



MAY 2011

// CED RESOLUTION

REVIEW OF DIRECTIVE 2005/36/EC



// INTRODUCTION

The Council of European Dentists (CED) is the representative organisation of the dental profession in the European Union, representing over 327,000 practicing dentists from 32 national dental associations in 30 European Countries. Established in 1961 to advise the European Commission on matters relating to the dental profession, the CED promotes high standards of oral healthcare and effective patient-safety centred professional practice across Europe.

The CED welcomes the Commission's initiative to launch a debate for the review of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (hereinafter Directive 2005/36/EC).

On 17 March 2010, the European Commission's DG Internal Market asked the CED, as an organisation representing dental profession, to identify six priority questions amongst those indicated in the *"Non Paper – Evaluating the Professional Qualifications Directive – Possible list of main topics"* (hereinafter *"Non Paper"*) prepared and distributed by DG Internal Market.

// PRIORITY QUESTIONS

The CED identified the following points as the most significant to be taken into consideration for the dental profession when reviewing Directive 2005/36/EC, listed in order of importance:

- 1) **2.1 – Science: sectoral professions**
- 2) **1.4 – Recognition for sectoral professions**
- 3) **1.6 – Recognition of third country diplomas**
- 4) **2.2 – Education**
- 5) **1.2 – Temporary mobility**
- 6) **2.4 – New technology**
- 7) **3.2 – Professional cards**
- 8) **1.7 – Administrative cooperation**

Although the European Commission requested only six topics from the *"Non Paper"*, the CED also considered it relevant to express its views on professional cards and administrative cooperation since our views on these two issues were specifically requested by the European Commission.

// 2.1 – SCIENCE: SECTORAL PROFESSIONS

To what extent are the minimum qualifications for seven sectoral professions still up to date in view of scientific progress?

Directive 2005/36/EC lays down minimum training requirements for dentistry in order to enable mutual recognition. It recommends a fulltime dental education of at least 5 years and lists in Annex V.3/5.3.1 the subjects to be taught at dental schools.

However, this list is very old (developed in 1978) and no longer reflects the new trends. In order to adapt and update it to scientific and technical progress, already reflected in most European dental curricula, as well as to ensure the safety of patients, which is indeed a common concern, the CED suggests the following:

- a) Change the old names of subjects to new ones (see *"CED's Proposal for the adaptation of Directive 2005/36/EC"* attached);
- b) Delete certain old subjects that no longer exist in today's dental curricula (see *"CED's Proposal for the adaptation of Directive 2005/36/EC"* attached);
- c) Add new subjects in order to reflect scientific and technological developments (see *"CED's Proposal for the adaptation of Directive 2005/36/EC"* attached);

- d) List and describe minimum competences which a dentist should have acquired by the end of his dental education, in line with the new trends of the profession (see CED's Resolution on "Competences Required for the Practice of Dentistry in the European Union" attached);
- e) Specify under Article 34 paragraph 2 first part of the Directive that dental training should consist of a minimum of 5000 hours of training, implemented in a flexible manner by the Member States and/or by the Universities, as other regulated professions, for instance medical practitioners, already apply this criterion. Therefore, Article 34 paragraph 2 first part should be amended as follows: "*Basic dental training shall comprise a total of at least five years **comprising of 5 000 hours** of full-time theoretical and practical study, comprising at least the programme described in Annex V, point 5.3.1 and given in a university, in a higher institute providing training recognised as being of an equivalent level or under the supervision of a university*";
- f) Stress the growing importance of biomedical subjects in the curriculum while noting that hours of biomedical training should not exceed 40% of its total hours; and
- g) Amend Article 34 paragraph 3 last part of the Directive as follows: "*This training shall provide him with the skills necessary for carrying out all activities involving **health promotion and specific prevention at individual and community level**, diagnosis and treatment **including anatomical and functional rehabilitation of all pathologies and anomalies of the hard and soft tissues of the mouth, its appendages and the stomatognathic system.***"

To which extent is safety of patients sufficiently taken into account in the training of health professions?

Safety of patients is of paramount importance to dental practitioners. The CED has been taking into serious consideration the new challenges faced by the dental profession today, in particular the ageing of European population, the changing burden of oral diseases, the increasing behavioural-related diseases, the cultural diversity, the impact of scientific and technological advancements, and the importance of oral health in contributing to general health and well-being of the population. These challenges were addressed in the CED Resolution on the "Profile of the Dentist of the Future", published in November 2007, whose aim was to ensure that the new dentist could be able to meet the increasingly complex needs of society, practise evidence-based dentistry and, on his own initiative, to partake in further training and professional development, including on patient safety.

// 1.4 – RECOGNITION FOR SECTORAL PROFESSIONS

To what extent has the system of automatic recognition been a success? Is there any downside or have there been any pitfalls?

The CED supports the principle of mutual recognition of professional qualifications for dentists as laid down in Directive 2005/36/EC. However, the CED calls for the unity of the dental training cycle to be maintained. The principles and the guarantees set by Directive 2005/36/EC, ensuring a high quality of training and free movement of dentists, should not in any way be jeopardized nor weakened.

The CED strongly opposes the implementation of the two-cycle structure (Bachelor/Master) for the dental profession and calls on academics and politicians responsible for education and health, for the protection of the public and the dental profession, to exclude dentistry from the two cycles completely, refusing to transform their curricula into the two-tier degree system.

The CED is against any autonomous, independent treatment of patients by non-dentists in the absence of supervision by a qualified dentist and opposes any kind of undergraduate and postgraduate education which gives non-dentists the status of a partial provider of dental services, with the right to practise certain areas of dentistry on an independent basis.

In fact, one of the downsides is precisely the possible risk of having non-dentists working on an independent basis, where there is no control on the extent of tasks executed by these non-dentists and where a patient cannot identify, due to the lack of scientific knowledge, what tasks are non-dentists authorised to perform. In that sense, harmonisation should be envisaged since we cannot have the same category of professionals qualified to execute different medical acts in different Member States, although

they went through the same study programmes (e.g., in some Member States, dental hygienists are only allowed to clean teeth whereas in others they are authorised to perform fillings, a medical act which should only belong to dentists). This problem should be addressed, in order to facilitate professional mobility.

The CED would like to point out that although the European Commission recognizes the importance of the professional groups play in recognition of professional qualifications (Article 59 of Directive 2005/36/EC), the liaison of the professional groups with the Committee on the recognition of professional qualifications does not exist and this situation should be corrected. Professional organisations represented at European level need to be consulted on a regular and official basis.

Furthermore, for the purpose of better fulfilling the remit described in Article 56, paragraph 4(b) of Directive 2005/36/EC, the CED would strongly support the development of a committee at national level composed by representatives of each regulated profession (within the meaning of Article 3 (a) of Directive 2005/36/EC). The following wording in Article 56 paragraph 4 of Directive 2005/36/EC could be envisaged: “(...) *Each Member State shall designate a **committee made up of representatives of each regulated profession whose coordinator will be responsible** for the activities of the authorities referred to in paragraph 1 and shall inform the other Member States and the Commission thereof. The coordinators' remit shall be: (a) to promote uniform application of this Directive; (b) to collect all the information which is relevant for application of this Directive, such as on the conditions for access to regulated professions in the Member States*”.

Through Article 36 paragraph 3 of Directive 2005/36/EC, the European Commission should guarantee that the overall responsibility for investigation, patient information, diagnosis, planning and carrying out therapeutic treatment for diseases of teeth, mouth and jaws, lay solely with the dentist due to the complex medical and scientific knowledge that dentistry requires.

Finally, the CED requests the introduction of the word “*dental*” in recital 20, second sentence, of Directive 2005/36/EC for better clarification and to avoid different interpretations regarding the automatic recognition of dental specialties after the date of entry into force of the directive. In fact, the CED believes that the introduction of this word would facilitate the mobility of dental practitioners between Member States (as specialties would be recognized more easily) and patients would be better informed about the legitimate qualifications of dental practitioners.

What about language requirements?

The CED would like to draw the European Commission's attention to the need to clarify Article 53 of Directive 2005/36/EC in order to safeguard the requirement of the informed consent of patients. The CED believes that the best solution would be the establishment of a standardized method to evaluate the knowledge of host Member State language(s), e.g., the development of a Committee, composed by three members, where at least one representing the professional organisation in question. The Committee would interview the dental practitioner on a case-by-case basis, examining the applicant's ability to understand and speak the host Member State language(s), so that he would be able to:

- a) Take the accurate and comprehensive medical and dental history of the patient; and,
- b) Explain the dental treatment plan to the patient with its advantages and shortcomings.

The patients' interests would be safeguarded and the dental practitioner would be protected from any misunderstanding or dispute which might arise if a patient legally challenged the dental treatment provided.

// 1.6 – RECOGNITION OF THIRD COUNTRY DIPLOMAS

Which problems arise from the implementation of the current provisions on third country diplomas? Do they take account of the increased mobility of students?

The CED would like to express its concern regarding the lack of control of diplomas issued by third countries as well as by Member States. The CED is of the opinion that Directive 2005/36/EC should

establish the obligation for the dental practitioner to practise dentistry independently in his/her home country for at least three years out of the previous five years, prior to gaining access to practise in the host country. This is meant to avoid cases where a dental practitioner had had his training in a third country, had his diploma recognised by his/her home country and started practising in the host country without ever having practised in the home country. The intention is to encourage countries to apply high standards in recognition of dental qualifications from third countries.

Therefore, the CED would strongly suggest that the recognition of a diploma by the host Member State, as foreseen in Article 50 in conjunction with Annex VII paragraph 2 and Article 13 of Directive 2005/36/EC, should also entitle the applicant to have access to practice in his home country. The following wording should be adopted in paragraph 2 of Annex VII of Directive 2005/36/EC: *“To facilitate the application of Title III, Chapter III, of this Directive, Member States may prescribe that, in addition to evidence of formal qualifications, the person who satisfies the conditions of training required must provide a certificate from the competent authorities of his home Member State stating that this evidence of formal qualifications is that covered by this Directive **entitling the holder of this diploma to have access to the profession in his home country, i.e. the country recognising this diploma**”*. Other provisions, such as Article 50, should be adapted accordingly.

// 2.2 – EDUCATION

Can the Bologna process bring about more automatic recognition on the basis of converging training programs? For which economic sectors and related regulated professions in the Internal Market would this be most beneficial?

It is an objective of the Bologna Process to facilitate a comparison of dental qualifications in Europe. However, this objective is already met by Directive 2005/36/EC for the regulated professions.

In fact, up until now, the Bologna Process has not led to greater convergence. On the contrary, it has led to greater inconsistency and non-uniformity of qualifications as European countries and Universities implement the Bologna Process in a very different and differentiated manner.

Surely, the aim of the envisaged European Higher Education Area (EHEA) 2020 will in the long term lead to greater comparability of qualifications. In addition, the establishment of European Credit Transfer System (ECTS) aimed at promoting student mobility may act as a basic instrument of convergence for European dental curricula, contributing to automatic recognition of studies and diplomas, as well as to mobility of graduates, **for academic purposes** (recognition of professional qualifications for purposes of professional establishment shall continue to be based on certification by professional authorities such as Ministries of Health and national dental associations).

However, this does not justify the introduction of Bachelor/Master studies in medicine and dentistry since a bachelor qualification after 3 years education is contrary to Directive 2005/36/EC. A bachelor qualification after 3 years education can never be a relevant qualification for the exercise of the medical or dental professions. The implementation of a two-cycle structure in dental education with the first degree giving access to the labour market could lead to serious problems in the primary oral health care since admission of bachelor-graduates with three years of purely theoretical education and inadequate clinical training to dental practice would compromise patient safety.

According to Directive 2005/36/EC, anyone who wishes to pursue the professional activity of a dental practitioner must hold a qualification attesting a complete period of dental training, which *“shall comprise at least a five-year full-time course of theoretical and practical instruction given in a university.”* The CED strongly supports maintaining this requirement in the interest of patient safety.

In conclusion, the CED is of the opinion that the Bologna process, including the ECTS, is a good system for academic recognition, harmonisation of basic training and free movement of students in the European Union, all of which we strongly support. However, the CED strongly recommends a differentiation between academic recognition, allowing for free movement of students, and professional recognition, allowing for free movement of dentists.

Several European initiatives in the field of education have an impact on the way qualifications are obtained and defined (lifelong training/competence based approach to training/European qualification framework). How do those developments influence the Professional Qualifications Directive?

Once a dental student graduates and after he is qualified to practice dentistry, additional training outside the academic environment is essential in the form of continuing professional development (CPD). CPD is executed very differently in each Member State, for several reasons. It is defined according to each population's oral needs and it can be obtained in different settings. Each dental practitioner chooses his specific lifelong continuing education programme on the basis of his individual, personal and professional interests, as well as his needs. The diversity of continuing education activities on offer and the principle of free choice by the practitioners themselves should be maintained and in line with the policy in each Member Country.

The CED is therefore of the opinion that a regulation at EU level in this respect is not necessary. Directive 2005/36/EC should not regulate CPD. Each Member State should continue to have their own specific rules for CPD which already meet dental practitioners' expectations and are adapted to national oral health needs (principles of proportionality and subsidiarity should apply).

Is there a link between educational reform and a need for strengthening continuous professional development?

The new scientific and technological developments along with changing patterns of oral diseases and oral treatment needs of a specific population apply to both educational reforms of dental curricula and CPD for practicing dentists. The CED has already mentioned above the minimum competences required for the practice of dentistry within the European Union in the future and recommends them to be used to update Directive 2005/36/EC.

// 1.2 - TEMPORARY MOBILITY

How has the new regime for temporary provision of services been implemented? To what extent is it attractive for self-employed persons and for workers?

The CED would like to note that several national dental professional organisations across the European Union have practical problems with provision of temporary cross-border services by dentists for the following reasons:

- Malpractice and the respective difficulty in enforcing disciplinary sanctions;
- Absence of professional liability insurance in some Member States.

For those reasons, the CED is of the opinion that there should be compulsory registration for the free provision of services by a dentist through a simpler mechanism. Furthermore, where the insurance cover for professional liability is not compulsory in the home Member State, the service provider should be denied the right to provide his services in the host Member State, unless there were a possibility for the service provider to be immediately covered by an insurance scheme in the host Member State, or the European Commission could envisage the adoption of another solution on this matter within the Directive.

The CED would support a common definition of the temporary and occasional nature of provision of services throughout the Member States.

The CED believes that the European Commission should find ways for better traceability by the competent authorities and/or national dental organisations of the declaration to be made in advance by the service provider (the dentists), as defined by Article 7 of Directive 2005/36/EC. Furthermore, the exchange of information between competent authorities and all other related bodies (e.g. national dental organisations) within the Member State should be improved and carefully monitored.

Finally, the CED would like to note that the service provider operating in a different Member State should continue to be subject to professional, ethical and bureaucratic codes of conduct applicable in that Member State (the so-called destination principle) – Article 5 paragraph 3 of Directive 2005/36/EC.

// 2.4 – NEW TECHNOLOGY

To which extent do citizens' use electronic means in their contacts with competent authorities (see also Article 8 of the Services Directive)? To which extent is the recognition system adapted to situations where a professional provides services by moving physically and/or by communicating via modern technologies (e.g. telemedicine, videoconferences)?

The CED wishes to stress that the European Commission should develop and/or improve the exchange of information between the competent authorities and all other related bodies (e.g. national dental organisations) of the host Member State by introducing electronic means as established in Article 8 of the Services Directive.

The CED also stresses the need to create adequate technical tools (certified and secure electronic communications means between local competent authorities and national dental organisations) in order to avoid demanding from the service provider the original form or the certified copy or translation of the evidence of professional qualifications.

// 3.2 – PROFESSIONAL CARDS

Under which conditions could a professional card facilitate migration? Is this a feasible project in a foreseeable future? Should it be limited to specific professions?

The CED is of the opinion that the introduction of professional cards for dentists would not facilitate migration. The situations where professionals might use them would be very limited and without guarantee that the data was accurate, updated and trustworthy.

However, if this idea progresses and a compulsory card is adopted, the CED strongly recommends a close cooperation with national and European professional organisations.

Furthermore, national experiences for the implementation of professional cards must be taken in consideration and used. An establishment of a European professional card should be guided by principles of practicality and interoperability with existing national systems, and should avoid creating more bureaucratic requirements to the greatest extent possible.

// 1.7 – ADMINISTRATIVE COOPERATION

Is administrative cooperation amongst Member States effective and comprehensive enough? To which extent does the current use of IMI contribute to the well functioning of the Professional Qualifications Directive?

The CED would support the use of the IMI System for the dental profession and defend increasing administrative cooperation between competent authorities from each Member State. In this regard, the mechanism already in use by the General Dental Council for dental practitioners (i.e. distribution of a list of dental practitioners under disciplinary sanctions) could be taken in consideration.

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