

**Evaluation of the Directive on professional qualifications
(Directive 2005/36/EC)**

Report on the experience made by the competent authorities

here: midwives

Member State: Germany

Co-ordinator: The Senator for Labour, Women, Health, Youth and Social Affairs of the Free Hanseatic City of Bremen

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A. RECOGNITION PROCEDURE FOR PERMANENT ESTABLISHMENT

1	Do you accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made online? Under which conditions can they send documents and declarations electronically? What are your experiences in this respect?	<p>The approach varies from Land to Land in Germany. 10 Länder accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made online if the originals or certified copies of the necessary documents are subsequently received. 6 Länder refuse to accept applications by email or online on the grounds that the preconditions for an admissible electronic transmission pursuant to Section 3a (1) and (2) of the Administrative Procedures Act are not fulfilled because the application has not been sent and received with a qualified digital signature. However, some queries about the procedure or the necessary documents are accepted and answered electronically.</p> <p>The Länder which accept applications by email or online have all had good</p>
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		<p>experience with this so far. The application can be processed more quickly. Furthermore, applicants like the possibility to apply by email or online.</p> <p>In some of the Länder, the bulk of applicants opt for a prior meeting in person in order to find out about the rules of the procedure and to hand in or present documents.</p>
2	<p>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 (unless these data have already been sent to the Commission for the database or in the implementation reports).</p>	<p>Some of the Länder refer to the migration statistics in this regard, on the basis of which the requested data have already been sent to the EU Commission.</p> <p>5 Länder state that no applications for recognition of midwives were made to them in 2000-2009.</p> <p>In the case of Länder which have reported specific figures, there are 1-2 applications per Land per annum; in two large Länder, an average of 7-8 applications p.a.</p>
3	<p>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:</p> <p>automatic recognition based on diplomas, automatic recognition based on acquired rights, recognition based on the general system.</p>	<p>The automatic recognition system for diplomas is largely viewed positively. It is gaining in significance, since more and more applicants can provide proof of training as cited in Annex V No. 5.5.2. This renders processing substantially easier, since there is no further need to verify the content and scope of the training. This substantially shortens the processing period. The automatic recognition system is therefore cheaper. This recognition system saves time and costs, and should be extended to cover other professions.</p> <p>Automatic recognition on the basis of acquired rights plays no major role in practice, since the period of practical experience in the home country often occurred many years ago. To the extent that the relevant certificates are presented and the comparison with the CV or documentation of work experience does not indicate any inconsistencies, recognition is also problem-free. However, the competent authorities are not always sure about how the certificates have been issued. Some bad experience has been made here with other member states (issue of substantively erroneous certificates).</p>

		<p>In contrast, applying the general rules renders the procedure very cumbersome. The certificates of training need to be compared with the training courses pursuant to the Act on Midwives and the training and examination rules for midwives and maternity nurses, in order to ascertain the key differences. Furthermore, the professional experience has to form part of the assessment (Art. 14 (5) of Directive 2005/36/EC). The case-by-case nature of the decision, and the need to establish fundamental, generally valid assessment criteria, render the procedure complex, lengthy and expensive. However, it will continue to be necessary to undertake recognition based on the general system, since many years will pass before all applicants have EU-compliant training documentation.</p> <p>Some of the Länder point out that it is difficult to categorise the diplomas from Greece and Bulgaria, since the data in Annex V are unavailable in the Latin alphabet. A transliteration into the Latin alphabet should be included alongside the Greek and Cyrillic versions.</p>
4	<p>Is the general system applied in your country each time the conditions for automatic recognition are not met? Are there major difficulties in the recognition procedure under the general system? Please include any comments you may have on the implementation of adaptation periods.</p>	<p>The general system is applied in these cases. However, there the following problems with this:</p> <p>The recognition procedure based on the general system is very difficult for midwives in particular, since training certificates are often presented which cannot be unambiguously defined as being either for nurses or for midwives. In order to verify the content and scope of the training, it is often necessary to obtain expert assistance from vocational schools or the Central Office for Foreign Education. Furthermore, the inadequate quality of the documentation presented often impedes the ascertainment of the deficiencies and the stipulation of the nature and scope of the adaptation periods.</p> <p>With regard to the adaptation course, for a variety of reasons some hospitals display no willingness to offer such a course. The reasons given include:</p>

		<ul style="list-style-type: none"> - the ward refuses to take on an intern, - there is insufficient staffing to guide the intern, - bad experiences have been made with a "predecessor", - the intern's language skills are deemed inadequate. <p>Other reasons are that there are only a few suitable delivery wards, the falling birth rate, and the resulting precedence given to trainees.</p> <p>With regard to the aptitude test, there are considerable difficulties with determining the areas in which the training falls short of the German training, since the corresponding lists of subjects and numbers of hours of study are not or cannot be documented. Furthermore, some vocational schools are unwilling to organise the labour-intensive aptitude test.</p>
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))?	No such applications have been submitted in any Land as yet. Germany therefore has no experience with it.
6	Please describe the government structure of the competent authority or authorities in charge of the recognition.	Due to the federal structure of Germany, the organisational structures of the competent authorities in the various Länder vary widely. The processing of applications submitted by midwives is undertaken in some cases by the supreme Land health authority, in other cases by agencies reporting to the supreme Land health authority, or in authorities of the middle administration level (e.g. district governments).
B. TEMPORARY MOBILITY (OF A SELF-EMPLOYED OR AN EMPLOYED WORKER)		
7	Are EU citizens interested in using the new provisions for exercising their professional activities on a temporary and occasional basis in your Member State? How many citizens used this new system in 2008 and 2009 (per month, per year)? (Please provide data if they have not already been given to the Commission for the database)	EU citizens have so far shown no interest in using the provisions for exercising their professional activities as a midwife on a temporary and occasional basis in Germany. No experience can be cited, as the new system has yet to be used.

	or in the implementing reports.)	
8	<p>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:</p> <p>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?</p> <p>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?</p>	<p>So far, the Länder have no experience with people exercising the profession of midwife on the basis of freedom to provide services, since there have not yet been any notifications of a temporary provision of services. It is therefore not possible at present to provide details of duration, frequency, regularity and continuity of an activity.</p>
9	<p>Why is a prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?</p>	<p>The prior declaration system is needed in order to ensure that midwives who are only active in Germany on a temporary basis dispose of the necessary specialist qualifications and the language skills needed to exercise their profession in Germany. For example, it is possible to monitor whether the midwife really does have an EU-compliant qualification or whether this was sanctioned in the country of origin. Apart from this, it makes sense, particularly in border regions, to verify vocational qualifications in order to meet patient protection requirements. For this reason, a notification is indispensable the first time a service is provided.</p>
C. MINIMUM TRAINING REQUIREMENTS		
10	<p>To what extent are the common minimum training requirements set out in Title III Chapter III of Directive 2005/36/EC and the compulsory training subjects as defined in Annex V in line with scientific progress and professional needs? Furthermore, are the knowledge and skills required by the directive still relevant for patient safety and up to date? (Please specify.) What about the conditions relating to the duration of training?</p>	<p>The training disciplines and minimum training requirements cited in Annex V No. 5.5.1 are in line with the state of the art. Medical advances, demographic developments and the increasing shift of midwifery towards free-lance and out-patient services mean that the demands to be met by midwives have become increasingly complex. The knowledge anchored in the directive is no longer fully in line with professional requirements. In particular, there is no requirement for out-patient work to be undertaken with established midwives (external</p>

		<p>placement), especially in the field of ante- and post-natal care. With regard to an appropriate assessment and comparability of German and European qualifications, it is suggested that efforts be made to ensure that training course rules and content are developed in a skills-based manner. This will further enhance legal certainty and flexibility within Europe.</p> <p>When regulating a (modern) modular training course, it would also be necessary to adapt the minimum requirements.</p> <p>The regular training period of 3 years has proved its worth and should be retained.</p>
11	<p>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?</p>	<p>When diplomas are presented pursuant to Annex V No. 5, these must be accepted. If competent authorities certify that the applicant can work as a midwife in the country of origin and has the necessary professional experience, this is also accepted. So member states enjoy trust in principle. However, this could still be improved further in the case of the eastern EU member states which acceded in 2004 and 2007.</p> <p>Training courses to become a midwife are not accredited. So far, training has been undertaken in state-accredited vocational schools which are subject to supervision and are licensed by the supervisory authorities.</p> <p>If there are certificates from the competent authorities, there is no need for formal documentation of accreditation of the training courses. In view of the large number of different training courses and certifying authorities, the right to verify an individual case is always reserved.</p>
12	<p>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?</p>	<p>The current provisions of the directive on further training for the profession of midwife and maternity nurse are regarded as appropriate and necessary.</p> <p>According to Länder law, midwives and maternity nurses are required in Germany to undertake continuous professional development. Appropriate means of further training particularly include attendance of further training events and</p>

		<p>the study of specialist literature. Midwives and maternity nurses must make use of further training opportunities to the extent needed to maintain and develop the necessary specialist knowledge for professional activities. In most of the Länder, the health department must be provided with documentation of such further training.</p>
D. ADMINISTRATIVE CO-OPERATION		
13	<p>To which extent does administrative co-operation, as outlined in Articles 8, 50, and 56 of the Directive, simplify procedures for the migrant professionals?</p>	<p>A number of Länder do not yet have any experience of this. This is particularly because the applicants generally bring the necessary documentation with them from their country of origin. This means that administrative co-operation generally takes place indirectly via the applicant. If there are discrepancies, an inquiry may be exceptionally made under certain conditions via IMI. This ensures a more rapid and smooth flow of information than was previously the case. As a consequence of this, applications can be dealt with on schedule.</p> <p>Due to the lack of language skills, direct co-operation with the competent authorities in other member states is often difficult.</p>
14	<p>Are the competent authorities in your country registered with IMI? Under which circumstances does your competent authority use IMI? If not registered, why not and what would be the conditions for changing this situation?</p>	<p>Almost all the competent authorities responsible for processing applications from midwives and maternity nurses in Germany are registered with the IMI. A few authorities have yet to complete the planning and implementation of registration.</p> <p>In the case of midwives, however, little use has so far been made of the IMI. Where use has been made, inquiries are made via IMI in particular about the meeting of minimum requirements and the clarification of open questions.</p>
15	<p>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?</p>	<p>The introduction of professional cards could – to the extent that the recognition is regulated in line with uniformly prescribed criteria in all EU and EEA member states – signify a substantial simplification in comparison with the current administrative burden. It would be best if the specialist</p>

		<p>and health-related suitability and the reliability to exercise the profession could be tested and certified in the country of origin prior to the issue of a professional card, and the country of destination only needed to verify the language skills. A facilitation and acceleration of recognition via professional cards will however only take place if these do actually contain all the relevant data and information on training and professional experience.</p> <p>The cards should be issued on a uniform European basis by state agencies. Germany is not in favour of cards being issued by professional organisations. It would have to be possible to read the professional cards in each country without translation (e.g. by the use of reference numbers), and they would have to be unforgeable and comply with data protection rules.</p>
16	<p>How do you share information about suspensions/restrictions with competent authorities in other Member States? Could more be done in this respect?</p>	<p>So far, there have only been isolated cases in a few Länder in which information on midwives and maternity nurses has been exchanged with competent authorities in other Member States regarding suspensions/restrictions. No general notifications have been made. Certificates of good standing are only issued on application.</p> <p>A regular exchange between the member states would be desirable, but is difficult to implement.</p>
<p>E. OTHER OBSERVATIONS</p>		
17	<p>How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from consumers/clients/employers) about insufficient language skills of migrants?</p>	<p>The testing of the applicants' necessary language skills is not part of the recognition procedure. In principle, evidence of language skills at the European Framework of Reference B2 level is required. No documentation of language skills is required if the impression is gained in a personal encounter in the course of the application procedure that the applicant can communicate complex issues. In case of doubt, the applicant is required to hold a specialist discussion. If an adaptation period or aptitude test is required and completed successfully, it is usually assumed that the German language skills</p>

		<p>needed to exercise the profession exist.</p> <p>Complaints about a lack of language skills have so far only been made to the competent authorities in a few Länder, and only in a few isolated cases.</p>
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Summary:

So far, Germany's 16 Länder have gathered little experience with Directive 2005/36/EC in the field of midwives and maternity nurses. This is because some of the Länder have yet to receive any applications from midwives for recognition of their diplomas, and the other Länder have only received a few such applications. With regard to the provision of services by midwives and maternity nurses, no applications have yet been made to any of the Länder. The experience so far shows that automatic recognition on the basis of diplomas and acquired rights simplifies and shortens the recognition procedure. In contrast, applying the general rules makes the procedure very cumbersome and cost-intensive. The use of the IMI also helps to reduce the amount of administration involved in processing applications in certain cases. In contrast, there are problems with the implementation of adaptation periods. Some hospitals are unwilling for a variety of reasons to provide places for a roughly one-year internship. In terms of the aptitude test, there are problems with ascertaining the areas in which the training of an applicant lags behind the German training. With regard to EU-wide professional cards, it is felt that they can make life easier for the members of the profession if they contain the necessary data for the recognition, are non-forgeable and are issued by a competent authority.

