Evaluation of the Directive on professional qualifications
Report on the experience made by the competent authorities
- Veterinary surgeons -

A. RECOGNITION PROCEDURE FOR PERMANENT ESTABLISHMENT

1. Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made online? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?

_Pursuant to the provisions of the Federal Code of Practice for the Veterinary Profession, which was revised by the entry into force of the Act Implementing Directive 2005/36/EC of the European Parliament and the Council on the Recognition of Professional Qualifications for Healing Professions, evidence of formal qualifications must be presented either as an original document or as an officially certified copy together with evidence of nationality. For this reason, given the need to verify the plausibility of the documents, applications cannot be submitted electronically. It is only possible to handle follow-up questions or to transmit further information electronically._

2. What is the yearly number of applications for recognition from 2000 to 2009? Please submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights (as from 2005), and recognition based on the general system.¹

_The EU Commission has these figures (reporting pursuant to Art. 60 of Directive 2005/36/EC)._¹

3. To what extent have the system of automatic recognition and the general system been a success? How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diplomas
- automatic recognition based on acquired rights,
- recognition based on the general system.

_Automatic recognition occasionally proves problematic in view of the provision of the necessary conformity certificates, since the actual competent authorities of the new member states do not always coincide with those which have been notified as such. Either the new member states have failed to report changes to the EU, or the EU is not providing the member states with the updated versions. Hungary is an example of this._

¹ (Please provide data if they have not already been given to the Commission for the database or in the implementing reports.)
Also, the conformity certificates should be prescribed as a uniform model document in the Annex to the Directive.

Apart from the above-mentioned problem with these certificates, recognition runs smoothly. No specific comments are possible on cost-benefit.

The country of origin should be more involved in the verification of the professional qualification. For this reason, we advocate the introduction of a certificate by the home country which would enable EU citizens to exercise their profession without renewed examination of their professional qualification in all member states if they unambiguously fulfil the preconditions for automatic recognition of their professional qualifications pursuant to Directive 2005/36/EC.

4. Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties in the recognition procedure under the general system? Please include any comments you may have on the implementation of adaptation periods.

Yes, the general system is applied. It is difficult to ascertain the deficiencies and to assess the significance of professional experience/practice or other evidence of qualifications, since there are no specific stipulations regarding the nature, duration, scope and content. With regard to the adaptation period, the aptitude test (examination of deficiencies, knowledge) is offered.

5. What is your experience with the recognition procedure for EU citizens with professional qualifications obtained in a third country and already recognised in a first Member State (see Articles 2(2) and 3(3))?

So far we only have a few cases of this. In some cases, the applicant lacked the necessary three years' experience in the member states which had recognised the training in the third country, or no documentation of this experience could be provided when requested. In one case, the applicant challenged the decision in court. However, since the court failed to decide on the challenge over a period of more than 2 years, the applicant had in the meantime taken the knowledge examinations. Following the notification to the court that the matter was resolved, the court imposed the costs of the proceedings on the applicant, since the court took the view that the applicant would not have been eligible for a licence without the examinations.

6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

Various Länder authorities at different levels (top level: ministries/senate administrations), middle level (regional commissioners).
B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)

7. Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)\(^2\)?

Most of the service providers come from Germany’s direct neighbours. These however generally apply for approval directly. Apart from this, the rules of the Federal Code of Practice for the Veterinary Profession apply.

8. How are the provisions of Directive 2005/36/EC concerning temporary mobility applied by the competent authorities in practice taking into account the relevant provisions of the Code of Conduct? For instance:

- How is the “legal establishment” criteria foreseen by Article 5(1) (a) interpreted in practice? What conditions does a migrant need to fulfil in his home Member State in order to be able to provide services?

- How are the “temporary and occasional basis” criteria foreseen by Article 5.2 interpreted in practice? Do Member States assess duration, frequency, regularity and continuity of an activity and if so according to which criteria?

The temporary and occasional exercise of the profession of veterinary surgeon by people from EU member states without a licence must be notified prior to the first provision of service or immediately following the provision of the service if prior notification was not possible due to the urgency of the activity.

When notifying the activity, the following certificates must be presented:

- documentation of nationality,
- documentation that the veterinary surgeon is lawfully established as a veterinary surgeon in a member state and that the veterinary surgeon is not prohibited – even temporarily – from working in this profession at the time of presentation of the certificate,
- Document of professional qualification (veterinary diploma, examination certificate or other formal veterinary qualification).

9. Why is a prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?

The prior notification system is needed in order to verify in advance whether the migrant fulfils all the conditions necessary to provide the services and in order to gain an overview of the service provider.

\(^2\) (Please provide data if they have not already been given to the Commission for the database or in the implementing reports.)
C. MINIMUM TRAINING REQUIREMENTS

10. To what extent are the common minimum training requirements set out in Title III Chapter III of Directive 2005/36/EC and the compulsory training subjects as defined in Annex V in line with scientific progress and professional needs? Furthermore, are the knowledge and skills required by the directive still relevant for patient safety and up to date? (Please specify.) What about the conditions relating to the duration of training?

The requirements are set out in the Ordinance on the Licensing of Veterinary Surgeons and correspond to the current demand profile for veterinary activity.

11. The Directive is based on mutual trust between Member States. To what extent is such trust actually achieved? Are training programmes accredited in your country? Does accreditation of a training program in another Member State enhance trust or is it not relevant?

The training courses are not as a rule accredited; in some cases, there has been an evaluation by the European Association of Establishments for Veterinary Education (EAEVE).

12. To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate? Is continuous training mandatory in your country and what are the exact conditions?

Since the exercise of veterinary activity in Germany involves the licence and the requirement to notify the respective chamber, the relevant Länder-specific rules (Federal Code of Practice for the Veterinary Profession) apply to the continuous training requirement for all members of the chamber. This fulfils the requirement of Article 22 b. With regard to the implementation and recognition of the continuous training, reference is made to the work of the Akademie für die tierärztliche Fortbildung (Academy for Continuous Veterinary Training)

D. ADMINISTRATIVE CO-OPERATION

13. To which extent does administrative co-operation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?

The competent authorities of the home and host member states work closely together and provide mutual administrative assistance. They inform each other about the existence of disciplinary or penal sanctions and other serious, precisely defined matter which can impact on the exercise of the profession of veterinary surgeon. This speeds up the recognition of professional qualifications of migrants.

14. Are the competent authorities in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?

The competent authorities are registered. So far, little use has been made, and hardly any inquiries have been received by other member states via IMI.
15. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services? Under which conditions could it be issued by professional associations?

If professional cards contain not only basic information like name, date of birth, address of establishment but also the other data cited in Recital 32 of the Directive, the receipt of the necessary data for recognition or for the exercise of temporary activity will be simplified and this would accelerate the recognition procedure. Similarly, the tracking of the professional career of the national of a member state would be improved. An issuing of professional cards by professional organisations is only appropriate if these are subject to statutory regulation and the supervision of the competent authorities (as is the case with the chambers pursuant to Länder law). Only if this is the case is there adequate supervision which ensures that the professional cards are issued in a uniform manner.

16. How do you share information about suspensions/restrictions with competent authorities in other Member States? Could more be done in this respect?

Was scarcely necessary so far; where it was necessary, done via IMI.

E OTHER OBSERVATIONS

17. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?

According to the provisions of the Federal Code of Practice for the Veterinary Profession, it is necessary to provide evidence of the necessary German language skills if a licence is to be issued. In line with the official justification pertaining to Section 4 (1) No. 5 of the Federal Code of Practice for the Veterinary Profession, the licensing authority must, whilst observing the proportionality principle, examine the applicant's language skills, e.g. either on the basis of appropriate evidence of language skills or by ascertaining the skills in a personal discussion. In principle, a language test should take place only if the licensing authority perceives manifest linguistic deficiencies when dealing with the applicant. We are not aware of any complaints about lack of language skills.

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