

**Evaluating the Professional Qualifications Directive**  
**Experience reports from competent authorities**

**Dental Profession**

**Country: France**

***Two competent organizations:***

***National Council of the French Chamber of Dentists***

*Competent authorities in charge of applications under the system of automatic recognition<sup>1</sup>.*

***Ministry of Health & Sports***

*Competent authorities in charge of applications under the General System.*

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<sup>1</sup> The National Council is the competent authority for the registration, the regulation and the monitoring of the professional activity of practitioners operating in France. Created in 1945, the Council is a private organization, with an entity of legal person, in charge of a 'public service mission'.

## **QUESTIONNAIRE FOR THE DENTAL PROFESSION SECTORAL PROFESSION**

### **CONTRIBUTION FROM THE FRENCH COMPETENT AUTHORITIES FOR THE DENTAL PROFESSIONS**

#### **Competent Authorities**

- **CNOCD (National Council of the French Chamber of Dentists) - Conseil National de l'Ordre des Chirurgiens-Dentistes**
- **Ministère de la santé (Health Ministry)**

#### **A. RECOGNITION PROCEDURE IN CASE OF MIGRATION ON A PERMANENT BASIS**

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

##### **Answer from the CNOCD**

**In France, the automatic recognition of the diploma is simultaneous to the registration.**

**In application of the provisions of the Public Health Law (Article R.4112-1), the official application for registration cannot be made electronically but is delivered against receipt or sent by registered mail with return receipt.**

**However the form provided by the CNOCD that must be filled by the applicant is available on our website. Electronic exchange of information and documents can occur to facilitate the recognition process.**

##### **Answer from the Health Ministry**

**For the general system procedure, there is no application system online and the formal request for the recognition of professional qualifications must be sent by paper (certified photocopies of the essential documents can be asked).**

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<sup>2</sup>. Please include data reflecting both positive and negative decisions for all.

##### **Answer from the CNOCD**

**NB: In the first two columns, only positive decisions are reported. When the automatic recognition is denied by the Chamber, the application is then transmitted to the Ministry of Health for examination according to the General System.**

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<sup>2</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

Year	Automatic recognition based on diplomas (data from the CNOCD)	automatic recognition based on acquired rights (data from the CNOCD)	Recognition based on the general system (Data to be provided by the Ministry of Health)
2000	37	<i>Non relevant</i>	
2001	33	<i>Non relevant</i>	
2002	32	<i>Non relevant</i>	
2003	37	<i>Non relevant</i>	
2004	28	<i>Non relevant</i>	
2005	25	5	
2006	29		
2007	28	11	
2008	27	11	
2009	35	10	

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 diploma
- automatic recognition based on acquired rights

#### **Answer from the CNOCD**

**The system works generally well both for the automatic recognition based on diploma and on acquired rights. The 2005/36/EC directive has not brought significant changes to the system already in place under the sectorial directives 78/686/EC & 78/687/EC.**

**Some provisions of the 2005/36/EC directive and its Annex V in particular are difficult to understand and implement:**

- **Reference dates (see point 5.3.2. of the Annex):** these dates refer to the beginning of the training. As the dental training duration still varies from a Member State to another (from 5 to 6 or 7 years), this is not always easy to determine the date of the beginning of the training regarding diplomas delivered in the following years (the dates often given by applicants is the date of end of the training once they graduated).
- **diploma denominations:** the qualification title may be different from the name indicated in the annex. This makes more difficult the control of the qualification.

**Competent authorities:** dental competent authorities are not clearly identified and listed in the directive and in the Commission's documentations. The IMI system overcomes some of these difficulties and has facilitated identification of dental CA. However, the system bears its own limits: sometimes there are several CAs for a single profession, with different missions and competences and it remains difficult to know what the right CA for delivering a specific document is.

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 compensation measures. Do you allow the choice of compensation measure to be with the applicant or have you sought derogation to require a particular compensation measure?

**Answer from the CNOCD**

Applications for automatic recognition arrive first at the Chamber at the same time of the request for registration.

As soon as the analysis of the application shows that the applicant cannot be granted automatic recognition on the basis of his/her diploma or on the basis of the acquired right system, his/her application file is automatically sent to the Health Ministry that will apply general system rules.

As far as compensation measures are concerned, the candidate will have the choice between an adaptation period (of maximum 3 years in hospital) or an aptitude test (knowledge examination or practical exercises).

**Answer from the Health Ministry**

The general system is satisfactory. There are still some difficulties about the appreciation, the analysis of the training, when it comes to compare with the national requirements.

The scope of the rights attached to the dental practitioners in the Member States would be helpful to process the applications and to optimize the relevant compensation measures. Competent authorities should also be able to require some precise evidence of the experience (length and activities) to assess if there is a substantial difference or not.

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))?

**Answer from the Health Ministry**

This mechanism is only a problem if the Member States cannot have sufficient guarantees that the migrant have indeed the sufficient professional qualifications to exercise, especially when it comes to health professions.

Almost every Member States have a bilateral agreement (sometimes only academic agreement) with third countries, for political and historical reasons. There's a risk that

this would create a serious misuse of the directive and therefore weakens the mutual trust between member states.

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

**Answer from the CNOCD**

The Departmental Council of the Chamber is the first administrative body competent for the registration of dental practitioners and checks the qualification of the applicant. Appeal against its decisions can be done at regional and ultimately at national level. These bodies are composed of dental practitioners elected by their peers.

If the diploma does not enable the applicant to get automatic recognition, the file is sent to the Ministry of Health that deals with the application of the General System.

**Answer from the Health Ministry**

When the general system set in the Directive applies, it is the Ministry of Health, through the “Centre national de gestion” (CNG), who receives the application of the migrant. The Ministry is also responsible for the organisation of the commission, which is composed by professionals and will assess the competencies of the applicant. This commission will make a recommendation if it emerges that it's necessary to require a compensation measure.

**B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)**

7. Are EU citizens interested in using the 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)<sup>3</sup>?

**Answer from the CNOCD**

Yes the EU citizens show some interest.

Year	Number of prior declarations received by the CNOD	
2008	May : 1	July: 1
Total : 6 prior declarations	June : 1	August : 1
		September : 2

<sup>3</sup> Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

<b>2009</b>	<b>March : 1</b>	<b>July : 1</b>
<b>Total : 8 prior declarations</b>	<b>April : 1</b>	<b>October : 1</b>
	<b>May : 2</b>	<b>November : 2</b>

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 fulfill in his home Member State in order to be able to provide services?

**Answer from the CNOCD**

The “legal establishment” criterion is interpreted by the CNOCD as the situation enabling the practitioner to fully practice his/her profession in the home Member State. The practitioner must be regularly registered in this country with the regulator/competent authority and be “fit to practice”, which means not being under sanctions in this country or in another one of the EU.

- 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?

**Answer from the CNOCD**

This criterion is very difficult to interpret. In France, the CNOCD checks the length of the envisaged duration of the service, when communicated by the practitioner in the prior declaration. For example, a contract with undetermined duration will be the sign of an establishment rather than a temporary provision of services.

Otherwise, since practitioners are to provide to the relevant Departmental Councils the contract entitling to their professional activity, a control ex post is possible to assess the duration, frequency, regularity and continuity of the activity.

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

**Answer from the CNOCD**

Such a requirement is absolutely necessary in order to know the practitioners that are practicing in our territory. In France, it is mandatory to be registered at the CNOCD in order to be allowed to practice the dental profession. If the dental practitioner is not

registered, this is considered as an illegal practice even if the professional has the right qualifications.

Providers of services on a temporary and occasional basis are listed on a specific pro forma list.

Moreover in order to ensure continuity of care and to guarantee patients rights, it is necessary to know where the practitioner is established.

10. Do you have evidence of undeclared activity occurring in your member state?

**Answer from the CNOCD**

We have no evidence that provisions of services were made without declarations. However, a majority of providers do not complete information regarding the place where they intend to practice and do not send copy of their working contracts to the relevant Departmental Council, which is however mandatory according to our rules. It is thus very complicated to follow the activities of a temporary provider on our territory and thus be sure that the practitioner is not trying to avoid a “de facto” establishment (under criteria of duration, frequency, regularity and continuity).

**C MINIMUM TRAINING REQUIREMENTS**

11. 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 and up to date? Please specify. What about the conditions relating to the duration of training?

**The dental profession would like the following subject to be integrated in the minimal training requirements (annex 5.3):**

- **Implantology**
- **Ethics**
- **Public health**
- **Imagery**
- **Telemedicine**

**The name of subjects should be more accurate so as to be more accessible.**

12. 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?

**No relevant answer.**

13. 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?

**Answer from the CNOCD**

**Continuous Professional Development is a legal and ethical requirement in France. Disciplinary sanctions can be taken against a practitioner that has not complied with this obligation.**

**D. ADMINISTRATIVE COOPERATION**

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

**Answer from the CNOCD**

**For the moment the administrative cooperation varies according to involved Member States. In the majority of cases, the applicant provides his/her application along with due supporting documents. When a supporting document is missing, he/she is required by CNOD to get it from the home CA .**

15. Is the competent authority 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?

**Answer from the CNOCD**

**Yes, the CNOCD is registered within the IMI system. The IMI system is used when information provided by the applicant are not clear enough or cast a doubt on its conformity with the Directive.**

**More information about the purpose and functioning of the IMI system should be given to the connected Competent Authorities. Indeed, it happened several times that we sent a request to a Competent Authority in order to check whether the applicant was legally established in its territory and that the CA answered that the applicant should come back to them instead of providing us directly with the information.**

**We feel that the use of IMI should be mandatory and systematic in order to prevent the use of false documents and certificates and reinforce the liability of the information exchanged.**

16. 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 so, what does this card do?



**Answer from the CNOCD**

The professional card, provided it is delivered by the professional regulator and it secures the reliability of the registered data, could facilitate the exchange of information on the legal establishment and the fitness to practice of the candidate, in case of permanent establishment or of temporary and occasional service.

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

**Answer from the CNOCD**

The current French provisions enable the exchange of information on criminal and disciplinary sanctions on a reactive basis on request of a CA or on a pro-active basis to certain countries.

It is not possible under French law to convey to all Member States information on suspension of activity and on restriction to practice.

The Health Public Law provides that disciplinary decisions are conveyed to the home State and to the host States other than France, provided those host States are known from the CNOCD.

Criminal sanctions are on the national criminal register; on request, a copy with limited information ("Bulletin n°2") may be conveyed to the CNOCD and to any other Member States wherein the professional has or may in future have an activity.

The other way round, we face the problem of countries unable to communicate any of this information to a foreign CA.

18 Do you have a mechanism to deal with information about suspensions/restrictions when you receive it from competent authority colleagues?

**Answer from the CNOCD**

The information is included in our register and transmitted to the relevant Departmental Council.

19..Have you had occasion to take action upon receipt of such information?

**Answer from the CNOCD**

We have not so far had the occasion to take a disciplinary measure against a practitioner that who had been sanctioned in another Member States.

However, the CNOD currently monitors its room for manoeuvre to do so. It might be possible to launch a disciplinary action against a practitioner that who had been sanctioned in another Member State. A recent provision also allows a Departmental Council to withdraw a practitioner from the register in sanction of cases of severe misconduct discovered after his registration.

Besides, we had to deal with a case where a practitioner erased from the GDC register had provided an address in France. After checking, the practitioner was actually not

**registered in France. An alert was sent to Departmental Councils to raise vigilance regarding new applications for registration.**

**E. OTHER OBSERVATIONS**

20. 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 patients/clients/employers) about insufficient language skills of migrants?

**According to the French rules, the language check is done before registration. Applicants are requested to provide certificates or documents proving the knowledge they have of our language.**

**Moreover, in practice, ALL applicants (French and non French) are invited to meet with the President of the Departmental Council where they intend to practice. During the informal chat, a shortage in the language level can be detected. If that case, the language knowledge of the applicant will be further checked by the administration of public health (the “medical inspection”). No complain has so far been loaded before the CNOD regarding the language skills.**

**This proceeding is only applied in case of establishment. The language check for provider of temporary and occasional services is still very problematic.**

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