

AUSTRIA

Experience Report – Professional Qualifications Directive (POD)

Austrian Dental Chamber (ADC) – Competent Authority for Austria

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?

Based on the Austrian Dental Act (Zahnärztegesetz) ADC does not accept applications sent by email or requests made on line. Applicants have to sign personally the application in one of the nine regional Dental Chambers and have to present either the original of the diploma or an approved copy as well as a German translation of the diploma. We made in at least one case the experience that an applicant presented a falsified copy of a diploma and it took some inquiries to verify the content of the diploma.

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 system¹. Please include data reflecting both positive and negative decisions for all.

Data has already been provided in the database. ADC started its work with the beginning of 2006. Before that date Austrian Medical Chamber was the competent authority also for dentists. Because of this fact we are not in a position to provide data for the years 2000 – 2005.

Considering the fact that e.g. in 2009 and 2008 **42%** of dentists starting their profession in Austria presented a diploma from European countries outside of Austria, migration of dentists is very important for the health system and for the profession.

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

¹ Please provide this information unless it has already been provided to the Commission in the Database or the implementation reports.

Automatic recognition based on diploma has been a success though diplomas sometimes do not have the exact wording listed in Annex 5.3.2 which can create interpretation problems between ADC and the applicants. Because of this fact we approve applicants presenting declarations of conformity of the diploma with annex 5.3.2 issued by the various competent authorities.

- automatic recognition based on acquired rights
The importance of recognitions based on acquired rights is diminishing since the eastern European countries adapted the training of professionals.
- recognition based on the general system.
Most of the problems that face ADC in connection with migration of dentists concern recognition based on the general system (see 4.).

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?

The general system is applied in Austria each time automatic recognition is not possible. There are some major difficulties in the procedure.

Compensation measures are in general difficult to organize because the persons deciding about the abilities of the applicant need a lot of dental and medical skill and experience. In the case of Austria with a lot of cases compared to the infrastructure in our universities and the ADC this means either long waiting periods for the applicants or quite a heavy burden for our resources.

Another problem is that it is quite often very difficult to compare the content of the different curricula with the Austrian one on the one hand because of language problems and on the other because the structure of dental training in the various countries is very different.

Language skills form another problem because following PQD language exams are not part of the recognition process. On the other hand the applicants need a very good knowledge of German to be able to pass aptitude tests, meaning that there are a considerable number of cases where ADC organises aptitude tests which applicants are not able to pass because of language difficulties. Obligatory proof of language skills before aptitude tests would help to diminish those problems.

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))?

There seem to be some member countries (e.g. Rumania) that recognize diplomas from third countries on a regular basis based on bilateral agreements. In many cases these persons get either diplomas complying with annex 5.3.2 or official declarations that they are allowed to practise dentistry in the according member state which makes it very difficult to decide if those applicants have to be automatically recognized or if they have to absolve an aptitude test.

ACD thinks that relating to third country diploma Directive 2005/36/EC should establish the obligation for the dental practitioner to practise dentistry independently in his/her home country (= the country where the diploma is obtained) for at least three years out of the previous five years, prior to gaining access to practise in the host country.

One further problem is represented by the fact that the recognition of academic titles (very often based on bilateral agreements) and professional recognition are not always clearly separated procedures.

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

ADC was founded based on the Austrian Dental Chamber Act (Zahnärztekammergesetz) with the start of 2006 as a professional body of dentists and as competent authority for dentistry. As competent authority ADC acts under surveillance of the Austrian ministry of health.

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) ²?

Up until now ADC did not receive any declaration about professional activities on a temporary and occasional basis.

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?

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

- 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?

As there are no declared cases (see 7.) ADC has no experience with the criteria foreseen by articles 5.1 and 5.2.

Knowing that the definition what “temporary and occasional” really means in dentistry where a minimum technical infrastructure is necessary for almost all treatments is not easy, we would support a common definition of the temporary and occasional nature of provision of services throughout the Member States.

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

In our opinion it is not only necessary to have a prior declaration system, but there should also be some form of obligatory membership in professional bodies in those countries where such a membership is established for dentists working on a permanent basis. At present ADC knows there are undeclared activities going on (see 10.) but there are no possibilities of sanctioning these illegal activities other than the penal law which requires at least 10 documented cases of illegal activity. Any form of obligatory membership established would make it much easier to sanction illegal activities either in an administrative way or via civil law.

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

We know from different sources like complaints of patients or dentists that there are some cases of undeclared activity especially in the field of dental implants. We assume that the dentists providing those services know that it is close to impossible to sanction them for illegal activities. Because of that situation they seem to refrain from undergoing the administrative “burden” of declaring their activities.

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?

Since the existing minimum training requirements were in general formulated 35 years ago it is not surprising that an actualisation seems necessary. The changes should on the one hand add new subjects respectively delete outdated subjects and on the other hand just be adaptations of terminology.

Some fields of dentistry like implantology and endodontology are not included in the minimum training requirements though they are very common in the daily routine of dentistry.

Concerning the exact content of the minimum training requirements ADC supports fully the proposal of the Council of European Dentists (CED) submitted to the Commission. Certain interim rules for dentists with diploma complying with old provisions should be set.

We also propose to include a minimum of hours (or ECTS) needed for dental training similar to the training of medical doctors.

Furthermore ADC strongly opposes the implementation of the two-cycle structure (Bachelor/Master) for the dental profession and opposes any kind of undergraduate and postgraduate education which gives non-dentists the status of a partial provider of dental services, with the right to practise certain areas of dentistry on an independent basis.

A bachelor qualification can never be a relevant qualification for the exercise of the dental profession. The implementation of a two-cycle structure in dental education with the first degree giving access to the labour market could lead to serious problems in the primary oral health care since admission of bachelor-graduates with three years of purely theoretical education and inadequate clinical training to dental practice would compromise patient safety.

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?

Though it is not easy to evaluate an existing amount of trust ADC thinks that in general there exists trust between the various European players in the field of dentistry or training of dentists. We think that the existing trust is based on common interests of all member countries regarding patient safety.

In Austria training programs are not officially accredited with the rare exception of private universities.

Accreditation of training programs in other Member States could enhance trust if it would be possible to establish some sort of European accreditation. National accreditations could be a documentation of enhancing quality but would not really enhance trust.

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?

ADC thinks that the existing Directive provisions on continuous professional development are adequate and sufficient.

The Austrian Dental Act sets the provision that continuous training is mandatory for dentists and ADC is empowered to set the rules for continuous training. Following this legal order ADC published rules for continuous training in dentistry.

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?

Administrative cooperation is very important for simplifying procedures for migrating dentists because there are a lot of cases where minor uncertain details e.g. in connection with diploma can be clarified in a simple way and in comparable short time.

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?

ADC is registered with IMI. We use it quite frequently whenever there are uncertain details in the documents presented to us by applicants. We appreciate IMI as a very useful tool for administrative cooperation.

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?

ADC does not see that a professional card could facilitate recognition of professional qualifications and provision of temporary service. This effect could only be reached if a central European database including all persons allowed to practise dentistry would be established and all the data would be actualised on a regular basis. A professional card without backup of a database will always have the problem that competent authorities could not be safe if the data included with the card is still valid or not. In our view a card without a database is a waste of money with only very limited benefit.

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

In the moment there is no established routine about sharing information about suspensions/restrictions with competent authorities in other Member states with the exception of certificates of good standing. Such certificates bring with them the disadvantage that they only cover the professional career of a dentist during his/hers membership with the ADC. In many cases of misconduct dentists delete their membership to evade disciplinary or professional sanctions.

Share of information about suspensions/restrictions but also about serious cases of misconduct on a regular basis following the pattern of the GDC-Newsletter from UK would be very helpful though we are concerned about our national law for data protection.

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

ADC distributes information about suspensions/restrictions to the regional Chambers whose competence is the registration of dentists.

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

Until now ADC did not have occasion to take action upon receipt of such information.

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?

The Austrian Dental Act sets the provision that one of the conditions to be registered as a dentist is the knowledge of the German language as far as necessary for exercising dentistry. Following this provision ADC checks the language skills either personally or in cases where there is some doubt about the skills via language diploma of a certain level (C1).

ADC also runs an arbitrary institution for patient complaints. Complaints about insufficient language skills are the cause for complaints in a few cases. Some patients argue that they were not able to understand their information rights because of insufficient language skills.

ADC believes that the best solution would be the establishment of a standardized method respective exam to evaluate the knowledge of host Member State language.

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KAD Dr. Kr.

