



9.12.2010

## NOTICE TO MEMBERS

Subject: **Petition 0482/2010 by Sonia Lamberti (Italian), on alleged infringement of Directive 93/16/EEC regarding trainee specialist doctors**

### 1. Summary of petition

The petitioner recalls that Directive 93/16/EEC Annex I prescribes the framework for remuneration of trainee specialist doctors ("appropriate remuneration"). The Italian state transposed the Directive by legislative decree 368/1999 which stipulates that trainee specialist doctors should be linked by contract to their university, thus giving them the status of employee. By decree 517/1999 the relevant articles of the earlier decree 368 were suspended and the employee statute replaced by a grant, which did not include any rights to leave, sickness insurance or pension and forbade any other employment. Only as of 2006 were trainee specialist doctors given proper contract again. The difference in annual revenue between specialist doctors who trained before 2006 and thereafter amounts to several thousand euro. The petitioner alleges that the infringement by the Italian state of Directive 93/16/EEC between 2000-2005 caused trainee specialist doctors considerable financial prejudice for which no compensation is being offered.

### 2. Admissibility

Declared admissible on 10 September 2010. Information requested from Commission under Rule 202(6).

### 3. Commission reply, received on 9 December 2010.

The petitioners allegedly claim that with the adoption of the legislative decree 368/1999 the Italian authorities have caused damage to trainee specialist doctors from 2000 until 2005. This

damage is the result of not respecting Annex I of former Directive 93/16/EEC<sup>1</sup> by granting the employee status to doctors, who are in specialist training, from 2006 onwards only.

Annex I of Directive 93/16/EEC describes on how the specialist training should be organised. Also it is stated that "These (specialist) training posts shall be subject to appropriate remuneration".

Whereas Annex I of Directive 93/16 introduces the principle that doctors in specialist training should receive an appropriate remuneration, it does not give any indication regarding the social statute that doctors in specialist training should be entitled to. Nor has it defined what is exactly meant by 'appropriate remuneration'. Thus, it falls within the competence of each Member State on how it ensures that specialist in training receive an appropriate remuneration. Directive 93/16/EEC has been repealed and replaced by Directive 2005/36/EC on the recognition of professional qualifications<sup>2</sup>.

For the above mentioned reason, the Commission is of the opinion that there is no breach of EU law by the Italian legislation.

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<sup>1</sup> Council Directive 93/16/EEC of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications, Official Journal L 165, 07/07/1993 P. 0001 - 0024

<sup>2</sup> Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications, Official Journal L255 of 30 September 2005 - page 22.