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Latvian Parliament
Latvijas Republikas Saeima
Jekaba iela 11
LV-1811 Riga
Latvia

Brussels, 19 May 2010

Dear distinguished Members of the Latvian Parliament,

I write on behalf of the Pharmaceutical Group of the European Union (PGEU), the European association representing community pharmacists. PGEU's members are the national associations and professional bodies of community pharmacists in 29 European countries. PGEU represents over 400.000 community pharmacists in Europe.

In the context of the current discussions in Latvia on the modifications of the law concerning the ownership of pharmacies, I would like to express, on behalf of the PGEU Executive Committee, a number of concerns in relation to the effects and repercussions that an amendment of the current law could bring to the health system and the proper functioning of pharmacy services.

First, I would like to draw your attention to the fact that the model of independent pharmacy is favoured in many of the European Union's Member States¹. Such states – including large and established Member States such as Germany, France, Spain, and Italy – take the view that independent pharmacy is **the best way to ensure professional independence and to prevent the marketing of dangerous medicines as ordinary commodities**².

According to the information in our database, **64% of EU pharmacies are subject to pharmacist-only restrictions and 80-85% of EU pharmacies are owned by pharmacists**. Apart from Latvia, we know of no other EU state which plans to remove restrictions on pharmacy ownership.

It is essential to highlight that the European Court of Justice ruled on the matter of pharmacies' ownership on the 19 May 2009³, assessing the compatibility of the Italian and German regulations with the EU legislation. In this judgement the Court clearly establishes that legislations reserving pharmacy ownership to pharmacists are justified.

The Court points out that when there could be a risk to human health, including a risk to the reliability and quality of the provision of medicinal products to the public, Member States should be able to take protective measures. The Court states also that medicines are different than any other consumer goods and they could cause serious harm to the health of patients if misused. Risks related to the incorrect use or

¹ Apart from Latvia, EU countries having legislation on ownership of pharmacies whereby only pharmacists can own a pharmacy are the following: Austria, Cyprus, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Slovenia, and Spain (Source: PGEU Database 2009).

² In addition, in Portugal vertical integration among the various actors of the pharmaceutical supply chain is forbidden.

³ Case C-531/06, *Commission vs Italy*:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62006J0531:EN:HTML>

and Joint Cases C-171/07 and C-172/07, *Apothekerkammer des Saarlandes and Others*:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007J0171:EN:HTML>

overconsumption of medicinal products could also have a great impact on social security systems and thus cause a waste of financial resources.

In the light of those risks, the Court concludes that pharmacy ownership restrictions help to ensure that decisions are taken from professional perspective avoiding situations of conflict of interest and guarantee the quality of pharmacy services: *“the Member States may restrict the retail sale of medicinal products [...] to pharmacists alone, because of the safeguards which pharmacists must provide and the information which they must be in a position to furnish to consumers”*.

The Court infers that *“the operation of a pharmacy by a non-pharmacist may represent a risk to public health, in particularly to the reliability and quality of the supply of medicinal products at retail level, because the pursuit of profit in the course of such operation does not involve moderating factors [...] which characterise the activity of pharmacists”*. In fact, according to the Court, *“non-pharmacists by definition lack training, experience and responsibility equivalent to those of pharmacists. Accordingly, they do not provide the same safeguards as pharmacists”*.

It should also be pointed out that no correlation exists between liberalised pharmacy systems and lower prices of either prescription or non-prescription medicines – medicine prices on the contrary tend to be a function of governmental pricing policies. Moreover, in a relatively small country like Latvia, there is a risk that horizontal and vertical integration of pharmacy chains would have the overall effect of reducing competition, a point acknowledged by the Portuguese government in 2007, when it prohibited vertical integration in the sector and limited horizontal integration to four pharmacies.

Some of these issues were examined in a study undertaken into pharmacy liberalisation in 2006 by the distinguished Austrian academy ÖBIG. The report⁴ concluded that a) liberalisation does not necessarily lead to more competition, as it can be seen in Norway, where there are currently only three large wholesaler chains owning together 80% of all countries' pharmacies and that b) deregulation does not necessarily reduce the price of OTC medicines, as these are more connected to the statutory framework rather than the pharmacy system. Finally it is said that deregulation of the pharmacy sector creates false expectations to policy-makers, not always leading to what was originally intended to be accomplished.

As regards the issue of geo-demographic criteria for the establishment of pharmacies, we understand that there is a discussion ongoing regarding the possible liberalisation of the current regulation. The majority of countries in Europe have this kind of regulation in place – according to our database, establishment criteria are present in 63% of the countries⁵. This helps ensure that there is an even distribution of pharmacies throughout a territory and avoid clustering of pharmacies in urban areas, a point recognised by the Advocate General Mr Poiares Maduro in his opinion given to the European Court of Justice in September 2009 on a case⁶ concerning the law on the establishment of pharmacies in Asturias (Spain): *“Maximum population requirements may, in principle, be appropriate to meeting the goal of broad distribution of pharmacies”*⁷.

⁴ <http://www.pgeu.eu/Portals/6/documents/2006/Position%20and%20policy%20papers/OBIG%20Report%20-%20final.pdf>

⁵ In particular such regulations are in place in the following counties: Austria, Belgium, Croatia, Denmark, Estonia, Finland, France, Greece, Italy, Latvia, Luxembourg, Malta, Portugal, Slovenia, Spain and the UK (Source: PGEU Database 2009).

⁶ Joined Cases C-570/07 and C-571/07 *José Manuel Blanco Pérez and María del Pilar Chao Gómez*. The final ruling on this case will be published on the 1st June 2010

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007C0570:EN:HTML>

In our view, removal of criteria for establishment of pharmacies risks reducing quality of pharmacy services (for example by making it more difficult for pharmacists to maintain a full stock of medicines) and may have the effect of encouraging over consumption. In countries where establishment criteria have been removed, such as Slovakia, there has been a notable decline in the quality of services provided by some pharmacies. Faced with a comparable economic crisis to that in Latvia, we understand that, far from considering liberalisation, the Greek government is considering making establishment criteria in Greece more restrictive.

We acknowledge of course the serious economic situation in Latvia, and in particular the need to control expenditures in a time of severe economic contraction. We believe however that changes to the Pharmacy law which may have the overall effect of weakening the standard of pharmacy services should be approached with extreme caution.

PGEU is available to provide all the information and clarifications you might consider relevant and will be very pleased to offer any collaboration you may need on this issue.

Yours sincerely,

A handwritten signature in blue ink that reads "John Chave". The signature is written in a cursive style with a large initial 'J'.

John Chave
PGEU Secretary General