

**Evaluation of the
Professional Qualifications Directive
2005/36/EC**

**Experience reports from national authorities
with regard to dentists**

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?
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.
3. To what extent have the system of automatic recognition and the general system been a success? How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:
 - automatic recognition based on diploma
 - automatic recognition based on acquired rights
 - recognition based on the general system.
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?
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))?
6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

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

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?
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?
 - 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?
9. Why is a prior declaration system necessary? What do competent authorities do with the information received? Are other possibilities conceivable?
10. Do you have evidence of undeclared activity occurring in your member state?

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?
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?
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?

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?

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

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?
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?
17. How do you share information about suspensions/restrictions with competent authorities in other Member States? Could more be done in this respect?
18. Do you have a mechanism to deal with information about suspensions/restrictions when you receive it from competent authority colleagues?
- 19..Have you had 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?



Evaluating the Professional Qualifications Directive Experience reports from competent authorities

POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION

DENTISTS

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?

The Ministry of Health in Bulgaria doesn't accept applications from EU citizens for the recognition of foreign diplomas sent by email or requests made on line.

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.

For 2007 – 1 – automatic recognition (positive)

For 2008 – 5 – the general system (positive)

For 2009 – 7 of which:

- 1 – automatic recognition (positive);
- 4 – the general system (positive)]
- 2 – suspended

3. To what extent have the system of automatic recognition and the general system been a success? How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights
- recognition based on the general system.

The system of automatic recognition is the fastest way for recognition of qualifications but is leading to recognition of different levels of knowledge as equal. We consider the absence of language test is a problem.

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

On the other hand the recognition based on the general system gives the opportunity for thorough analysis of the applicant's training and setting a compensation measure thus decreasing the differences in knowledge level and actually testing the language knowledge.

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 our country each time the conditions for automatic recognition are not met. There aren't major difficulties in the recognition procedure under the general system. The Bulgarian legislation doesn't allow the choice of compensation measure to be made by the applicant in case of dentists. The decision for the compensation measure is made by the competent authority – the Ministry of Health.

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))?

We haven't had the case.

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

The recognition of professional qualifications of dentists is conducted by the Ministry of Health of Bulgaria which is the competent authority for all health professions. There is an expert committee by the Minister of Health which examines the documents of the applicants and submits to the Minister of Health a motivated proposal for recognition or refusal of recognition of professional qualification.

The procedure of recognition of a qualification is initiated by a candidate's application. After the receipt of the application, the competent authority informs the candidate about any missing documents and asks for additional information if necessary. After the receipt of all documents required the competent authority must take a decision within three months on the basis of the expert committee's proposals.

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?

We haven't had a case of dentist using the provisions for exercising the professional activities on a temporary and occasional basis in Bulgaria.

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

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?

The applicant has to submit a certificate issued by the competent authority of the relevant member-state that he/she is legally established on its territory for the pursuing the relevant activities and is not subject of any prohibition from practising, including temporary, at the moment of delivering the certificate.

- 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?

According to the national legislation (art. 11, para 2 of the Law of recognition of professional qualifications) the duration, frequency, regularity and continuity of an activity is assessed on case-by-case basis.

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

The Ministry of Health collects the information for statistical and analytical purposes. On the basis of the information we supervise the professionals pursuing services in our country.

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

We have information of undeclared provision of services in Bulgaria.

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?

We consider the Study programme for dental practitioners as given in Annex V, point 5.3.1 gives knowledge and skills still relevant and up to date. We consider specifying the minimum hours for dental training in Directive 2005/36/EC advisable.

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?

We consider mutual trust between Member States is not fully achieved.

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?

According to the Bulgarian national legislation continuous medical training is organized, coordinated, carried out and registered by the professional organisation of dentists.

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?

The administrative cooperation can reduce the duration of the procedure of recognition of professional qualification.

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?

Yes.

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?

We consider that a professional card will not facilitate the recognition of professional qualifications and provision of services. In case of questions or need of additional information the IMI-system can be used.

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

IMI is a suitable tool for asking and giving information about suspensions/restrictions.

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

The document for absence of restrictions for pursuing the profession is one of the mandatory documents in the procedure of recognition of professional qualifications and provision of services.

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

No.

E. OTHER OBSERVATIONS

20. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants?

According to the Bulgarian legislation all dentists who pursue their profession have to be members of the professional association of the dentists and have to be registered in the Regional Healthcare Center.

Evaluating the Professional Qualifications Directive Experience reports from competent authorities

POSSIBLE QUESTIONNAIRE FOR EACH SECTORAL PROFESSION

DENTIST - DENMARK

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?

In Denmark we prefer applicants to use our online application forms available on www.sst.dk

Documentation however must be submitted by ordinary mail as certified copies. With regard to the Certificate of Current Professional Status (CCPS) we require an original document sent directly from the competent authority.

In general we do not have any problems with applications from EU health personnel. However if in doubt we use the IMI system

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.

Data has already been provided to the Commission in the Database through our coordinator

3. To what extent have the system of automatic recognition and the general system been a success? How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights
- recognition based on the general system.

Automatic recognition based on diplomas is a success, as persons meeting minimum training requirements stipulated in the directive can quickly be recognised in host EU member states.

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

The costs are low, as the work with recognition is simplified. It is optimal for the employers, who relatively quickly can recruit personnel from within the EU member states.

*Automatic recognition based on **acquired rights** is a success for the persons in question; if they meet the requirement of having effectively and lawfully been engaged in the relevant activities for at certain period they can also quickly get recognition. Costs are low.*

We however find that having effectively and lawfully been engaged in activities as a dentist not necessarily compensates for deficiencies in the dentist training.

*Recognition based on the **general system** is good for the migrants, as they have the right to be recognised in other EU member states even though there may be substantial differences in educations. It can, however, often be difficult for the applicant to get documentation with details of the education undergone. The persons in question often have an education that goes back many years. Furthermore translation of documents will often be required, a substantial expense for the applicant.*

Compensation measures are not easily applicable. When applicants do not master the local language (Danish) they have difficulties finding positions for adaptation periods. Having to pass an aptitude test in a foreign language is equally difficult.

It is difficult to have a test system that has to take individual educational deficiencies into consideration and it is very costly.

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.

*Yes. The general system is applied. The migrant is given the choice between an aptitude test and an adaptation period.
See under 3.*

When an applicant has chosen an adaptation period, the applicant must himself/herself find employment reflecting the deficiencies found in the education. A prerequisite for employment is often that the applicant masters the Danish language in order to find employment and successfully go through the adaptation period.

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))?

We have experienced difficulties getting documentation from competent authorities stating that the applicant has effectively and lawfully been engaged in the relevant activities for 3 years in the EU member state that recognised the third country education.

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

The National Board of Health (NBH) is a Board under the Ministry of the Interior and Health.

Registration of all health professionals (of who registration is required in Denmark) is done by the NBH in the department for education and registration (EFUA)

Supervision of health personnel is done by the NBH in the department for supervision (EjT).

Further information on the NBH is to be found on <http://www.sst.dk/English.aspx>

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 dentists have made use of the provisions for exercising their 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?
- 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?

Legal establishment is documented through administrative corporation e.g. CCPS from home member state or through IMI

Further documentation: copy of passport.

Criteria: Legally established (right to practice his/her profession)

We give the right to work temporarily within a period of 12 months. The right can be renewed. New CCPS will be required.

If the work is of more permanent character we require that the person in question gets permanent registration.

It may be difficult to set criteria to determine what is considered temporary and what is more permanent on the basis of the article.

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

According to Danish legislation (Act no. 1350 of 17 December 2008 on Authorization of Health Care Professionals and on Professional Health Care Practice) the National Board of Health has to supervise medical personnel. Supervision of medical personnel is part of the

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

system of securing patient safety. In order to be able to supervise medical personnel who on temporary or occasional basis practise in Denmark we find a prior declaration is necessary.

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

No, we do not have any evidence of undeclared activity in Denmark.

In Denmark, a service provider must make a written declaration if he/she wishes to provide temporary services in Denmark. The National Board of Health has not received any advance declarations from service providers wishing to provide services in Denmark.

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 minimum training requirements are all right.

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?

Meetings between competent authorities where you may discuss issues/problems of mutual interest can be very fruitful. At the same time you get the opportunity to informally talk to the respective representatives of a member state/competent authority about specific problems/misunderstandings. Having access to and knowledge of the representative may enhance trust.

Trust can furthermore only be sustained when the competent authorities take on their responsibility when issuing certificates. We have unfortunately seen cases where incorrect information has been given by competent authorities about training or acquired rights. Information given did not support the evidence seen on transcripts and CVs, sent by the applicant unasked.

Accreditation is national and does therefore not necessarily enhance trust.

The basic training of graduates in dentistry is accredited in Denmark. In addition the NBH sees and comments on the curricula, before it is approved by the Ministry of Science Technology and Innovation

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?

The law implies that dentists must keep knowledge and skills up to date. Formal continuing education is however not mandatory in Denmark.

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?

The administrative cooperation does simplify procedures, however to a certain extent national legislation can prohibit certain information from being exchanged.

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?

Yes. We use IMI when we find that further information is required when processing applications. IMI is a good system but time consuming. It is e.g. not always easy to find the relevant questions. Furthermore not all professions are included in the IMI system, and some competent authorities are not in the system, especially where there are many in one country.

IMI needs further development. There should e.g. be better possibilities to question the first answer received, so that you do not have to start all over with a new inquiry when you get an answer.

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?

The purpose of a professional card is not clear. Card can get lost, may be stolen and therefore are subject to further bureaucracy (closing cards, issuing new cards etc.) The question is also whether the card holds information that requires a specific card reader in order to access the information or data related to the card can be accessed by logging on to central or national servers. A card would in Denmark only have value if issued by the competent authority (the National Board of Health). Professional associations are in our opinion not suitable bodies for issuing a professional card – if the card must have a value. Furthermore normally getting services from a professional organisation requires membership which is optional for the professional.

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

We have a public register on our home page sst.dk. Here it is possible for anyone to see whether dentists and other registered health personnel are registered. At the moment this information is only available in Danish, but we are working on having an English version too.

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

Yes

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

Yes

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?

If employed the employer may set language requirements. Furthermore the employer must be convinced that the person they employ has sufficient language proficiencies to be able to fill in the position.

Language skills are a prerequisite in order to communicate in the Danish health system. We find that it should be made possible to require certain language skills as part of the recognition procedure.

**Bewertung der Richtlinie über Berufsqualifikationen
Erfahrungsberichte der zuständigen Behörden**

FRAGEBOGEN FÜR DIE VERSCHIEDENEN

EINZELRICHTLINIEN-BERUFE

Für die Berufsgruppe der Zahnärzte

Deutschland

A. ANERKENNUNGSVERFAHREN BEI DAUERHAFTER NIEDERLASSUNG

- 1. Akzeptieren Sie Anträge von EU-Bürgern auf Anerkennung ausländischer Diplome, die per E-Mail oder online gestellt werden? Unter welchen Bedingungen können Anträge und Unterlagen elektronisch übermittelt werden? Welche Erfahrungen haben Sie in diesem Zusammenhang gemacht?**

Anträge und Unterlagen können elektronisch übermittelt werden, wenn sie im Original oder in Form von beglaubigten Fotokopien nachgereicht werden, was in allen Bundesländern unproblematisch erfolgt. Eine Authentizitätsprüfung von Diplomen auf Basis einer elektronischen Übermittlung ist weitgehend unmöglich.

- 2. Wie viele Anerkennungsanträge wurden im Zeitraum 2000 bis 2009 jährlich gestellt? Bitte übermitteln Sie uns spezifische Angaben zu Anträgen auf automatische Anerkennung auf der Grundlage von Diplomen, automatische Anerkennung auf der Grundlage erworbener Rechte (ab 2005) und Anerkennung nach der allgemeinen Regelung¹. Please include data reflecting both positive and negative decisions for all.**

Die Daten wurden der Kommission bereits übermittelt.

- 3. Inwieweit waren das System der automatischen Anerkennung und die allgemeine Regelung ein Erfolg? Wie schätzen Sie Kosten und Nutzen ein? Bitte äußern Sie sich insbesondere dazu, ob die automatische Anerkennung auf der Grundlage von Diplomen, Anhang V und das derzeitige Meldesystem die automatische Anerkennung wirksam erleichtern. Bitte machen Sie Angaben zur**

- **automatischen Anerkennung auf der Grundlage von Diplomen,**

Die Nennung der Ausbildungsnachweise in Anhang V.3 ist grundsätzlich sehr hilfreich und erleichtert die Anerkennung. Es werden gezielt die dort aufgeführten Nachweise ver-

¹ Es sei denn, diese Angaben wurden der Kommission bereits für die Datenbank oder in den Durchführungsberichten übermittelt.

langt. Problematisch ist in diesem Zusammenhang, dass in manchen Mitgliedstaaten die im Anhang V aufgelisteten Dokumente gar nicht oder erst nach mehreren Jahren nach dem Abschluss ausgefertigt werden. Stattdessen werden des Öfteren sog. Diplombestätigungen von teilweise unzuständigen Behörden ausgestellt, die die eigentliche Abschlussurkunde ersetzen sollen. Bei verschiedenen, im Anhang V gelisteten Ländern würde es sehr begrüßt werden, wenn bei der Bezeichnung der Ausbildungsnachweise und zusätzlichen Bescheinigungen zusätzlich zur Landessprache eine deutsche oder englische Übersetzung beigelegt wäre (bspw. Griechenland, Zypern, Lettland, Bulgarien, Rumänien). Ferner erscheint das Meldesystem verbesserungsfähig. Hilfreich wäre, wenn eine Änderungshistorie der Ausbildungsnachweise und zusätzlichen Bescheinigungen verfügbar wären.

- **automatischen Anerkennung auf der Grundlage erworbener Rechte,**

Auch diese Regelungen haben das Verfahren grundsätzlich vereinfacht. Allerdings bestehen teilweise Unsicherheiten, welche Behörde in dem jeweiligen Herkunftsstaat für die Ausstellung der Bescheinigung gem. Artikel 23 Abs. 1 der Richtlinie 2005/36/EG zuständig ist. In diesem Zusammenhang wäre eine Liste der zuständigen Stellen für alle Bescheinigungen, die auf Grundlage der Richtlinie in Betracht kommen, förderlich.

- **Anerkennung nach der allgemeinen Regelung.**

Die Anerkennung nach den allgemeinen Regelungen ist zeitaufwändig und im Vergleich mit hohen Kosten verbunden.

4. Wird in Ihrem Land in allen Fällen, in denen die Bedingungen für die automatische Anerkennung nicht erfüllt sind, die allgemeine Regelung angewendet?

Ja.

Existieren größere Probleme mit dem Anerkennungsverfahren nach der allgemeinen Regelung? Machen Sie gegebenenfalls Angaben zur Anwendung der Ausgleichsmaßnahmen.

Bei der Anwendung der allgemeinen Regelung ist die Ausbildung der Antragsteller mit der deutschen Ausbildung zu vergleichen. Hat der Vergleich zum Ergebnis, dass die Ausbildung wesentliche Unterschiede zur deutschen Ausbildung aufweist, ist eine Eignungsprüfung in diesem defizitären Bereich abzulegen, soweit diese Defizite nicht ganz oder teilweise durch Kenntnisse ausgeglichen werden können, die die Antragsteller im Rahmen ihrer zahnärztlichen Berufspraxis weltweit erworben haben. Probleme treten regelmäßig zum einen bei der Beschaffung der für die Anwendung der allgemeinen Regelung notwendigen Unterlagen, d. h. Dokumente über den Inhalt und Umfang der Ausbildung, und zum anderen bei der Feststellung der Defizite sowie der kompensationsfähigen Berufserfahrung auf. Es fehlen Vorgaben, welche Fächer und welches quantitative Defizit als „wesentlich“ zu werten sind.

Um auch hier eine Vereinfachung zu erzielen, wäre vorstellbar, dass bei Vorliegen einer nicht konformen Ausbildung, die Antragsteller eine Prüfung abzulegen haben, die die wesentlichen Fächer, auf die sich noch zu einigen wäre, abdeckt.

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 Deutschland besteht keine Wahlmöglichkeit der Antragsteller. Es gibt ausschließlich nur die Ausgleichsmaßnahme in Form der Eignungsprüfung.

- 5. Welche Erfahrungen haben Sie mit dem Anerkennungsverfahren für EU-Bürger gemacht, die über in Drittländern erworbene Berufsqualifikationen verfügen, die bereits in einem anderen Mitgliedstaat anerkannt wurden (s. Artikel 2 Absatz 2 und Artikel 3 Absatz 3)?**

Es liegen geringe Erfahrungen vor. Die Anerkennungsverfahren von Drittstaatsausbildungen in den einzelnen Mitgliedstaaten sind unbekannt und müssen im Einzelfall hinterfragt werden, wobei der Informationsfluss schleppend bis gar nicht erfolgt. Oftmals ist unklar, ob die Erstanerkennung der Drittstaatsausbildung aufgrund der Richtlinie 2005/36/EG oder bilateralen Abkommen erfolgt (z.B. Spanien, Griechenland, Österreich) ist. Nachdem oftmals nicht bekannt ist, mit welchen Dokumenten die Erstanerkennung der Drittstaatsausbildung nachgewiesen werden kann, werden weitere Anfragen zum Teil direkt bei der ausstellenden Behörde erforderlich. Bei weiteren Zweifeln kann es im Einzelfall vorkommen, dass die evtl. bereits erfolgte Anerkennung sowie die Berufstätigkeit im Erstanerkennungsland nicht berücksichtigt werden kann.

- 6. Stellen Sie bitte die Organisationsstruktur der zuständigen Behörde(n) dar, die für die Anerkennungen verantwortlich ist (sind).**

Die Bundesländer der Bundesrepublik Deutschland sind zuständig für den Vollzug des Gesetzes zur Ausübung der Zahnheilkunde (ZHG). In der Regel sind die staatlichen Mittelbehörden für die Anerkennung der zahnärztlichen Grundausbildung bzw. für die Erteilung der Approbation zuständig. In den Stadtstaaten ist z. T. die oberste Landesbehörde zuständig. Für die Anerkennung der Fachzahnarztausbildung sind die Landes Zahnärztekammern zuständig.

B. VORÜBERGEHENDE MOBILITÄT (SELBSTÄNDIGER ODER ABHÄNGIG BESCHÄFTIGTER)

- 7. Zeigen die EU-Bürger Interesse an der Nutzung der Bestimmungen für die vorübergehende oder gelegentliche Ausübung ihres Berufes in Ihrem Mitgliedstaat? Wie viele Bürger haben dieses neue System 2008 und 2009 genutzt (monatlich, jährlich)²?**

Nein. Es wurde kein Antrag gestellt.

- 8. Wie wenden die zuständigen Behörden – unter Berücksichtigung der relevanten Bestimmungen des Verhaltenskodex – die Bestimmungen der Richtlinie 2005/36/EG zur vorübergehenden Mobilität in der Praxis an? Geben Sie z. B. an,**

- wie das in Artikel 5 Absatz 1 Buchstabe a vorgesehene Kriterium der „rechtmäßigen Niederlassung“ in der Praxis ausgelegt wird. Welche Bedingungen muss

² Machen Sie die Angaben bitte dann, wenn sie der Kommission nicht bereits für die Datenbank oder in den Durchführungsberichten übermittelt wurden.

ein Migrant in seinem Herkunftsmitgliedstaat erfüllen, um Dienstleistungen erbringen zu dürfen?

Da sich bislang keine Zahnärzte als Dienstleistungserbringer gemeldet haben, kann über die Auslegung in der Praxis nicht berichtet werden.

- **wie die in Artikel 5 Absatz 2 vorgesehenen Kriterien für den “vorübergehenden und gelegentlichen“ Charakter der Berufsausübung in der Praxis ausgelegt werden. Prüfen die Mitgliedstaaten Dauer, Häufigkeit, regelmäßige Wiederkehr und Kontinuität der Tätigkeit, und, wenn ja, anhand welcher Kriterien?**

Da sich bislang keine Zahnärzte als Dienstleistungserbringer gemeldet haben, kann über die Auslegung in der Praxis nicht berichtet werden.

- 9. Warum ist ein System der vorherigen Meldung notwendig? Wie verwenden die zuständigen Behörden die eingegangenen Informationen? Sind andere Lösungen denkbar?**

Im Hinblick auf den Patientenschutz ist ein System der vorherigen Meldung unabdingbar. Nur die vorherige Meldung eröffnet den Aufsichtsbehörden vor Ausübung der Zahnheilkunde am Patienten die Möglichkeit zu prüfen, ob überhaupt eine Berechtigung zur Ausübung besteht. Die Meldung dient darüber hinaus der Überwachung der Berufspflichten.

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

Nein.

C. MINDESTAUSBILDUNGSANFORDERUNGEN

- 11. Inwieweit entsprechen die in Titel III Kapitel III der Richtlinie 2005/36/EG enthaltenen gemeinsamen Mindestanforderungen an die Ausbildung und die in Anhang V vorgeschriebenen Ausbildungsfächer noch dem wissenschaftlichen Fortschritt und den beruflichen Erfordernissen? Sind die in der Richtlinie geforderten Kenntnisse und Fähigkeiten noch relevant und aktuell? (Bitte machen Sie hierzu spezifische Angaben.) Was ist zu den Bestimmungen betreffend die Dauer der Ausbildung zu bemerken?**

Die Bundeszahnärztekammer nimmt wie folgt Stellung:

An der Vorgabe einer fünfjährigen Ausbildung in Art. 34 Abs. 2 der Richtlinie ist festzuhalten. Die zahnmedizinische Ausbildung ist vom Bologna-Prozess auszunehmen. Zu den Inhalten im Anhang der Richtlinie hat nach unserer Kenntnis der europäische Zahnärzterverband Council of European Dentists (CED) einen Vorschlag erarbeitet, in dem Anregungen für sprachliche und inhaltliche Anpassungen gegeben werden. Wir regen an, diese beizuziehen.

Die Vollzugsbehörden der Länder halten überwiegend aufgrund der allgemeinen Formulierung eine Entsprechung mit dem wissenschaftlichen Fortschritt und den beruflichen Erfordernissen für gewährleistet.

- 12. Grundlage der Richtlinie ist das Vertrauen zwischen den Mitgliedstaaten. Inwieweit existiert dieses Vertrauen wirklich? Werden in Ihrem Land Ausbildungsgänge akkreditiert? Fördert es das Vertrauen, wenn ein Ausbildungsgang in einem anderen Mitgliedstaat akkreditiert ist, oder ist dies ohne Bedeutung?**

Da in Deutschland das Studium der Zahnmedizin mit einer Staatsprüfung abschließt, ist eine Akkreditierung insoweit nicht erforderlich.

Grundsätzlich besteht das gegenseitige Vertrauen. Allerdings gab es einige Fälle, in denen die von Behörden anderer Mitgliedstaaten erhaltenen Informationen hinterfragt werden mussten.

Darüberhinaus dürfte die Frage nach der Akkreditierung des Studiengangs im Herkunftsland im Rahmen des automatischen Anerkennungsverfahrens nicht gestellt werden. Gem. der Richtlinie ist die Berufsqualifikation automatisch anzuerkennen, wenn die in Anhang V. 5. 3. 2 genannten Ausbildungsnachweise vorgelegt werden und - falls erforderlich - eine Bescheinigung der zuständigen Behörde beigelegt ist, in der die EU-Konformität nach Art. 34 bzw. die nach Art. 23 der Richtlinie 2005/36/EG notwendige Berufserfahrung bestätigt wird. Dementsprechend wird vorausgesetzt, dass nur dann die Ausbildungsnachweise des Anhangs V verliehen werden, wenn der Studiengang die Mindestanforderungen erfüllt und mit einer Staatsprüfung abschließt oder vom Staat akkreditiert ist. Von einer Überwachung durch die EU-Kommission wird ausgegangen.

- 13. Inwieweit sind die derzeitigen Bestimmungen der Richtlinie zur beruflichen Weiterbildung (Erwägungsgrund 39 und Artikel 22 Buchstabe b) angemessen?**

Die Bundeszahnärztekammer beurteilt die Vorgaben der Richtlinie zur Fortbildung als angemessen und ausreichend.

Ist Weiterbildung in Ihrem Land vorgeschrieben, und wie sehen die Bestimmungen im Einzelnen aus?

Eine Pflicht zur Fortbildung ist in den Ländergesetzen und in den jeweiligen Berufsordnungen der Landeszahnärztekammern vorgeschrieben. Zudem ist die Pflicht zur fachlichen Fortbildung für Vertragszahnärzte in § 95d Sozialgesetzbuch V (SGB V) normiert.

D. VERWALTUNGSZUSAMMENARBEIT

- 14. Inwieweit vereinfacht die Verwaltungszusammenarbeit gemäß den Artikeln 8, 50 und 56 der Richtlinie die Verfahren für Migranten?**

Soweit eine unmittelbare Zusammenarbeit zwischen den Mitgliedstaaten erfolgt (z. B. über IMI), kann dies das Verfahren für die Migranten erleichtern. Insbesondere werden die Konformitäts- und Unbedenklichkeitsbescheinigungen bzw. Certificates of Good Standing/Certificates of Current Professional Status als Erleichterung angesehen. Sprachbarrieren, noch nicht umfängliche Übersetzungsmöglichkeiten im IMI, Unkenntnis des jeweiligen Rechtssystems, fehlende nationale Rechtsgrundlagen für die Zusammenarbeit bzw. Informationsaustausch stellen jedoch derzeit noch Hemmnisse dar.

15. Ist die zuständige Behörde in Ihrem Land im IMI (Binnenmarktinformationssystem) registriert?

Die zuständigen Behörden der Länder sind in IMI registriert.

Unter welchen Bedingungen nutzt Ihre zuständige Behörde das IMI?

Das Binnenmarkt-Informationssystem wird überwiegend für erforderliche Nachfragen hinsichtlich der eingereichten Unterlagen benutzt. Die Nutzung ist jedoch sehr zeitaufwendig. Die Zuständigkeiten der registrierten Behörden sind oftmals unklar, da meistens keine Eintragungen in der im IMI vorgesehenen Rubrik vorhanden sind. Die standardisierten Fragen sind größtenteils überflüssig. Detaillierte Fragen können zwar im Freitext formuliert werden. Jedoch kann der Freitext aufgrund der bislang noch eingeschränkten Übersetzungsmöglichkeiten nur begrenzt genutzt werden.

Falls sie nicht registriert ist: warum nicht, und unter welchen Bedingungen könnte sich dies ändern?

Die Frage erübrigt sich.

16. Auf welche Weise könnten Berufsausweise (s. Erwägungsgrund 32 der Richtlinie) die Anerkennung von Berufsqualifikationen und die vorübergehende Erbringung von Dienstleistungen erleichtern? Unter welchen Bedingungen könnten Berufsausweise von Berufsorganisationen ausgestellt werden? Does your member state operate a professional card system? If so, what is its intended objective?

Die Zahnärztekammern sind nach den Ländergesetzen berechtigt, elektronische Heilberufsausweise herauszugeben, die jedoch nicht der Anerkennung von Berufsqualifikationen dienen.

Es ist nicht ersichtlich, ob und wie ein Berufsausweis das Anerkennungsverfahren erleichtern könnte. Das wäre allenfalls vorstellbar, wenn sichergestellt ist, dass der Heilberufsausweis auf der Grundlage vollständiger und korrekter Daten herausgegeben wird, damit der Ausweis bestimmte Nachweise, die ansonsten vorzulegen wären, zuverlässig ersetzen könnte (z. B. das Diplom). Des Weiteren müsste sichergestellt sein, dass Veränderungen des Statuts sowie relevante Sanktionen auch zwingend und unverzüglich erkennbar sind. Ferner müsste der Ausweis EU-weit standardisiert sein. Die Fälschungssicherheit und der Datenschutz müssten zudem absolut gewährleistet sein. Im Hinblick darauf, dass bereits eine nationale Herausgabe eines elektronischen Heilberufsausweises sehr komplex ist, dürfte eine abgestimmte europäische Regelung nicht zeitnah zu realisieren sein.

17. Auf welche Weise tauschen Sie Informationen über Aussetzungen/Beschränkungen mit den zuständigen Behörden anderer Mitgliedstaaten aus? Könnte hier mehr getan werden?

Derzeit werden Informationen über Aussetzungen/Beschränkungen anlassbezogen weitergegeben, d. h. in Form des "Certificate of Good Standing/Certificate of Current Pro-

fessional Status“ oder im Rahmen einer IMI-Anfrage. Ein regelmäßiger oder automatischer Austausch mit anderen Mitgliedstaaten über Sanktionen oder andere berufsrechtlich relevanten Umstände erfolgt aus datenschutzrechtlichen Gründen nicht.

Ein weitergehender Austausch zwischen den Behörden würde zunächst voraussetzen, dass Klarheit darüber besteht, welche Sanktionen kommuniziert werden dürfen, an wen sie kommuniziert werden dürfen und ob dies nur auf Anfrage bzw. bei einem hinreichenden Grund auf Nachfrage oder konkreten Anlass an mehrere oder alle Mitgliedsstaaten erfolgen kann. Geprüft werden könnte die Einrichtung einer zentralen Datenbank für Sanktionen gegen Berufsangehörige, die von der Kommission verwaltet wird. Dabei wäre sicherzustellen, dass sich alle Mitgliedsstaaten mit allen beteiligten Stellen an dem System beteiligen und zeitnah Informationen einstellen bzw. abrufen. Der Betrieb und die Nutzung müssten dabei höchsten datenschutzrechtlichen Anforderungen genügen.

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

Bei Bekanntwerden von berufsrechtlichen Maßnahmen anderer Mitgliedstaaten gegen einen in Deutschland approbierten Zahnarzt werden die zuständigen Stellen informiert.

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

Es liegen bislang keine Erfahrungswerte vor.

E. SONSTIGE BEOBACHTUNGEN

20. Wie und zu welchem Zeitpunkt werden die erforderlichen Sprachkenntnisse der Migranten geprüft, nachdem ihre Berufsqualifikation anerkannt wurde? Liegen Ihnen Informationen über Beschwerden (insbesondere von Patienten/Kunden/Arbeitgebern) über ungenügende Sprachkenntnisse von Migranten vor?

In der Regel verlangen die zuständigen Behörden im Zuge des Verfahrens zur Erteilung der Approbation einen Sprachnachweis auf dem Niveau B2 des Europäischen Referenzrahmens. Der Sprachnachweis kann durch ein Sprachzertifikat eines anerkannten Spracheninstituts, im Einzelfall auch durch eine persönliche Vorsprache des Migranten oder durch ein Fachgespräch erbracht werden.

Es liegen vereinzelt Beschwerden über ungenügende Sprachkenntnisse vor.

Die Überprüfung der Sprachkenntnisse im Rahmen der Approbationserteilung ist zwingend erforderlich. Sprachkenntnisse sind für die Aufklärung des Patienten und die daraus resultierende Einwilligung unabdingbar, da sonst tatbestandlich eine Körperverletzung vorliegt. Zudem kommt den Sprachkenntnissen gerade im zahnärztlichen Bereich eine große Bedeutung zu, da es insbesondere bei umfangreichen Versorgungen häufig mehrere Therapiealternativen gibt, über die der Behandler den Patienten aufklären muss.

Evaluating the Professional Qualifications Directive Experience reports from competent authorities

QUESTIONNAIRE FOR DENTISTS (Estonia)

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?

At present we do not accept documents which have been sent by e-mail. Emails, however, can be used to give a provisional assessment. We do accept documents that have sent and signed electronically (digital signature). However, we have had no cases where an EU citizen has submitted an application electronically.

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.

See database for statistics. There have been no negative decisions.

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

This has worked well.

- automatic recognition based on acquired rights

This has worked well.

- recognition based on the general system.

No experience.

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

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

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?

No experience.

According to the law, there is no choice in compensation measures: an aptitude test is compulsory.

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))?

We have had only a little experience with this. Being registered in another member state before applying for registration in Estonia is a positive sign.

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

The Health Board is a governmental authority of the Estonian Ministry of Social Affairs, which is empowered by a legal order of the Government of the Republic. Estonia is a small country with a small population. There are no local authorities. The Health Board is the leading, coordinating and consulting agency in the field of public health, also dealing with the recognition of health care professionals' qualifications.

The Health Board holds the national registers of health care professionals (doctors, dentists, midwives, nurses, pharmacists and assistant pharmacists), issues and revokes registration certificates, appropriate certificates to Estonian health care professionals who wish to work in EU/EEA member states or in Switzerland, issues and revokes activity licenses to health care providers. • Compares, in line with legislation, foreign professional qualifications of applicants applying for regulated healthcare posts in Estonia, and makes recognition decisions;

• Cooperates and exchanges information with competent authorities on disciplinary decisions that may affect the recognition of an applicant's professional qualification;

• Monitors the number of recognition applications and submits relevant reports to the Ministry of Education and Research;

• Issues certificates and documents that are necessary for the recognition of the professional qualifications in Estonia or in another country.

The responsible unit for dealing with healthcare qualifications is

the Unit of Registers and Licences. Head: Ms Evi Lindmäe (evi.lindmae@terviseamet.ee)

The Health Board, Gonsiori 29, 15157 Tallinn, Estonia

<http://www.terviseamet.ee>

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?

There has been only one case (in 2010).

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

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?

He/she must be registered in the home country and have a legal right to practice in the home country.

- 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?

According to the law, the frequency and duration of temporary provision of services is assessed case by case.

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

Prior declaration is necessary to make sure that the person is indeed qualified to provide the planned service. There have been no cases of declaration after the provision of services.

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 minimum training requirements are at present sufficient to ensure that there is at least a satisfactory level of competence.

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?

Yes, training programmes in Estonia undergo international accreditation. Yes, such accreditations do 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?

The continuous training of health care professionals is mandatory in Estonia and there are clear requirements in law (mandatory 60 academic hours per year). It is the duty of the employer to finance the continuous training of employees (same conditions for self-employed persons).

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 between competent authorities is essential. However, cooperation is much easier with a single institution per country as compared to federal states where every state / region has their own competent authority or branch.

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?

Yes. We have used IMI both ways – for making enquiries and replying to questions.

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?

In the case of temporary provision of services, it could be useful.

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

The sharing of information about suspensions and restrictions depends on the basic principles of the legal system – it sets limits as to whether proactive or reactive information exchange is possible, and determines how the disciplinary measures are regulated. Since it is the employer who sets disciplinary penalties, the Health Board may not be aware of minor breaches. The Health Board does share information about suspensions and restrictions if needed.

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

We take note of it.

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

No.

E. OTHER OBSERVATIONS

20. How and when are the necessary language skills of migrants checked after recognition of the professional qualifications? Are you aware of any complaints (especially from patients/clients/employers) about insufficient language skills of migrants?

According to Estonian law, it is the duty of the employer to ensure sufficient language skills when dealing with the public. The Estonian Language Board carries out inspections and responds to complaints from the public.

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?

Presently the Dental Council do not accept documentation electronically. The main factor delaying applications under the automatic recognition procedures is the obtaining the relevant compliance letters and letters of good standing from other competent authorities. There is scope, without compromising the standards in the registration process for such information to be issued or obtained on a Competent Authority to Competent Authority standards, possibly through expanding the scope of IMI.

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.

The information below relates to dentists only. The number of applicants rejected per annum is small (no more than 2-3 per year) and currently none are assessed under the General Systems Directive.

Only applications for Dental Nursing and Hygienists are considered under the General Systems directive. Stats have not been compiled but the numbers applying are small (5-10 per annum) so the correspondent number of rejections is proportionately small.

	EU	UK	Total
2009	50	20	70
2008	79	28	107
2007	88	26	114
2006	39	28	67
2005	47	35	82
2004	38	18	56
2003	17	29	46
2002	22	35	57
2001	9	44	53

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

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:

Method has been successful from an efficiency perspective

- automatic recognition based on diploma – efficient method
 - automatic recognition based on acquired rights – efficient method
 - recognition based on the general system - not efficient, especially for auxiliary dental workers due to significant differences in both the education and regulatory environments in operation across Europe
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?

See above, numbers where General Systems part of Directive are applied are small in Ireland (less than 5 per annum) and mainly for auxiliary dental workers. The main problems encountered concerning auxiliary dental workers is the wide variety of education standards and regulatory frameworks in operation across the EU

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))?

Under the Irish transposition legislation a qualification must be obtained mainly in the EU. For qualifications from outside the EU the Dental Council will apply the following rules:

- If qualification has been established (ie registered) in another member state and if the dentist has been practising for three consecutive years in the last five than the dentist will be registered (subject to letter of good standing)
 - If qualification has not been established or professional has been practising for less than three consecutive years in the last five than the dentist will be obliged to pass the Dental Council exam for non EU applicants
6. Please describe the government structure of the competent authority or authorities in charge of the recognition.

Dental Council was established by statute

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?

3 in total over the last year (figures not available prior to this but they are not significant)

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?

Registered with no conditions regarding 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?

Not a significant issue, but it would involve consideration of the total duration and frequency. If the occurrence was regular (even if total duration was small) the Dental Council would expect practitioner to register.

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

Information is stored on file in Dental Council offices

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 minimum standards set out in the directive do not provided for any minimum standard in clinical skills. The only reference to clinical skills is in Article 34 which provides for "suitable clinical experience under appropriate supervision". Annex V should also include a minimum clinical skill set that dentists qualifying throughout the EU must have attained. The

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

Dental Council recommend the retention of a five year programme as the minimum standard in any revision of the Directive.

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?

All registration programmes are reviewed and most are approved (accredited) by the Dental Council in Ireland. The two main Dental Qualifications are listed in Irish law and entitle the holder to registration. These programmes are reviewed by the Dental Council every 5 years. The approval of programmes by the relevant competent authority in another member state enhances the trust in that programme and would be an important consideration. This is critically important with Specialist Dental training and qualifications

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?

Continuous professional development (CPD) is not a mandatory condition for maintaining ongoing registration but is required under the Dental Council ethics. In practice this means that a dentist cannot be erased from the register for not undertaking CPD but training and CPD undertaken may be investigated in the light of a complaint from a patient. Sanctions such as obliging a dentist to undertake certain training may be applied, in serious cases a dentist may be suspended or erased.

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?

Process is simplified under Directive

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?

Dental Council has one registered user of IMI. It is not used regularly

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?

Card would be valuable for temporary and occasional registration in the public interest. The Card should only be issued by competent authorities and not by professional associations. The card should contain registration information and should be shown to patients.

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

Yes. A central database would be very advantageous for consideration at point of registration. The Dental Council have dealt with two instances where dentists had multiple registrations in EU. In these cases the dentist faced serious allegations and had criminal convictions in other jurisdictions, but not in the country from where we recognised their registration. The issue of multiple registrations (and the difficulty in controlling / monitoring subsequent regulatory issues) is the biggest single weakness in Directive 2005/36/EC

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

Under Irish legislation the matter would have to be effectively “tried” again by the Dental Council in order for us to take action. Following on from point 17, the Dental Council may refuse to register on the basis of sanctions in another jurisdiction, but once a dentist is registered a sanction in another jurisdiction cannot be automatically applied

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

Yes

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?

Currently language skills are a matter for the employer. The Dental Council has received some complaints where the standard of language among EU nationals was an issue.

Evaluating the Professional Qualifications Directive

Experience reports from competent authorities

QUESTIONNAIRE FOR THE DENTAL PRACTITIONER PROFESSION (LITHUANIA)

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?

We could not accept applications by email.

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.

Recognition of professional qualification obtained in foreign states in Lithuania {Applicants / positive decisions}											
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	
<i>1. Documents issued in European Union:</i>											
<i>1.1. Automatic recognition</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>1</i>				<i>3</i>	<i>1</i>	
<i>1.2. General recognition</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>							
<i>2. Documents issued outside the European Union (General recognition)</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>n.a.</i>	<i>2</i>	<i>1</i>	<i>2</i>	<i>2</i>	<i>3</i>	<i>3</i>	

The average duration of the process for both automatic and general systems from 1 month till 3 months.

3. To what extent have the system of automatic recognition and the general system been a success? How do you see the costs and benefits? Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights

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

- recognition based on the general system.

We have low experience in recognition of EU education and couldn't submit comments.

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?

We have low experience in recognition of EU education and couldn't submit comments.

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))?

We haven't such applicants from EU citizens who obtained qualification in a third country and already recognized in a first Member State.

We will accept recognized procedure, if person present to us certificate according Article 3(3).

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

Structure of competent authority:

Ministry of Health of the Republic of Lithuania

Personal Health Care Department

Health Care Resources Management Division

Responsible person: Jonas Bartlingas (Head of the division)

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?

Unfortunately any EU citizen was interesting in using the provisions for exercising their professional activities on a temporary and occasional basis in Lithuania.

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?

Our Lithuanian competent authority requires from the migrant have legally provided his services in his home Member State.

In Lithuania are assessed all criteria: duration, frequency, regularity and continuity.

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 necessary for issuing permissions for taking services in Lithuania. Competent authority received information storages, share this information with supervisory institutions.

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

Lithuania had been harmonized all training programs to the Directives before entry to EU and they are in line of scientific progress. The duration of all training programs are harmonized also.

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?

Lithuania trusts other Member State fully. University and colleges training programs are accredited by Centre for Quality Assessment in Higher Education (CQAHE) of Lithuania (<http://www.skvc.lt/en/?id=0>). This center also evaluates training programs accredited in another Member State under suspicion.

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? How do you define continuous professional development in your country?

The continuous training is mandatory in Lithuania and during 5 year each dental practitioner has to collect 120 hours of continuous training.

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?

The competent authority of Lithuania cooperates with other EU competent authorities and exchange required and wanted information by post, by email, by IMI. Most popular cooperation way is by e-mail, IMI system.

15. Is the competent authority in your country registered with IMI? Under which circumstances does your competent authority use IMI? Please comment on your experience of using IMI. If not registered, why not and what would be the conditions for changing this situation?

The competent authority of Lithuania is registered with IMI. Mostly uses IMI for answers to inquiries of competent authorities of the other Member States.

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?

a) Professional card would facilitate and accelerate the movement of specialists. Depending on the provisions of data security, professional card could provide information about specialists' professional qualifications (graduated university or other institution, acquired qualification, professional experience), legal location of self-establishment, imposed penalties associated with his/her profession and data about correspondent's competent authority.

b) Professional associations could issue professional cards if the functions of issuing professional cards were delegated to them by the State.

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

We can share information about suspensions/restrictions in our country with competent authorities in other Member States by post. We had not suspensions/restrictions for dental practitioner according court decision.

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

Yes, we have. When we receive it information about suspensions/restrictions from competent authority, this information also is present to the Lithuania dental chamber.

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

20. *No.*

E. OTHER OBSERVATIONS

21. 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?

Language skills of migrants usually are checked by employer. We haven't such complaints regarding insufficient language skills of migrants.

National implementation report for EU Directive 2005/36/EC

Dental profession

Country: **Hungary**

Organisation: Office of Health Authorisation and Administrative Procedures

The Office is responsible for the recognition of the foreign healthcare diplomas and qualifications and the registration of all the healthcare professionals.

The Office's website: www.eekh.hu

Contact details: Dr. András Zsigmond
Head of department
zsigmond.andras@eekh.hu / recognition@eekh.hu
0036-1-235-79-65

Evaluating the Professional Qualifications Directive Experience reports from competent authorities

QUESTIONNAIRE FOR THE DENTAL 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?

The application form can be submitted electronically as well.

The certified copies and official translations of the documents should be submitted by post, or personally. According to our experiences, our clients like the possibility of the personal consult at least when they do their application.

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 system¹. If available, please provide information on the average duration of the recognition process.

Dentists

Applications					
2007		2008		2009	
EEA	3rd countries	EEA	3rd countries	EEA	3rd countries
20	0	12	0	19	0

Positive decisions					
2007		2008		2009	
EEA	3rd countries	EEA	3rd countries	EEA	3rd countries
17	0	10	0	18	0

Negative decisions					
2007		2008		2009	
EEA	3rd countries	EEA	3rd countries	EEA	3rd countries
0	0	0	0	0	0

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

In case of the recognitions falling under the general system, the procedure (strictly the administrative procedure) takes maximum 3 months, which can be lengthened once with 22 working days if necessary. However this doesn't mean that we can issue the decision on the recognition within this period, because in case the applicant is to take an aptitude test or an adaptation period, we make a preliminary decision in which we put a deadline for the fulfilment on the condition (this depends on the length of the adaptation period or the content of the test).

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

This possibility simplifies the procedures also for the applicants, but for the competent authorities as well. It is a very simple procedure, if the denomination, reference date and other conditions are met.

- automatic recognition based on acquired rights

Though the Directive's general aspect is built on the mutual trust between the competent authorities, we find the most problems concerning the certificate of acquired rights, mostly in the cases where the professional's residence MS (or his/her pursue of the medical activity) has changed several times during the last five years period.

In the Directive, it is not regulated that during the three consecutive years in the last five years in how many hours the applicant has to work in order to be able to apply for the certificate of acquired rights. (it is an extreme example, but it is possible to benefit the acquired rights even if the professional pursues his/her activities just 1 hour monthly).

We also had some problems with the interpretation of the criteria "effective and lawful practice" laid down in Article 23.1.

According to Articles 110-113. of Act CLIV of 1997 on Health (our national legislation), we have two registers of the healthcare professionals: basic register and operational registry.

Basic register functions as a register of the qualifications, which means that all the healthcare qualifications obtained/recognised (or formerly nostrified) in Hungary are registered automatically in the basic register.

It is a requirement in case of all the regulated professions that the professional (and his/her qualification) is registered in the basic register (which means he/she holds a valid qualification). It is in accordance with Article 1 of the Directive.

The healthcare activity concerned can be pursued in Hungary with or without supervision.

The registration into the operational registry is upon the application of the professional. The registration period is valid for 5 years and can be renewed if the professional satisfies the requirements (collect points on practical and theoretical CPD activities etc.)

The valid operational registration is a condition on the pursuit of the healthcare activity without supervision. But according to the abovementioned legislation it is also possible to practise the healthcare activity with supervision if the professional does not hold a valid operational legislation.

The Commission has informed us, that according to their interpretation if in Hungary only professionals who are registered in the so called "operational registry" can exercise independently all the activities of the profession in question, only their professional experience can be considered as an "effective and lawful practice" of a profession in the sense of Article 23(1) of the Directive, and only they can receive a certificate on the effective and lawful exercise of the profession.

We would also welcome if the condition of the full time healthcare activity would be put in Article 23.1. of the Directive.

We have experienced similar situations and problems with regards certificate of acquired rights issued by other Member States competent authorities.

- recognition based on the general system.

This system works well, because we can examine the training requirements directly. Sometimes it is hard to find out if a profession is regulated profession in the Member State of origin or not.

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

With the Communications made by the Commission upon the national notifications it is easy to modify the Annex.

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.

In all cases where not all the conditions for the automatic recognition are met we apply the general system for the procedures. When it is necessary we ask our national experts to examine the training requirements/professional experiences of the applicant, and we decide in a preliminary decision (in aware of the expert's opinion) about the conditions of the recognition. We always put a deadline to complete the conditions and inform the applicant about all the necessary information in the decision itself.

In cases falling under the effect of the general system, the applicant always has the possibility to choose between the aptitude test and the adaptation period.

We haven't got any negative feedback concerning nor the aptitude test nor the adaptation period, in some cases the applicant's had problems with their completion because they didn't have the sufficient knowledge of language.

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))?

We've some experiences in case of applicants with EU citizenship who obtained their qualifications in non member states, but recognised/nostrificated them in Hungary and wish to move to another MS. we usually issue them certificates which attest the lawful and effective pursuit of the activity concerned.

We do not have too many experiences from the applications of Articles 2 (2) and 3 (3).

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

The Office of Health Authorisation and Administrative Procedures was founded on 1st April 2003 by the Government in accordance with Hungary's preparation to join the European Union. The Office is an independent centralised national authority, with national competences regarding different administrative matters. Our Office works under the supervision of the Minister of Health.

The Department of Migration and Monitoring works - amongst others - as the Hungarian competent authority with regards to 2005/36/EC Directive on the recognition of professional qualifications for medical professional qualifications:

- this department is responsible for the recognition of most of the foreign medical professional qualifications (EEA countries and non EEA countries)
- it issues different kinds of certificates that are necessary for the recognition of the Hungarian medical professional qualifications in other countries
- it shares information concerning the conditions of the recognition and registration with other competent authorities.

The Office is also responsible for the registration: we have a so-called basic register (diploma register) and an operational registry.

A healthcare professional can only practice his/her medical activities in Hungary without supervision, if he/she holds a valid operational registration, otherwise he/she can only practise the activities under supervision.

The Educational Authority/Hungarian Equivalence and Information Centre is the national coordinator and the contact point in Hungary.

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?

We haven't had any queries or applications from dentists concerning the temporary provision of services yet.

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?
- 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?

We do not have too many experiences concerning temporary mobility.

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.

As the number of the notifications concerning temporary mobility is very low, we think that the service providers do not always inform us about their service. The reason might be that they do not know about this obligation, or they find that the procedure is too complicated.

In case of healthcare we think the prior declaration/notification would be essential, because it could only guarantee the supervision of the service, and all the information could be provided concerning it later on, in case of any problems with it.

The system could work more efficiently, if its enforcement was more efficient, like developing some kind of common sanctions in case of not complying with the requirement of prior declaration.

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

We do not charge any fees.

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

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?

We suggest to keep the minimum requirements as simple as possible, but on the other hand they can be able to safeguard patient safety.

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

The regulation is good, but we suggest that just the minimum requirements shall be regulated in the Directive.

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?

When we ask, or provide information concerning the recognition of professional qualifications we have experienced that the mutual trust exists. We found that the competent authorities can work effectively together mostly on a case-by-case basis.

We just had some problems concerning the certificates of acquired rights as mentioned previously.

We also have some problems with countries where the competent authorities are organized on territorial basis because it is sometimes very hard to find out who to ask to get the relevant information.

We exchange information concerning state accredited trainings and qualifications.

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?

Requirement of the continuous professional development exists in Hungary, all the healthcare professionals who want to practise their activities without supervision, are to have a valid operational registration. The registration is valid for five years, and one of the conditions of the renewal is to collect enough credits on CPD activities.

It would be useful, if the CPD elements could be mutually recognized or transferred in each Member States national system because the professionals could benefit a lot from this

possibility. We would welcome the introduction of a common framework of the CPD in the Directive.

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?

Administrative cooperation simplifies the situation of the applicants. We found it problematic that there is no deadline nor sanction in order to answer a question. This results in some cases it is very hard to get the relevant information.

We usually directly contact the competent authority questioned (if we can identify them), but sometimes we try to get the information through other ways like the SOLVIT centre.

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 Office is registered in the IMI system we send and answers questions very often.

We find it a very useful tool to communicate amongst the competent authorities, and we would warmly welcome to make the use of the IMI compulsory for all the MS's competent authorities.

We found that using the pre-formulated questions and also the free text common boxes it is very easy to understand the individual applicant's situations, and we also have very good feedbacks from the applicants, because we are dealing these matters on a fast and effective ways, and they are not obliged to gather all the information personally.

IMI could be used more efficiently, if strict deadlines were built into the mechanism, because in some cases (and from some authorities) the answer arrives very slowly.

We would also welcome the introduction of the alert mechanism into the IMI system also for PQ modul as it already exists for services.

17. How could a professional card (see Recital 32 of the Directive) facilitate recognition of professional qualifications and provision of temporary services?

In Hungary a professional card exists with regards all the healthcare professionals. The card contains the applicant's personal data, data of their qualification and validation of their registration, but does not give any information about neither their training requirements, nor their current professional status. We have an online register concerning the applicants, which is the really genuine and up-to-date source, and not the card itself.

A sophisticated system should be developed to ensure that the information accessed by using the card, or printed on the card are up-to-date.

We find that Europass CVs and certificates of good standing/current professional status are the best source to get the relevant information.

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?

The Healthcare Professionals Crossing Borders initiative (HPCB) has launched some surveys and consultations on this matter to clearly see the national settings on the information sharing.

They identified two types of information sharing: reactive information sharing on case-by-case basis, and proactive information sharing.

Some countries (like Hungary) can only share information reactively, because of the national data protection legislation, until the requirement of proactive information sharing would not be introduced in the Directive itself.

Some other countries send the information (mostly concerning fitness to practice issues) proactively, and we find it very useful to have these information, when it affects some of our registrants.

If we are informed about a case, we can investigate directly whether it has any effect on the registrant under our national law.

The HPCB has a memorandum of understanding on this matter.

We think that the IMI system could also be used as an alert mechanism in this field (it would be similar to the application of the tool with regards the services directive) if proactive information sharing would be compulsory, which would be the fastest and more secured way to inform other authorities.

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?

The sufficient language knowledge is not a condition during the recognition. Certainly, in the general system, if there is a compensation measure (adaptation period, aptitude test) the knowledge of the language is necessary.

In Hungary to be able to pursue the medical activity without supervision the professional should hold a valid operational registration. The sufficient knowledge of the language is one of the conditions of the applicant's registration.

We did not get any complaints concerning insufficient language skills.

The testing of the language skills are not regulated in the Directive, as the Directive doesn't let the authorities to ask language exams or any proof of evidences concerning the language knowledge. We suggest to modify this article of the Directive.

Evaluating the Professional Qualifications Directive Experience reports from competent authorities

QUESTIONNAIRE FOR THE MEDICAL PROFESSION (DOCTORS & DENTISTS – MALTA)

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 are primarily accepted electronically, but then, the original application form and authenticated copies of the documents requested need to be supplied. These are usually scanned and sent as attachments.

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 system¹. If available, please provide information on the average duration of the recognition process.

Applications, which are duly filled, and provide the whole checklist of documents needed, are discussed during Council Meeting, by the Subcommittee for Applications. In case the members feel the need for further verification, the Registrar goes back to the applicant for more information, or refers to other bodies; but the average duration cannot be provided.

This information has never been recorded.

Malta entered the EU in 2004. Even though the Medical Council has since then abided by this directive, the data requested has not been recorded, and thus it is not available. This data will be recorded as from this year.

3. To what extent have the system of automatic recognition and the general system been a success?

No problems have been encountered

How do you see the costs and benefits?

Procedure followed is primarily based on the information supplied by the applicant and verification through IMI and internet with foreign regulatory bodies are quite efficient.

Specify in particular whether automatic recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:

- automatic recognition based on diploma
- automatic recognition based on acquired rights
- recognition based on the general system.

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

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

There were no problems with the lists in Annex V. This has actually created a basis for an efficient recognition.

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

Yes, either the course of study is assessed or else applicants are asked to sit for an examination or for an adaptation period.

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.

Since the applicant will be granted registration only if one successfully passes the examination or successfully completes the adaptation period, the Medical Council ensures that the his/her qualifications are up to the standards of the Directive

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 problems have arisen to date but decisions on status on good standing should be automatically transmitted throughout the EU to ensure that migrants do not abuse of the system.

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

The Medical Council is an independent body concerned with the registration of Medical Practitioners and Dental Surgeons, and for the recognition of qualifications.

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 Medical Council registers these medical practitioners as temporary service. This data is not available. We started to record it for year 2010, and to date we have 26 doctors on Temporary Service

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?
- 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?

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

Local law follows the Directive to the letter.

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.

The Medical Council considers this a reliable system, since unfortunately some doctors fail to make such declarations, especially those accompanying tourist groups

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

Yes, but only with respect to Article 4.

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.

This is assessed by a separate Specialist Accreditation Committee (SAC) which is a legal independent entity that assesses both the individual's specialist training and the specialist training programmes.

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?

Conditions specified are very generic. All training programmes for primary degrees are under the supervision of the both the Education Ministry and the Medical Council to ensure adherence to stipulated standards.

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?

The medical council accepts that trust is of vital importance. As it assumes that its decisions are not unnecessarily questioned, nor does it questions other regulatory bodies.

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?

It is not a legal requirement as yet but most academic professional bodies have it as a requirement for membership

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 Medical Council has had no difficulty to comply with these Articles and has always found cooperation when seeking information from other regulatory bodies.

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?

Yes. The Medical Council replies to queries forwarded by other foreign councils. This is also a useful tool to find information and addresses of all foreign regulatory bodies, and an efficient and fast way to communicate with them, or instance, to inform them that a Medical Practitioner has been struck off.

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?

A professional card is an ideal tool primarily for temporary service providers. It should be issued by regulatory bodies to facilitate quick communication.

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?

The Medical Council received circulars (decision circulars) from the GMC and from the Council of Ireland. We try to inform all regulatory bodies.

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?

Language requirements fall under the jurisdiction of the employer. However, doctors are held responsible for any malpractice due to difficulty in communication with their patients.

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

No, acquired rights had to be taken into account locally so once the responsible regulatory council has applied this directive, the medical council trusts such decisions.

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

QUESTIONNAIRE FOR DENTISTS

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 the recognition of foreign diplomas sent by e-mail or otherwise electronically submitted are not accepted. Only original diplomas or certified copies of the diploma are accepted. The application form needs to be signed by the applicant, a copy is not accepted.

These conditions are almost always met.

Only additional information can be submitted by e-mail.

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.

These are the data we can give to you

Automatic Recognition dentists:

2000	001
2001	091
2002	089
2003	115
2004	102
2005	115
2006	147
2007	079
2008	159
2009	148
2010	113 (till September 2010)

Otherwise:

2000	001
2001	102
2002	097
2003	126

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

The Netherlands

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2004	111
2005	137
2006	160
2007	087
2008	167
2009	159
2010	122 (till September)

For applications for automatic recognition, the duration of the recognition process is 15 days on average. For recognition based on acquired rights the process takes 30 days on average. For recognition based on the general system the process takes longer because advice by an independent professional body needs be asked. This process takes 90 days on average.

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

The system is fast, simple and cost effective.

There are major differences in the education systems of the member states. In some states the level of education is far above the minimum standards while in other states it is not. Language proficiency is essential to be able to function well in a profession.

Since the system of automatic recognition is based on recognition of the primary qualification there is no assurance that the current knowledge and skills of the migrating professional are up to date.

- automatic recognition based on acquired rights

We have experienced problems concerning interpretation of the rules for automatic recognition based on acquired rights.

In case of automatic recognition based on acquired rights it is in principle not possible to verify whether a certificate for automatic recognition was issued rightly and according to Directive 2005/36/EC. However, occasionally verification is possible using a former application file if the migrant applied in the past (before accession of the country of origin) or using information provided by the migrant unasked, like a curriculum vitae. Several times it turned out that certificates for automatic recognition were issued wrongly and not according to Directive 2005/36/EC. For example: the migrant had not been engaged in the activities in question for at least three during the five years preceding the award of the certificate; the migrant had not been engaged in the activities in question effectively and lawfully, as he had been working under supervision; the migrant had been engaged in the activities in question in a third country.

This means that the total number of wrongly issued certificates for automatic recognition must be much higher.

The Netherlands
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- recognition based on the general system.

We concur fully with the answer of Denmark in this respect.

*“Recognition based on the **general system** is good for the migrants, as they have the right to be recognised in other EU member states even though there may be substantial differences in educations. It can, however, often be difficult for the applicant to get documentation with details of the education undergone. The persons in question often have an education that goes back many years. Furthermore translation of documents will often be required, a substantial expense for the applicant.*

Compensation measures are not easily applicable. When applicants do not master the local language (Danish) they have difficulties finding positions for adaptation periods. Having to pass an aptitude test in a foreign language is equally difficult.

It is difficult to have a test system that has to take individual educational deficiencies into consideration and it is very costly.”

We have specific problems with Annex V.

Annex V lists the names of the diplomas that are eligible for automatic recognition. These names tend to change in the countries of origin. It is difficult and time consuming to check with the competent authorities via the IMI system whether the new name is consistent with the name registered in Annex V.

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.

The option of a test is extremely expensive for professions in the health care system. For some of these professions the test would only be used in approx. ten applications per year. Therefore, in situations that there are few recognition requests, aptitude tests are not available. The choice between an aptitude test and an adaptation period should be made not by the migrating professional, but by the host member state's competent authority.

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))?

The Netherlands does not simply follow another member state in its recognition of a third country diploma. The case law supports this practice. Each state has its own recognition procedures.

There are immigrants that will file a request for recognition of their qualifications in multiple member states. There is a concern that these individuals try to use a recognition from a member state where they do not wish to settle, to get recognition in another member state.

The Netherlands

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Some member states issue ill defined declarations concerning the (educational) recognition of third country diplomas. Migrants rely on these declarations in the process of recognition.

Where third country diplomas are the issue, member states should clearly specify in their declarations whether it is a declaration as meant in article 2 (2) or article 3 (3) of the Directive.

The procedure for EU citizens with third country diplomas and at least three years professional experience in the member state that recognized the third country diploma, is clear: according to article 10(g) the general system is applicable in these cases. That is not the case if there is less than three years professional experience in the home member state: in those cases the general system is not applicable and the competent authority in the host member state can apply national law, but has to deal with the request considering the Hocsman verdict. This should be more clear by the directive, for example with an article 42c of Directive 93/16/EEC.

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

The competent authority in cases of registration of professionals with a basic qualification is the Minister of Health Welfare and Sport. The procedure of recognition of professional qualifications is carried out by the BIG-register, that is a part of the government executive agency CIBG (Central Information point Professions in Health Care).

In cases of registration of professionals with a specialist qualification the authority is in hands of Specialist Registration Committees. These committees exercise this authority by order of the Ministry of Health, Welfare and Sport in the Netherlands.

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?

In the Netherlands there is another possibility for professionals who wish to exercise their activities on a temporary and occasional basis. A dentist can work by order of a Dutch dentist. This Dutch dentist is fully responsible for the foreign dentist.

Because of this, EU citizens do not use the 'temporary mobility' provisions to work in The Netherlands. In 2008 and 2009 there were no dentists who used these provisions.

The only instances known to us are the following; in 2006 doctors in service of the Tour de France asked about the provisions. In 2008 a doctor specialist from Czech Republic asked about the possibility, but he did not decide to use the provisions.

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

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We agree with the answer of the General Medical Council of the UK. For "United Kingdom", you also can read "the Netherlands":

"We firmly believe that members of the public have a right to expect that the protection afforded to them by the regulatory system should be the same regardless of whether the doctor practises in the United Kingdom temporarily or permanently. We would wish to require them to provide the same information as other applicants, i.e. asking the applicant to complete a fitness to practice declaration, which enables us to follow-up any issues in relation to potential impairment. There is anecdotal information to suggest that Section 18 is seen as a 'back route' to gaining registration."

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?

The migrant has to provide all the information as mentioned in Article 7 of the Directive. In The Netherlands there is an easier method in place; working under the direction of a Dutch dentist. Many migrants prefer this to the process of temporary mobility.

- 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 temporary and occasional nature of the provision of services is assessed case by case.

As mentioned above, the situation rarely occurs, so we have no experience to base our answer on.

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

We prefer a system where a prior announcement is in place. The system in the Directive is very complicated. There are no cases in The Netherlands where the dentists have sent the declaration after the provision of services has taken place

C MINIMUM TRAINING REQUIREMENTS

10. 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?

We agree with the answer of the CMC of the UK. For "UK" you can read "the Netherlands" and for "NHS" "Dutch healthcare system":

The Netherlands

15-09-2010

“The minimum times for training set out in the Directive are useful, but the lack of overall consistency of approach between member states means that the level of assurance that states can draw from the training obtained by migrants is limited. We have an example of a specialist who gained recognition in the UK under the Directive but subsequently found they requires a further four years of experience to gain employment as a specialist consultant in the NHS in the UK.”

(We have the same problem in the Netherlands.)

11. 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?

Trust will be achieved when competent authorities correctly implement the Directive as well as proper safeguards to prevent abuse of such trust.

Misinterpretation of the Directive can harm bilateral trust. Implementation of the Directive and its effective use is made difficult due to vast differences between national law, which can cause miscommunication between member states.

Training programmes are accredited in the Netherlands. Accreditation in other Member States could enhance bilateral trust when the legal grounds and conditions in Member States are identical. Especially relevant in this regard is that the accreditation institute checks the training programmes regularly and consistently at the at the same (high) level.

12. 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?

Continuous professional training is not mandatory in the Netherlands. In 2009 a system was introduced requiring renewal of registration every five years. This requirement was introduced for basic professions: nurses, midwives and physiotherapists. The same system will be introduced other professions in installments over the next years, requiring professionals to meet minimum working condition every five years. The professional that does not meet the minimum conditions is required to follow training before renewed registration.

For specialists a system of recertification was instated years ago. The registration of all specialists, including general practitioners, is valid for five years. After five years, the specialist has to prove that he/she actually did work in his/her profession for at least 16 hours per week during the period of five years and took part in accredited CME activities for at least 40 hours per year. For dentist specialists this system started in 2008.

We agree with the answer of the CMC of the UK.

“The Directive as it currently stands does not allow competent authorities to assure themselves that the doctors and healthcare professionals they register have kept their skills and competence up to date since the award of their professional qualifications. The inability of member states to obtain such assurance at the point at which they register or license a doctor to practice inevitably weakens the level of confidence that competent authorities can have in the fitness to practice of doctors entering the host state.”

D. ADMINISTRATIVE COOPERATION

13. 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 will likely speed up and simplify the procedure, and allows competent authorities to exchange information directly and safely – without any need for the migrant to send in his/her personal documents.

We also refer to our answer to question 16.

We prefer the direct communication between competent authorities, without involving the migrant in question. Especially where pending restrictions are concerned the IMI can perform a vital function.

14. 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?

Yes, the BIG-register and the specialist registration committees – the Dutch competent authorities - are registered with IMI. In case of doubt or when additional information is needed, we refer to IMI.

Our opinion is that the IMI is a useful and reliable tool to communicate with other competent authorities. Use of IMI can speed up procedures and often negates the need for further correspondence with the migrant, or for the migrant having to submit documents; IMI allows communication with competent authorities that otherwise would be difficult to reach, that would not respond within certain time limits, or with whom no communication would be possible due to language barriers.

On the other hand, IMI is not always user-friendly, and national law and discrepancies between systems of recognition (many national competent authorities exist for one profession) sometimes make the use of IMI challenging.

Suggestions for improvement of the IMI:

- 1. Registration with IMI should be mandatory for all competent authorities.*
- 2. All competent authorities should be required to use IMI and respond within a given time limit.*
- 3. IMI could be made more user-friendly, by (i) improving the interface (clustering and highlighting questions - some questions are used more often than others); (ii) implementing a system to monitor incoming and outgoing requests; (iii) improving the translation tool; (iv) implementing the option to identify competent authorities by profession (in all languages).*

The Netherlands

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15. 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?

In our opinion, a "professional card" does not have any added value to facilitate recognition of professional qualifications. The development of such a system would be very expensive, while keeping the information contained in the card up-to-date would be nearly impossible. Furthermore, developing a European database would be difficult and expensive when taking into account that every professional would need to get a card while only a few would practice their profession in another Member State.

It seems that professional cards are meant mainly to address problems at a national level that are not prevalent in all Member States. In the Netherlands, a public, online, current directory is made available: a professional may demonstrate his/her qualifications by submitting a registration number.

Two professional card systems are imaginable with regard to recognition of professional qualifications:

- 1. A card that contains data, or:*
- 2. a card that provides access to a database.*

With a card that contains data, the problem arises that data may not always be up-to-date. Also, this system would be more susceptible to data fraud. With a card that provides access to a database, the problem arises that competent authorities must maintain such a database. With a European database, a few problems would likely arise, such as: language barriers, the effort of keeping the data up-to-date, and differences in interpretation with regard to data. Furthermore, there is no added value when the card is meant to be used to access data through a closed network, because of the existence of the IMI. Member States are able to provide each other with information through use of the IMI, and may incorporate such data in a national database. Subsequently, employers and civilians or patients would be able to refer to such a national database.

Even a professional card will not prevent fraud and abuse. Furthermore, the card may imply the holder of that card to be qualified when this is not actually the case.

When taking into account the number of migrants vis-à-vis the number of residents, the costs versus the benefits of introducing and maintaining a card system linked to a European database would seem disproportionate.

Maintaining both a professional card system and a public online up-to-date database would be confusing and inefficient. Employers and civilians or patients should use the register, while competent authorities should exchange information through IMI directly.

From the viewpoint of cost reductions and efficiency, we feel it would make more sense to invest in the development of public, central databases in each Member State, while using IMI for the direct exchange of data between Member States.

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

The Netherlands

15-09-2010

The General Dental Council of England and the Dental Council of Ireland inform us about disciplinary action or criminal sanctions taken.

Other Member States only inform us incidentally in this regard.

Dutch decisions with regard to disciplinary action or criminal sanctions are made available online, at: www.bigregister.nl.

The Netherlands are a partner in the Health Care Professionals Crossing Borders (HCPB) partnership. The Netherlands therefore issue Certificates of Current Professional Status (CCPS) according to the HCPB agreement. The CCPS, issued by the competent authority of the home member state, should be made a compulsory document to be carried by a migrant health professional within the EEA.

E. OTHER OBSERVATIONS

17. 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?

Language skills are considered an essential part of the work quality of a professional. When a doctor, dentist, nurse, midwife or pharmacist has received recognition from the government, he or she may immediately start working in the Netherlands.

Complaints have been received by the BIG-register and the specialist registration committees about insufficient language skills of migrating health professionals who were granted registration under the Directive on a regular basis. It is incomprehensible to employers and insurance agencies that a migrant can be recognized and registered even though he or she does not speak the Dutch language.

HJS
2010-09-15

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

QUESTIONNAIRE FOR DENTAL 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?**

Currently applications are to be made personally at the regional chamber of physicians and dentists (or by proxy) or sent by regular post as the main documents have to be provided in original hard copy versions and the application and certain statements have to be hand signed by the applicant.

In the course of the recognition process applicants often send additional documents by e-mail or by fax and later provide originals, this way shortening the duration of the proceedings.

The Polish administrative law envisages that applications may be made online or by e-mail with the use of a secure electronic signature. The application should include at least the applicant's name, address and request and be accompanied with the secure electronic signature. The competent authority is eligible to communicate with the applicant via internet as an official channel, including official correspondence, provided that the applicant has agreed to it. In fact this method has not yet been used by the doctors applying for recognition. However the competent authorities commonly use e-mails to provide information in the field of recognition of qualifications.

- 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.**

According to the data submitted by the regional chambers of physicians and dentists the number of positive and negative decisions of automatic recognition of qualifications of dentists between 2007 and 2009 was the following:

	2007	
	Basic training	Specialist training
Positive decisions	4	2
Negative decisions	1	-

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

	2008	
	Basic training	Specialist training
Positive decisions	6	-
Negative decisions	-	-
	2009	
	Basic training	Specialist training
Positive decisions	3	2
Negative decisions	-	-

The above number of decisions includes recognition based on diplomas and based on acquired rights.

We have no analysis of the average duration of the recognition process. It varies between cases, often depending on how promptly the applicant provides additional documents or competent authorities from other Member States provide requested information.

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

System is efficient and provides no real problems – good administrative co-operation between competent authorities is the key for smooth operation of this system.

However, as regards Annex V it indicates only documents that are currently issued by Member States and is not always fully up-to-date as the notifications of changes are sometimes submitted and published with delay. Hence there are problems with denominations of diplomas that are not indicated in the Annex.

A solution could be to elaborate additional Annex with “historical” information, i.e. including denomination of documents that have been issued in the past and indication of the period of their issuance.

- automatic recognition based on acquired rights

Doubts may come up as to which competent authorities should certify that the migrant meets the requirements for the recognition based on acquired rights – migrants are not always aware which authority in their member State may issue this certificate and on which basis.

There should be more clarity as to the definition of “effective” and “lawful” exercise of the profession as these terms may be differently interpreted between Member States.

- recognition based on the general system.

See response to question 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 Poland in relation to those situations that are set out by art. 10 (b), (d) and (g) of the Directive 2005/36/EC, i.e. when:

- migrant does not meet the requirements of effective and lawful professional practice for recognition based on acquired rights,
- migrant applies for recognition of qualifications as a specialist in the field not covered by automatic recognition,
- migrant meets the requirements set out in Article 3(3) of the Directive (evidence of formal qualifications issued by a third country recognised by a Member State and three years' professional experience).

In other cases not covered by automatic recognition a different procedure is in place (nostrification of a diploma by a Polish medical university, completion of post-graduate internship and passing the State Dental Exam).

The competent authority for recognition of qualifications of dentists falling under the general system is the Minister of Health (exception from the general rule that the competent authorities are regional medical councils). The Minister of Health acts in accordance with the provisions of the law of 18 March 2008 on the rules governing recognition of professional qualifications acquired in EU Member States. A task force of experts (including a representative of the medical self-government) is set up in relation to every application and on the basis of its opinion the Minister of Health makes a decision on the recognition.

The choice between an aptitude test and an adaptation period is restricted – the choice is made by the Minister according to the findings of the experts.

To date the Minister of Health has not received any application for recognition of qualifications of dentists within the general system. Hence, we are not yet in a position to provide comments on the recognition procedure under the general system.

- 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))?**

Professional qualifications of EU citizens obtained in a third country and already recognised in a first Member State who meet requirements set out in art. 3 (3) are recognised under the general system. The main aim of the general system for the recognition of evidence of training is to compare whether education profile completed abroad is similar to Polish, including duration and curriculum of the training. The application should be submitted together with appropriate documents certifying the dentist's training and qualifications, as the Minister of Health bases his decision on

the evidence provided by the dentist. The Minister of Health makes decision on recognition the dentist's qualifications only when he is convinced that the duration of the training and forms of acquisition of knowledge and practical skills correspond to the Polish program of dental training. Otherwise, the Minister of Health refuses the recognition. When justified, final decision may depend on completing compensatory measures.

This procedure may seem to foreign dentists as complicated. Especially, when compared with the procedure of automatic recognition. To date not much experience in this regard. We receive many requests for information on recognition of professional qualifications obtained outside the EU and already recognized in one of the Member States. However no application has been filed so far. It appears that complicated procedure discourages possible applicants in this situation.

When requirements of art. 3 (3) are not met, e.g. not enough professional experience, the other procedure, mentioned in response to question 4, is applied.

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

In Poland the competent authorities in charge of the recognition of qualifications of dentists are the bodies of the professional self-government of physicians and dentists – the regional medical councils (organs of the regional chambers of physicians and dentists).

There are 23 regional medical councils in Poland (and in addition a Military Medical Council with nationwide competence; further on the term "regional medical council" will include the Military Medical Council as it has the same scope of tasks as regional medical councils).

The regional medical councils receive applications for recognition of qualifications obtained in other Member States. They make decision on the recognition and award the right to practice the profession in Poland.

The regional medical councils receive declarations related to the exercise of professional activities on a temporary and occasional basis and maintain a register of dentists temporarily exercising the profession in Poland.

The regional medical councils also provide certificates envisaged by the Directive 2005/36/EC to dentists who qualified in Poland and seek recognition in other Member States.

Within the Polish Supreme Chamber of Physicians and Dentists a Centre of Recognition of Qualifications has been established in order to co-ordinate the actions in the field of recognition and to support the regional medical councils and individual dentists. Regional medical councils in the course of proceeding with applications may ask for the opinion of the Centre regarding the documents submitted by the applicant. Regional medical councils also contact the Centre with other questions regarding application of the system of recognition of qualifications.

The Centre collects information related to recognition system, stays in contact with competent authorities in other Member States (often asking for specific information or clarifications on behalf of the regional councils or individual dentists), as well as provides information to dentists seeking recognition in Poland or in other Member States.

As an exception, in case of qualifications of dentists falling under the general system the competent authority is the Minister of Health (see information under question 4). A migrant provides the regional medical council the decision of the Minister and on its basis the council awards the right to practice the profession (when basic training is recognised) or indicates the right to use the specialist title (when specialist qualifications are recognised).

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?

In 2009 regional medical councils did not receive any declarations from dentists intending to exercise their professional activities in Poland on a temporary and occasional basis.

We have no data on the number of dentists established in Poland who exercise profession in other Member States on temporary and occasional basis. However, the regional medical councils have not been requested to issue certificates confirming that the dentist is legally established in Poland and is not prohibited from practising, as envisaged by art. 7 (2) (b) of the Directive. This would imply that dentists established in Poland are not availing themselves of this system.

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?

The dentist intending to exercise the profession in Poland on temporary and occasional basis has to hold the evidence of formal qualifications obtained in a Member State and has to be entitled to practice the profession in another Member State without limitations.

- 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 regional medical councils are aware that they should assess the "temporary and occasional basis" criteria in every individual case. However, to date we have no practical experience with that.

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?

The prior declaration system is necessary, as it enables the competent authorities to be aware of the individuals intending to exercise the regulated profession of dentist in its territory.

Firstly, the competent authority may check – by contacting the authorities in other Member State when necessary – whether the given professional indeed has the necessary professional qualifications and is entitled to exercise the profession in the other Member State. Thus the competent authority may take appropriate actions in order to prevent exercise of the dental profession in its territory by professionals who are not entitled to this, and that is most of all in the interest of patients' safety.

Secondly, on the basis of a declaration the regional medical council runs a register of dentists temporarily and occasionally exercising the profession in Poland (a kind of automatic temporary registration envisaged in art. 6 (a) of the Directive). This way the council may supervise the exercise of the profession and if needed apply disciplinary provisions.

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

We have so far not received information about dentists temporarily exercising the profession in Poland without sending any declaration whatsoever.

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 Polish Chamber of Physicians and Dentists shares the ever more common opinion that a more medical orientation of dental education is needed which should result in the need for curriculum changes in the content and form of the 5 years' dental training (in fact, during the pre-accession assessment of Polish dental curriculum, to our surprise, representatives of European Commission and experts from Member States emphasized that there was too much medical training in the Polish dental curriculum and this was one of the basis for declaring that before 2003 dental training in Poland was not meeting the requirements laid down in the EU law). We support the opinion of the Council of European Dentists that the minimum training requirements for dentistry should be updated to reflect the scientific progress and professional needs and the proposition (expressed in CED Resolution on Annex V.3/5.3.1 of Directive 2005/36/EC adopted in May 2010 and forwarded to the European Commission) to amend Annex V.3/5.3.1 of Directive 2005/36/EC by introducing changes that reflect scientific and technical progress achieved in dentistry since the last revision of the Annex.

In Poland there are 7 dental specialties. In some other EU Member States there are also more than the 2 dental specialties, currently listed in the Directive 2005/36/EC. Hence it would be worth to consider broadening the scope of automatic recognition of dental specialties, which is now limited to oral surgery and orthodontics. The automatic recognition of dental specialties between these Member States, wherein more than 2 dental specialties exist, would be advantageous to dentists and would serve to underline their additional professional qualifications. The recognition of qualifications in specialized medicine is currently much wider than in specialized dentistry and, given the developments in dentistry, also dental specialties should be recognized in an easier manner. Recognition under the Directive 2005/36/EC gives individual dentists more rights than possible bilateral agreements in that field between respective Member States.

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?

The standards of undergraduate dental training in Poland are laid down in a regulation of the Minister of Science and Higher Education. Medical universities are supervised by the Minister of Health. The State Accreditation Commission evaluates the quality of higher education.

The curricula of specialist training are elaborated and updated by a group of experts nominated by the Minister of Health. The Supreme Chamber of Physicians and Dentists gives an opinion on the draft curriculum. Finally it is endorsed by the Minister of Health and published by the Medical Centre of Postgraduate Education. Specialist training may be delivered only by institutions approved by the Minister of Health.

As regards continuing dental education, the providers and programmes are accredited by the chambers of physicians and dentists.

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?

Continuing professional development is an essential component of professional qualifications of dentists. Therefore the provision of art. 22 (b) and the recital 39 requiring Member States to make arrangements for the continuing education for dentists has to be maintained.

In Poland continuous dental education is mandatory for dentists by virtue of the law. A credit-points system is applied over a 4-year period - every 4 years dentists have to collect 200 credit points by attending practical courses, lectures, seminars and congresses.

Continuing education is administered by the chambers of physicians and dentists. The contents and quality of continuing education courses are supervised by regional chambers.

Some institutions in Poland are entitled to provide continuing professional education by virtue of the law (e.g. medical universities, institutions entitled to provide specialist

training). As regards other providers of continuing professional education events, they have to be registered by the chambers.

The chambers also confirm that a dentist has fulfilled the obligation of collecting the credit points. Educational events attended abroad may be recognized in Poland and the points accredited according to the Polish points scale.

Another problem relates to dentists who have not been practising the profession for a longer period of time and intend to recommence their professional practice. It is clear that a dentist with an extensive break in his professional practice should undergo some sort of verification of his current professional knowledge and skills.

In a case of a dentist who had not been practicing the profession and applies for recognition and the right to practice in another Member State, it is not clear what actions may be taken by the competent authority in that State. For example under Polish law a dentist who had not been practising the profession for more than 5 years and intends to recommence professional practice is required to complete additional "refreshment" training before taking up again the exercise of the profession. The duration and curriculum of the training is determined by the regional medical council on a case-by-case basis. In our opinion this procedure should also apply to a dentist from another Member State.

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 co-operation is of the utmost importance in the process of recognition of qualifications – quick exchange of reliable information helps to speed up the procedure and that is in the interest of the migrant.

Generally, we are experiencing proper administrative co-operation with authorities from other Member States. Most of our enquiries are thoroughly responded to, although sometimes with delay, which in turn has a negative effect for the applicant. It is often possible to gather the relevant information promptly in direct contact with the competent authority without involving the applicant.

In case where for a given profession there is more than one competent authority in a Member State their tasks and territorial competence should be clearly indicated. This would facilitate easier and faster contact.

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?

All the regional chambers of physicians and dentists as well as the Supreme Chamber are registered with IMI and use it on regular basis, both responding to (more often) and sending out requests for information. To date 40 requests were sent to the chambers in Poland, whereas the chambers themselves sent out 12 requests. 39 requests are closed, 13 are still being processed (the data comprises requests related to the professions of a doctor and a dental practitioner).

The IMI is in many cases useful tool to gather necessary information. However, in more complex cases it is more convenient to use other tools of communication (e-mail, post, telephone) in order to clarify the matter. The pre-defined questions in IMI are sometimes not suitable and there is not enough space to put additional remarks. Anyway, the big advantage of IMI is the easily accessible updated database of competent authorities.

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?

A professional card could facilitate recognition of professional qualifications and provision of temporary services in case of dentists who fulfil all the conditions for recognition or temporary provision of services, i.e. hold the evidence of formal qualifications indicated in the relevant annexes and meet the requirements regarding good repute and character.

In other cases the migrant would still need to provide additional documents – certificates issued by competent authority. And sometimes direct contact between competent authorities in order to clarify certain doubts would still be inevitable.

It should be possible for a professional card to carry all the data necessary for the recognition procedure (qualifications, good standing etc.) and this data should be updated by the competent authorities on regular basis. That however might be problematic, given the number of various possible situations.

In Poland the professional self-government (chambers of physicians and dentists) by virtue of the law maintains a register of physicians and dentists with all the relevant professional data on each professional registered in Poland. This way, the chambers are in possession of all the data that would have to be contained in a professional card. Hence from a formal point of view the chambers in Poland are in a position to issue professional cards to Polish dentists.

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

With regard to a dentist registered in Poland pending disciplinary actions, imposed disciplinary or penal sanctions or other limitations to the right to practice the profession are always indicated by the regional medical council in the so called Certificate of Good Standing (issued on the basis of Annex VII point 1 (d) of the Directive). This way competent authorities in other Member States are aware at this at the point of registering the dentist, as they always require submission of this certificate.

There is, however, a problem when the action is commenced or the sanctions or limitations imposed after the dentist has also been registered in another Member State. The regional medical council may send such an information only to the competent authority of a Member State wherein the dentist practices or intends to

practice the profession. And usually dentists do not inform their respective regional chambers in which other Member State they are also exercising the profession. A solution to this could be, when competent authorities in Member States would be informing each other on regular basis that they have registered a dentist coming from another Member State.

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

Such an information about disciplinary action, criminal sanctions or other serious circumstances regarding a dentist registered in Poland is forwarded to the regional chamber wherewith the dentist is registered.

On this basis the regional chamber should take up actions to determine whether this could be a basis for disciplinary action in Poland under the Polish law. However, it is often problematic to proceed in a case like this, as it is difficult (and could be costly as well) to gather the evidence which is available only abroad.

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

Yes, there have been cases of dentists registered in Poland who were subject to disciplinary proceedings in other Member States and certain sanctions were imposed. We are occasionally informed of such cases, but only by a small number of the Member States (usually the UK and Ireland).

As indicated in question 18, this kind of information is forwarded to the regional chamber wherewith the dentist is registered in order to take up actions to determine whether this could be a basis for disciplinary action in Poland under the Polish law. No such proceedings, however, have been completed to date (as indicated, in a case like that it is difficult to gather the necessary evidence).

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 order to be awarded the right to practice the profession of a dentist in Poland an applicant has to declare in writing the knowledge of Polish language to the extent necessary to practice the dental profession. The regional medical councils do not require any additional proof. However, when the statement made by the applicant seems to be clearly false (the applicant does not speak Polish at all or very poorly) the council having awarded the right to practice may commence the sort of fitness to practice proceedings that could lead to limiting the dentist's entitlement to practice the profession until he learns the language.

We are not aware of complaints about insufficient language skills of migrants.

In general, as regards the language skills, there should be more clarity as to the application of the language requirement in various Member States. The authorities

should clearly know what level of language skills can be demanded and how it can be tested and the applicants should be aware what can be required from them.

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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?

The Finnish National Supervisory Authority for Welfare and Health (Valvira) accepts only applications for the recognition of foreign diplomas that have been signed by the applicant. Valvira accepts only certified copies of diplomas and other official documents. No documents or declarations are accepted electronically.

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.

The yearly number of positive decisions:

2000	13
2001	10
2002	12
2003	13
2004	24
2005	37
2006	35
2007	25
2008	30
2009	63

Very few negative decisions have been made. The exact yearly number of negative decisions is not available.

The information whether the decision has been based on automatic recognition (diplomas, acquired rights) or general system is not available.

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

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

recognition based on diploma, Annex V and the current notification system represent an efficient way to facilitate automatic recognition. Please submit comments for:
automatic recognition based on diploma
automatic recognition based on acquired rights
recognition based on the general system.

Automatic recognition based on diploma is a simple procedure for applicants and the competent authority. It is also a fast way to get a recognition.

Automatic recognition based on acquired rights is also a simple procedure and a fast way to get a recognition. Valvira has always accepted certificates stating that the applicant has been effectively and lawfully engaged in the activities in question for at least three consecutive years during the five years preceding the award of the certificate. However, it is not defined what effectively and lawfully means. Definitions may vary between Member States.

Recognition based on the general system

If one fails an aptitude test, is it possible to retake it. How many times?

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?

When the conditions for automatic recognition are not met, Valvira always applies the general system. The adaptation period as well as the aptitude test is implemented in national law (Act on Healthcare Professionals 559/1994). The decision on the compensation measure is made by the Valvira.

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))?

If the applicant has been working in the Member State that has already recognised the professional qualifications for 3 years, Valvira has recognised the professional qualifications based on the working experience. If the applicant doesn't have the working experience required in Article 3 (3) of the Directive 2005/36/EC the recognition procedure is similar to the recognition procedure for non-EU citizens who have obtained their qualifications in a non-Member State.

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

When the recognition concerns healthcare professionals according to the Finnish Act on Healthcare Professionals, the competent authority is Valvira. Valvira is an independent office under the Ministry Of Social Affairs and 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?

Valvira has not received any questions or declarations according to the Art. 7 of the Directive 2005/36/EC of applicants concerning the exercising of their 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?

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?

No experience.

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

It is important for patient safety reasons that the national supervisory authority is aware of who plans to practice in Finland.

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?

It has not come to Valviras knowlegde that the minimum training requirements would not be in line with the provisions of the Directive. The Ministry of Education and Culture is the competent authority when it comes to educational requirements.

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

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?

Valvira does not question the authenticity of proofs issued by other competent authorities according to Annex VII 2. However, there has been uncertainty when it comes to proofs about compliance with the directive issued by some Member States. In these cases the training has been completed much before the reference date.

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?

Continuous professional development (continuous training) is mandatory in Finland. According to Section 18 of the Act on Health Care Professionals (559/1994) health care professionals must maintain and improve their professional knowledge and skills required to carry on their professional activity and familiarise themselves with the provisions and regulations concerning them. Employers of health care professionals shall create opportunities for participation in necessary further training for the profession.

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?

Active administrative cooperation is crucial for the functioning of the Directive. Administrative cooperation simplifies and quickens the procedure.

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?

Valvira is registered with IMI. Valvira uses IMI whenever it needs clarifications from a competent authority concerning an application.

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?

A professional card can only work if the competent authority could be sure that the information on the card is reliable and up to date. The professional card could be issued by professional associations if they are a competent authority or they issue the cards in co-ordination with the national competent authorities.

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

Valvira shares information about suspensions/restrictions with the competent authorities of the other Nordic countries.

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

19..Have you had 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?

According to the Act on Health Care Professionals health care professionals must have the language skills required for the performance of their duties. The official languages of Finland are Finnish and Swedish. Citizens EU/EEA countries are not required to provide evidence of their knowledge of Finnish or Swedish for the Valvira. However, employers may require a language certificate as a proof of language skills.

Patients, clients and also employers have complained about insufficient language skills.

Evaluating the Professional Qualifications Directive Experience reports from competent authorities

QUESTIONNAIRE FOR DENTISTS

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?

We accept applications sent by email, but most applicants send in an application form by post. We demand that certified copies of diplomas and other official documents are sent in by post.

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.

Yearly number of applications with positive decisions 2003-2009

2003	2004	2005	2006	2007	2008	2009
46	61	84	133	122	80	88

In 2009 there was 1 negative decision.

We can at present not submit specific data for applications for automatic recognition based on diplomas, automatic recognition based on acquired rights and recognition based on the general system.

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

When the applicant has the qualification listed in Annex V and the training began after the reference date the recognition process is quick and cost-effective.

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

The information in Annex V is not always up to date. The process of recognition could be quicker if the Annex was updated more frequently. It would also be useful to include historical information, including the denomination of the documents that have been issued in the past and when they have been issued.

- automatic recognition based on acquired rights

In some cases we have received certificates stating that the applicant has been working in the Member State of origin when the CV shows that the applicant has been residing in Sweden during that time.

We have also experienced difficulties in certifying professional experience in Sweden since the applicants sometimes do not provide us with the relevant documentation.

- recognition based on the general system.

Recognition based on the general system can be quite complicated, time-consuming and cost-intensive. It is often difficult to get relevant documentation regarding the content of the training and the professional experience. Furthermore translation of the documents will often be required, a substantial expense for the applicant.

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?

Yes, the general system is applied each time the conditions for automatic recognition are not met. When the training is more than one level below in article 11 in the directive there will be a negative decision.

We look at every case individually when deciding upon compensatory measures. When the applicant has chosen an adaptation period he must himself find a place. Knowledge of the Swedish language is normally necessary to successfully go through the adaptation period. No one has yet chosen to take an 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))?

When the professional qualifications obtained in a third country are recognised in a Member State they are automatically recognized in Sweden, thus the three years of experience is not mandatory.

We have experienced difficulties in certifying professional experience in Sweden since the applicants sometimes do not provide us with the relevant documentation.

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

The National Board of Health and Welfare (Socialstyrelsen) is an authority under the Ministry of Health and Social Affairs. The National Board of Health and Welfare is responsible for the registration and supervision of all regulated health care professionals in Sweden.

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 one has yet used this system. We believe that they instead apply for permanent recognition. There might also be persons exercising their professional activities on a temporary and occasional basis in Sweden that are unaware of the procedure or for other reasons refrain from informing The National Board of Health and Welfare.

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?

We do not have any practise since no one has used the provisions. In the regulation incorporating the provisions it is stated that the applicant has to meet all the conditions for practising that profession in the host Member State and is not prohibited from practising that profession.

- 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?

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

To ensure patient safety it is important for the supervisory authority to know when health care professionals are exercising professional activities in Sweden.

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

There might be persons exercising their professional activities on a temporary and occasional basis in Sweden that are unaware of the procedure or for other reasons refrain from informing The National Board of Health and Welfare. We have no evidence of this.

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

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?

It has not come to the attention of The National Board of Health and Welfare that the minimum training requirement would not be 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?

Mutual trust is achieved when competent authorities correctly implement the directive. Misinterpretation of the directive and wrongly issued certificates can harm bilateral trust.

Training programmes are not formally accredited in Sweden, but they must follow nationally regulated curricula, supervised by the Swedish National Agency for Higher Education. There are also regulations stating the responsibility of every caregiver to secure that all their employees have adequate competence and training. Those regulations are supervised by the National Board of Health and Welfare. The high specialization of health-care and the various conditions in the different countries makes it necessary to have this local training. All newly employed health-care personnel should therefore get an introduction to secure that he or she is adequately skilled.

Specialist dental training is regulated by the National Board of Health and Welfare.

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?

All health-care personnel have a responsibility to maintain and improve their professional knowledge and skills required to carry out their profession. As stated under 12 it is also the responsibility of every caregiver to secure that all their employees have adequate competence and training.

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?

Active administrative cooperation simplifies the procedure considerably. The process is quicker and simpler for the applicant as well as for the competent authority.

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?

Yes the National Board of Health and Welfare is registered with IMI. We use it when we need clarification concerning an application. It is a useful tool to communicate with other competent authorities. However not all professions are included in the IMI system and some competent authorities are not in the system. Registration with IMI should be mandatory and more widely used. IMI could be improved to be more user-friendly.

We would also welcome the introduction of an alert mechanism in the IMI system. The system could also be used to proactively share information about suspension/prohibition to pursue the profession.

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?

In order for a professional card to work effectively the competent authorities must be sure that the information on the card is reliable and up to date. We believe that public registers, e.g. web-based searchable lists of authorisation/registrations and/or exchange of information via IMI would be better tools.

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

We believe that the administrative cooperation in this regard could be improved. At present we inform the Nordic countries when a registered health-care personnel has been suspended, disqualified or prohibited from practicing the profession.

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

When we receive information about suspension/restriction regarding a person who is registered in Sweden we forward the information to the concerned local supervisory unit at the National Board of Health and Welfare or the Medical Responsibility Board (HSAN).

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

Yes, information from competent authorities have on several occasions led to suspension/restriction in Sweden.

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?

It is the employer that is responsible for checking the necessary language skills. We have gotten complaints from employers and patients regarding insufficient language skills.

In order to ensure patient safety we believe that it should be possible, when appropriate, to require minimum language skills as part of the recognition procedure regarding health care personnel.
