issued by the competent authorities of the health service);

(d) *in France:*

1. 'diplôme d'État de docteur en médecine' (State diploma of doctor of medicine) awarded by the university faculties of medicine, the university joint faculties of medicine and pharmacy, or by the universities;
2. 'diplôme d'université de docteur en médecine' (university diploma of doctor of medicine) where that diploma certifies completion of the same training course as that laid down for the State diploma of doctor of medicine;

(e) *in Ireland:*

a primary qualification granted in Ireland after passing a qualifying examination held by a competent examining body and a certificate of experience granted by that body which give entitlement to registration as a fully registered medical practitioner;

(f) *in Italy:*

'diploma di abilitazione all'esercizio della medicina e chirurgia' (diploma conferring the right to practise medicine and surgery) awarded by the State Examining Commission;

(g) *in Luxembourg:*

1. 'diplôme d'État de docteur en médecine, chirurgie et accouchements' (State diploma of doctor of medicine, surgery and obstetrics) awarded by the State Examining Board, and endorsed by the Minister of Education, and 'certificat de stage' (certificate of practical training) endorsed by the Minister for Public Health;
2. diplomas conferring a degree in medicine awarded in one of the countries of the Community and giving the right to take up training but not to practise the profession, and officially recognized by the Minister of Education in accordance with the law of 18 June 1969 on higher education and recognition of foreign degrees and diplomas, together with the certificate of practical training endorsed by the Minister for Public Health;

(h) *in the Netherlands:*

'universitair getuigschrift van arts' (university certificate of doctor);

(i) *in the United Kingdom:*

a primary qualification granted in the United Kingdom after passing a qualifying examination held by a competent examining body and a certificate of experience granted by that body which give entitlement to registration as a fully registered medical practitioner.

CHAPTER III

DIPLOMAS, CERTIFICATES AND OTHER EVIDENCE OF FORMAL QUALIFICATIONS IN SPECIALIZED MEDICINE COMMON TO ALL MEMBER STATES

Article 4

Each Member State shall recognize the diplomas, certificates and other evidence of formal

qualifications in specialized medicine awarded to nationals of Member States by the other Member States in accordance with Articles 2, 3, 4 and 8 of Directive No 75/363/EEC and which are listed in Article 5, by giving such qualifications the same effect in its territory as those which the Member State itself awards.

Article 5

1. The diplomas, certificates and other evidence of formal qualifications referred to in Article 4 shall be those which, having been awarded by the competent authorities or bodies listed in paragraph 2, correspond, for the purpose of the specialized training concerned, to the qualifications recognized in the various Member States and listed in paragraph 3.

2. The diplomas, certificates and other evidence of formal qualifications awarded by the competent authorities or bodies referred to in paragraph 1 are as follows:

in Germany:

'die von den Landesärztekammern erteilte fachärztliche Anerkennung' (recognized certificate of medical specialist, issued by the Chamber of Physicians of the 'Land' concerned);

in Belgium:

'le titre d'agrégation en qualité de médecin spécialiste/erkenningstitel van specialist' (formal evidence of having qualified as a medical specialist) issued by the Minister for Public Health;

in Denmark:

'bevis for tilladelse til at betegne sig som speciallæge' (certificate concerning the title of specialist) issued by the competent authorities of the health service,

in France:

— 'le certificat d'études spéciales de médecine' (certificate of specialized studies in medicine) issued by a university faculty of medicine, university joint faculties of medicine and pharmacy or by universities;

— certificates of qualified medical specialist, drawn up by the Council of the Ordre des médecins;

— 'le certificat d'études spéciales de médecine' (certificate of specialized studies in medicine) issued by a university faculty of medicine, university joint faculties of medicine and pharmacy or equivalent certificates drawn up under a decree of the Minister for Education;

in Ireland:

certificate of specialist doctor issued by the competent authority recognized for this purpose by the Minister for Health;

in Italy:

'diploma di medico specialista, rilasciati dal rettore di una università' (diploma of specialized doctor, granted by a Rector of a University);

in Luxembourg:

'certificat de médecin spécialiste' (certificate of specialist doctor) issued by the Minister for Public Health on the advice of the medical college;

in the Netherlands:

'het door de Specialisten-Registratiecommissie (SRC) afgegeven getuigschrift van erkenning en inschrijving in het Specialistenregister' (certificate of recognition and registration in the Register of Specialists, issued by the Commission for the Registration of Specialists (CRS));

in the United Kingdom:

certificate of completion of specialist training issued by the competent authority recognized for this purpose.

3. The titles currently used in the Member States which correspond to the specialized training courses in question are as follows:

— anaesthetics:

Germany:	Anästhesie
Belgium:	anesthésiologie/anesthesie
Denmark:	anæstesiologi
France:	anesthésie-réanimation
Ireland:	anaesthetics
Italy:	anestesia e rianimazione
Luxembourg:	anesthésie-réanimation
Netherlands:	anesthesie
United Kingdom:	anaesthetics;

— general surgery:

Germany:	Chirurgie
Belgium:	chirurgie/heelkunde
Denmark:	kirurgi eller kirurgiske sygdomme
France:	chirurgie générale
Ireland:	general surgery
Italy:	chirurgia generale
Luxembourg:	chirurgie générale
Netherlands:	heelkunde
United Kingdom:	general surgery;

— *neurological surgery:*

Germany:	Neurochirurgie
Belgium:	neurochirurgie/neurochirurgie
Denmark:	neurokirurgi eller kirurgiske nervesygdomme
France:	neurochirurgie
Ireland:	neurological surgery
Italy:	neurochirurgia
Luxembourg:	neurochirurgie
Netherlands:	neurochirurgie
United Kingdom:	neurological surgery;

— *obstetrics and gynaecology:*

Germany:	Frauenheilkunde und Geburts- hilfe
Belgium:	gynécologie-obstétrique/ gynaecologie-verloskunde
Denmark:	gynækologi og obstetrik eller kvindesygdomme og fødsels- hjælp
France:	obstétrique et gynécologie médicale
Ireland:	obstetrics and gynaecology
Italy:	obstetrica e ginecologia
Luxembourg:	gynécologie-obstétrique
Netherlands:	verloskunde en gynaecologie
United Kingdom:	obstetrics and gynaecology;

— *general (internal) medicine:*

Germany:	Innere Medizin
Belgium:	médecine interne/inwendig geneeskunde
Denmark:	intern medicin eller medicinske sygdomme
France:	médecine interne
Ireland:	general (internal) medicine
Italy:	medicina interna
Luxembourg:	maladies internes
Netherlands:	inwendige geneeskunde
United Kingdom:	general medicine;

— *ophthalmology:*

Germany:	Augenheilkunde
Belgium:	ophtalmologie/ophtalmologie
Denmark:	oftalmologi eller øjensygdomme
France:	ophtalmologie
Ireland:	ophthalmology
Italy:	oculistica
Luxembourg:	ophtalmologie
Netherlands:	oogheekunde
United Kingdom:	ophthalmology;

— *oto rhino laryngology:*

Germany:	Hals-, Nasen-, Ohrenheilkunde
Belgium:	oto-rhino-laryngologie/ oto-rhino-laryngologie
Denmark:	oto-rhino-laryngologi eller øre-næse-halssygdomme
France:	oto-rhino-laryngologie
Ireland:	otolaryngology
Italy:	otorinolaringoiatria
Luxembourg:	oto-rhino-laryngologie
Netherlands:	keel-, neus-, en oorheekunde
United Kingdom:	otolaryngology;

— *paediatrics:*

Germany:	Kinderheilkunde
Belgium:	pédiatrie/pediatrie
Denmark:	pædiatri eller børnesygdomme
France:	pédiatrie
Ireland:	paediatrics
Italy:	pediatria
Luxembourg:	pediatrie
Netherlands:	kindergeneeskunde
United Kingdom:	paediatrics;

— *respiratory medicine:*

Germany:	Lungen- und Bronchialheil- kunde
Belgium:	pneumologie/pneumologie
Denmark:	medicinske lungesygdomme
France:	pneumo-phtisiologie
Ireland:	respiratory medicine
Italy:	tisiologia e malattie dell'apparato respiratorio
Luxembourg:	pneumo-phtisiologie
Netherlands:	ziekten der luchtwegen
United Kingdom:	respiratory medicine;

— *urology:*

Germany:	Urologie
Belgium:	urologie/urologie
Denmark:	urologi eller urinvejenes kirurgiske sygdomme
France:	urologie
Ireland:	urology
Italy:	urologia
Luxembourg:	urologie
Netherlands:	urologie
United Kingdom:	urology;

— *orthopaedics:*

Germany:	Orthopädie
Belgium:	orthopédie/orthopedie
Denmark:	ortopædisk kirurgi
France:	orthopédie
Ireland:	orthopaedic surgery
Italy:	ortopedia e traumatologia
Luxembourg:	orthopédie
Netherlands:	orthopedie
United Kingdom:	orthopaedic surgery.

biological haematology:

Denmark:	klinisk blodtypeserologi
Luxembourg:	hématologie biologique;

microbiology — bacteriology:

Denmark:	klinisk mikrobiologi
Ireland:	microbiology
Italy:	microbiologia
Luxembourg:	microbiologie
Netherlands:	bacteriologie
United Kingdom:	medical microbiology;

CHAPTER IV

DIPLOMAS, CERTIFICATES AND OTHER EVIDENCE
OF FORMAL QUALIFICATIONS IN SPECIALIZED
MEDICINE PECULIAR TO TWO OR MORE
MEMBER STATES*Article 6*

Each Member State with provisions on this matter laid down by law, regulation or administrative action shall recognize the diplomas, certificates and other evidence of formal qualifications in specialized medicine awarded to nationals of Member States by other Member States in accordance with Articles 2, 3, 5 and 8 of Directive No 75/363/EEC and which are listed in Article 7, by giving such qualifications the same effect in its territory as those which the Member State itself awards.

Article 7

1. The diplomas, certificates and other evidence of formal qualifications referred to in Article 6 shall be those which, having been awarded by the competent authorities or bodies listed in Article 5 (2), correspond for the purposes of the specialized training in question to the designations listed in paragraph 2 of this Article in respect of those Member States which give such training.

2. The designations currently used in the Member States which correspond to the specialist training courses in question are as follows:

clinical biology:

Belgium:	biologie clinique/klinische biologie
France:	biologie médicale
Italy:	patologia diagnostica di laboratorio;

pathological anatomy:

Germany:	Pathologische Anatomie
Denmark:	patalogisk anatomi og histologi eller vævsundersøgelse
France:	anatomie pathologique
Ireland:	morbid anatomy and histopathology
Italy:	anatomia patologica
Luxembourg:	anatomie pathologique
Netherlands:	pathologische anatomie
United Kingdom:	morbid anatomy and histopathology;

biological chemistry:

Denmark:	klinisk kemi
Ireland:	chemical pathology
Luxembourg:	biochimie
Netherlands:	klinische chemie
United Kingdom:	chemical pathology;

immunology:

Ireland:	clinical immunology
United Kingdom:	immunology;

plastic surgery:

Belgium:	chirurgie plastique/ plastische heelkunde
Denmark:	plastikkirurgi
France:	chirurgie plastique et reconstructive
Ireland:	plastic surgery
Italy:	chirurgia plastica
Luxembourg:	chirurgie plastique
Netherlands:	plastische chirurgie
United Kingdom:	plastic surgery;

thoracic surgery:

Belgium:	chirurgie thoracique/heelkunde op de thorax
Denmark:	thoraxkirurgi eller brysthulens kirurgiske sygdomme
France:	chirurgie thoracique
Ireland:	thoracic surgery
Italy:	chirurgia toracica
Luxembourg:	chirurgie thoracique
Netherlands:	cardio-pulmonale chirurgie
United Kingdom:	thoracic surgery;

paediatric surgery:

Ireland:	paediatric surgery
Italy:	chirurgia pediatrica
Luxembourg:	chirurgie infantile
United Kingdom:	paediatric surgery;

vascular surgery:

Belgium:	chirurgie des vaisseaux/bloedvatenheelkunde
Italy:	cardio-angio chirurgia
Luxembourg:	chirurgie cardio-vasculaire;

cardiology:

Belgium:	cardiologie/cardiologie
Denmark:	cardiologi eller hjerte — og kredsløbssygdomme
France:	cardiologie et médecine des affections vasculaires
Ireland:	cardiology
Italy:	cardiologia
Luxembourg:	cardiologie et angiologie
Netherlands:	cardiologie
United Kingdom:	cardio-vascular disease;

gastro-enterology:

Belgium:	gastro-entérologie/gastro-enterologie
Denmark:	medicinsk gastroenterologi eller medicinske mave-tarmsygdomme
France:	maladies de l'appareil digestif
Ireland:	gastroenterology
Italy:	malattie dell'apparato digerente della nutrizione e del ricambio
Luxembourg:	gastro-entérologie et maladies de la nutrition
Netherlands:	maag- en darmziekten
United Kingdom:	gastroenterology;

rheumatology:

Belgium:	rhumatologie/reumatologie
France:	rhumatologie
Ireland:	rheumatology
Italy:	reumatologia
Luxembourg:	rhumatologie
Netherlands:	reumatologie
United Kingdom:	rheumatology;

general haematology:

Ireland:	haematology
Italy:	ematologia
Luxembourg:	hématologie
United Kingdom:	haematology;

endocrinology:

Ireland:	endocrinology and diabetes mellitus
Italy:	endocrinologia
Luxembourg:	endocrinologie
United Kingdom:	endocrinology and diabetes mellitus;

physiotherapy:

Belgium:	physiothérapie/fysiotherapie
Denmark:	fysiurgi og rehabilitering
France:	rééducation et réadaptation fonctionnelles
Italy:	fisioterapia
Netherlands:	revalidatie;

stomatology:

France:	stomatologie
Italy:	odontostomatologia
Luxembourg:	stomatologie;

neurology:

Germany:	Neurologie
Denmark:	neuromedicin eller medicinske nervesygdomme
France:	neurologie
Ireland:	neurology
Italy:	neurologia
Luxembourg:	neurologie
Netherlands:	neurologie
United Kingdom:	neurology;

psychiatry:

Germany: Psychiatrie
 Denmark: psykiatri
 France: psychiatrie
 Ireland: psychiatry
 Italy: psichiatria
 Luxembourg: psychiatrie
 Netherlands: psychiatrie
 United Kingdom: psychiatry;

neuro-psychiatry:

Germany: Neurologie und Psychiatrie
 Belgium: neuro-psychiatrie/
 neuropsychiatrie
 France: neuro-psychiatrie
 Italy: neuropsichiatria
 Luxembourg: neuro-psychiatrie
 Netherlands: zenuw- en zielsziekten;

dermato-venereology:

Germany: Dermatologie und Venerologie
 Belgium: dermato-vénéréologie/
 dermato-venereologie
 Denmark: dermato-venerologi eller hud- og
 kønssygdomme
 France: dermato-vénéréologie
 Italy: dermatologia e venerologia
 Luxembourg: dermato-vénéréologie
 Netherlands: huid- en geslachtsziekten;

dermatology:

Ireland: dermatology
 United Kingdom: dermatology;

venereology:

Ireland: venereology
 United Kingdom: venereology;

radiology:

Germany: Radiologie
 France: radiologie
 Italy: radiologia
 Luxembourg: électro-radiologie
 Netherlands: radiologie;

diagnostic radiology:

Belgium: radiodiagnostic/radiodiagnose
 Denmark: diagnostisk radiologi eller
 røntgenundersøgelse
 France: radio-diagnostic
 Ireland: diagnostic radiology
 Netherlands: radiodiagnostiek
 United Kingdom: diagnostic radiology;

radiotherapy:

Belgium: radio-radiumthérapie/
 radio-radiumtherapie
 Denmark: terapeutisk radiologi eller
 strålebehandling
 France: radio-thérapie
 Ireland: radiotherapy
 Netherlands: radiotherapie
 United Kingdom: radiotherapy;

tropical medicine:

Belgium: médecine tropicale/tropische
 geneeskunde
 Denmark: tropemedicin
 Ireland: tropical medicine
 Italy: medicina tropicale
 United Kingdom: tropical medicine;

child psychiatry:

Germany: Kinder- und Jugendpsychiatrie
 Denmark: børnepsykiatri
 France: pédo-psychiatrie
 Italy: neuropsichiatria infantile;

geriatrics:

Ireland: geriatrics
 United Kingdom: geriatrics;

renal diseases:

Denmark: nefrologi eller medicinske
 nyresygdomme
 Ireland: nephrology
 Italy: nefrologia
 United Kingdom: renal diseases;

communicable diseases:

Ireland: communicable diseases
 Italy: malattia infettiva
 United Kingdom: communicable diseases;

community medicine:

Ireland: community medicine
 United Kingdom: community medicine;

pharmacology:

Germany: Pharmakologie
 Ireland: clinical pharmacology and
 therapeutics
 United Kingdom: clinical pharmacology and
 therapeutics;

occupational medicine:

Ireland: occupational medicine
 United Kingdom: occupational medicine;

allergology:

Italy: allergologia ed immunologia clinica
 Netherlands: allergologie;

gastro-enterological surgery:

Belgium: chirurgie abdominale/heelkunde
 op het abdomen
 Denmark: kirurgisk gastroenterologi eller
 kirurgiske mave-tarmsygdomme
 Italy: chirurgia dell'apparato digerente.

Article 8

1. Nationals of Member States wishing to acquire one of the diplomas, certificates or other evidence of formal qualifications of specialist doctors not referred to in Articles 4 and 6, or which, although referred to in Article 6, are not awarded in the Member State of origin or the Member State from which the foreign national comes, may be required by a host Member State to fulfil the conditions of training laid down in respect of the specialty by its own law, regulation or administrative action.

2. The host Member State shall, however, take into account, in whole or in part, the training periods completed by the nationals referred to in paragraph 1 and attested by the award of a diploma, certificate or other evidence of formal training by the competent authorities of the Member State of origin or the Member State from which the foreign national comes provided such training periods correspond to those required in the host Member State for the specialized training in question.

3. The competent authorities or bodies of the host Member State, having verified the content and duration of the specialist training of the person concerned on the basis of the diplomas, certificates and other evidence of formal qualifications submitted, shall inform him of the period of additional training required and of the fields to be covered by it.

CHAPTER V

EXISTING CIRCUMSTANCES

Article 9

1. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in medicine do not satisfy all the minimum training requirements laid down in Article 1 Directive No 75/363/EEC, each Member State shall recognize, as being sufficient proof, the diplomas, certificates and other evidence of formal qualifications in medicine awarded by those Member States before the implementation of Directive No 75/363/EEC, accompanied by a certificate stating that those nationals have effectively and lawfully been engaged in the activities in question for at least three consecutive years during the five years prior to the date of issue of the certificate.

2. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in specialized medicine do not satisfy the minimum training requirements under Articles 2, 3, 4 and 5 of Directive No 75/363/EEC, each Member State shall recognize, as sufficient proof, the diplomas, certificates and other evidence of formal qualifications in specialized medicine awarded by the Member States before the implementation of Directive No 75/363/EEC. The Member State may, however, require that such diplomas, certificates and other evidence of formal qualifications be accompanied by a certificate issued by the competent authorities or bodies of the Member State of origin or of the Member State from which the foreign national comes, stating that he has been engaged in the activity in question as a specialist for a period equal to twice the difference between the length of specialized training of the Member State of origin or of the Member State from which the foreign national comes and the minimum training period referred to in Directive No 75/363/EEC where these periods are not equal to the minimum training periods laid down in Articles 4 and 5 of Directive No 75/363/EEC.

However, if, before the present Directive is implemented, the host Member State required a minimum training period less than the one at issue referred to in Articles 4 and 5 of Directive No 75/363/EEC, the difference mentioned in the first subparagraph can only be determined by reference to the minimum training period laid down by that State.

3. In the case of nationals of the Member States whose diplomas, certificates and other evidence of formal qualifications in specialized medicine do not conform with the qualifications or designations set out in Articles 5 and 7, each Member State shall recognize the diplomas, certificates and other evidence of formal qualifications awarded by those Member States, together with a certificate of equivalence signed by the competent authorities or bodies, as sufficient proof.

4. Member States which, before notification of this Directive, have repealed the provisions laid down by law, regulation or administrative action on the awarding of diplomas, the drawing up of certificates and other evidence of formal qualifications in neuropsychiatry, dermatovenereology or radiology and have, before notification of this Directive, taken measures on behalf of their own nationals to regularize existing circumstances, shall accord the right to benefit from such measures to nationals of the Member States, in so far as their diplomas, certificates and other evidence of formal qualifications in neuropsychiatry, dermatovenereology or radiology fulfil the conditions laid down in this matter either in Articles 2 and 5 of Directive No 75/363/EEC or in paragraph 2 of this Article.

CHAPTER VI

USE OF ACADEMIC TITLE

Article 10

1. Without prejudice to Article 18, host Member States shall ensure that the nationals of Member States who fulfil the conditions laid down in Articles 2, 4, 6 and 9 have the right to use the lawful academic title or, where appropriate, the abbreviation thereof, of their Member State of origin or of the Member State from which they come, in the languages of that State. Host Member States may require this title to be followed by the name and location of the establishment or examining board which awarded it.

2. If the academic title used in the Member State of origin, or in the Member State from which a foreign national comes, can be confused in the host Member State with a title requiring in that State additional training which the person concerned has not undergone, the host Member State may require such a person to use the title employed in the Member State of origin or the Member State from which he comes in suitable wording to be drawn up by the host Member State.

CHAPTER VII

PROVISIONS TO FACILITATE THE EFFECTIVE EXERCISE OF THE RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES IN RESPECT OF THE ACTIVITIES OF DOCTORS

A. Provisions specifically relating to the right of establishment

Article 11

1. A host Member State which requires of its nationals proof of good character or good repute when they take up for the first time any activity referred to in Article 1 shall accept as sufficient evidence, in respect of nationals of other Member States, a certificate issued by a competent authority in the Member State of origin or in the Member State from which the foreign national comes, attesting that the requirements of the Member State as to good character or good repute for taking up the activity in question have been met.

2. Where the Member State of origin or the Member State from which the foreign national comes does not require proof of good character or good repute of persons wishing to take up the activity in question for the first time, the host Member State may require of nationals of the Member State of origin or of the Member State from which the foreign national comes an extract from the 'judicial record' or, failing this, an equivalent document issued by a competent authority in the Member State of origin or the Member State from which the foreign national comes.

3. If the host Member State has detailed knowledge of a serious matter which has occurred outside its territory and which is likely to affect the taking up of the activity concerned, it may inform the Member State of origin or the Member State from which the foreign national comes and this State shall verify the accuracy of the facts.

An appraisal of the matter shall be carried out by the competent authority of the Member State of origin or of the Member State from which the foreign national comes and that Member State shall inform the host Member State of any consequential action which the authority takes with regard to the certificates or documents it has issued.

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

Article 12

1. Where, in a host Member State, provisions laid down by law, regulation or administrative action are in force laying down requirements as to good character or good repute including provisions for disciplinary action in respect of serious professional misconduct or conviction of criminal offences and relating to the pursuit of any of the activities referred to in Article 1, the Member State of origin

or the Member State from which the foreign national comes shall forward to the host Member State all necessary information regarding measures or disciplinary action of a professional or administrative nature taken in respect of the person concerned or criminal penalties imposed on him when pursuing his profession in the Member State of origin or in the Member State from which he came.

2. If the host Member State has detailed knowledge of a serious matter which has occurred outside its territory and which is likely to affect the pursuit of the activity concerned, it may inform the Member State of origin or the Member State from which the foreign national comes and this State shall verify the accuracy of the facts.

An appraisal of the matter shall be carried out by the competent authority of the Member State of origin or of the Member State from which the foreign national comes; the said authority shall inform the host Member State of any consequential action which the authority takes with regard to the information forwarded under paragraph 1.

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

Article 13

Where a host Member State requires of its own nationals wishing to take up or pursue any activity referred to in Article 1, a certificate of physical or mental health, that State shall accept as sufficient evidence thereof the presentation of the document required in the Member State of origin or the Member State from which the foreign national comes.

Where the Member State of origin or the Member State from which the foreign national comes does not impose any requirements of this nature on those wishing to take up or pursue the activity in question, the host Member State shall accept from such national a certificate issued by a competent authority in that State corresponding to the certificates issued in the host Member State.

Article 14

Documents issued in accordance with Articles 11, 12 and 13 may not be presented more than three months after their date of issue.

Article 15

1. The procedure for authorizing the person concerned to take up any activity referred to in Article 1, pursuant to Articles 11, 12 and 13, must be

completed as soon as possible and not later than three months after presentation of all the documents relating to such person, without prejudice to delays resulting from any appeal that may be made upon the termination of this procedure.

2. In the cases referred to in Article 11 (3) and Article 12 (2), a request for re-examination shall suspend the period laid down in paragraph 1.

The Member State consulted shall give its reply within a period of three months.

On receipt of the reply or at the end of the period the host Member State shall continue with the procedure referred to in paragraph 1.

B. Special provisions relating to the provision of services

Article 16

1. Where a Member State requires of its own nationals wishing to take up or pursue any activity referred to in Article 1, an authorization or membership of, or registration with, a professional organization or body, that Member State shall in the case of the provision of services exempt the nationals of Member States from that requirement.

The person concerned shall provide services with the same rights and obligations as the nationals of the host Member State; in particular he shall be subject to the rules of conduct of a professional or administrative nature which apply in that Member State.

Where a host Member State adopts a measure pursuant to the second subparagraph or becomes aware of facts which run counter to these provisions, it shall forthwith inform the Member State where the person concerned is established.

2. The host Member State may require the person concerned to make a prior declaration to the competent authorities concerning the provision of his services where they involve a temporary stay in its territory.

In urgent cases this declaration may be made as soon as possible after the services have been provided.

3. Pursuant to paragraphs 1 and 2, the host Member State may require the person concerned to supply one or more documents containing the following particulars:

- the declaration referred to in paragraph 2;
- a certificate stating that the person concerned is lawfully pursuing the activities in question in the Member State where he is established;

— a certificate that the person concerned holds one or other of the diplomas, certificates or other evidence of formal qualification appropriate for the provision of the services in question and referred to in this Directive.

4. The document or documents specified in paragraph 3 may not be produced more than 12 months after their date of issue.

5. Where a Member State temporarily or permanently deprives, in whole or in part, the right of one of its nationals or of a national of another Member State established in its territory to pursue one of the activities referred to in Article 1, it shall, as appropriate, ensure the temporary or permanent withdrawal of the certificate referred to in the second indent of paragraph 3.

Article 17

Where registration with a public social security body is required in a host Member State for the settlement with insurance bodies of accounts relating to services rendered to persons insured under social security schemes, that Member State shall exempt nationals of Member States established in another Member State from this requirement, in cases of provision of services entailing travel on the part of the person concerned.

However, the persons concerned shall supply information to this body in advance, or, in urgent cases, subsequently, concerning the services provided.

C. Provisions common to the right of establishment and freedom to provide services

Article 18

Where in a host Member State the use of the professional title relating to one of the activities referred to in Article 1 is subject to rules, nationals of other Member States who fulfil the conditions laid down in Article 2 and Article 9 (1) shall use the professional title of the host Member State which, in that State, corresponds to those conditions of qualification and shall use the abbreviated title.

The first subparagraph shall also apply to the use of professional titles of specialist doctors by those who fulfil the conditions laid down in Articles 4 and 6 and Article 9 (2) (3) and (4).

Article 19

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 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 20

1. Member States shall take the necessary measures to enable the persons concerned to obtain information on the health and social security laws and, where applicable, on the professional ethics of the host Member State.

For this purpose Member States may set up information centres from which such persons may obtain the necessary information. In the case of establishment, the host Member States may require the beneficiaries to contact these centres.

2. Member States may set up the centres referred to in paragraph 1 within the competent authorities and bodies which they must designate within the period laid down in Article 25 (1).

3. Member States shall see to it that, where appropriate, the persons concerned acquire, in their interest and in that of their patients, the linguistic knowledge necessary to the exercise of their profession in the host country.

CHAPTER VIII

FINAL PROVISIONS

Article 21

Member States which require their own nationals to complete a preparatory training period in order to become eligible for appointment as a doctor of a social security scheme may impose the same requirement on nationals of the other Member States for a period of five years following notification of this Directive. The training period may not, however, exceed six months.

Article 22

In the event of justified doubts, the host Member State may require of the competent authorities of another Member State confirmation of the authenticity of the diplomas, certificates and other

evidence of formal qualifications issued in that other Member State and referred to in Chapters II to V, and also confirmation of the fact that the person concerned has fulfilled all the training requirements laid down in Directive No 75/363/EEC.

Article 23

Within the time limit laid down in Article 25 (1), Member States shall designate the authorities and bodies competent to issue or receive the diplomas, certificates and other evidence of formal qualifications as well as the documents and information referred to in this Directive and shall forthwith inform the other Member States and the Commission thereof.

Article 24

This Directive shall also apply to the nationals of Member States who, in accordance with Regulation (EEC) No 1612/68, are pursuing or will pursue as employed persons one of the activities referred to in Article 1.

Article 25

1. Member States shall bring into force the measures necessary to comply with this Directive

within 18 months of its notification and shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 26

Where a Member State encounters major difficulties in certain fields, when applying this Directive, the Commission shall examine these difficulties in conjunction with that State and shall request the opinion of the Committee of Senior Officials on Public Health set up by Decision No 75/365/EEC ⁽¹⁾.

When necessary, the Commission shall submit appropriate proposals to the Council.

Article 27

This Directive is addressed to the Member States.

Done at Luxembourg, 16 June 1975.

For the Council

The President

R. RYAN

⁽¹⁾ See page 19 of this Official Journal.

COUNCIL DIRECTIVE

of 16 June 1975

concerning the coordination of provisions laid down by law, regulation
or administrative action in respect of activities of doctors

(75/363/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57, 66 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾;

Whereas with a view to achieving the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, laid down by Directive No 75/362/EEC ⁽³⁾ of 16 June 1975 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, the comparable nature of training courses in the Member States enables coordination in this field to be confined to the requirement that minimum standards be observed, which then leaves the Member States freedom of organization as regards teaching;

Whereas with a view to mutual recognition of diplomas, certificates and other evidence of formal qualifications in specialized medicine and in order to put all members of the profession who are nationals of the Member States on an equal footing within the Community, some coordination of the requirements for training in specialized medicine seems necessary; whereas certain minimum criteria should be laid down for this purpose concerning the right to take up specialized training, the minimum training period, the method by which such training is given and the place where it is to be carried out, as well as the supervision to which it should be subject; whereas these criteria only concern the specialities common to all the Member States or to two or more Member States;

Whereas the coordination of the conditions for the pursuit of these activities, as envisaged by this

Directive, does not exclude any subsequent coordination;

Whereas the coordination envisaged by this Directive covers the professional training of doctors; whereas, as far as training is concerned, most Member States do not at present distinguish between doctors who pursue their activities as employed persons and those who are self-employed; whereas for this reason and in order to encourage as far as possible the free movement of professional persons within the Community, it appears necessary to extend the application of this Directive to employed doctors,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. The Member States shall require persons wishing to take up and pursue a medical profession to hold a diploma, certificate or other evidence of formal qualifications in medicine referred to in Article 3 of Directive No 75/362/EEC which guarantees that during his complete training period the person concerned has acquired:

- (a) adequate knowledge of the sciences on which medicine is based and a good understanding of the scientific methods including the principles of measuring biological functions, the evaluation of scientifically established facts and the analysis of data;
- (b) sufficient understanding of the structure, functions and behaviour of healthy and sick persons, as well as relations between the state of health and the physical and social surroundings of the human being;
- (c) adequate knowledge of clinical disciplines and practices, providing him with a coherent picture of mental and physical diseases, of medicine from the points of view of prophylaxis, diagnosis and therapy and of human reproduction;
- (d) suitable clinical experience in hospitals under appropriate supervision.

2. A complete period of medical training of this kind shall comprise at least a six-year course or 5 500 hours of theoretical and practical instruction given in a university or under the supervision of a university.

⁽¹⁾ OJ No C 101, 4. 8. 1970, p. 19.

⁽²⁾ OJ No C 36, 28. 3. 1970, p. 19.

⁽³⁾ See page 1 of this Official Journal.

3. In order to be accepted for this training, the candidate must have a diploma or a certificate which entitles him to be admitted to the universities of a Member State for the course of study concerned.

4. In the case of persons who started their training before 1 January 1972, the training referred to in paragraph 2 may include six months' full-time practical training at university level under the supervision of the competent authorities.

5. Nothing in this Directive shall prejudice any facility which may be granted in accordance with their own rules by Member States in respect of their own territory to authorize holders of diplomas, certificates or other evidence of formal qualifications which have not been obtained in a Member State to take up and pursue the activities of a doctor.

Article 2

1. Member States shall ensure that the training leading to a diploma, certificate or other evidence of formal qualifications in specialized medicine, meets the following requirements at least:

- (a) it shall entail the successful completion of six years' study within the framework of the training course referred to in Article 1;
- (b) it shall comprise theoretical and practical instruction;
- (c) it shall be a full-time course supervised by the competent authorities or bodies;
- (d) it shall be in a university centre, in a teaching hospital or, where appropriate, in a health establishment approved for this purpose by the competent authorities or bodies;
- (e) it shall involve the personal participation of the doctor training to be a specialist in the activity and in the responsibilities of the establishments concerned.

2. Member States shall make the award of a diploma, certificate or other evidence of formal qualifications in specialized medicine subject to the possession of one of the diplomas, certificates or other evidence of formal qualifications in medicine referred to in Article 1.

3. Within the time limit laid down in Article 7, Member States shall designate the authorities or bodies competent to issue the diplomas, certificates or other evidence of formal qualifications referred to in paragraph 1.

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 makes a decision 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 reasons.

2. The total period of specialized training may not be shortened by virtue of paragraph 1. The standard of the training may not be impaired, either by its part-time nature or by the practice of private, remunerated professional activity.

3. Four years at the latest after notification of this 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 specialty, the Council shall decide whether the provisions of paragraphs 1 and 2 should be retained or amended.

Article 4

Member States shall ensure that the minimum length of the specialized training courses mentioned below may not be less than the following:

First group:

- | | | |
|---------------------|---|-------------|
| — general surgery | } | five years. |
| — neuro-surgery | | |
| — internal medicine | | |
| — urology | | |
| — orthopaedics | | |

Second group:

- | | | |
|------------------------------|---|-------------|
| — gynaecology and obstetrics | } | four years. |
| — paediatrics | | |
| — pneumo-phthisiology | | |

Third group:

- | | | |
|----------------------------------|---|--------------|
| — anesthesiology and reanimation | } | three years. |
| — ophthalmology | | |
| — otorhinolaryngology | | |

Article 5

Member States which have laid down provisions by law, regulation and administrative action in this field shall ensure that the minimum length of the specialized training courses mentioned below may not be less than the following:

First group:

- | | | |
|-------------------------------|---|-------------|
| — plastic surgery | } | five years. |
| — thoracic surgery | | |
| — vascular surgery | | |
| — neuro-psychiatry | | |
| — paediatric surgery | | |
| — gastroenterological surgery | | |

Second group:

- cardiology
- gastroenterology
- neurology
- rheumatology
- psychiatry
- clinical biology
- radiology
- diagnostic radiology
- radiotherapy
- tropical medicine
- pharmacology
- child psychiatry
- microbiology-bacteriology
- pathological anatomy
- occupational medicine
- biological chemistry
- immunology
- dermatology
- venereology
- geriatrics
- renal diseases
- contagious diseases
- community medicine
- biological haematology

four years.

Third group:

- general haematology
- endocrinology
- physiotherapy
- stomatology
- dermato-venereology
- allergology

three years.

Article 6

This Directive shall also apply to nationals of Member States who, in accordance with Council Regulation (EEC) No 1612/68 ⁽¹⁾ of 15 October 1968 on freedom of movement for workers within the Community, are pursuing or will pursue, as employed persons, one of the activities referred to in Article 1 of Directive No 75/362/EEC.

Article 7

As a transitional measure and notwithstanding Article 2 (1) (c) and Article 3, Member States whose provisions laid down by law, regulation or administrative action permit a method of part-time specialist training at the time of notification of this Directive may continue to apply these provisions to candidates who have begun their training as specialists no later than four years after the notification of this Directive. This period may be extended if the Council has not taken a decision in accordance with Article 3 (3).

Article 8

As a transitional measure and notwithstanding Article 2 (2):

- (a) as regards Luxembourg, and in respect only of the Luxembourg diplomas covered by the law of 1939 of Luxembourg on the conferring of academic and university degrees, the issue of a certificate as a specialist shall be conditional simply upon the possession of the diploma of doctor of medicine, surgery and obstetrics awarded by the Luxembourg State Examining Board;
- (b) as regards Denmark, and in respect only of the Danish diplomas of doctors of medicine required by law awarded by a Danish university faculty of medicine in accordance with the decree of the Ministry of the Interior of 14 May 1970, the issue of a certificate as specialist shall be conditional simply upon the possession of the above-mentioned diplomas.

The diplomas referred to under (a) and (b) may be awarded to candidates who began their training before the end of the period referred to in Article 9 (1).

Article 9

1. Member States shall bring into force the measures necessary to comply with this Directive within 18 months of its notification and shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 10

Where a Member State encounters major difficulties in certain fields, when applying this Directive, the Commission shall examine these difficulties in conjunction with that State and shall request the opinion of the Committee of Senior Officials on Public Health set up by Decision No 75/365/EEC ⁽²⁾.

When necessary, the Commission shall submit appropriate proposals to the Council.

Article 11

This Directive is addressed to the Member States.

Done at Luxembourg, 16 June 1975.

For the Council

The President

R. RYAN

⁽¹⁾ OJ No L 257, 19. 10. 1968, p. 2.

⁽²⁾ See page 19 of this Official Journal.

COUNCIL DECISION

of 16 June 1975

setting up an Advisory Committee on Medical Training

(75/364/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the draft Decision submitted by the Commission;

Whereas, in its resolution of 6 June 1974 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications, the Council declared itself in favour of the establishment of advisory committees;

Whereas, in the context of the mutual recognition of diplomas, certificates and other evidence of formal qualifications and the coordination of the conditions for taking up the activities of a doctor, it is important to ensure a comparably demanding standard of training;

Whereas, to contribute to the achievements of this objective, it is desirable to set up an Advisory Committee to advise the Commission,

HAS DECIDED AS FOLLOWS:

Article 1

An Advisory Committee on Medical Training, hereinafter called the 'committee', shall be set up within the Commission.

Article 2

1. The task of the committee shall be to help to ensure a comparably demanding standard of medical training in the Community, with regard both to basic training and further training.

2. It shall carry out this task in particular by the following means:

- exchange of comprehensive information as to the training methods and the content, level and structure of theoretical and practical courses provided in the Member States;
- discussion and consultation with the object of developing common approaches to the standard

to be attained in the training of doctors and, as appropriate, to the structure and content of such training;

- keeping under review the adaptation of medical training to developments in medical science and teaching methods.

3. The committee shall communicate to the Commission and the Member States its opinions and recommendations including, when it considers it appropriate, suggestions for amendments to be made to the Articles relating to medical training in Directives No 75/362/EEC ⁽¹⁾ and No 75/363/EEC ⁽²⁾.

4. The committee shall also advise the Commission on any matter which the Commission may refer to it in relation to medical training.

Article 3

1. The committee shall consist of three experts from each Member State, as follows:

- one expert from the practising profession;
- one expert from the medical faculties of the universities;
- one expert from the competent authorities of the Member States.

2. There shall be an alternate for each member. Alternates may attend the meetings of the committee.

3. The members and alternates described in paragraphs 1 and 2 shall be nominated by the Member States. The members referred to in the first and second indent of paragraph 1 and their alternates shall be nominated upon the proposal of the practising profession and the universities. The members and alternates thus nominated shall be appointed by the Council.

Article 4

1. The term of office for a member of the committee shall be three years. After the expiry of this

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ See page 14 of this Official Journal.

period the members of the Committee shall remain in office until replacements have been provided for or their term of office is renewed.

2. The term of office of a member may end before expiry of the period of three years by virtue of resignation or death of the member, or his replacement by another person, in accordance with the procedure prescribed in Article 3. Such an appointment would be for the remainder of the term of office.

Article 5

The committee shall elect a chairman and two deputy chairmen from its own membership. It shall adopt its own rules of procedure. The agenda for meetings shall be drawn up by the chairman of the committee in consultation with the Commission.

Article 6

The committee may set up working parties, call upon and allow observers or experts to assist it in connection with all the special aspects of its work.

Article 7

The secretariat shall be provided by the Commission.

Done at Luxembourg, 16 June 1975.

For the Council

The President

R. RYAN

COUNCIL DECISION

of 16 June 1975

setting up a Committee of Senior Officials on Public Health

(75/365/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the proposal from the Commission;

Whereas the application of the measures adopted by the Council as regards the effective exercise of the right of establishment and freedom to provide services and the coordination of provisions laid down by law, regulation or administrative action in respect of activities of doctors may give rise to problems which should be examined jointly;

Whereas a committee chaired by the Commission, consisting of representatives of the Member States from the authorities of the latter, should be set up to this end,

HAS DECIDED AS FOLLOWS:

Article 1

A Committee of Senior Officials on Public Health, hereinafter called the 'committee', shall be set up within the Commission.

Article 2

The task of the committee shall be:

- to discover and analyse any difficulties which might arise from the implementation of Directives No 75/362/EEC ⁽¹⁾ and No 75/363/EEC ⁽²⁾;

- to collect all relevant information on the conditions under which general and specialist medical care is given in the Member States;

- to deliver opinions which could guide the Commission's work with a view to amendment of the abovementioned Directives.

Article 3

1. The committee shall consist of senior officials from the Member States who have direct responsibility in the field of public health.

2. The members of the committee shall be designated by the Member States, each of which shall designate one member and one alternate.

3. The committee shall be chaired by a Commission representative.

Article 4

The committee shall adopt its rules of procedure.

Done at Luxembourg, 16 June 1975.

*For the Council**The President*

R. RYAN

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ See page 14 of this Official Journal.

COUNCIL RECOMMENDATION**of 16 June 1975****concerning nationals of the Grand Duchy of Luxembourg who hold a diploma in
medicine conferred in a third country****(75/366/EEC)****THE COUNCIL,**

Approving Directive No 75/362/EEC ⁽¹⁾ concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services;

Noting that this Directive refers only to diplomas, certificates and other evidence of formal qualifications conferred in a Member State;

Anxious, however, to take account of the special position of nationals of the Grand Duchy of Luxembourg who, since there is no complete university training in the Grand Duchy itself, have studied in a third country;

Hereby recommends that the Governments of the Member States should allow nationals of the Grand Duchy of Luxembourg who hold a diploma conferring a degree in medicine awarded in a third country and which has obtained the official recognition of the Minister for Education, in accordance with the law of 18 June 1969 on higher education and the recognition of foreign degrees and diplomas in higher education, to take up and pursue activities as doctors within the Community, by recognizing these diplomas in their territories provided that such diplomas are accompanied by the training certificates endorsed by the Minister for Public Health of the Grand Duchy of Luxembourg.

Done at Luxembourg, 16 June 1975.

For the Council

The President

R. RYAN

⁽¹⁾ See page 1 of this Official Journal.

COUNCIL RECOMMENDATION**of 16 June 1975****on the clinical training of doctors****(75/367/EEC)**

The Council notes that in most of the Member States, after university medical training proper, the requirement of clinical training is imposed as being a condition for acquiring the unrestricted right to practise medicine.

As it is considered desirable that the possibility should exist of acquiring such clinical training in Member States other than that in which the candidate underwent his university training, the Council hereby recommends to the Member States that admission to such clinical training posts be afforded to nationals of the other Member States.

Done at Luxembourg, 16 June 1975.

For the Council

The President

R. RYAN

COUNCIL DIRECTIVE

of 16 June 1975

on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of various activities (ex ISIC Division 01 to 85) and, in particular, transitional measures in respect of those activities

(75/368/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57, 66 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾;

Whereas, pursuant to the Treaty, all discriminatory treatment based on nationality with regard to establishment and provision of services is prohibited as from the end of the transitional period; whereas the principle of such treatment based on nationality applies in particular to the right to join professional organizations where the professional activities of the person concerned necessarily involve the exercise of this right;

Whereas, moreover, Article 57 of the Treaty provides that, in order to make it easier for persons to take up and pursue activities as self-employed persons, Directives are to be issued for the mutual recognition of diplomas, certificates and other evidence of formal qualifications and for the coordination of the provisions laid down by law, regulation or administrative action in Member States;

Whereas, in the absence of mutual recognition of diplomas or of immediate coordination, it nevertheless appears desirable to make it easier to attain freedom of establishment and freedom to provide services for the activities in question, in particular by the adoption of transitional measures of the kind envisaged in the General Programmes ⁽³⁾ in order to avoid causing exceptional difficulties for nationals of Member States in which the taking up of such activities is not subject to any conditions;

Whereas, in order to prevent such difficulties arising, the object of the transitional measures should be to allow, as sufficient qualification for taking up the activities in question in host Member States which have rules governing the taking up of such activities, the fact that the activity has been pursued in the Member State whence the foreign national comes for a reasonable and sufficiently recent period of time to ensure that the person concerned possesses professional knowledge equivalent to that required of the host Member State's own nationals;

Whereas this Directive covers two categories of activity, namely:

- activities which can be pursued only after fairly extensive professional training and which are therefore subject to stringent regulations in the various Member States of the Community;
- activities the pursuit of which does not require such extensive professional training,

and provision should therefore be made for two types of transitional measures adapted to these two categories of activity;

Whereas the activities of patent buying and licensing companies are conducted as part of the exploitation of inventions and are distinct from the activities usually conducted by banks and other financial institutions; whereas, therefore, although falling within Group 620 of the ISIC Nomenclature, such activities do not come within the scope of Council Directive No 73/183/EEC ⁽⁴⁾ of 28 June 1973 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of self-employed activities of banks and other financial institutions;

Whereas neither the activities of consultant engineers (ISIC Group 833) nor those of industrial property consultants or patent attorneys (ISIC Group 831) are covered by this Directive;

⁽¹⁾ OJ No C 45, 10. 5. 1971, p. 12.

⁽²⁾ OJ No C 93, 21. 9. 1971, p. 19.

⁽³⁾ OJ No 2, 15. 1. 1962, pp. 32/62 and 36/62.

⁽⁴⁾ OJ No L 194, 16. 7. 1973, p. 1.

Whereas the activities in ISIC Major Group 73 (communications) usually come under public postal and telecommunications services and most of the activities in that major group do not therefore come within the scope of this Directive; whereas, however, a few of these activities in ISIC Major Group 73 may be conducted in a private capacity and should therefore be included in this Directive;

Whereas services in the field of passenger and goods transport are governed by the provisions of the Treaty relating to transport and this Directive therefore does not concern provision of services in respect of the transport activities listed therein;

Whereas pending the adoption of Community rules, the existing provisions differentiating between inland waterway, coastal and sea transport remain in force;

Whereas, in respect of the activities falling within ISIC Group 859, beauty facial massage is the only activity within the category of the activities to which this Directive applies, since the activity of 'masseur-kinesitherapist' (massage for medical and sports purposes) is to be covered by another Directive;

Whereas lottery and similar activities which come under ISIC Group 859 often belong to the field of public services, either directly or through public bodies, or are prohibited, and some of these activities do not therefore come within the scope of this Directive; whereas, however, in certain Member States such activities can be conducted by private persons and should be included in this Directive;

Whereas certain activities in ISIC Group 859, such as rodent extermination, which require the use of toxic products, are governed by Council Directive No 74/556/EEC ⁽¹⁾ of 4 June 1974 laying down detailed provisions concerning transitional measures relating to activities, trade in and distribution of toxic products and activities entailing the professional use of such products including activities of intermediaries;

Whereas the activities of tourist guides are pursued in certain Member States within fixed territorial limits and are subject to detailed rules; whereas they should therefore be excluded from this Directive with the exception of the activities of couriers and interpreter-guides;

Whereas the main purpose of the transitional measures provided for in this Directive will disappear once the coordination of conditions for the taking up and pursuit of the activities in question and the mutual recognition of diplomas, certificates and other formal qualifications have been achieved;

Whereas, in so far as in Member States the taking up or pursuit of the activities referred to in this Directive is also dependent in the case of paid employees on the possession of professional knowledge and ability, this Directive should also apply to this category of persons in order to remove an obstacle to the free movement of workers and thereby to supplement the measures adopted in Council Regulation (EEC) No 1612/68 ⁽²⁾ of 15 October 1968 on freedom of movement for workers within the Community;

Whereas, for the same reason, the provisions laid down in respect of proof of good repute and proof of no previous bankruptcy should also be applicable to paid employees;

Whereas the activity in question must have been pursued and any vocational training received in the same branch of trade as that in which the beneficiary wishes to establish himself in the host Member State, where the latter imposes this requirement on its own nationals,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall adopt the measures defined in this Directive in respect of establishment or provision of services in their territories by natural persons and companies or firms covered by Title I of the General Programmes (hereinafter called 'beneficiaries') wishing to pursue the activities referred to in Article 2.

2. This Directive shall also apply to nationals of Member States who, as provided in Regulation (EEC) No 1612/68, wish to pursue as paid employees activities referred to in Article 2 (1).

Article 2

1. This Directive shall apply to the activities listed in the Annex.

⁽¹⁾ OJ No L 307, 18. 11. 1974, p. 1.

⁽²⁾ OJ No L 257, 19. 10. 1968, p. 2.

2. Activities falling within ISIC Group 859 and involving the use of toxic products shall be governed by Directives No 74/556/EEC and No 74/557/EEC ⁽¹⁾.

3. This Directive shall not apply to freedom to provide services in respect of the activities falling within Major Group 71 listed in the Annex.

4. This Directive shall not apply to activities carried on by way of itinerant trade.

5. This Directive shall not apply to the activities of tourist guides (ex ISIC Group 859) with the exception of the activities of couriers and interpreter-guides listed in the Annex.

Article 3

1. Where a host Member State requires of its own nationals wishing to take up any activity referred to in Article 2 (1) proof of good repute and proof that they have not previously been declared bankrupt, or proof of either one of these, that State shall accept as sufficient evidence, in respect of nationals of other Member States, the production of an extract from the 'judicial record' or, failing this, of an equivalent document issued by a competent judicial or administrative authority in the Member State of origin or the Member State whence the foreign national comes showing that these requirements have been met.

2. Where a host Member State imposes on its own nationals wishing to take up certain activities falling within ISIC Groups 843 and 859, in particular gaming, certain requirements as to good repute, and proof that such requirements are satisfied cannot be obtained from the document referred to in paragraph 1, that State shall accept as sufficient evidence in respect of nationals of other Member States, a certificate issued by a competent judicial or administrative authority in the country of origin or in the country whence the foreign national comes, showing that the requirements in question have been met. Such certificate shall relate to the specific facts regarded as relevant by the host country.

3. Where the country of origin or the country whence the foreign national comes does not issue the document referred to in paragraph 1 or the certificate referred to in paragraph 2, furnishing proof of good repute or proof of no previous bankruptcy, such proof may be replaced by a declaration on oath — or, in States where there is no provision for declaration on oath, by a solemn

declaration — made by the person concerned before a competent judicial or administrative authority, or where appropriate a notary, in the country of origin or the country whence that person comes; such authority or notary will issue a certificate attesting the authenticity of the declaration on oath or solemn declaration. The declaration in respect of no previous bankruptcy may also be made before a competent professional or trade body in the said country.

4. For the gaming activities falling within ISIC Groups 843 and 859, and notwithstanding paragraphs 1, 2 and 3, the Member State shall have the right to make a final appraisal of all relevant facts, so long as the criteria do not differ according to whether the person concerned is a national of that State or a national of another Member State.

5. Documents issued in accordance with paragraphs 1, 2 and 3 may not be produced more than three months after their date of issue.

6. Member States shall, within the time limit laid down in Article 12, designate the authorities and bodies competent to issue the documents referred to in paragraphs 1, 2 and 3 of this Article and shall forthwith inform the other Member States and the Commission thereof.

7. Where in the host Member State proof of financial standing is required, that State shall regard certificates issued by banks in the Member State of origin or in the country whence the foreign national comes as equivalent to certificates issued in its own territory.

Article 4

Member States in which the taking up or pursuit of any activity referred to in Article 2 (1) is subject to possession of certain qualifications shall ensure that any beneficiary who applies therefor be provided, before he establishes himself or before he begins to pursue any activity on a temporary basis, with information as to the rules governing the occupation which he proposes to pursue.

Article 5

1. Where, in a Member State, the taking up or pursuit of any activity listed in the Annex and specified below:

⁽¹⁾ OJ No L 307, 18. 11. 1974, pp. 1 and 5.

Major Group	Group
ex 04 Fishing	043
ex 38 Manufacture of transport equipment	{ 381 382 386
ex 71 Activities allied to transport and activities other than transport	{ ex 711 ex 712 ex 713 ex 714 ex 716
73 Communications: postal services and telecommunications	
ex 85 Personal services	{ 854 ex 856 ex 859 (maintenance and cleaning of buildings or accommodation only)

is subject to possession of general, commercial or professional knowledge and ability, that Member State shall accept as sufficient evidence of such knowledge and ability the fact that the activity in question has been pursued in another Member State for any of the following periods:

- (a) six consecutive years either in an independent capacity or in a managerial capacity; or
- (b) three consecutive years in an independent capacity or in a managerial capacity, where the beneficiary proves that for the activity in question he has received at least three years' previous training, attested by a certificate recognized by the State or regarded by the competent professional or trade body as fully satisfying its requirements; or
- (c) three consecutive years in an independent capacity, where the beneficiary proves that he has pursued the activity in question for at least five years in a non-independent capacity; or
- (d) five consecutive years in a managerial capacity, not less than three years of which were spent in technical posts with responsibility for one or more departments of the undertaking, where the beneficiary proves that for the activity in question he has received at least three years' previous training, attested by a certificate recognized by the State or regarded by the competent professional or trade body as fully satisfying its requirements.

2. In the cases referred to in paragraph 1 (a) and (c), pursuit of the activity shall not have ceased more

than 10 years before the date on which the application provided for in Article 9 is made. However, where a shorter period is laid down in a Member State for its own nationals, that period may also be applied in respect of beneficiaries.

Article 6

For the purpose of applying Article 5:

1. Member States in which the taking up or pursuit of any activity referred to in Article 2 (1) is subject to the possession of general, commercial or professional knowledge and ability shall, with the assistance of the Commission, inform the other Member States of the main characteristics of that occupation;
2. the competent authority designated for this purpose by the Member State of origin or the State whence the beneficiary comes shall certify what professional or trade activities were actually pursued by the beneficiary and the duration of those activities. Certificates shall be drawn up having regard to the official description of the occupation in question supplied by the Member State in which the beneficiary wishes to pursue such occupation, whether permanently or temporarily;
3. the host Member State shall grant authorization to pursue the activity in question on application by the person concerned, provided that the activity certified conforms to the main features of the description of the occupation communicated pursuant to point 1 and provided that any other requirements laid down by the rules of that State are satisfied.

Article 7

1. Where in a Member State the taking up or pursuit of any activity referred to in Article 2 (1) but not mentioned in Article 5 is subject to possession of general, commercial or professional knowledge and ability, that Member State shall accept as sufficient evidence of such knowledge and ability the fact that the activity in question has been pursued in another Member State for any of the following periods:

- (a) three consecutive years either in an independent capacity or in a managerial capacity; or
- (b) two consecutive years in an independent capacity or in a managerial capacity, where the beneficiary proves that for the activity in question he has received previous training, attested by a certificate recognized by the State or regarded by the competent professional or trade body as fully satisfying its requirements; or

- (c) two consecutive years in an independent capacity or in a managerial capacity, where the beneficiary proves that he has pursued the activity in question for at least three years in a non-independent capacity; or
- (d) three consecutive years in a non-independent capacity, where the beneficiary proves that for the activity in question he has received previous training, attested by a certificate recognized by the State or regarded by a competent professional or trade body as fully satisfying its requirements.

The host Member State may require of nationals of other Member States, in so far as it so requires of its own nationals, that the activity in question should have been pursued, and vocational training received, in the same branch of trade (or in a related branch) as that in which the beneficiary wishes to establish himself in the host Member State.

2. In the cases referred to in paragraph 1 (a) and (c), pursuit of the activity in question shall not have ceased more than 10 years before the date on which the application provided for in Article 9 is made. However, where a shorter period is laid down in a Member State for its own nationals, that period may also be applied in respect of beneficiaries.

3. As regards the taking up of gambling activities falling within ISIC Groups 843 and 859, except those involving slot machines, and notwithstanding paragraph 1, the host Member State shall have the right to make a final appraisal of the professional ability of the applicants, so long as the criteria do not differ according to whether the persons concerned are nationals of that State or nationals of another Member State.

Article 8

A person shall be regarded as having pursued an activity in a managerial capacity within the meaning of Articles 5 and 7 if he has pursued such an activity in an industrial or commercial undertaking in the occupational field in question:

- (a) as manager of an undertaking or manager of a branch of an undertaking; or
- (b) as deputy to the proprietor or to the manager of an undertaking, where such post involves responsibility equivalent to that of the proprietor or manager represented; or
- (c) in a managerial post with duties of a commercial nature and with responsibility for at least one department of the undertaking.

Article 9

Proof that the conditions laid down in Article 5 and Article 7 (1) are satisfied shall be established by a certificate issued by the competent authority or body in the Member State of origin or Member State whence the person concerned comes, which the latter shall submit in support of his application for authorization to pursue the activity or activities in question in the host Member State.

Article 10

Member States shall, within the time limit laid down in Article 12, designate the authorities and bodies competent to issue the certificates referred to in Articles 6 and 9 and shall forthwith inform the other Member States and the Commission thereof.

Article 11

The transitional provisions laid down in this Directive shall remain applicable until the entry into force of provisions relating to the coordination of national rules concerning the taking up and pursuit of the activities in question.

Article 12

Member States shall bring into force the measures necessary to comply with this Directive within 12 months of its notification and shall forthwith inform the Commission thereof.

Article 13

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 14

This Directive is addressed to the Member States.

Done at Luxembourg, 16 June 1975.

For the Council

The President

R. RYAN

ANNEX

Activities referred to in Article 2 (1)

<i>Major Group (*)</i>	<i>Group (*)</i>	
ex 04		Fishing
	043	Inland water fishing
ex 38		Manufacture of transport equipment
	381	Shipbuilding and repairing
	382	Manufacture of railroad equipment
	386	Manufacture of aircraft (including space equipment)
ex 62		Banks and other financial institutions
	ex 620	Patent buying and licensing companies
ex 71		Activities allied to transport and activities other than transport coming under the following groups:
	ex 711	Sleeping- and dining-car services; maintenance of railway stock in repair sheds; cleaning of carriages
	ex 712	Maintenance of stock for urban, suburban and interurban passenger transport
	ex 713	Maintenance of stock for other passenger land transport (such as motor cars, coaches, taxis)
	ex 714	Operation and maintenance of services in support of road transport (such as roads, tunnels and toll-bridges, goods depots, car parks, bus and tram depots)
	ex 716	Activities allied to inland water transport (such as operation and maintenance of waterways, ports and other installations for inland water transport; tug and piloting services in ports, setting of buoys, loading and unloading of vessels and other similar activities, such as salvaging of vessels, towing and the operation of boathouses)
ex 71		Transport
	ex 713	Road passenger transport, excluding transportation by means of motor vehicles
	ex 719	Transportation by pipelines of liquid hydrocarbons and other liquid chemical products
73		Communication: postal services and telecommunications
ex 82		Community services
	827	Libraries, museums, botanical and zoological gardens
ex 84		Recreation services
	ex 843	Recreation services nec:
		— sporting activities (sports grounds, organizing sporting fixtures, etc.) except the activities of sports instructors
		— games (racing stables, areas for games, racecourses, etc.)
		— other recreational activities (circuses, amusement parks and other entertainments)

(*) International Standard Industrial Classification of all Economic Activities (Statistical Office of the United Nations, Statistical Papers, Series M No 4, rev. 1, New York, 1958).

<i>Major Group</i>	<i>Group</i>	
ex 85		Personal services
	ex 851	Domestic services
	854	Laundries and laundry services, dry-cleaning and dyeing
	ex 855	Beauty parlours and services of manicurists, excluding services of chiropodists and professional beauticians' and hairdressers' training schools
	ex 856	Photographic studios: portrait and commercial photography, except journalistic photographers
	ex 859	Personal services not elsewhere classified, except sports and paramedical masseurs and mountain guides, divided into the following groups: — maintenance and cleaning of buildings or accommodation — disinfecting and pest control — hiring of clothes and storage facilities — marriage bureaux and similar services — astrology, fortune telling and the like — sanitary services and associated activities — undertaking and cemetery maintenance — couriers and interpreter-guides

COUNCIL DIRECTIVE

of 16 June 1975

on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of itinerant activities and, in particular, transitional measures in respect of those activities

(75/369/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57, 66 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾;

Whereas, pursuant to the Treaty, all discriminatory treatment based on nationality with regard to establishment and provision of services is prohibited as from the end of the transitional period; whereas the principle of such treatment based on nationality applies in particular to the right to join professional organizations where the professional activities of the person concerned necessarily involve the exercise of this right;

Whereas, moreover, Article 57 of the Treaty provides that, in order to make it easier for persons to take up and pursue activities as self-employed persons, directives are to be issued for the mutual recognition of diplomas, certificates and other evidence of formal qualifications and for the coordination of the provisions laid down by law, regulation or administrative action in Member States;

Whereas, in the absence of mutual recognition of diplomas or of immediate coordination, it nevertheless appears desirable to make it easier to attain freedom of establishment and freedom to provide services for the activities in question, in particular by the adoption of transitional measures of the kind envisaged in the General Programmes ⁽³⁾ in order to avoid causing exceptional difficulties for nationals of Member States in which the taking up of such activities is not subject to any conditions;

Whereas, in order to prevent such difficulties arising, the object of the transitional measures should be to allow, as sufficient qualification for taking up the activities in question in host Member States which have rules governing the taking up of such activities, the fact that the activity has been pursued in the Member State whence the foreign national comes for a reasonable and sufficiently recent period of time to ensure that the person concerned possesses professional knowledge equivalent to that required of the host Member State's own nationals;

Whereas activities relating to retail trade from established premises and to the selling of goods in covered markets from permanently fixed installations are covered by Directives No 68/363/EEC and No 68/364/EEC ⁽⁴⁾ concerning the retail trade; whereas, accordingly, selling in markets other than from permanently fixed installations and in open-air markets should be covered by this Directive;

Whereas, moreover, Council Directives No 64/222/EEC and No 64/224/EEC ⁽⁵⁾ concerning the activities of intermediaries in commerce, industry and small craft industries already apply to the activities of intermediaries who go from door to door seeking orders;

Whereas this Directive is to cover not only trading activities which are necessarily itinerant but also other economic activities pursued on an itinerant basis where such activities are not covered by previous Directives;

Whereas this Directive does not apply in any Member State to itinerant activities which are prohibited in that Member State;

Whereas the activities of fairground operators, where they are of an itinerant nature, fall within the scope of this Directive;

Whereas the purpose of the transitional measures provided for in this Directive will disappear once the coordination of conditions for the taking up and pursuit of the activities in question and the mutual

⁽¹⁾ OJ No C 11, 5. 2. 1971, p. 43.

⁽²⁾ OJ No C 42, 30. 4. 1971, p. 10.

⁽³⁾ OJ No 2, 15. 1. 1962, pp. 32/62 and 36/62.

⁽⁴⁾ OJ No L 260, 22. 10. 1968, pp. 1 and 6.

⁽⁵⁾ OJ No 56, 4. 4. 1964, pp. 857/64 and 869/64.

recognition of diplomas, certificates and other formal qualifications have been achieved;

Whereas this Directive does not affect the provisions laid down by law, regulation or administrative action in the Member States which prohibit companies or firms from pursuing itinerant activities or impose on them certain conditions for such pursuit;

Whereas, in so far as in Member States the taking up or pursuit of the activities referred to in this Directive is also dependent in the case of paid employees on the possession of professional knowledge and ability, this Directive should also apply to this category of persons in order to remove an obstacle to the free movement of workers and thereby to supplement the measures adopted in Council Regulation (EEC) No 1612/68 ⁽¹⁾ of 15 October 1968 on freedom of movement for workers within the Community;

Whereas, for the same reason, the provisions laid down in respect of proof of good repute and proof of no previous bankruptcy should also be applicable to paid employees;

Whereas the activity in question must have been pursued and any vocational training received in the same branch of trade as that in which the beneficiary wishes to establish himself in the host Member State, where the latter imposes this requirement on its own nationals,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall adopt the measures defined in this Directive in respect of establishment or provision of services in their territories by natural persons and companies or firms covered by Title I of the General Programmes (hereinafter called 'beneficiaries') wishing to pursue the activities referred to in Article 2.

2. This Directive shall also apply to nationals of Member States who, as provided in Regulation (EEC) No 1612/68, wish to pursue as paid employees activities referred to in Article 2.

Article 2

This Directive shall apply to the following itinerant activities:

- (a) the buying and selling of goods:
 - by itinerant tradesmen, hawkers or pedlars (ex ISIC Group 612);

- in covered markets other than from permanently fixed installations and in open-air markets;

- (b) activities covered by transitional measures already adopted that expressly exclude or do not mention the pursuit of such activities on an itinerant basis.

Article 3

1. Where a host Member State requires of its own nationals wishing to take up any activity referred to in Article 2 proof of good repute and proof that they have not previously been declared bankrupt, or proof of either one of these, that State shall accept as sufficient evidence, in respect of nationals of other Member States, the production of an extract from the 'judicial record' or, failing this, of an equivalent document issued by a competent judicial or administrative authority in the Member State of origin or the Member State whence the foreign national comes showing that these requirements have been met.

2. Where a host Member State imposes on its own nationals wishing to take up one of the activities referred to in Article 2, certain requirements as to good repute, and proof that such requirements are satisfied cannot be obtained from the document referred to in paragraph 1, that State shall accept as sufficient evidence in respect of nationals of other Member States, a certificate issued by a competent judicial or administrative authority in the country of origin or in the country whence the foreign national comes, showing that the requirements in question have been met. Such certificate shall relate to the specific facts regarded as relevant by the host country.

3. Where the country of origin or the country whence the foreign national comes does not issue the document referred to in paragraph 1 or the certificate referred to in paragraph 2 furnishing proof of good repute or proof of no previous bankruptcy, such proof may be replaced by a declaration on oath — or, in a State where there is no provision for declaration on oath, by a solemn declaration — made by the person concerned before a competent judicial or administrative authority, or where appropriate, a notary, in the country of origin or the country whence that person comes; such authority or notary will issue a certificate attesting the authenticity of the declaration on oath or solemn declaration. The declaration in respect of no previous bankruptcy may also be made before a competent professional or trade body in the said country.

⁽¹⁾ OJ No L 257, 19. 10. 1968, p. 2.

4. Documents issued in accordance with paragraphs 1, 2 and 3 may not be produced more than three months after their date of issue.

5. Member States shall, within the time limit laid down in Article 12, designate the authorities and bodies competent to issue the documents referred to in paragraphs 1, 2 and 3 of this Article and shall forthwith inform the other Member States and the Commission thereof.

6. Where in the host Member State proof of financial standing is required, that State shall regard certificates issued by banks in the Member State of origin or in the country whence the foreign national comes as equivalent to certificates issued in its own territory.

Article 4

Member States in which the taking up or pursuit of any activity referred to in Article 2 is subject to possession of certain qualifications shall ensure that any beneficiary who applies therefor be provided, before he establishes himself or before he begins to pursue any activity on a temporary basis, with information as to the rules governing the occupation which he proposes to pursue.

Article 5

1. Where in a Member State the taking up or pursuit of any activity referred to in Article 2 is subject to possession of general, commercial, or professional knowledge and ability, that Member State shall, subject to Article 6, accept as sufficient evidence of such knowledge and ability the fact that the activity in question has been pursued in another Member State for any of the following periods:

- (a) three consecutive years either in an independent capacity or in a managerial capacity; or
- (b) two consecutive years in an independent capacity or in a managerial capacity, where the beneficiary proves that for the activity in question he has received previous training, attested by a certificate recognized by the State or regarded by the competent professional or trade body as fully satisfying its requirements; or
- (c) two consecutive years in an independent capacity or in a managerial capacity, where the beneficiary proves that he has pursued the activity in question for at least three years in a non-independent capacity; or
- (d) three consecutive years in a non-independent capacity, where the beneficiary proves that for the activity in question he has received previous

training, attested by a certificate recognized by the State or regarded by a competent professional or trade body as fully satisfying its requirements.

The host Member State may require of nationals of other Member States, in so far as it so requires of its own nationals, that the activity in question should have been pursued, and vocational training received, in the same branch of trade (or in a related branch) as that in which the beneficiary wishes to establish himself in the host Member State.

2. In the cases referred to in paragraph 1 (a) and (c), pursuit of the activity in question shall not have ceased more than 10 years before the date on which the application provided for in Article 8 is made. However, where a shorter period is laid down in a Member State for its own nationals, that period may also be applied in respect of beneficiaries.

Article 6

1. Notwithstanding Article 5, where in a Member State any activity referred to in Article 2 is regarded as being of an industrial or small craft nature and where the taking up or pursuit of such activity is subject to possession of general, commercial or professional knowledge and ability, that Member State shall accept as sufficient evidence of such knowledge and ability the fact that the activity in question has been pursued in another Member State for any of the following periods:

- (a) six consecutive years either in an independent capacity or in a managerial capacity; or
- (b) three consecutive years either in an independent capacity or in a managerial capacity, where the beneficiary proves that for the activity in question he has received at least three years' previous training, attested by a certificate recognized by the State or regarded by the competent professional or trade body as fully satisfying its requirements; or
- (c) three consecutive years in an independent capacity, where the beneficiary proves that he has pursued the activity in question for at least five years in a non-independent capacity; or
- (d) five consecutive years in a managerial capacity, not less than three years of which were spent in technical posts with responsibility for one or more departments of the undertaking, where the beneficiary proves that for the activity in question he has received at least three years'

previous training, attested by a certificate recognized by the State or regarded by the competent professional or trade body as fully satisfying its requirements.

2. In the cases referred to in paragraph 1 (a) and (c), pursuit of the activity shall not have ceased more than 10 years before the date when the application provided for in Article 8 is made. However, where a shorter period is laid down in a Member State for its own nationals that period may also be applied in respect of beneficiaries.

Article 7

A person shall be regarded as having pursued an activity in a managerial capacity within the meaning of Articles 5 and 6 if he has pursued such an activity in an industrial or commercial undertaking in the occupational field in question:

- (a) as manager of an undertaking or manager of a branch of an undertaking; or
- (b) as deputy to the proprietor or to the manager of an undertaking, where such post involves responsibility equivalent to that of the proprietor or manager represented; or
- (c) in a managerial post with duties of a commercial nature and with responsibility for at least one department of the undertaking.

Article 8

Proof that the conditions laid down in Articles 5 and 6 are satisfied shall be established by a certificate issued by a competent authority or body in the Member State of origin or Member State whence the person concerned comes, which the latter shall submit in support of his application for authorization to pursue the activity or activities in question in the host Member State.

Article 9

For the purpose of applying Article 6 and in so far as is necessary:

1. Member States in which the taking up or pursuit of any activity referred to in Article 2 is subject to possession of general, commercial or professional knowledge and ability shall, with the assistance of the Commission, inform the other Member States of the main characteristics of that occupation;
2. the competent authority designated for this purpose by the Member State of origin or the

State whence the beneficiary comes shall certify what professional or trade activities were actually pursued by the beneficiary and the duration of those activities. Certificates shall be drawn up having regard to the official description of the occupation in question supplied by the Member State in which the beneficiary wishes to pursue such occupation, whether permanently or temporarily;

3. the host Member State shall grant authorization to pursue the activity in question on application by the person concerned, provided that the activity certified conforms to the main features of the description of the occupation communicated pursuant to point 1 and provided that any other requirements laid down by the rules of that State are satisfied.

Article 10

Member States shall, within the time limit laid down in Article 12, designate the authorities and bodies competent to issue the certificates referred to in Articles 8 and 9 and shall forthwith inform the other Member States and the Commission thereof.

Article 11

The transitional provisions laid down in this Directive shall remain applicable until the entry into force of provisions relating to the coordination of national rules concerning the taking up and pursuit of the activities in question.

Article 12

Member States shall bring into force the measures necessary to comply with this Directive within 12 months of its notification and shall forthwith inform the Commission thereof.

Article 13

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 14

This Directive is addressed to the Member States.

Done at Luxembourg, 16 June 1975.

For the Council

The President

R. RYAN