

Evaluating the Professional Qualifications Directive

Experience reports from competent authorities

Dental practitioners

Germany

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 and documentation can indeed be emailed if the originals or certified photocopies are submitted subsequently, which is an uncomplicated practice in all of the Federal Laender. Checking the authenticity of diplomas based on emailed documentation is largely impossible.

- 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**

These data have already been submitted to the Commission.

- 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,

Basically, the specification of evidence of formal qualification in Annex V.3 is very helpful and makes recognition easier. Authorities specifically demand the evidence listed there. In this context, however, it is problematic to note that some Member States never issue the documents listed in Annex V or do so only several years after graduation. Instead, so-called diploma confirmations that are supposed to replace the actual graduation documents are issued by authorities that, in some cases, are not competent to do so. In respect of several countries listed in Annex V (e.g. Greece, Cyprus, Latvia, Bulgaria, Romania), it would be very welcome if a German or English translation of the evidence of formal qualification and supplementary documents drafted in the national language would accompany this documentation. Moreover, the reporting system, too, would seem to have room for improvement. It would be useful if a change log were available for the evidence of formal qualification and additional documents .

- automatic recognition based on acquired rights,

These provisions have also simplified the procedure, in general. However, sometimes it is still not clear which authority in the home Member State concerned is responsible for awarding the certificate pursuant to Article 23 (1) of Directive 2005/36/EC. In this context, it might be useful to have a list of the authorities competent for awarding all the certificates covered by this Directive.

- recognition based on the general system.

Recognition according to the general system is time-consuming and involves comparatively high costs.

4. Is the general system applied in your country each time the conditions for automatic recognition are not met?

Yes.

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.

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

Under the general system, the applicants' training is to be compared to the German training. If comparison shows their training to substantially differ from German training, applicants must take an aptitude test in this area of deficiencies, unless the latter cannot be made up wholly or in part by knowledge the applicants have acquired worldwide as a result of their professional practice as dentists. Problems regularly occur firstly, when it comes to procuring the documents needed for applying the general system, i.e. documents on the contents and scope of training, and, secondly, in identifying any deficits and the extent to which professional experience can compensate for them. There is no guidance as to which subjects and which quantitative deficits are to be assessed as "substantial".

In order to simplify practices here, too, it might be conceivable for applicants with non-conforming training to sit an exam covering the substantial subjects which would then have to be agreed upon.

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

In Germany, applicants have no choice of compensation measure. They are required to take the aptitude test.

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 is only a small body of experience here. The recognition procedures for third country training programmes carried out in the other Member States are unknown and must be scrutinised in the individual instance, with information forthcoming at a very slow pace or not at all. Often, it is not known whether the training in a third country was first recognised pursuant to Directive 2005/36/EC or bilateral agreements (e.g. Spain, Greece, Austria). Since it is often not known with which documents the first recognition of training completed in a third country can be proven, further requests for information etc. become necessary, sometimes directly contacting the awarding authority. If doubts persist, it is possible in isolated cases that even an already awarded recognition as well as the professional practice in the country of first recognition, cannot be taken into consideration.

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

The Laender making up the Federal Republic of Germany are responsible for implementing and enforcing the Law on the Practice of Dental Medicine (*Gesetz zur Ausübung der Zahnheilkunde - ZHG*). Generally, the intermediate public authorities are in charge of recognising basic dental training and granting the licence to practice. In some of the city-states, the highest Land authority is the competent authority. Responsibility for recognising specialist dental training lies with the dental chambers of the Federal Laender.

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?

No. No application was filed.

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?**

Since no dentists have as yet come forward to provide services, we cannot report on its interpretation in practice.

- **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?**

Since no dentists have as yet come forward to provide services, we cannot report on their interpretation in practice.

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

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

A prior declaration system is indispensable in the interest of patient protection. Only prior declaration allows the supervisory authorities to examine – before the practitioner in question actually gets to practise dentistry – whether he or she is really entitled to do so. Moreover, declaration serves to monitor professional obligations.

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

No.

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 following is the comment from the Federal Dental Chamber:

The requirement for five years of training as stipulated in Art. 34 (2) of the Directive should be upheld. Dental training should be exempted from the Bologna process. In respect of the subjects included in the Annex to the Directive, the Council of European Dentists (CED) has, to our knowledge, prepared a proposal for, *inter alia*, linguistic and substantive amendments. We suggest to draw on this paper.

The majority of the enforcement authorities of the Laender believe that, mainly as a result of their generic wording, requirements are still in line with scientific progress and professional needs.

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?

Since, in Germany, dental training is concluded by a state examination, accreditation is not necessary.

Basically, mutual trust is assumed to exist. However, there have been some cases where the information received from authorities in other Member States had to be scrutinised.

Moreover, the question of accreditation of the training programme in the Member State of origin would not be allowed within the framework of the automatic recognition system. According to the Directive, the professional qualification is to be automatically recognised if evidence of formal qualification as listed in Annex V 5.3.2 is submitted, accompanied - if necessary – by a certificate from the competent authority that attests to compliance with the EU provisions of Art. 34 and/or the necessary professional experience required under Art. 23 of Directive 2005/36/EC. Accordingly, it is understood that the evidence of formal qualification listed in Annex V will only be awarded if the training programme complies with the minimum requirements and is either completed by a state examination or accredited by the State. Monitoring by the EU Commission is assumed to take place.

13. To what extent are the existing Directive provisions (see recital 39 and Article 22(b) on continuous professional development (continuous training) adequate?

The German Federal Dental Chamber (*Bundeszahnärztekammer*) deems the existing Directive provisions on continuous training to be appropriate and sufficient.

Is continuous training mandatory in your country and what are the exact conditions?

Continuous training is mandatory both under Laender law and the relevant professional codes adopted by the dental chambers of the individual Federal Laender. Beyond that, panel dentists are required to undergo continuous training as specified in section 95d of Social Code Book V (*Sozialgesetzbuch V -SGB V*).

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?

Direct cooperation between the Member States (e.g. via IMI) can simplify procedures for the migrants where it exists. Particularly, the certificates of conformity and compliance and/or the certificates of good standing/certificates of current professional status are deemed to simplify procedures. However, obstacles still exist in the form of language barriers, budding translation capacities at the IMI, ignorance of the legal system concerned, absence of national legal bases for cooperation/ exchange of information.

15. Is the competent authority in your country registered with IMI?

The competent authorities of the Laender are registered with IMI.

Under which circumstances does your competent authority use IMI?

The Internal Market Information System is predominantly used for necessary inquiries regarding the submitted documents. However, use of this system is very time-consuming. Often, the remits of the registered authorities are not clear, since in most cases, there are no entries in the relevant IMI rubric. Most of the standardised questions are redundant. While detailed questions can be formulated in free text, free text can only be used to a limited extent as a result of the as yet limited translation capacities.

If not registered, why not and what would be the conditions for changing this situation?

Not applicable.

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? Does your member state operate a professional card system? If so, what is its intended objective?

Under Laender law, the dental chambers are entitled to issue electronic health professional cards that, however, do not serve to recognise professional qualifications.

It is not clear if and how a professional card could facilitate the recognition procedure. This would be conceivable at the most if issue of the professional card were guaranteed to take place only on the basis of complete and correct data, so that it could reliably replace certain evidence that would have to be submitted otherwise (such as the diploma).

Moreover, it would have to be ensured that any changes in the status and relevant sanctions are mandatorily and immediately flagged. Moreover, the card would have to be standardised on the EU level. In addition, it would have to be absolutely forgery-proof and ensure complete data protection. Given that even the national issue of an electronic health professional card is a highly complex affair, a coordinated European regulation is not likely to be implemented within the near term.

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

Currently, information about suspensions/restrictions are shared on an incident-related basis, i.e. in the form of a "Certificate of Good Standing/Certificate of Current Professional Status" or within the framework of an IMI request. For data privacy reasons, there is no regular or automatic exchange of information with other Member States about sanctions or other circumstances with professional law relevance.

For any more extensive exchange among the authorities to exist, there would have to be, first of all, clear-cut consensus as to what sanctions may be shared, with whom, and whether or not this may only be done in response to a request or if the request is warranted by reasonable grounds or a concrete incident, and shared with several or all Member States. Consideration might be given to setting up a central data base for sanctions against professionals that would be administered by the Commission. In the process, it would have to be ensured that all Member States participate in this system with all entities concerned, posting and retrieving information promptly. Both operation and use would have to satisfy the most stringent data protection requirements.

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

The competent authorities will be notified in case of information that professional law sanctions are taken in another Member State against a dentist licensed to practise in Germany.

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

There is no relevant data available as yet.

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?**

In the context of procedures for granting a licence to practise, the competent authorities usually request evidence of language skills equivalent to column B2 of the European Framework of Reference. Evidence of language skills can be furnished in the form of a certificate from a recognised language institute, in individual instances also by an interview with the migrant or a professional discussion.

We are aware of isolated complaints about insufficient language skills.

The checking of language skills is imperative in the context of awarding or denying a licence to practise. Language skills are indispensable for informing the patients and for informed consent to exist, since, otherwise, any medical intervention would – per legal definition - amount to bodily injury. Moreover, language skills are highly important particularly in the field of dentistry, since there are often various therapeutic choices especially with major dental work, which providers must inform their patients about.

