OPINION OF MR ADVOCATE GENERAL DARMON
delivered on 6 March 1990 *

Mr President,
Members of the Court,

1. The three Joined Cases C-54/88, C-91/88 and C-14/89 present the Court with identical questions for a preliminary ruling submitted respectively by the Pretore (Magistrate) of Conegliano, the Pretore of Prato and the Pretore of Pisa, concerning the interpretation of the provisions of the Treaty relating to the freedom of establishment, with reference to the practice of certain professions of a paramedical nature.

2. The identical wording of the questions may be explained primarily by the fact that the courts making the references were faced with very similar situations. The cases concerned criminal proceedings brought against biotherapists or pranotherapists under Article 348 of the Italian Penal Code for the unlawful practice of medicine.

3. Case C-54/88 relates to the criminal proceedings instituted against Eleonora Nino, a member of the Associazione italiana flussoterapeuti e pranoterapeuti (Italian Flusotherapy and Pranotherapy Association) (hereinafter referred to as 'AIFEP'), on account of treatment involving biotherapy and pranotherapy. Case C-91/88 relates to the proceedings brought against Bruna Goti and Rinaldo Prandini, members of the AIFEP, for practising as pranotherapists. Finally, Case C-14/89 relates to proceedings brought against Pier Cesare Pierini, also a member of the AIFEP, for practising as a pranotherapist. Before each of their respective courts, the accused relied on the provisions of the Treaty relating to the freedom of establishment and claimed that the proceedings brought against them failed to take those provisions into account.

4. As the Italian Government and the Commission have pointed out, there is nothing in the documents before the Court which would suggest that the questions submitted relate to situations coming within the scope of the Community law on freedom of establishment. On the contrary, it appears that the cases concern purely internal situations involving Italian *nationals residing* in Italy who have been charged before *Italian* courts for activities carried on in *Italy*. The proceedings which have given rise to the preliminary references have no connection with Community law to be found in the case-law of the Court, such as acquisition of the professional training under consideration or the exercise of the profession in question in another Member State.[1] It therefore appears to me that the questions referred by the national courts relate to situations which clearly do not come within the provisions of the Treaty which the Court is requested to interpret.

* Original language: French.

1 — Judgment in Case 115/78 *Knoors* v *Secretary for State for Economic Affairs* [1979] ECR 399, paragraph 24.

5. As the Court stressed in particular in its judgment in *Commission* v *Belgium*, Article 52:

'is intended to ensure that all nationals of Member States who establish themselves in another Member State, even if that establishment is only secondary, for the purpose of pursuing activities there as a self-employed person receive the same treatment as nationals of that State and it prohibits, as a restriction on freedom of establishment, any discrimination on grounds of nationality'. [2]

Consequently, as the Court, for example, recently held in its judgment in *Bekaert*:

'the absence of any element going beyond a purely national setting in a given case . . . means, in matters of freedom of establishment, that the provisions of Community law are not applicable to such a situation'. [3]

6. I would therefore suggest that the Court adopt an approach similar to that in its judgment in *Bekaert*, cited above, and rule as follows:

'The provisions of the EEC Treaty relating to freedom of establishment do not apply to situations which are purely internal, such as that of nationals of a Member State who are engaged, within its territory and in a self-employed capacity, in a professional activity in respect of which they are unable to demonstrate previous training or practice in another Member State.'

2 — Case 221/85 [1987] ECR 719, paragraph 10.
3 — Case 204/87 [1988] ECR 2029, paragraph 12.