AUSTRIA
(revised version)

Evaluating the Professional Qualifications Directive
Experience reports from competent authorities

POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION

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?

   Applications for recognition of foreign diplomas may be submitted by e-mail. Documents (like diplomas, proofs of nationality etc.) may be submitted by e-mail for a first check, but have to be submitted in paper in the course of the procedure.

   Since we experienced a number of cases where falsified documents were submitted, photocopies of the essential documents have to be certified by any authority competent to proceed the certification.

2. What is the yearly number of positive and negative decisions of 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]. If available, please provide information on the average duration of the recognition process.

   In our register of doctors, we do not differentiate between diplomas which were recognized automatically based on diplomas, or on acquired rights, or on the general system without any compensation measures. Therefore we can only provide an overall number of EU diplomas that were recognized in Austria either automatically or based on the general system, but without any compensation measures.

   2009: 150
   2008 163
   2007 215
   2005/2006 (2years) 374

   Since the Directive 2005/36/EC was only implemented into the Medical Act in July 2009, rather few diplomas were recognized according to the general system so far. So far all applicants proved sufficient training or professional experience and were thus recognized without any compensation measures. The first procedure in which compensation measures are being imposed on an applicant is pending at the moment.

---

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

Concerning the duration of the recognition procedure, we can only give an estimate, since there is no structured documentation. Automatic recognition procedures (either based on diplomas or acquired rights) normally last between one and four weeks after receipt of completed documentation. Naturally, the procedure may last longer in cases where documents or data have to be verified with the competent authority of another Member State, depending on the time it takes until we receive an answer to our request.

We have no sufficient experience yet to give an estimate on the duration of procedures based on the general system. The duration of these procedures will differ widely, depending on whether it is obvious that an applicant's training and/or professional experience are sufficient in order to recognize his or her diploma without imposing any compensation measures, or whether a medical expert has to be consulted, and a compensation measure is imposed. Whereas in the first case, most procedures will be concluded within a few weeks, in the latter case they might last for several months, within the time limits set by the Directive 2005/36/EC.

The duration of procedures of any kind also depends on the development of the number of applications. If the number of applications rises significantly, procedures will last longer than the periods stated above.

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

   Generally speaking, the system of automatic recognition works very well. In our view, automatic recognition is a very effective way of recognition, and saves time and costs. However, the system is somewhat prone to fraud: The fact that only one or two documents (i.e. diploma and certificate of conformity) are sufficient to be granted automatic recognition seems to be a temptation to produce falsified documents.

   Another pitfall might be that the system can be used for "qualification shopping". E.g. physicians who were already awarded a specialist qualification by one Member State have parts of their medical training periods accredited by another Member State with the goal to be awarded another specialist qualification, which then has to be recognised by the Member State that issued the first diploma (and would have required a much longer training period for the second one). Hence, due to the same periods of medical training being accredited twice in order to gain another specialist qualification, the minimum training period is shortened to a large extent. As a consequence the physician in question possesses two specialist qualifications, although he did not undergo the full amount of training periods required for these two specialist qualifications.

   In this context, difficulties exist in particular with regard to medical specialties that differ widely between individual Member States. Two examples:

Cardiac and thoracic surgery are combined into one medical specialty in a great number of Member States, but are two separate specialties in Austria and some other Member States. However, only thoracic surgery is listed in Annex 5.1.3. of Directive 2005/36/EC. This means that a medical doctor from a country where cardio-thoracic surgery is one medical specialty can only be recognized as a specialist in thoracic surgery in Austria, but not as a specialist in cardiac surgery. (Further recognition as a specialist in cardiac surgery based on the general system is not possible, since the general system is only applicable to diplomas that are either not listed in Annex 5.1.3. of the Directive or not subject to the system of automatic recognition.) Vice-versa Austrian specialists in thoracic surgery are recognized automatically in countries where cardio-thoracic surgery is one medical specialty, even though they may lack training in cardiac surgery. By contrast, Austrian specialists in cardiac surgery are not subject to automatic recognition at all, even if they want to migrate to a country where cardio-thoracic surgery is one medical specialty and want to engage in the field of cardiac surgery there.

The same is the case with orthopaedics and trauma surgery, which are two different specialties in Austria (the former being subject to automatic recognition, the latter not). However, in a number of other Member States orthopaedics and trauma surgery are combined into one specialty (see also below).

It would be useful in this context to clarify Consideration 12 of the Directive, which aims at preventing unlawful qualification shopping, and move it into the body of the Directive.

Another potential problem related to automatic recognition of diplomas is the fact that Member States have to recognise diplomas that meet the formal requirements of the Directive, regardless of the applicant's current status of knowledge and skills. The Austrian Medical Chamber presently promotes a change in the Austrian law that would enable us to demand evidence of up-to-date knowledge and skills of doctors who have not performed medical activities for several years before registering them. As soon as such a mechanism is introduced by law, it should apply to all doctors, regardless of whether they have qualified in Austria or another EU country. Patients treated in Austria expect to be treated only by doctors who meet the standards set by the Austrian law for the sake of patient safety. We regard it a right of patients that those standards are being applied to all doctors providing medical services in Austria. In our view it should be clarified in the Directive that the recognition of diplomas is without prejudice to the competence of Member States to lay down preconditions for the registration of doctors on their territory, as long as those preconditions do not, either directly or indirectly, discriminate against nationals of other Member States.

- automatic recognition based on acquired rights

Also in this case, our experience is overall positive. It does make sense that a medical doctor who has been working for years is recognized automatically in another Member State, even if his or her diploma does not fully correspond with EU law.

The new provision of article 23 which requires effective and lawful engagement in the activities in question for at least three consecutive years in the past five years not only for basic, but also for specialist training is an important simplification in comparison with the regime of Directive 93/16/EEC as regards acquired rights for specialist doctors.

In this context we would like to point out that the wording of Article 23 par. 3, 4 and 5 of the Directive is outdated. In many cases, doctors from Eastern European countries migrate to a Western European country and want to move on to another EU Member State after several years of medical practice in the first host country. Upon their first migration to another EU country, they are able to submit a certificate according to Article 23 par. 3, 4 or 5, issued by the competent authority of the successor state of their original country of origin. But after having worked in another EU Member State for several years, their acquired rights' certificate is issued by the first host Member State, and not, as laid down in Article 23 par. 3, 4 or 5 of the Directive, by the competent authority of the Member State that issued their diploma. We therefore recomment to adapt the wording of Article 23 par. 3, 4 and 5 insofar as the acquired rights' certificate can be issued by the competent authority of the Member State or Member States where the applicant has acquired professional experience.

- recognition based on the general system.

The application of the general recognition system to doctors' diplomas that are not subject to automatic recognition is a major improvement compared to the procedure foreseen by Directive 93/16/EEC. Procedures according to the general system are much less time consuming for doctors than a detailed evaluation and accreditation of individual training periods.

However, since any documents can be used to prove professional experience and knowledge, it might turn out extremely difficult for the competent authorities to assess the reliability, and in some cases also the authenticity of documents submitted.

We have also experienced cases where Austrian doctors tried to abuse the system of recognition of diplomas in order to circumvent Austrian training regulations. For example a doctor who acquired the Austrian diploma of a specialist in orthopaedics applied for a German diploma in orthopaedics and trauma surgery. After having undergone a short period of additional training, he obtained this combined diploma. After that he returned to Austria and applied for recognition of his German diploma of a specialist in orthopaedics and trauma surgery towards the Austrian specialty of trauma surgery, on the basis of the general system. In this case, the European Commission informed us that the general system was not applicable, since the diploma acquired by the doctor was listed in Annex 5.1.3. of the Directive and subject to automatic recognition (even if in the area of orthopaedics and not of trauma surgery). So in this case, the doctor did not succeed in circumventing the Austrian training regulations.

However, in another case, qualification shopping by a doctor could not be prevented by the Austrian Medical Chamber: In the latter case the doctor acquired the Austrian diploma of a specialist in trauma surgery, which is not listed in Annex

5.1.3. of the Directive. In addition, he wanted to acquire the diploma of a specialist in orthopaedics, which would have required several years of additional training in Austria. So he went to Germany and applied for recognition of his diploma on the basis of the general system there. After additional training of only about 1.5 years, he acquired the German diploma of a specialist in orthopaedics and trauma surgery. Since this diploma is listed in Annex 5.1.3. of the Directive under the heading of orthopaedics, the doctor had to be recognized automatically as a specialist in orthopaedics in Austria, thus having successfully reduced the required period of training by about two years.

Please specify whether there are any specific problems with Annex V.

See above. Furthermore, more frequent updates of the Directive's Annexes would be helpful in order to avoid misunderstandings and delays in recognition procedures resulting from outdated information in the Annexes.

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. Is the migrant given the choice between an aptitude test and an adaptation period or is the choice restricted. Please explain.

The general system is applied in the cases set out in Article 10 par b, d and g of Directive 2005/36/EC and implemented in the Austrian Medical Act. If the conditions specified there are not met, the general system is not being applied. However, training periods underwent in other EU Member States and third countries can always be credited towards training required according to the Austrian training regulations, if regarded as equivalent to training undergone in Austria.

To our experience, it sometimes proves rather difficult to obtain an applicant's complete documentation as required for assessing his or her professional qualification and experience and determining whether recognition is possible without any compensation measures, or if compensation measures have to be imposed, and what exact fields they would have to cover.

In Austria, migrants are not given the choice between compensation measures, but an aptitude test is foreseen as the only possibility.

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))?

Problems might arise in the following respect:

In some countries doctors with third country diplomas are entitled to exercise the medical profession under supervision due to a provision of national law without a formal recognition procedure. In other Member States doctors with a third-country diploma benefit from facilitated or rather automatic recognition procedures due to bilateral agreements. Such way of recognition of third country diplomas

without a formal procedure does not satisfy the requirements of Article 2(2) of the Directive. The diplomas concerned are therefore not subject to recognition under Article 3(3). However, it is almost impossible for the competent authority of a Member State to examine whether the conditions of Articles 2(2) and 3(3) are met, especially if the Member State who first recognised a third country diploma issues a certificate according to Article 3(3).

Most of the cases we had to handle so far concerned basic medical diplomas issued in South America and recognized in an EU Member State. In most of these cases, the doctors underwent training to become a specialist doctor in the Member State that recognised their basic medical diploma, and then moved on to Austria to work as a specialist doctor there. Since these doctors did not work independently in the Member State that first recognised their basic medical diploma, but under supervision within the framework of specialist training, they would presumably not be able to submit a certificate issued by the competent authority according to which they have three years' professional experience (which, according to our understanding, means independent medical practice) in the first host Member State. In order to enable these doctors to profit from the general recognition system nevertheless, the Austrian law has been worded in a way that does not require proof of three years' independent medical practice, but just three years of effective and lawful medical practice. According to our interpretation, accredited practical training in a medical specialty fulfils this requirement.

We have so far experienced no case of recognition of a third country specialist diploma on the basis of the general system.

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

The Austrian Medical Chamber is a public body established by law and enshrined in the Austrian constitution. It is the competent authority for licensing and operating the register of doctors, recognition of foreign diplomas, issuing of certificates of good standing and of certificates stating that a doctor's evidence of formal qualifications is that covered by Directive 2005/36/EC. Furthermore it supervises the postgraduate training of doctors, issues the diploma listed in Annex 5.1.2. of the Directive 2005/36/EC and is in charge of disciplinary law and procedures. The Austrian Medical Chamber is subject to supervision by 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]?

The number of declarations made to the Austrian Medical Chamber was very low so far (our documentation provides only numbers per year):

2005	**33**
2006	**35**
2007	**31**
2008	**55**
2009	**57**

These numbers do not include declarations of temporary and occasional services which were not accepted by the Austrian Medical Chamber since due to their duration, frequency, continuity or regularity, these medical activities would have required establishment.

On the other hand, we presume that there are a considerable number of cases where no declaration was made at all.

Among doctors established in Austria, there seems to be very little interest in providing temporary and occasional services abroad, since we do not receive any applications for the certificate foreseen in Article 7 par. 2 b by Austrian doctors.

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:

The time frames for checking the professional qualifications of service providers which do not benefit from automatic recognition do pose a severe problem as they are very tight (Article 7 par 4). These tight time frames do not allow the Member States to duly examine the qualification of a service provider not benefiting from automatic recognition. Subsequently, this poses a problem of quality assurance and lastly patient safety.

Another issue which, in our view, poses a risk to patient safety, is the fact that there is no possibility to check the fitness to practice of a potential service provider. Austrian citizens rely on the fact that medical doctors practising in Austria have proven their physical and mental fitness to practice according to the standards set by Austrian law. This trust is undermined by temporary service providers, whose fitness to practice is not subject to examination by the Austrian Medical Chamber. For the benefit of patients and public health, we recommend to

---

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

change Article 7 insofar as Member States should be able to require that the declaration be accompanied by the documents and certificates listed in Annex VII, point 1, (d), (e) and (f).

- 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?

According to our interpretation, "legal establishment" means that the migrant is legally entitled to independent medical practice (either in an employed or a self-employed status) as a doctor with basic medical training, a general medical practitioner or a specialist doctor, depending on which kind of medical activities he intends to perform in Austria.

The conditions the migrant needs to fulfil are to be defined by his home Member State. The Austrian Medical Chamber only requires the attestation foreseen by Article 7 par 2.b of Directive 2005/36/EC.

- 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 Austrian Medical Act does not contain any legal definition apart from that set out in Article 5 par. 2 of the Directive. Accordingly, there are no concrete criteria, or limits in periods or time, neither in theory nor in practice, but assessment is carried out case by case. If a medical activity is being planned by both the service provider and the recipient of the service (or often an employer established in Austria) in a way that it shall be delivered repeatedly and based on a continuous cooperation, even if the intervals between the provision of individual services differ (e.g. in the case of emergency services), we tend not to classify this activity as a temporary and occasional provision of services, but as establishment.

To our experience, in many cases it proves enormously difficult to differentiate between temporary and occasional provision of services and establishment, which leads to insecurity on the part of the authority as well as on the migrants and their potential employers. The lack of clear provisions in the Directive causes considerable legal uncertainty and definitely deters potential service providers from making a declaration at all, thus inducing unlawful behaviour. This is an area where we see an urgent need to amend and improve the Directive.

Furthermore, in order to enable the competent authority of a Member State to determine whether an intended medical activity is to be assessed as temporary and occasional provision of services, or as establishment, it must have the possibility to ask the migrant for information on the duration, frequency, regularity and continuity of the intended medical activities. We strongly recommend a clarification of the Directive in this regard.

9. Why is a prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable? Do you have any cases – and if yes how many - whereby doctors sent the declaration after the provision of services has taken place.

Prior declaration is crucial in order to enable the competent authority to protect patients from service providers who lack the qualification necessary or are not entitled to perform the services in question for whatever reasons, including a criminal background. Without a prior declaration, the competent authority would not even know about the planned provision of services, thus lacking any possibility of examining the migrant's aptitude or entitlement to perform the relevant medical activities.

In addition, in order to be able to assess whether an intended medical activity can be classified as a temporary and occasional provision of services, or requires establishment, the Austrian Medical Chamber has to be informed about the intended service beforehand.

When the Austrian Medical Chamber receives a declaration of a planned provision of services, it checks the migrant's professional qualifications and legal entitlement to medical practice as laid down in Article 7.

We have no information on cases where declarations were made subsequent to the provision of services. As mentioned above, we assume that in such cases, no declaration is made at all.

10. Do you charge any fee in case Article 7, § 4 applies?

In case the migrant submits a diploma subject to automatic recognition, and possibly (on a voluntary basis) a certificate of conformity issued by the competent authority of his home Member State, no fee is charged for the processing of his declaration.

In all other cases, i.e. if the service provider does not submit a diploma subject to automatic recognition, the real costs incurred by the Austrian Medical Chamber are charged to the applicant. So far, we have not experienced such a case.

C MINIMUM TRAINING REQUIREMENTS

11. To what extent are the common minimum training requirements for specialists and general practitioners set out in Title III Chapter III of Directive 2005/36/EC and 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? Do you have many specialties training, which have a common trunk. If yes, please specify which ones.

As far as general medical practice is concerned, a minimum training period of three years constitutes a lower limit. In Austria, there are current discussions about a revision of the training regulations for general medical practice. The Austrian Medical Chamber promotes a training period of four years in hospital and

one additional year in an approved general medical practice or approved primary care centre.

Regarding specialist training, nearly all medical specialties require a minimum training period of six years in Austria. In our view, a training period of three years is definitely insufficient; a four year training curriculum constitutes the lower limit. We recommend that for specialties that still require a minimum training period of three years according to Annex 5.1.3. of the Directive, the minimum training period should be extended.

General medical practitioners as well as specialist doctors have to undergo a comprehensive examination, which covers the whole field of expertise of their respective profession, after having completed their practical training. Successful completion of this examination is an obligatory prerequisite to be awarded the diploma of a general medical practitioner or specialist doctor. According to our knowledge, obligatory exams are foreseen in a considerable number of other Member States, as well. However, this is not the case in all Member States. In the view of the Austrian Medical Chamber, it is vital in respect of patient safety that before being awarded a diploma, a future doctor proves to be competent with regard to his whole field of activities. This is not guaranteed by smaller exams which cover only part of the medical specialty. In real life doctors are confronted with a broad variety of situations in which they have to prove competence and knowledge.

For these reasons, the Austrian Medical Chamber advocates the introduction of obligatory final exams for general medical practitioners and specialist doctors in the Directive. The European Board assessments provided by the UEMS should serve as a model in this regard.

The Austrian Medical Chamber strongly supports the UEMS in its ambition to define common criteria for specialist training according to high medical standards. In the long run, international accreditation of specialist training by the European Boards of UEMS could be a goal worthwile to pursue.

A common trunk for specialist training is currently not foreseen in Austria.

In this context, we would like to utter our regret about the abolition of the former Advisory Committee on Medical Training (ACMT). This has reduced the possibility of direct input from the professions concerned, whose medical expertise as well as practical experience could contribute significantly to the co-ordination of training and its adaptation to scientific developments and practical needs. The Austrian Medical Chamber strongly promotes the establishment of a new mechanism that enables the continuous, intensive involvement of and co-operation with representatives of the professions concerned.

12. To what extent are the common minimum requirements for training set out in Title III Chapter III of Directive 2005/36/EC in line with scientific progress and professional needs in the last ten years? Are the knowledge and skills outlined in Article 24.3 still relevant and up to date? Please specify. What about the conditions relating to the duration of training?

    Article 24.2 of the Directive reads: "*Basic medical training shall comprise a total of at least six years of study or 5 500 hours of theoretical and practical training provided by, or under the supervision of, a university.*" This wording leaves room for controversy whether both criteria have to be fulfilled or it is sufficient to fulfil either the required duration of studies or the required number of hours. Furthermore, the term "hours" appears ambiguous in this context and is prone to misinterpretation. In order to achieve legal certainty, the Austrian Medical Chamber strongly recommends a discussion among Member States with the aim to clarify this provision.

13. 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?

    In our view, mutual trust is being achieved in practice. However, there are cases that undermine such trust. For example, the following happened repeatedly during the last months:

    A doctor worked in an Austrian hospital that is not an approved training institution for several years. Medical activities performed at this hospital could not be credited towards medical training in Austria. Nevertheless, the doctor applied for a diploma in another EU Member State on the basis of his working experience in Austria. The competent authority of the other EU Member State accepted the Austrian working periods as medical training, without having consulted the Austrian Medical Chamber or having demanded a certificate issued by the latter and confirming that training had been undergone by the doctor. Instead, a diploma was issued on the basis of the assumed "training" undergone in Austria, and subsequently a certificate according to Annex VII. 2 of Directive 2005/36/EC was issued to the doctor, stating that his evidence of formal qualifications was that covered by this Directive. On the basis of this certificate, the doctor applied for automatic recognition in Austria, thus gravely infringing Austrian training regulations. Requests made by the Austrian Medical Chamber to the competent authority of the Member State concerned asking for clarification regarding the training undergone by the doctor were answered by a general statement according to which the medical training undergone by the doctor was in line with EU law.

    In Austria, hospitals and practices that provide medical training have to be approved by the Austrian Medical Chamber, and in addition, individual training posts have to be assigned according to quality criteria set by law. Medical activities undergone in a hospital or practice or at a post that does not fulfil these criteria must not be credited towards medical training. Upon request of a doctor or the competent authority of another Member State, the Austrian Medical Chamber

certifies whether a certain hospital or practice or an individual training post satisfy the legal requirements to be credited towards medical training in Austria.

We do appreciate accreditation of training programmes in other Member States, which definitely does enhance our trust.

14. 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?

In our view, the existing provisions are sufficient. In Austria, doctors are legally obliged to undergo CPD. CPD is organised by the medical chambers and the Austrian Academy of Physicians and accredited according to stringent quality criteria. The CPD programme provided by the Austrian Academy of Physicians comprises a minimum of 150 credit points within three years.

In Austria, there is no system of compulsory recertification/revalidation for doctors who perform their profession on a continuous basis, since this is considered unnecessary bureaucracy with no added value for the patient.

D. ADMINISTRATIVE COOPERATION

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

The Austrian Medical Chamber is in intense cooperation with the competent authorities of other Member States. To our experience, direct communication between competent authorities simplifies procedures to a great extent, since it saves time and costs for the migrant and reduces bureaucracy. In cases of uncertainty about a migrant's professional qualification or professional status, administrative cooperation between authorities can spare the migrant from providing another certificate or (translated) document, while at the same time providing the competent authority with the required information or certainty.

16. 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?

The Austrian Medical Chamber is registered with IMI and uses the service regularly for:

- identification of competent authorities
- verification of authenticity of documents in cases of doubt
- questions on the duration of medical training
- requests for supplementary information in cases of incomplete documentation
- questions in cases of denominations differing from those in Annex V
- questions in cases where certificates of good standing are older than 3 months

The average time until we received a response was 12 days (the period ranging from answers received within the first day and after 107 days), with no response at all in 4 % of cases.

Questions posed to the Austrian Medical Chamber via IMI were answered after 7,5 days on average, the period ranging from 1 to 20 days. 13 % of requests made to the Austrian Medical Chamber via IMI were recalled by the requesting authority.

IMI certainly facilitates cooperation among Member States. It is a very good and effective tool for identifying competent authorities, obtaining information from authorities who do not answer e-mail requests, quickly clarifying doubts regarding qualifications and exchanging information in a secure manner.

However, in order to ensure the good functioning of the system, it is important that IMI includes all authorities which are in charge of the application of Directive 2005/36/EC in each Member State, as there might be more than one authority dealing with these matters. Furthermore, in order to tap the full potential of IMI for the benefit of free migration, there should be a legal obligation for competent authorities to use IMI.

The main drawbacks of IMI are the fact that it is rather time-consuming and complicated to use, and its structure is not very user-friendly. It often takes considerable time to log on to the system, and to identify the relevant questions among the standardized ones. Since the latter are often not compatible with our practical needs, we frequently use the free text facility. Also the documentation of requests posed and answered and the searching within requests is unsatisfactory at the moment.

It is presumably for these practical reasons that we have experienced a decrease in the use of IMI since 2010. To our experience, after successful identification of relevant contact persons through a first IMI contact, it normally proves easier and quicker to contact these persons directly by telephone or e-mail the next time a question occurs.

We propose the following improvements of IMI:

- mandatory registration of all competent authorities
- more user-friendly structure
- obligatory time limits for replies
- possibility to send a reminder after expiry of the time limit
- automatic documentation of all requests made and received
- alert mechanism for cases of suspension of doctors (see question 18)

17. 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?

The Austrian Medical Chamber issues a professional card for doctors. This ID card, which is issued for doctors entitled to independent medical practice or

medical practice under supervision, is recognized as a public legitimate document and is used as proof of the professional qualification vis-à-vis health care institutions, pharmacies and other informed third parties. Depending on the respective status of registration with the Austrian Medical Chamber, the ID card for doctors contains a hologram which identifies its holder either as fully licensed doctor, as a doctor in training, a specialist doctor or a general medical practitioner. This kind of information on the card has proven to be worthwhile and sufficient in practice.

From our point of view a professional card for doctors at a European level with the aim of facilitating recognition of professional qualifications is not deemed to be useful, as the card's content could not exceed the current provisions as set out in Directive 2005/36/EC. In the procedures for the recognition of foreign diplomas in the case of migration or the provision of temporary services it showed that diplomas subject to automatic recognition, as outlined in the Directive, can easily be examined upon direct presentation by the migrant and the procedures for recognition or temporary provision of services can thus be handled efficiently and quickly.

On the other hand diplomas which are not subject to automatic recognition have to be examined thoroughly. The provision of written evidence of these diplomas is indispensable in order to avoid mistakes in the process of recognition of professional qualifications. Detailed examination of documentation is in the interest of patient safety and in the interest of public safety in the health care sector. Unfortunately we experienced cases in the past where doctors tried to establish in Austria without sufficient professional qualifications, or tried to gain recognition on the basis of forged documentation.

Also, it is as easy to provide information on professional qualifications like university diplomas, qualifications and professional experience in paper as on a card, but the quality of the documentation is better if presented in original or certified copy. Questionable data would have to be checked in any way with the competent authority even if a professional card was provided.

Furthermore, information on the rightful establishment and disciplinary and criminal sanctions as well as other information to be provided by the competent authority are subject to constant updating, as according to Article 50 of the Directive, this information must not be older than 3 months. This fact immediately raises the question of who should be responsible for the updating of such information. In order to have a well functioning sound and secure system providing up-to-date information, a European server solution connecting all the competent authorities would be necessary. This would definitely bring about a high burden of bureaucracy and would also be very costly. This high bureaucratic burden and costs would not reflect the time that might be saved in the recognition procedure by providing a professional card for the purpose of migration or the provision of temporary services. Furthermore, this professional card would also have to contain elements of a public legitimate document, which prove the authenticity of the holder in order to eliminate the risk of misuse.

From our point of view it is very likely that such a professional card will not come up to the quality desired by the European Commission, which would be necessary to lead to an actual increase and facilitation of mobility of professionals. Our experience when it comes to exchanging necessary information, also via electronic means, between the competent authorities of the host country and the country of origin are excellent. Furthermore, the maximum duration for the procedure of recognition is limited by law in any way. In cases of doubt regarding the professional qualification of or current professional sanctions imposed on a doctor, where detailed information is required from the competent authority, a professional card cannot replace detailed inquiries with the competent authority in the country of origin.

18. Are you alerted by other Member States in case of disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of activities under this Directive? How do you share this information? Could more be done in this respect?

Since a reform of the Austrian Medical Act in 2009, the Austrian Medical Chamber has been entitled to inform the competent authorities of other EU Member States about disciplinary action or criminal or administrative sanctions taken or any other serious, specific circumstances which are likely to have consequences for the pursuit of the medical profession. We provide this information on request to the competent authority of another Member State, or on our own initiative if we know that a doctor subject to such disciplinary action etc. is planning to move to a certain Member State of the EEA (or Switzerland). Information is shared in writing, via e-mail and/or regular mail.

As regards doctors moving to Austria, we experience great differences in the handling of such cases by other Member States. There are some Member States that pro-actively inform us about any suspension of any doctor on their territory, others that inform us in case the doctor concerned has any connections with Austria (e.g. acquired his professional qualification there or migrated from Austria to the Member State in question), and others that are extremely restrictive in providing information on disciplinary sanctions or criminal actions, even if on request, for reasons of national data protection law.

According to our experience, doctors who are suspended in a Member State for disciplinary or criminal reasons, or else for reasons of lacking physical fitness to practice, very often try to migrate to another Member State. If the competent authority of this Member State is not alerted, it might (have to) recognise the doctor's qualification and entitle him or her to work on its territory, thus putting the patients at risk. Therefore, for the benefit of patient safety, we regard it as crucial to extend the cooperation between Member States in this respect, and make them share information on disciplinary or criminal action etc. taken against doctors, or lack of doctors' physical or mental fitness to practice, in a pro-active and coordinated manner. It should be examined whether IMI could serve as an instrument for implementing such an alert mechanism.

E. OTHER OBSERVATIONS

19. 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?

In our view migrating physicians should have sufficient language skills enabling them to safely practice medicine in the respective Member State. In this respect, it is vital that their language skills are not only sufficient for general conversation, but cover the whole range of medical language.

In Austria, in order to be able to register as medical doctors, physicians of non-German language have to undergo an assessment of their language skills before a commission of medical and linguistic experts, unless they have attended a German-speaking school or university, have trained or practised in a German speaking country, have completed university studies of the German language, or else can prove sufficient knowledge of German.

20. Does the application of Article 30 raise any specific problems?

There was the case of a doctor who obtained a basic medical qualification in South America. This was automatically recognized in an EU Member State on the basis of a bilateral agreement, and the doctor was issued a licence to practice by this Member State. On the basis of transitional law of the Member State in question, doctors who had obtained a licence to practice before a specific date were granted the right to pursue the activities of a general practitioner in the framework of its national social security system. Subsequently, the doctor in question applied for automatic recognition as a general medical practitioner in Austria on the basis of acquired rights.

Since the doctor did not possess an EU diploma, but a third country basic medical qualification which had been recognized, on the basis of a bilateral agreement, in an EU Member State for the purpose of pursuing the activities of a general practitioner in the framework of its national social security system, automatic recognition in Austria was not possible. The fact that the competent authority of the host Member State issued a certificate correctly stating the facts and mentioning that the diploma in question was not subject to automatic recognition, decisively facilitated the procedure.

Since the doctor had worked in the EU Member State that recognized her basic medical qualification for less than three years, Articles 3 (3) and 10 (g) of Directive 2005/36/EC did not apply, either.

In spite of individual cases like this, in which doctors face difficulties in migrating between Member States, the Austrian Medical Chamber thinks that Article 3 (3) is a useful provision which ensures that doctors with third country diplomas acquire sufficient professional experience within the health care system of an EU Member State before they are able to freely migrate throughout the EU.

****