OPINION OF ADVOCATE GENERAL SIR GORDON SLYNN
delivered on 17 September 1987

My Lords,

As in Case 309/85 *Barra and Others* v *Belgian State and City of Liège* [1988] ECR 355, this reference for a preliminary ruling is made by the President of the tribunal de première instance at Liège in proceedings in which the plaintiffs are 17 French nationals who have followed courses of study in Belgium offered by one or other of the four defendants, the University of Liège, the Catholic University of Louvain, the Free University of Brussels and the University Centre of Notre Dame de la Paix at Namur. The principal difference from the *Barra* case is that the plaintiffs in these proceedings attended, not technical colleges, but universities. There is an issue between the parties as to whether their studies constitute vocational training which falls within the scope of application of the EEC Treaty so that they can rely on Article 7 of that Treaty.

In Belgium, veterinary studies are divided into two three-year periods, the first, known as the 'candidature', leading to a preliminary diploma and the second leading to a doctorate. Of the defendant universities, only Liège offers the doctorate course. Liège, Louvain and Namur offer the preliminary diploma course and Brussels offers a first-year grounding in medical science after which students may go elsewhere to complete their studies for the preliminary diploma. A student who obtains his doctorate is entitled without more to be registered as a veterinary surgeon in Belgium and, after registration, to begin practice.

The plaintiffs followed preliminary diploma courses at one or other of the defendant universities for which they were required to pay a foreign student's enrolment fee (a 'minerval').

Immediately following the judgment in *Gravier*, the plaintiffs sought recovery of the minerval they had paid in interlocutory proceedings begun in April 1985. Apparently the proceedings were suspended on account of the proposed changes to Belgian legislation embodied in what became the 1985 Law, set out in my Opinion in Case 293/85 *Commission* v *Belgium* [1988] ECR 305, the 'direct action' and which I do not repeat here. I use the same abbreviations in this opinion as in the direct action.

The national proceedings were resumed after the 1985 Law had been passed. The President of the tribunal de première instance at Liège seeks the ruling of the Court on the compatibility with Community law of certain provisions of the 1985 Law, in particular Article 63, and also on the question whether the courses followed by

the plaintiffs constitute vocational training covered by the Treaty. His reference for a preliminary ruling is in the following terms:

'Do the financial conditions governing access to university courses leading to the award of a preliminary diploma ("candidature") and a doctor's degree ("doctorat") in veterinary medicine fall within the scope of application of the Treaty, within the meaning of Article 7 thereof, as regards both the 1985/86 academic year and the academic years from 1979 to 1985?'

As the Belgian Government and the Commission observe, the question referred to the Court in fact covers two issues. They are, first, whether university courses in veterinary medicine may fall within the definition of vocational training and, second, if so, whether Article 63 of the 1985 Law can operate to limit reliance on the principle of Community law laid down in *Gravier* that a Member State may not impose conditions on access to vocational training which discriminate between its own nationals and Community students.

Similar issues arose in the direct action, and the effect of Article 63 was also debated at length in the *Barra* case.

For the reasons I give in the direct action, in my view university education is capable of constituting vocational training, though not all university education is vocational. The course must be looked at overall to decide whether it gives a qualification or 'prepares for a qualification' or 'provides the necessary training and skills' for 'a particular profession, trade or employment'. It may still be vocational if it includes an element of general education.

A course for a doctorate in veterinary medicine, which entitles the holder to practise subject only to registration, seems to me to be such a course of vocational training, whether or not the person is to become an employed person or to engage in private practice.

It is suggested that the course for the preliminary diploma is not vocational training because it does not entitle the holder directly to practise. If, as I understand it, this course is a necessary prerequisite to the doctorate course and prepares for it, in my view it is to be regarded as an integral part of the vocational training course. The course is designed for that purpose, including both theoretical and practical instruction, and indeed includes subjects which are covered by the Council directive on mutual recognition of diplomas in veterinary medicine (Council Directive 78/1026/EEC, Official Journal 1978, L 362, p. 1). The fact that some students may stop after the diploma course (if that in fact happens) does not prevent the course, as an integral part of preparing for the veterinary profession, from itself being vocational training and the intentions of the particular student are not significant.

[In my view the courses are capable of constituting, and on what the Court has been told do apparently constitute, voca-

tional training for the purposes of Article 7 of the EEC Treaty.

There is also the first-year course in medical science offered at the Free University of Brussels; this is described in the Order for Reference as organized for the purposes of the preliminary diploma. If the national court finds that that is equally a necessary or integral part of the training for the doctorate in veterinary medicine or the training for the diploma, then in my view it is equally part of vocational training. I do not think that this Court has enough information to make a concluded view as to whether such a course is capable of constituting vocational training. It is for the national court to decide on the basis laid down by this Court.

A decision as in *Gravier* that a course can constitute vocational training and that the imposition of a registration fee on nationals of other Member States, but not on Belgian students, constitutes discrimination on grounds of nationality contrary to Article 7 of the EEC Treaty, is of general and not merely prospective effect. However, for the reasons given in the direct action it seems to me right that the effect of such a judgment in this case should be limited to those students who were undertaking such training in universities at 13 February 1985 or who subsequently undertook such training or who before the date of this Opinion had instituted proceedings for the recovery of the minerval and in respect of the whole of their courses.

Accordingly, in my view the questions referred fall to be answered on the following lines:

'A university course may constitute vocational training in respect of which Member States may not impose conditions of access which discriminate on grounds of nationality if it is specifically designed to prepare for a qualification, or to provide the necessary training and skills, for a particular profession, trade or employment, even if it includes an element of general education.'

I feel it is right to limit the effect of the judgment in this case in the way which I have indicated.

The costs of the parties to the national proceedings fall to be dealt with by the national court. Those of the Commission and the United Kingdom are not recoverable.