OPINION OF ADVOCATE GENERAL LÉGER

delivered on 31 May 2001 [1]

1. In these infringement proceedings the Commission has put in issue the conformity with Directive 78/687/EEC [2] of the second system of training leading to entry to the profession of dentist in Italy, as well as the possibility, in that Member State, for doctors who practise as dentists to be registered both as medical and dental practitioners.

I — Legal background

A — *Community law*

2. On 25 July 1978, the Council adopted two directives concerning, respectively, mutual recognition of the qualifications of dental practitioners [3] and coordination of their activities. [4]

3. Article 1 of the coordination directive provides that the Member States are to require persons wishing to take up and pursue a dental profession under the titles referred to in Article 1 of the recognition directive to hold a diploma, certificate or other evidence of formal qualifications referred to in Article 3 of the coordination directive, which guarantees that the person concerned has, during his complete training period, acquired the knowledge and experience required by the said directive. That dental training is to comprise at least a five-year full-time course of theoretical and practical instruction.

4. Prior to the adoption of those directives and their transposition into Italian law, the specialist profession of dental practitioner

1 — Original language: French.

2 — Council Directive of 25 July 1978 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of the activities of dental practitioners (OJ 1978 L 233, p. 10, hereinafter the 'coordination directive').

3 — Council Directive 78/686/EEC concerning the mutual recognition of diplomas, certificates and other evidence of the formal qualifications of practitioners of dentistry, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services (OJ 1978 L 233, p. 1, hereinafter the 'recognition directive').

4 — The coordination directive.

did not exist in Italy, and was carried on by doctors. In order to take account of this state of affairs, Article 19 of the recognition directive provides, under the heading 'Chapter VII — Transitional provisions covering the special case of Italy', that:

'From the date on which Italy takes the measures necessary to comply with this Directive, Member States shall recognise, for the purposes of carrying out the activities referred to in Article 1 of this Directive, the diplomas, certificates and other evidence of formal qualifications in medicine awarded in Italy to persons who had begun their university medical training not later than 18 months after notification of this Directive, accompanied by a certificate issued by the competent Italian authorities, certifying that these persons have effectively, lawfully and principally been engaged in Italy in the activities specified in Article 5 of Directive 78/687/EEC for at least three consecutive years during the five years prior to the issue of the certificate and that these persons are authorised to carry out the said activities under the same conditions as holders of the diploma, certificate or other evidence of formal qualifications referred to in Article 3(f) of this Directive.

The requirement of three years' experience referred to in the first subparagraph shall be waived in the case of persons who have successfully completed at least three years of study which are certified by the competent authorities as being equivalent to the training referred to in Article 1 of Directive 78/687/EEC.'

B — *The Italian legislation*

5. Italy transposed the recognition and coordination directives into its internal legal order by Law No 409 of 24 July 1985, entitled 'Istituzione della professione sanitaria di odontoiatria e disposizioni relative al diritto di stabilimento ed alla libera prestazione di servizi da parte dei dentisti cittadini di Stati membri delle Comunità europee'. [5]

6. This law established the profession of dentist in Italy and reserved the practice of it, under the title 'odontoiatra', to persons having completed:

— either the new specialised training for dentists of five years, certified by the diploma of 'laurea in odontoiatria e protesi dentaria', [6] resulting in authorisation to practise;

— or basic medical training, certified by a diploma of 'laurea in medicina e chir-

5 — On the establishment of the profession of dentist and provisions relating to the right of establishment and freedom to provide services of dentists who are nationals of Member States of the European Community (Ordinary Supplement to the *Official Journal of the Italian Republic*, no 190, of 13 August 1985, hereinafter 'Law No 409/85').

6 — Diploma in Dentistry and Dental Prosthetics.

urgia',[7] resulting in authorisation to practise medicine and surgery, and completed by a specialist diploma in dentistry. The minimum period of training is nine years: six years of medical training followed by three years of dental specialisation.

7. Article 4 of Law No 409/85 provides that registration as a dentist is incompatible with registration in any other profession. Article 5 nevertheless allows doctors specialising in dentistry to maintain their registration in both the register of doctors and that of dentists. The transitional provision referred to in Article 20 of that law required non-specialist doctors who began their training before 28 January 1980 to opt for registration in the register of dentists, if they intended to practise dentistry, within a period of five years commencing from the entry into force of Law No 409/85, that is to say, before 28 August 1990.

— the second system of training provided for by Law No 409/85 does not comply with the minimum training criteria laid down by the coordination directive, which requires dental training of at least five years. Furthermore, that training corresponds exactly to the specialised Italian diploma in stomatology referred to in Article 7 of 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.[8]

— the possibility for the doctors referred to in Article 19 of the recognition directive, who primarily practise as dentists, to be registered in both the register of doctors and that of dentists is not in conformity with the recognition and coordination directives.

II — Pre-litigation procedure

8. In the letter of formal notice, dated 9 April 1997, the Commission addressed two complaints to the Italian Republic:

9. In their reply the Italian authorities forwarded draft Law No 2653 on the profession of dentist, which lays down a single system of training for entry to the profession.[9]

7 — Diploma in Medicine and Surgery.

8 — OJ 1993 L 165, p. 1.

9 — A specialised training certified by the diploma of 'laurea in odontoiatria e protesi dentaria'.

10. In its reasoned opinion, notified on 18 May 1998, the Commission maintained its complaints. By letter of 16 December 1998, the Italian authorities forwarded a copy of Legislative Decree No 386 of 13 October 1998, [10] entitled 'Disposizioni in materia di esercizio della professione di odontoiatra, in attuazione dell'articolo 4 della legge 24 aprile 1998, no 128'.

11. The Commission's application was lodged at the Court Registry on 26 May 1999. The Commission claims that the Court should:

(1) declare that, by maintaining a second system of training for entry to the profession of dentist contrary to the coordination directive, and by maintaining the possibility for doctors who practise as dentists to be registered in both the register of doctors and that of dentists, the Italian Republic has failed to fulfil its obligations under the said directive;

(2) order the Italian Republic to pay the costs.

10 — GURI No 260 of 6 November 1998.

12. The Italian Republic contends that the Court should:

(1) declare the application inadmissible;

(2) alternatively, dismiss the application;

(3) order the Commission to pay the costs.

III — Admissibility of the application

13. The Italian Government raises two objections to the admissibility of the Commission's application.

First objection of inadmissibility

14. It submits, firstly, that the complaint of having maintained a second system of training, and the possibility of dual registration in the registers of doctors and dentists do not correspond to the reality of the situation. The provisions in issue

could not, strictly speaking, have been maintained because they were introduced into national law after the adoption of the coordination directive and with a view to its transposition.

15. In the view of the Italian Government, if the Commission is in fact alleging that the provisions of Law No 409/85 concerning the second system of training and the possibility of dual registration in the registers of doctors and dentists are incompatible with the coordination directive, it ought to have challenged their entry into force rather than their maintenance in force.

16. The failure to formulate that complaint correctly is such as to mislead the Italian Republic by reducing its ability to defend itself.

17. That argument cannot be accepted.

18. It will be recalled that, according to the Court's settled case-law, the Commission must indicate, in any application made under Article 226 EC, the specific complaints on which the Court is asked to rule and, at the very least in summary form, the legal and factual particulars on which those complaints are based. [11]

19. Like the formal notice addressed by the Commission to the Member State, and like the reasoned opinion issued by the Commission, which defines the subject-matter of the dispute, [12] the application must enable the Member State concerned to put forward its defence and to contest all of the complaints raised against it by the Commission.

20. That case-law precludes infringement proceedings from being initiated by an application that prejudices the rights of defence, because the complaints raised are insufficiently precise, or for lack of legal or factual reasons.

21. In this case, the objection raised by the Italian Government against the Commission relates to recourse to terminology suggesting that the national provisions in question predated the directive whereas, according to the Italian Government, they postdated it.

22. It does not appear that the capacity of a Member State to put forward its defence depends on the date on which the national provisions considered to be contrary to Community law were adopted. The reality of the breach itself is independent of this date, and is determined by the existence of

11 — See, for a recent example, Case C-375/95 *Commission* v *Greece* [1997] ECR I-5981, paragraph 35.

12 — Case C-365/97 *Commission* v *Italy* [1999] ECR I-7773, paragraph 23.

measures infringing Community law at the end of the period laid down by the Commission in the reasoned opinion. [13]

23. From the point of view of the rights of defence of the Member State concerned, it is important that it be in a position to identify the provisions of its national law considered to infringe Community law, as well as their content.

24. In that respect, it should be observed that they are accurately set out in the application.

25. In its statement of the first complaint the Commission expressly calls in question the second system of training prescribed in Law No 409/85. [14] In support of the second complaint against the Italian Republic, the Commission cites Article 20 of that law, as well as Judgment No 100/89 of the Corte Costituzionale (Constitutional Court), from which it appears that dual registration in the registers of doctors and dentists remains possible. [15]

26. In the light of those particulars, which enable the Italian Government to know the content of the alleged infringement, it cannot maintain that it has been unable to put forward its case in defence. This plea of inadmissibility must therefore be rejected.

Second objection of inadmissibility

27. The Italian Government submits, secondly, that the Commission has not indicated, in support of its application, the provisions of the directive that have not been complied with. The infringement said to have been committed by the Italian Republic cannot therefore be identified.

Admissibility of the first complaint

28. As regards the complaint concerning the duration of the second system of training laid down by Law No 409/85, it should be pointed out that the Commission has stated that the obligations to which the infringement relates are those set out in Article 1 of the coordination directive.

29. The Commission has explained that the three years' training in dentistry does not meet the formal conditions laid down by that article, which requires a specialised training of five years. [16] In so doing, it has

13 — See, for example, Case C-315/98 *Commission* v *Italy* [1999] ECR I-8001, paragraph 11.

14 — Paragraph 7 of the application.

15 — Ibid., paragraph 19.

16 — Ibid., paragraph 11.

clearly enabled the Italian Republic to know the rule of law on which a part of the infringement proceedings is founded and, thus, to prepare its defence.

30. As a result, the Commission's application must be held to be admissible on this point.

Admissibility of the second complaint

31. According to the Italian Government, the Commission has failed to link the complaint about dual registration in the registers of doctors and dentists of the doctors referred to in Article 19 of the recognition directive to a specific provision of the coordination directive. For this reason, it claims, the application should be held to be inadmissible.

32. Before dealing with this point, it is appropriate to recall certain principles laid down by the Court's case-law on admissibility.

33. As I have already said, the Commission must set out in its application the specific complaints on which it relies, as well as, in summary form, the matters of law or of fact upon which those complaints are founded. [17]

34. In a certain number of judgments the Court has ruled on pleas of inadmissibility alleging either the imprecise nature of the relief sought in the application, or the lack of formal citation by the Commission of the rules of Community law alleged to have been infringed by a Member State.

35. In one of those judgments the Member State alleged imprecision on the part of the Commission as regards the relief sought. The Commission was seeking 'a declaration that the directive and "in particular" Articles 2, 3 and 8 thereof had been infringed. [Germany considers that] only the infringement of the provisions of the directive expressly referred to, and not a general complaint that the directive has been breached, may be taken into account'. [18]

The Court dismissed that plea on the grounds that the articles of the directive expressly cited by the Commission had enabled the defendant government to understand unambiguously that a breach of those specific provisions was alleged. According to the Court, the adverbial phrase 'in particular' was used in the sense

17 — Point 18 of this Opinion.

18 — Case C-431/92 *Commission* v *Germany* [1995] ECR I-2189, paragraph 13.

of 'specifically' in order to designate precisely those articles of the directive which had been infringed. [19]

36. In the same case, the Member State in question submitted that the infringement of an article of a directive had not been referred to in the reasoned opinion and had been raised for the first time in the application. The Court held that, whilst it was true that the article in dispute was not formally referred to in the conclusions of the reasoned opinion, it was nevertheless mentioned in the body of that document amongst the provisions relied on by the Commission. The objection of inadmissibility was therefore dismissed. [20] A more recent judgment has applied the same principle. [21]

37. In another case, the Member State concerned alleged that the letter of formal notice did not constitute a lawful act initiating an infringement procedure. It submitted that the Commission had sent a standard letter of formal notice, listing in an annex several directives, including that forming the subject of the action. The Commission had, furthermore, stated that it was proceeding under Article 169 of the EEC Treaty instead of under Article 141 of the EAEC Treaty, which was, however, the only provision concerned. [22]

The Court firstly pointed out that Article 141 of the EAEC Treaty was identical to Article 169 of the EEC Treaty. After stating that, according to settled case-law, a letter of formal notice could necessarily only be a first, brief summary of the complaints, the Court then stated that the annexed list included the directive in issue in the case, expressly stated to be a Euratom directive. According to the Court, the Commission had made good its failure to cite the relevant provisions of the EAEC Treaty in its reasoned opinion, which referred to various articles of that Treaty. In its application to the Court, the Commission also referred to those same provisions. [23]

The Court lastly stated that the Commission's real complaint, namely the non-transposition of the directive, had not changed throughout the pre-litigation procedure. The Member State in question could not, therefore, be in any doubt that the Commission's complaint concerned a breach of the EAEC Treaty on the grounds of a failure to transpose the directive in question. [24]

38. Even though they are few in number, and the issues concerned are not strictly the same, those judgments seem to me to indicate a pattern that it would be useful to make clearer when the Court is called upon to rule on a plea of inadmissibility

19 — Ibid., paragraph 15.

20 — *Commission* v *Germany*, cited above, paragraphs 16 to 18.

21 — Case C-135/94 *Commission* v *Italy*, cited above, paragraph 38.

22 — Case C-135/94 *Commission* v *Italy* [1995] ECR I-1805, paragraph 3.

23 — Ibid., paragraph 8.

24 — Ibid., paragraphs 9 and 10.

founded on the imprecise nature of an application in infringement proceedings.

39. In the light of that case-law a first observation is called for: where the Community rules whose infringement is alleged are cited, in one way or another, a plea of inadmissibility based on insufficient precision in the application will be dismissed. It is enough that, in the letter of formal notice, the text containing the relevant provisions is referred to — Treaty or directive, for example —, if these are then mentioned in the reasoned opinion and then in the application. The location of these citations matters little because they do not have to appear in the operative part of the reasoned opinion and the application. It is enough that they can be read in the body of the text of those documents for them to be invoked by the Commission in support of its application.

40. It may be asked whether it is necessary to go further and interpret the case- law cited above as meaning that the citation of the relevant Community provisions, held to be sufficient in the cases mentioned, is necessary in all cases. On that basis, the failure to refer precisely to the provision infringed by the Member State would result in the inadmissibility of the action.

The Court has taken care to state that, although the Community provision in issue was not formally referred to in the conclusions of the reasoned opinion, it was none the less mentioned elsewhere in that opinion; or, again, that the Commission had remedied the lack of citation of the relevant provisions of the Community act in question in the reasoned opinion and in the application.

This concern to check the citation of the texts in question implies a duty to cite on the part of the Commission.

41. I do not think that such a strict interpretation of the above-cited judgments, founded on reasoning by contrary inference, is the only possible one. It would be going too far to dismiss an infringement application which does not formally cite the Community provision alleged to be infringed, without verifying whether the Member State concerned is in a position to know its content.

42. What is really in point in the discussion over the degree of precision of the terms of an application in infringement proceedings is, of course, the ability of the defendant government to prepare its defence. It will not be in a position to advance relevant objections to the complaints raised against it if it does not know the precise content of the Community rules it is said to have infringed.

43. The Court's case-law, cited above, concerning Member States' rights of defence in infringement proceedings, [25] like the case-law, also cited above, concerning the content of the application, [26] argues in favour of this conclusion.

44. An application in infringement proceedings is therefore admissible even if the provision of Community law alleged by the Commission to have been infringed by the defendant Member State is not formally cited, provided that the rule of law it lays down can be clearly inferred from the pre-litigation procedure and the application.

45. The admissibility of the second complaint must be examined in the light of this principle.

46. In the application the Commission states that the separation between the professions of dentist and doctor is far from complete in Italy, without linking the rule said to be infringed to a specific provision of one of the two directives.

47. The recognition directive is the only relevant Community norm cited by the Commission in the part of the application dealing with the second complaint. It states that 'the "recognition" directive precludes a practitioner who holds a single diploma and a single professional accreditation from being registered both in the registers of doctors and dentists'. [27]

The professionals referred to are the holders of an Italian diploma in medicine and surgery, referred to in Article 19 of the recognition directive. The Commission goes on to explain that Article 20 of Law No 409/85, obliging non-specialist doctors who began their training before 28 January 1980, and practising as dentists, to choose to be registered in one of the two professional registers, remains unenforced following the judgment of the Corte Costituzionale. Registration in the registers of both doctors and dentists remains possible.

48. In the application the Commission has thus described the second complaint by reference to the recognition directive alone.

49. It acknowledged at the reply stage that 'the "recognition" directive appears neither in the reasoned opinion nor in the form of order sought in the application', [28] and concluded by stating, at the same procedural stage, that 'it is Article 1 *of the "coordination" directive* 78/687 that clearly constitutes the framework of the two complaints'. [29]

25 — Points 19 and 20 of this Opinion.
26 — Ibid., point 33.
27 — Paragraph 17.
28 — Paragraph 13.
29 — Ibid., paragraph 11, emphasis added.

50. In response to the Italian Government's plea of inadmissibility, the Commission thought it useful to point out that it has 'carefully set out [in the reasoned opinion and the application] the national and Community "*legislative framework*" within which the two alleged infringements of the "*coordination*" directive arise'. [30]

51. It is true that Article 1 of the coordination directive — said by the Commission in its reply to form the basis of the two infringements with which the Italian Republic is charged — is cited in that part of the application which sets out the legal background.

But that part, common to both complaints, is purely descriptive and lacking in any probative force. At no point, at that stage of the procedure, is any connection established between the infringement of that article and the ability to be simultaneously registered with both professional bodies. [31]

52. The coordination directive is also cited in the operative part of the application, without referring to any particular article and without accompanying legal reasoning.

53. It therefore appears that, up until the reply, in which the Commission states that it is the coordination directive that forms the legal basis of the second complaint, only the recognition directive was cited in support of that complaint in a genuinely reasoned part of the pre-litigation procedural documents or the pleadings.

54. The efforts deployed by a Member State to identify the legal basis of a complaint addressed to it, which can take the form of substantial legal argument in the course of the procedure, cannot be used by the Commission to regularise *a posteriori* the infringement proceedings where, as here, it is manifest that an initial lack of reasoning was such as to give rise to genuine confusion on the part of the Member State in understanding the infringement alleged against it.

55. I take the view, therefore, that the Commission has failed to satisfy the requirement that the exact complaint, and the matters of fact or law upon which the Commission bases it, be set out in the application. The second complaint must therefore be declared inadmissible.

30 — Ibid., paragraph 9.

31 — Let me add that the reference to this article in the letter of formal notice (page 2, second paragraph) is in support of the first complaint, and not that of the simultaneous registration in the registers of the two professional bodies. As for the references to the same article in the reasoned opinion, the second reference (paragraph 9) also appears in the part dealing with the first complaint, whilst the first reference (paragraph 1) appears in the section setting out the legal background. This last reference is not made in support of either complaint or any particular legal argument.

IV — The plea alleging existence of a second system of training for entry to the profession of dentist that is contrary to the coordination directive

Arguments of the parties

56. The Commission submits that the second system of training laid down by Law No 409/85, in which three years are dedicated to dentistry, clearly fails to fulfil the requirement for a specialised training of five years, set out in Article 1 of the coordination directive.

57. In the Commission's view, a medical specialisation cannot at the same time come within the scope of Directive 93/16 on doctors and the recognition directive on dentists. The coordination directive expressly provides for a new category of professional authorised to practise dentistry under a title different from that of doctor and created to replace non-specialist doctors practising dentistry. This is why Article 19 of the recognition directive provides that doctors — specialised or not — do not qualify as of right for recognition under the recognition directive. It is only granted to them exceptionally and temporarily, as they must have started their medical training before 28 January 1980.

58. The second system of training for dentists could not therefore be maintained beyond the transposition of the coordination directive. Moreover, it corresponds exactly to the specialist medical diploma in stomatology (odontostomatologia) mentioned in Article 7 of Directive 93/16.

59. The Italian Government replies that, in calculating the duration of that training, it is necessary to include certain periods of study undertaken during the training required to obtain the diploma in medicine. Furthermore, Article 1 of the coordination directive does not state that the training referred to in the annex must be undertaken solely within a single course of studies exclusively designed to lead to a diploma in dentistry.

60. The Commission maintains that what is meant by a dental training of at least five years, under Article 1(2) of the coordination directive, is specialised dental training, in the form of a course of studies lasting five years.

61. The Italian Government submits that there is no support in the provisions of that directive for the Commission's argument that the coordination directive requires specialised dental studies during the whole of the five-year training period. The annex provides neither for a division of the

training period between general medical subjects and specialised subjects, nor for the simultaneous and mixed study of two groups of subjects.

Assessment

62. It follows from Article 1(1) of the coordination directive that the Member States are to require persons wishing to take up and pursue a dental profession under the titles in force in their territories to hold a qualification guaranteeing that the person concerned has acquired during the full period of his training appropriate knowledge in various subjects relating to dentistry, as well as suitable experience in the field.

63. According to that article, '[T]his training shall provide him with the skills necessary for carrying out all activities involving the prevention, diagnosis and treatment of anomalies and diseases of the teeth, mouth, jaws and associated tissues'.

64. Article 1(2) provides, finally, that '[A] complete period of dental training of this kind shall comprise at least a five-year full time course of theoretical and practical instruction given in a university, in a higher-education institution recognised as having equivalent status or under the supervision of a university and shall include the subjects listed in the Annex'.

65. It will be noted that, whilst it sets as five years the total period of study necessary for acquiring a dental training, the latter provision is silent as to the time to be spent within that period on each subject-matter listed in the annex to the coordination directive.

66. Among the three groups of subjects appearing in the annex, only group (c), entitled 'Subjects directly related to dentistry', constitutes specialised dental training. Groups (a) and (b), entitled 'Basic subjects' and 'Medico-biological subjects and general medical subjects', include subjects which must be taken in order to practise medicine just as much as dentistry. Article 1(2) says nothing about a possible minimum period to be devoted to purely dental subjects.

67. The only clarification appears in the text preceding the list of subjects, which states that the programme of studies leading to a qualification in dentistry is to include at least those subjects.

68. If one bases oneself on the directive's silence concerning the training period to be devoted by the Member States to each subject, or group of subjects, there is nothing to prevent training which covers the group (c) subjects in the annex being limited to a shorter period than the five years specified in Article 1(2) of the coordination directive.

69. On that interpretation, the Italian authorities would be entitled to maintain a second training system made up of six years' training in medicine and three years' specialisation in dentistry.

70. There are, however, a number of objections to such a reading of the coordination directive.

71. It cannot be ignored that the training referred to in Article 1(2) of the coordination directive is expressly categorised as 'dental training', which implies that the five years of theory and practical study making up this training are devoted to a significant education in the subjects of dentistry.

72. Furthermore, the Italian Government's reading seems to me to conflict with a uniform interpretation of the coordination directive, which is essential in view of its subject-matter, namely public health. It would be haphazard to leave to the discretion of the Member States the task of deciding the necessary division of time between dental and other subjects within the period of studies laid down by this directive. There would be nothing, a priori, to prevent the reduction to a bare minimum of the part of that time reserved for the study of subjects specifically concerned with dentistry.

73. As Italian law now stands, two systems of training coexist, leading to an identical right to take up and pursue the same activity, and to the same recognition of corresponding qualifications in the Community. It may be queried whether it is legitimate for systems of training to coexist which, notwithstanding the quite marked disparity in duration, result in identical conditions of entry, practice and recognition.

74. In the light of the foregoing, and in the absence of any particular indications in the text on the organisation of the training during those five years, Article 1(2) of the coordination directive is to be interpreted as meaning that the Member States are required to spread the teaching of the group (c) subjects mentioned in the annex to that directive over the whole legal period provided for by that article. Accordingly, I consider that the Commission's application must be allowed in this respect.

V — Costs

75. Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been asked for in the successful party's pleadings. However, under the first subparagraph of Article 69(3), the Court may order that each party bears its own costs if each succeeds on some but fails on other heads. Since both the Commission and the Italian Republic have been partially unsuccessful, they should bear their own costs.

Conclusion

76. In the light of the above considerations, I propose that the Court declare that:

(1) In maintaining a second system of training for entry to the dental profession which restricts the dental training to three years' study, the Italian Republic has failed to fulfil its obligations under Article 1(2) of Council Directive 78/687/EEC of 25 July 1978 concerning the coordination of provisions laid down by law, regulation or administrative action in respect of the activities of dental practitioners;

(2) The remainder of the application is dismissed;

(3) The parties shall bear their own costs.