

COUNCIL DIRECTIVE

of 4 December 1990

amending certain Directives on the recognition of professional qualifications consequent upon the unification of Germany

(90/658/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 49, Article 57 (1) and (2), first and third sentences, and Article 66 thereof,

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

In cooperation with the European Parliament (2),

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

Whereas, by reason of the unification of Germany, certain amendments should be made to Directives 75/362/EEC (4), 77/452/EEC (5), 78/686/EEC (6), 78/1026/EEC (7) and 80/154/EEC (8), as last amended by Directive 89/594/EEC (9) and Directive 89/595/EEC (10) concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications as doctors, nurses responsible for general care, dental practitioners, veterinary surgeons and midwives respectively, and to Directive 85/433/EEC (11), as amended by Directive 85/584/EEC (12), and Directive 85/384/EEC (13), as last amended by Directive 86/17/EEC (14), concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in the field of pharmacy and architecture respectively and to Directive 75/363/EEC (15), as last amended by Directive 89/594/EEC, concerning the coordination of provisions laid down by law, regulation or administrative action relating to the activities of doctors;

Whereas from the date of German unification Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas it is necessary to make changes to the said Directives to take account of the specific situation in the said territory;

Whereas, in accordance with the principle of acquired rights, the diplomas, certificates or other evidence of formal qualifications held by German nationals in that territory who are pursuing their professional activities on the basis of training which began before unification and does not conform to Community rules on training should be granted recognition under similar conditions to those applied to other nationals of Member States at the time of the adoption of the said Directives or accessions to the Community;

Whereas it is necessary to protect at Community level the rights acquired by the holders of former qualifications which are no longer awarded as a result of changes which have taken place in the rules of the Member States which awarded the qualification to them; whereas such a provision was introduced by Directive 89/594/EEC into most Directives on the mutual recognition of diplomas, certificates and other evidence of formal qualifications; whereas it could also be applied, unamended, to German nationals from the territory of the former German Democratic Republic; whereas a similar provision should also be incorporated into Directive 85/433/EEC relating to the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy;

Whereas most of the specific provisions relating to the recognition of diplomas, certificates or other evidence of formal qualifications awarded by the former German Democratic Republic cease to be relevant as a result of German unification; whereas they should be repealed,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 75/362/EEC is hereby amended as follows:

1. In Article 3 (a), point 3, 'in Germany' shall be deleted.

(1) OJ No L 266, 28. 9. 1990, p. 12, as amended on 28 November 1990.

(2) Opinion delivered on 24 October 1990 (not yet published in the Official Journal) and Decision of 21 November 1990 (not yet published in the Official Journal).

(3) Opinion delivered on 20 November 1990 (not yet published in the Official Journal).

(4) OJ No L 167, 30. 6. 1975, p. 1.

(5) OJ No L 176, 15. 7. 1977, p. 1.

(6) OJ No L 233, 24. 8. 1978, p. 1.

(7) OJ No L 362, 23. 12. 1978, p. 1.

(8) OJ No L 33, 11. 2. 1980, p. 1.

(9) OJ No L 341, 23. 11. 1989, p. 19.

(10) OJ No L 341, 23. 11. 1989, p. 30.

(11) OJ No L 253, 24. 9. 1985, p. 37.

(12) OJ No L 372, 31. 12. 1985, p. 42.

(13) OJ No L 223, 21. 8. 1985, p. 15.

(14) OJ No L 27, 1. 2. 1986, p. 71.

(15) OJ No L 167, 30. 6. 1975, p. 14.

2. The following Article shall be inserted:

'Article 9a

1. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in medicine attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 75/363/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before German unification,
- they entitle the holder to pursue the activities of a doctor throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in points 1 and 2 of Article 3 (a), and
- they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany 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 attest to training received on the territory of the former German Democratic Republic which does not satisfy the minimum training requirements laid down in Articles 2 to 5 of Directive 75/363/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before the expiry of the time limit laid down in Article 9 (1), second subparagraph, of Directive 75/363/EEC, and
- they permit the pursuit, as a specialist, of the activity in question throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Articles 5 and 7.

They may, however, require that these diplomas, certificates or other evidence of formal qualifications be accompanied by a certificate issued by the competent German authorities or bodies stating that the holders have, as specialists, been engaged in the activity in question for a period equivalent to twice the difference between the period of specialized training received on German territory and the minimum duration of training laid down in Directive 75/363/EEC, where they do not satisfy the minimum requirements regarding the duration of training laid down in Articles 4 and 5 of Directive 75/363/EEC.'

Article 2

The following second subparagraph is hereby added to Article 9 (1) of Directive 75/363/EEC:

'For the territory of the former German Democratic Republic, however, Germany shall take the measures necessary to comply with Articles 2 to 5 within 18 months of unification.'

Article 3

Directive 77/452/EEC is hereby amended as follows:

1. In Article 3 (a), the second indent, 'in Germany' shall be deleted;

2. The following Article shall be inserted:

'Article 4a

In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as nurses responsible for general care attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 77/453/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of former qualifications as being sufficient proof if:

- they attest to training commenced before German unification,
- they entitle the holder to pursue the activities of a nurse responsible for general care throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and
- they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities of nurse responsible for general care in Germany for at least three years during the five years prior to the date of issue of the certificate. These activities must have included taking full responsibility for the planning, organization and carrying-out of the nursing care of the patient.'

Article 4

Directive 78/686/EEC is hereby amended as follows:

1. In Article 3 (a), 'in Germany', the following shall be deleted:

- presentation in the form of two numbered points,
- the text of point 2;

2. The following Article shall be inserted:

'Article 7 a

1. In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as dental practitioner attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 78/687/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before German unification,
- they entitle the holder to pursue the activities of a dental practitioner throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and
- they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany 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 as specialist dental practitioners attest to training received in the territory of the former German Democratic Republic which does not satisfy the minimum training requirements laid down in Articles 2 and 3 of Directive 78/687/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before German unification, and
- they entitle the holder to pursue, as a specialist dental practitioner, the activity in question throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 5 (1) and (2).

They may, however, require that these diplomas, certificates or other evidence of formal qualifications be accompanied by a certificate issued by the competent German authorities or bodies stating that the holder has, as a specialist dental practitioner, been engaged in the activity in question for a period equivalent to twice the difference between the period of specialized training received on German territory and the minimum duration of training laid down in Directive 78/687/EEC, where they do not satisfy the minimum requirements regarding the duration of training laid down in Article 2 of Directive 78/687/EEC.'

Article 5

Directive 78/1026/EEC is hereby amended as follows:

1. In Article 3 (a), 'in Germany', the following shall be deleted:

- presentation in the form of two numbered points,
- the text of point 2.

2. The following Article shall be inserted:

'Article 4a

In the case of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications as veterinary surgeons attest to training received in the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 78/1027/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications, as being sufficient proof if:

- they attest to training commenced before German unification;
- they entitle the holder to pursue the activities of a veterinary surgeon throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and
- they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three consecutive years during the five years prior to the date of issue of the certificate.'

Article 6

Directive 80/154/EEC is hereby amended as follows:

1. In Article 3 (a) 'in Germany' the following shall be deleted:
 - presentation in the form of two indents,
 - the text of the second indent.
2. the following Article shall be added:

'Article 5a

1. In the case of Member States whose diplomas, certificates and other evidence of formal qualifications as midwife attest to training received on the territory of the former German Democratic Republic which does not satisfy all the minimum training requirements laid down in Article 1 of Directive 80/155/EEC, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before German unification;
- they entitle the holder to pursue the activities of a midwife throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 3 (a), and

- they are accompanied by a certificate issued by the competent German authorities stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least three 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 as midwives attest to training received in the territory of the former German Democratic Republic which satisfies all the minimum training requirements laid down in Article 1 of Directive 80/155/EEC but which, pursuant to Article 2, has to be recognized only if it is complemented by the professional practice referred to in Article 4, Member States other than Germany shall recognize those diplomas, certificates and other evidence of formal qualifications as being sufficient proof if:

- they attest to training commenced before German unification, and
- they are accompanied by a certificate stating that those nationals have effectively and lawfully been engaged in the activities in question in Germany for at least two years during the five years prior to the date of issue of the certificate.'

Article 7

Directive 85/433/EEC is hereby amended as follows:

1. In Article 4 (a), 'in Germany', the following shall be deleted:
 - presentation in the form of two numbered points,
 - the text of point 2.
2. In Article 6:
 - the present text becomes paragraph 1,
 - the following paragraph 2 shall be added:

'2. Diplomas, certificates and other university or equivalent qualifications in pharmacy which were awarded to nationals of Member States by Member States and which satisfy all the minimum training requirements laid down in Article 2 of Directive 85/432/EEC but which do not conform to the designations set out in Article 4 shall be treated, for the purposes of the Directive, as the diplomas set out in that Article if they are accompanied by a certificate stating that they attest to training conforming to the provisions of Directive 85/432/EEC referred to in Article 2 of this Directive and shall be treated by the Member States which awarded them as those designations are set out in Article 4 of this Directive.'

3. The following Article shall be inserted:

'Article 6a

Diplomas, certificates and other university or equivalent qualifications in pharmacy which attest to training received by nationals of the Member States on the territory of the former German Democratic Republic and which do not satisfy all the minimum training requirements laid down in Article 2 of Directive 85/432/EEC shall be treated as diplomas satisfying these requirements if:

- they attest to training commenced before German unification,
- they entitle the holder to pursue the activities of pharmacist throughout the territory of Germany under the same conditions as the qualifications awarded by the competent German authorities and referred to in Article 4 (c), and
- they are accompanied by a certificate stating that their holders have effectively and lawfully been engaged in Germany in one of the activities referred to in Article 1 (2) of Directive 85/432/EEC for at least three consecutive years during the five years prior to the date of issue of the certificate, provided that such activity is regulated in the Member State in question.'

Article 8

Article 6 of Directive 85/384/EEC is hereby deleted.

Article 9

Member States shall take the necessary measures to comply with this Directive by 1 July 1991. They shall forthwith inform the Commission thereof.

When Member States take these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 10

This Directive is addressed to the Member States.

Done at Brussels, 4 December 1990.

For the Council
The President
G. DE MICHELIS