

# Medical Council - Malta

Annual Report 2010

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**MEDICAL COUNCIL**

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## 1 Foreword by the President of the Medical Council

This report is being published in terms of the provisions of the *Health Care Professions Act (Cap 464)*, which requires the Medical Council to publish an annual activity report containing a statement of the activities carried out or pursued by the Council during the year.

The year under review has witnessed a slight change in the Council since the three-year term of office for the elected members was up by 17<sup>th</sup> March 2010 and consequently elections were held in April. I thank past members Dr Alex Portelli MD, MMCFD, Dr Anthony Charles BChD and Dr James Galea BChD for their valuable contributions during their term of office and I welcome new members Dr John Cauchi BSc, MD, FRCS (Edin), FRCS (Paed.Surg), Dr Herbert Messina Ferrante BChD, LDRSCSC (Eng), FICD (USA) and Dr David Muscat BDS (Lond). Dr Charles Mallia Azzopardi MD, MRCP (UK), FRCP (Lond) stepped into the shoes of Prof Godfrey Laferla MD, MRCS, LRCP, FRCS, FRCRCPS, FRCS (Edin), PhD as representative of the Council of the University of Malta. However, due to his heavy commitments, he had to resign and was replaced by Dr Anton Grech MD, MSc(Psych)(Lond), MRCPshy(UK). I heartily encourage these new members in this challenge on the Medical Council.

This report lists in detail the work load of the Medical Council during this past year. Among its achievements, it has concluded pending enquires and proceeded with new ones and has also launched the Guidelines for Medical and Dental Students and the Code of Ethics. I thank those Council members who professionally worked on these projects with dedication. I am sure that these two documents will be of valuable reference and use to all medical/dental professionals and students.

The Council has committed itself to meet with steady regularity to ensure that it functions to the full. Members have also given their contribution in the various sub-committees they form part of and by attending conferences abroad with the aim of broadening the horizons of our Council and acquiring experiences of colleagues overseas. I here take the opportunity of thanking all the Council members for their time and commitment especially the members of the sub-committees, the SAC representative and the member on the Post Graduate Administration Committee.

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Heartfelt and grateful appreciation go to our Registrar Ms Svetlana Cachia BCom (Hons)(Public Policy) for her valuable work and dedication. Ms Cachia efficiently coordinates all the work of the Council, hence ensuring its smooth functioning.

The length of this Report proves that during the year under review, the Council has worked earnestly and untiringly and its aim is to continue to do so in spite of its ever-increasing work load. I can assuredly state that I am satisfied with the good team work and I am confident that this current year will be a fruitful one too since I am sure that the aim of every member is that of rendering the Council efficient and just in its role. Therefore, once more, I would like to express appreciation and gratitude to all the Council members, without whose participation and involvement, the Council would not be able to function satisfactorily.

Dr Josella Farrugia LL.D., Dip.Trib.Eccl.Melit.

President of the Medical Council

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## 2 Composition of the Medical Council:

Year 2010, earmarked the end of the Medical Council's term (2007–2010), and the beginning of the new term (2010–2013). The procedures for the election of five licensed medical practitioners, at least one of whom must be a hospital-based specialist and another a general practitioner, and two licensed dental surgeons as stipulated by the Medical Council (Elections) Regulations 2003, in accordance with the provisions of article 9 (e) and (f) of the Health Care Professions Act, 2003 (Cap 464), were held between March and April 2010.<sup>1</sup>

Moreover, as stipulated by Article 9 (c) of the Health Care Professions Act 2003, Cap. 464, the University of Malta appointed one licensed medical practitioner to sit on the Medical Council for the term 2010 – 2013.

I would like to take this opportunity to thank all Members whose term ended on the 17<sup>th</sup> of March 2010, for the commitment shown during their appointment as Members of the Council, and for their dedication and contribution. I would also like to welcome the new Members, who started term on 28<sup>th</sup> April 2010.

Finally, I would like to thank my secretary, Ms Kristabelle Buhagiar who constantly does her utmost to assist me in my work and strives in proving as efficient and effective service to the Council Members, its stakeholders and the general public.

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<sup>1</sup> Annex 1: Medical Council – Elections March/April 2010, Report by the Election Commissioners, 18<sup>th</sup> May 2010  
[https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/annualreport.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/annualreport.aspx)

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## 2.1 Members of the Medical Council till 17<sup>th</sup> March 2010:

### Members appointed by the Prime Minister

Dr Josella Farrugia LL.D. Dip.Trib.Eccl.Melit. as the President

Dr. John Felice B.Ch.D.

Dr. Alex Magri M.D.

### Members appointed by the Council of the University of Malta

Prof. Godfrey Laferla M.D.,MRCS.,LRCP.,FRCS.,FRCSRCPS.,FRCS(Edin).,Ph.D.

### Members elected by the Registered Medical Practitioners

Dr Michael J. Boffa, M.D., M.R.C.P.(UK), F.R.C.P.(Lond), C.C.S.T.(Derm)(UK),  
M.Sc.(Derm)(Lond), D.Derm.(Lond), D.G.U.M. (Lond)

Dr Doreen Cassar M.D., Dip W.H.(ICGP), Dip PC & GP(Ulster), M.M.C.F.D

Dr Bryan Flores Martin, M.D., M.M.C.F.D, Cert. Diab (ICGP)

Dr. Alex Portelli M.D., M.M.C.F.D.

Dr Paul Soler, M.D., M.R.C.P.(UK)

### Members elected by the Registered Dental Surgeons

Dr. Anthony Charles B.Ch.D.

Dr. James Galea B.Ch.D.

### Members representing the Public – appointed by the Prime Minister

Ms Anna Abela

Mr Charles Messina

### Registrar

Ms Svetlana Cachia Bcom Hons (Public Policy)

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## 2.2 Members of the Medical Council from 28<sup>th</sup> April 2010:

### Members appointed by the Prime Minister

Dr Josella Farrugia LL.D. Dip.Trib.Eccl.Melit. as the President

Dr. John Felice B.Ch.D

Dr. Alex Magri M.D.

### Members appointed by the Council of the University of Malta

Dr Charles Mallia Azzopardi M.D., M.R.C.P.(UK), F.R.C.P.(Lond)<sup>2</sup>

Dr Anton Grech M.D., M.Sc. (Psych.)(Lond.), M.R.C.Psych.(UK)<sup>3</sup>

### Members elected by the Registered Medical Practitioners

Dr Michael J. Boffa, M.D., M.R.C.P.(UK), F.R.C.P.(Lond), C.C.S.T.(Derm)(UK),

M.Sc.(Derm)(Lond), D.Derm.(Lond), D.G.U.M. (Lond)

Dr Doreen Cassar M.D., Dip W.H.(ICGP), Dip PC & GP(Ulster), M.M.C.F.D

Dr John Cauchi, B Sc., M.D., F.R.C.S. (Ed), F.R.C.S (Paed Surg)

Dr Bryan Flores Martin, M.D., M.M.C.F.D, Cert. Diab (ICGP)

Dr Paul Soler, M.D., M.R.C.P.(UK)

### Members elected by the Registered Dental Surgeons

Dr Herbert Messina Ferrante, B.Ch.D., L.D.S.R.C.S.(Eng), F.I.C.D.(USA)

Dr David Muscat, B.D.S.(Lond)

### Members representing the Public – appointed by the Prime Minister

Ms Anna Abela

Mr Charles Messina

### Registrar

Ms Svetlana Cachia Bcom Hons (Public Policy)

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<sup>2</sup> Dr Charles Mallia Azzopardi resigned on 11<sup>th</sup> October 2010 due to pressure of work and was replaced by Dr Anton Grech.

<sup>3</sup> Dr Anton Grech was appointed on 15<sup>th</sup> October 2010.



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## 3 Key Aims of the Medical Council

### Mission Statement:

*“the Medical Council strives at safeguarding patients’ rights and safety: by protecting, promoting and maintaining the health of the general public; by ensuring proper standards in the practice of Medicine; as well as by safeguarding the values and integrity of the Medical and Dental professions”<sup>4</sup>*

The Medical Council is the regulatory body for medical practitioners and dental surgeons practicing in Malta and Gozo. Our mandate is to promote, protect and maintain the health and safety of the public by ensuring proper standards in the practice of medicine. The Council’s statutory functions are defined in the Health Care Professions Act (HCP Act) Cap.464 (2003), which abides by the EU Directive 2005/36, as:

- Administering the systems for the registration and recommend to the President of Malta the granting of licences to medical practitioners and dental surgeons to practice their profession. Patients’ safety is central in our policy when assessing applications by medical and dental surgeons for registration;
- To keep, update and publish the Medical Council Register<sup>5</sup> in respect of the Medical and Dental professions, and also the Specialist Registers of the medical and dental professions;
- To enhance the role of the Medical Register as the single authoritative source of information on medical and dental practitioners, and as a national resource for patients, employers and the professions;

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<sup>4</sup> Mission Statement: Retrieved from the Medical Council Website


[https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/medical\\_council.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/medical_council.aspx)

<sup>5</sup> The Medical Practitioners: Principal Register; the Medical Practitioners: Temporary Register; the Medical Practitioners: Provisional Register; the Dental Surgeons Register and the Specialist Accreditation Register. The Medical Council also holds a list of Medical Practitioner and Dental Surgeons from EU Members States that practice in Malta on a Temporary Service basis. These may all be accessed from our website:

[https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/medicalcouncilregisters.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/medicalcouncilregisters.aspx)

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- To prescribe and maintain professional and ethical standards for the medical and dental professions. The Council aims at offering continuous support and assistance to professionals in ethically performing their role in society;
  - To levy such fees, from its registered medical / dental practitioners, for initial registration and yearly retention fees thereafter; as stipulated in the Legal Notice 330/2006

The Medical Council strives at safeguarding the highest standards of medical ethics, education and practice, in the interest of patients, the general public and the medical and dental professions.

## **3.1 Principal Tasks for the year 2010:**

- Finalising pending inquiries from previous years, tackling new inquiries and ensure to abide by the parameters set within the HCPA 2003 Chap 464 and Legal Notice 38/2009.
- Continue with the development and refinement of the new database, for all medical / dental practitioners, thus ensuring data protection and maintenance.
- Restructuring of the Medical Council Website<sup>6</sup>, aiming at making it more accessible and user friendly.
- Maintain the registers, listed in point 3 above, and routinely uploading them.<sup>7</sup> Taking immediate action when we are notified of a system / technical error.
- Collecting payment of the first time registration fee and the annual retention fee due by medical / dental practitioners according to Legal Notice 330/2006.
- Consistently providing effective and efficient professional regulation so as to ensure and maintain the importance of the Medical Council and its role in society.

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<sup>6</sup> [https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/medical\\_council.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/medical_council.aspx)

<sup>7</sup> [https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/medicalcouncilregisters.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/medicalcouncilregisters.aspx)

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- Taking a leading role in the future development of health care by engaging proactively with the Minister responsible for Health, the administration, institutions within the EU and other stakeholders on issues affecting regulation in Malta.
- Providing assistance and guidance to national and international parties requesting statistical information and other data.

## 3.2 Elections held in 2010

- Holding elections for the new Council's term 2010-2013 as stipulated by the Medical Council (Elections) Regulation 2003, in accordance with the provisions of article 9 (e) and (f) of the Health Care Professions Act, 2003 (Cap 464).<sup>8</sup>
- Holding elections for a representative of the Medical Council on the Appeals Committee for the term 2010-2012 according to the provisions of Article 49(1) (e) (i) of the Health Care Professions Act, 2003 (Cap 464).<sup>9</sup>

## 3.3 Hindrance to Medical Council's activities

The Medical Council occupies a central and delicate role in society. Its activities affect various stakeholders, and thus policies adopted and actions exercised request a dedicated, responsible, efficient and effective management.

However, reality opposes ideals. The tasks and commitments faced by the Council are on constant increase. In fact, this may be outlined by comparing the workload faced during my appointment as Registrar on 6<sup>th</sup> October 2009,<sup>10</sup> and that faced nowadays. Reality only leads to

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<sup>8</sup> Medical Council – Elections March/April 2010, Report by the Election Commissioners, 18<sup>th</sup> May 2010  
[https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/annualreport.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/annualreport.aspx)

<sup>9</sup> Elections for a representative of the Medical Council on the Appeals Committee, July/August, Report by the Election Commissioners, 9<sup>th</sup> August 2010  
[https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/annualreport.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/annualreport.aspx)

<sup>10</sup> The Malta Government Gazette, No. 18,490, dated Tuesday 6<sup>th</sup> October 2009,  
<http://www.doi.gov.mt/en/gazetteonline/2009/10/gazts/GG%206.10.pdf>

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the conclusion that the Council exercises with high limitations which makes the principal aim of performing duties and delivering much more demanding.

- **Lack of Human Resources:**

The Medical Council lacks human resources in order to be able to meet its goals. The Registrar is the only employee employed on a full-time basis with the Council. The Registrar is in a position faced with a diversification of tasks, requiring full commitment and dedication. Ms Buhagiar, secretary to the Registrar is employed on a part-time basis, making it very difficult to cope with all her tasks daily. The Council Members have other commitments and thus strive hard to meet the requirements of the Council and its tasks.

- **Lack of Adequate Offices:**

The Medical Council is situated in a small room, on the first floor, in 181, Melita Street, Valletta. This is absolutely not an appropriate office since it lacks appropriate storage, privacy and other facilities. Moreover, the premises lack facilities for disabled persons, such as a lift.

- **Financial Resources:**

The Medical Council's funds are deposited in a below-the-line account at The Treasury. Being public funds, they are controlled by the Directorate of Public Health Regulations and thus money cannot be spent without their approval. This is a hindrance to financial flexibility which is very important for the Council to meet its autonomous ends.

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## 4 Meetings and Attendances

The Medical Council held 5 Meetings between 1<sup>st</sup> January 2010 and 17<sup>th</sup> March 2010:

	Present	Excused	Absent
Dr. Josella Farrugia	5	-	-
Dr. John Felice	5	-	-
Dr. Alex Magri	5	-	-
Prof. Godfrey Laferla	1	1	3
Dr. Micheal Boffa	5	-	-
Dr. Doreen Cassar	4	-	1
Dr. Bryan Flores Martin	5	-	-
Dr. Alex Portelli	3	1	1
Dr. Paul Soler	2	2	1
Dr. Anthony Charles	4	1	-
Dr. James Galea	1	2	2
Ms Anna Abela	3	1	1
Mr Charles Messina	5	-	-

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The Medical Council held 15 Meeting from 28<sup>th</sup> April 2010 till 31<sup>st</sup> December 2010:

	Present	Excused	Absent
Dr. Josella Farrugia	13	2	-
Dr. John Felice	8	5	2
Dr. Alex Magri	13	1	1
Dr. Charles Mallia Azzopardi <sup>11</sup>	6	2	3
Dr. Anton Grech <sup>12</sup>	3	1	-
Dr. Michael Boffa	13	2	-
Dr. Doreen Cassar	12	3	-
Dr. John Cauchi	14	1	-
Dr. Bryan Flores Martin	13	2	-
Dr. Paul Soler	14	1	-
Dr. Herbert Messina Ferrante	11	4	
Dr. David Muscat	15	-	-
Ms Anna Abela	12	3	-
Mr Charles Messina	14	1	-

<sup>11</sup> Dr Mallia Azzopardi resigned on 11<sup>th</sup> October 2010.

<sup>12</sup> Dr Grech was appointed on 15<sup>th</sup> October 2010.

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## **5 Sub-Committees of the Medical Council and Representatives of the Medical Council on other Committees**

The Sub-Committees do preliminary work on behalf of the Council. All sub-committees act under powers delegated to them by the Medical Council.

- **Sub-Committee for the hearing of Inquiries**

This committee was composed from the President of the Medical Council, Dr. Josella Farrugia as chairperson, while Dr. Anthony Charles, Dr. Alex Portelli, Dr. Paul Soler, Mr Charles Messina and Ms Anna Abela as members, until 17<sup>th</sup> March 2010. Afterwards, this committee was composed from Dr. Josella Farrugia (President) as chairperson; Dr. Paul Soler and Dr John Cauchi (as Medical Practitioners members); Dr John Felice and Dr Herbert Messina Ferrante (as Dental Surgeons members); and Ms Anna Abela and Mr Charles Messina (as members representing the Public)

- **Sub-Committee for Registration of the Medical Practitioners**

This sub-committee is responsible with the task of vetting all new applications of Medical Professionals for registration with the Medical Council, and for the approval of qualification certificates submitted for recognition. This committee was composed of Dr. Michael Boffa, Dr. Doreen Cassar, Dr. Bryan Flores Martin and Dr. Paul Soler until 17<sup>th</sup> March 2010. Within the new composition of the Council, until the resignation of Dr Charles Mallia Azzopardi, this committee was composed from Dr. Bryan Flores Martin, Dr Alex Magri and Dr Charles Mallia Azzopardi. Afterwards Dr Charles Mallia Azzopardi was replaced by Dr Doreen Cassar. Thus at present members are Dr. Doreen Cassar, Dr. Bryan Flores Martin and Dr. Alex Magri.

- **Sub-Committee for Registration of the Dental Surgeons**

This committee is responsible for vetting all new applications of Dental Surgeons for registration with the Medical Council, and for the approval of qualification certificates submitted for recognition. This committee was composed of Dr. Anthony Charles, Dr. James Galea and Dr. John Felice. The new sub-committee are Dr. John Felice, Dr David Muscat and Dr Herbert Messina Ferrante.

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- **Sub-Committee to upgrade the Standing Orders and Erasure Procedures**

The sub-committee was set up with the responsibility to upgrade the Standing Orders and Erasure Procedures in line with the HCP Act and the EU Directives. This committee was composed of Dr. Josella Farrugia, Dr. Bryan Flores Martin, Dr Anthony Charles and the Registrar. Since the new term, the members are Dr. Josella Farrugia (President Medical Council), Dr. Bryan Flores Martin (Medical Practitioner member) and Dr John Felice (Dental Surgeon member) and the Registrar.

- **Subcommittee for the Foundation Programme**

The Medical Council appointed Dr Doreen Cassar and Dr Bryan Flores Martin to be the Assessors for the Malta Foundation Programme. It was also unanimously agreed that they have a fixed appointment to ensure continuity.

- **Subcommittee for the Medical and Dental Examinations**

Applications to the Medical Council from doctors/dentists from non-EU Member States, for the inclusion in the Medical/Dental Register may require the applicant to sit for a Statutory Examination. The Council agreed that both examinations need to be restructured so as to develop a viable procedure. Thus a subcommittee formed by Dr John Felice, Dr David Muscat (Examination for Dental Surgeons), Dr Doreen Cassar and Dr Alex Magri (Examination for Medical Practitioners) was set up in order to design an improved structure for the Medical Practitioners and Dental Surgeons Examinations.

- **Representative on the Specialist Accreditation Committee (SAC)**

Dr Paul Soler and Dr Michael Boffa (substitute) represented the Medical Council on the Medical SAC until 17<sup>th</sup> March 2010. These were then replaced by Dr John Cauchi and Dr Michael Boffa (substitute).

Dr John Felice and Dr James Galea (substitute) represented the Medical Council on the Dental SAC until 17<sup>th</sup> March 2010. These were then replaced by Dr Herbert Messina Ferrante and Dr John Felice (substitute).

- **Representative on the Post Graduate Advisory Committee**

Dr Michael Boffa will represent the Medical Council on the Post Graduate Advisory Committee



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## 6 Participation in Conferences Abroad

- **CODE/FEDCAR Meeting, Friday 4<sup>th</sup> June 2010, Paris**

Dr Herbert Messina Ferrante represented the Medical Council at this meeting.

Annex 3: report presented to the Council by Dr Herbert Messina Ferrante

- **2<sup>nd</sup> Meeting of the Informal Network of Competent Authorities, Friday 2<sup>nd</sup> July 2010, GMC London**

Dr Doreen Cassar represented the Medical Council at this meeting.

Annex 4: Report presented to the Council by Dr Doreen Cassar.

- **Meeting of European Dental Competent Authorities, Wednesday 8<sup>th</sup> September 2010, General Dental Council, London**

Dr David Muscat represented the Medical Council at this meeting.

Annex 5: Report presented to the Council by Dr David Muscat

- **3<sup>rd</sup> Meeting of the Informal Network Of Competent Authorities for Doctors, Monday 13<sup>th</sup> September 2010, Berlin**

Dr Doreen Cassar represented the Medical Council at this meeting

Annex 6: Minutes of the 3rd Meeting Informal Network of Competent Authorities for Doctors, Berlin, 13<sup>th</sup> September 2010

Annex 7: Presentation 3: Temporary Mobility

Perspective from Malta, by Dr Doreen Cassar

Annex 8: Berlin Statement

- **FEDCAR Autumn Meeting, Friday 5<sup>th</sup> November 2010**

Dr Herbert Messina Ferrante represented the Medical Council at this meeting

Annex 9: Minutes of the FEDCAR meeting on 5 November 2010, Madrid, FEDCAR (to be approved by the Members at next FEDCAR meeting)

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- **HPCB 2010 Meeting: ‘The Future of Professional Qualifications: Balancing Mobility and Patient Safety’, hosted by the Hungarian Office of Health Authorisation and Administrative Procedures, Budapest, Hungary, Monday 29<sup>th</sup> November 2010**

Dr Bryan Flores Martin represented the Medical Council at this meeting.

Annex 10: Report presented to the Council by Dr Bryan Flores Martin

- **Meeting of the Committee for the Recognition of Professional Qualification, Tuesday 7<sup>th</sup> December 2010, Brussels**

Dr David Muscat represented the Medical Council at this meeting.

Annex 11: Report presented to the Council by Dr David Muscat

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## 7 Examinations for Non-EU Doctors / Dentists for registration in Malta

### 7.1 Medical Practitioners Examination

The Medical Council appointed Mr Charles Messina to act as the Examination Coordinator. The Medical Practitioners Examination was held on Tuesday 4<sup>th</sup> May, at the Medical School.

The table hereunder illustrates the number of applicants and the results obtained:

DATE	NUMBER OF APPLICANT	RESULTS	
		PASS	FAIL
04/05/2010	4 candidates sat for whole examination	1	3

Due to the fact that the present structure of this examination needed change, it was decided that the resit Medical Practitioners Examinations will be not held in September 2010.

### 7.2 Dental Surgeons Examination

Due to administrative reasons and inconclusive discussion held between the Medical Council and parties concerned, the Examination for Dental Surgeons was not conducted during year 2010.

### 7.3 Subcommittee for the Examination

According to the EU Directive 2005/36/EC 'at least two aptitude tests should be organised per year', for both Medical Practitioners and Dental Surgeons.

The Medical Council aims at meeting these requirements in a transparent and reliable way. Thus a Subcommittee for the Medical and Dental Examination was set up in order to re-design the Medical Practitioners examinations structure and in order to set up the Dental Surgeons examination.

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## 8 Registrations in 2010

In year 2010 the Medical Council registered<sup>13</sup>:

Register	Gender		Total
	Female	Male	
Medical Practitioners: Principal Register	24	34	<b>58</b>
Medical Practitioners: Temporary Register	9	18	<b>27</b>
Dental Surgeons Register	3	4	<b>7</b>
<b>Grand Total</b>			<b>92</b>

Total Number of registered Medical Practitioners and Dental Surgeons as at 31<sup>st</sup> December 2010<sup>14</sup>:

Register	Gender		Total
	Female	Male	
Medical Practitioners: Principal Register	439	1023	<b>1462</b>
Medical Practitioners: Temporary Register	11	27	<b>38</b>
Dental Surgeons Register	67	140	<b>207</b>
<b>Grand Total</b>			<b>1707</b>

<sup>13</sup> Taken from the Medical Council Registers database

<sup>14</sup> Taken from the Medical Council Registers database

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## 9 Publications in 2010<sup>15</sup>

### 9.1 Legal Notice

- **L.N. 273 of 2010:** Health Care Professions Act (Chap 464) – Practice of Concurrent Professions (Amendment) Regulation, 2010, *Government Gazette of Malta No. 18,589 - 07.05.2010*

### 9.2 Addendum to the Code of Ethics

- **Addendum 3:** Title of Professorship (05.05.2010)

### 9.3 Circulars:

- Circular 01/2010: Information provided to Patients about the AH1N1 Vaccination
- Circular 02/2010: Annual Retention Fee as at 2009
- Circular 03/2010: Title of Professorship
- Circular 04/2010: Medical Council Registration
- Circular 05/2010: Inquiry Decisions taken by the Medical Council
- Circular 06/2010: Annual retention Fee Payment - Bank Standing Order
- Circular 06(2)/2010: Additional information to set up a Bank Standing Order
- Circular 07/2010: Prescription and Dispensing Requirements Rules
- Circular 08/2010: Standard Operating Procedures

### 9.4 Others Documentation:

- **Guidelines for Medical and Dental Students: Professional Values and Fitness to Practice – December 2010**

Tribute is to be given to Dr John Felice who drafted these guidelines and to the Council members for their contribution in finalising this document.

During a ceremony held at the Medical School, Mater Dei Hospital, the Medical Council officially presented the 'Guidelines to Medical and Dental Students on Professional Values and Fitness

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<sup>15</sup> These may all be accessed from the Medical Council website, under the section 'Law & Circulars': [https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/lawsandcirculars.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/lawsandcirculars.aspx)

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to Practice', to the Deans of the Faculty of Medicine and Surgery and of the Faculty of Dentistry, and the respective Presidents of the Medical and Dental Students Associations.

The role of the Medical Council is that of safeguarding the values and integrity of the Medical and Dental professions, as well as upholding patients' rights and safety. During this event it was emphasized that professionalism has long been passed on by the attitudes and characteristics of role models in the profession. Today this has gained importance and has become a study which is also taught.

The aim of the Medical Council is that students start on their ethical and professional development early on in their path to become professionals. It was also emphasized that Medical and Dental teachers, are to be good role models and help the students along the path to professionalism and integrate these guidelines into the informal and formal curriculum.

The Faculties and Representatives of the Associations were thus encouraged to distribute a copy of these Guidelines to all students and new students in the years to come. This document is available online on the Medical Council website, under the section 'Law & Circulars'. A hard copy can be collected from the office of the Medical Council.

- **Code of Ethics on Advertising and Financial Conduct by Medical/Dental Practitioners – July 2010**

Tribute is due to Dr Doreen Cassar who drafted this Code of Ethics and to the Council members for their contribution in finalising this document.

The Medical Council published the 'Code of Ethics on Advertising and Financial Conduct by Medical and Dental Practitioners', aiming at offering guidance to all those involved in the Medical and Dental Profession on their Advertising and Financial Conduct.

This document is available online on the Medical Council website, under the section 'Law & Circulars'. A hard copy can be collected from the office of the Medical Council, or sent by post upon request.

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## 10 Complaints, Inquires, Criminal Proceedings and Court Cases

Notwithstanding any measures taken by other entities with respect to Medical / Dental Practitioners, the Medical Council is bound by the provisions of the HCPA Chap 464 Art. 32(1)(b) to initiate any Inquiry it deems necessary.

Complaints are discussed during Council Meetings and a decision is taken whether further action is deemed necessary, that is whether to hold an Inquiry or not. If a decision is taken to hold an inquiry the relative sub-committee is entrusted with the task of hearing the case and reporting to the Council for its final decision. The decision is communicated to the parties during a Council meeting.

### 10.1 Complaints

#### 10.1.1 Complaints pending from year 2009:

- **MC/02/2009**

A complaint was raised in front of the Medical Council about a Medical Practitioner who was advertising his profession on a company website. The Council is still discussing this item and is working on a policy about web advertising.

Case status: Pending.

- **MC/08/2009**

The Medical Council received a complaint from a Medical Practitioner through the office of Fair Trading about allegedly unfair practices by other medical/dental professionals and commercial entities (the latter providing services in tour operations, travel, holiday and tourism). The Council met the medical/dental professionals concerned for their clarification. However the Medical Council is still discussing this matter and it is working on a clear position.

During this year, the Council held a meeting with the Director Marketing Support & Development, Malta Tourism Authority (MTA), so as to discuss various problems which emerged on such occasions, and to outline the fact that the medical and dental professions are not to be transformed into an economic business. Such merit their status as safeguards of health and wellbeing of the Maltese citizens and of foreign patients. The representative of the MTA was thus referred to the documents that needed consultation, all found on the Medical

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Council's website, and he was also introduced to the currently discussed issue of Specialists, referring to the HPCA 2003, Article 29.

MTA's aim was to grasp all possible opportunities of Medical Tourism, an economic sector globally growing at a very fast pace, for the benefit of Malta. MTA promised to ensure compliance with the Ethical Guidelines of Practitioners and any other laws. The authority was open for discussion and guidance by the Medical Council. MTA will thus continue to contact the Medical Council for assistance.

Case status: Pending.

- **MC/11/2009**

It has been brought to the attention of the Medical Council that various medical/dental practitioners are allegedly in breach of professional misconduct by their unfair practices. The Council met the medical/dental professionals for their clarification. However the Medical Council is still conducting its investigations so as to arrive at a clear position.

Case status: Pending.

- **MC/45/2009**

It was brought to the attention of the Medical Council that a Medical Practitioner claimed the title of Professor in various instances. The Medical Council received various complaints against this Medical Practitioner on this matter and various queries on his/her position. The Council requested this doctor to provide further information on the matter, and referred to independent bodies, including the University of Malta, so as to be in a position of taking an informed decision. The letter brought in evidence by this Medical Practitioner did not state that he/she held the title of 'Professor' with all rights attributed to this title, but that of 'Visiting Professor' with a foreign University for a specific period. Thus, the Council requested the Medical Practitioner to refrain from using the title of Professor before his/her name, else it will be obliged to take the necessary action. The Medical Practitioner cooperated and confirmed that he/she will comply with the instructions of the Council. The Council was satisfied with this position.

This case enabled the Council to become aware of this issue. Still, the Council needed an official document on which it can act; so that it can contact all doctors in breach of this ethical issue. It is in everybody's interest to be aware of the correct title held by the practitioners.

Case status: Closed



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- **MC/66/2009**

It was brought to the attention of the Medical Council that a Medical Practitioner was claiming the title Obstetrics & Gynaecology Ultrasound Specialist in a local private hospital information booklet. The Medical Council requested the doctor to clarify his/her position so as to proceed with its investigation and examination of the case. This case is still being investigated.

Case status: Pending

- **MC/84/2009**

The Medical Council received anonymous reports that drug abusers are seeking the services of unnamed doctors who issue prescriptions for drugs in professionally unethical amounts. The Council deemed necessary to investigate this case so that action is taken if necessary.

Hence, the Council referred the matter to the parties involved. However, there seemed to be lack of cooperation and in fact, the Council is still waiting for feedback and for any developments in the matter.

Case status: Pending

- **MC/90/2009**

A patient filed in a formal complaint against a Medical Practitioner regarding a statement about his/her accident for lacking to abide by the Data Protection Act.

After conducting the investigations deemed necessary, in the light of the submissions received from both parties, the Medical Council decided that this case merits no further investigations.

Case status: Closed

- **MC/104/2009**

The Medical Council received a complaint from a patient's (of age) parent against the Medical Practitioner who treated the patient after an accident. This complainant accused the Medical Practitioner of not conducting the indicated medical tests before issuing the medical certificate. The Medical Practitioner submitted his/her position on this matter, informing the Council that the parent was not present at the said visit.

The Council discussed the fact that if unprofessional behaviour was alleged, it is the patient, who is an adult, needs to file a complaint. It was decided that this matter merits no further investigation, and thus the MC will not pursue the case further.

Case status: Closed

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- **MC/106/2009**

The Medical Council received a complaint from a Medical Practitioner who on various occasions encountered a card, targeting tourists, offering free medical service during a set time range; and in one instance the complainant was not paid for the service. This card also illustrated a mobile contact number through which the Medical Council was enabled to proceed with its investigation.

The Medical Practitioner informed the Council that the company was in contractual agreement with tourist agencies to provide clients one complimentary medical visit for which the agency pays the company directly. He/she also informed the Council that any medical cards in the tour operator welcome packs had been withdrawn from all packs two weeks prior to this letter. The Council decided that this case merits no further investigations.

Case status: Closed.

## **10.1.2 Complaints received during year 2010:**

- **MC/01/2010**

The Medical Council received a formal complaint against two Medical Practitioners who owned an internet website for advertisement and unethical behaviour. It was decided that this case needed further investigation and thus both practitioners were requested to clarify their position. After having discussed this case intensively, in the light of the submissions received and the outcome of the investigation conducted, it was decided that this case cannot be pursued further. This complaint does not fall under the remit of the Medical Council since it concerned an advertisement made by a company and not by the Medical Practitioners themselves.

Case statue: Closed

- **MC/16/2010**

A Medical Practitioner informally requested the Council to take action against another Medical Practitioner who published offensive articles, against complainant. Still, the complainant failed to file in a formal complaint as per Subsidiary Legislation 458.08 (Erasure of Names Procedure Rules)

Case Status: Closed

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- **MC/39/2010**

The Medical Council received a complaint against a Medical Practitioner for alleged unethical behaviour. Having conducted its preliminary investigations, it was decided that this case merits an Inquiry.

Case Status: Inquiry (refer to section 12.2.5)

- **MC/37/2010**

A Medical Practitioner informed the Medical Council that he/she had received an anonymous letter, attaching his/her article published on a local newspaper, displaying obscene comments. He/she requested the Council to take action.

Since the complainant, was unable to provide the Council with concrete evidence to be able to act upon, this case could not be investigated further.

Case status: Closed

- **MC/61/2010**

A complaint was filed, by a third party on behalf of the patient, against a Medical Practitioner requesting the Medical Council to take appropriate action.

The Council evaluated and examined the circumstances of this case. It was concluded that in this case there is no unethical behaviour, and thus it will not be pursuing the matter further.

Case status: Closed.

- **MC/62/2010**

A complaint was raised from a patient about the unprofessional behaviour of a Medical Practitioner. The Medical Council carried out an extensive examination of the circumstances of the case and found that there was no case for further investigation.

Case status: Closed.

- **MC/99/2010**

The Director General Public Health Regulations forwarded to the Medical Council a letter of complaint from the Director, Environmental Health, against a Medical Practitioner who issued sick leave certification to one of its public servant employees for any action deemed necessary.

Back in January 2009, the Medical Council requested the Department of Social Security to amend the present Medical Certificate, such change being beneficial for both the patient and the Medical Practitioner. To date the proposed adjustments have not yet been made.

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In view of this event, the Council concluded that this case merits no further investigation since such complaints are still being received due to this shortfall.

Case status: Closed, *but the Council will continue to persue the matter further with the Director of Social Security.*

- **MC/100/2010**

A newspaper article showing a Medical Practitioner's article accompanied by his/her photograph was brought to the attention of the Medical Council to take action needed. The Council informed the Medical Practitioner that this article is interpreted as advertisement, therefore being in breach of the Code of Ethics. He/she was advised to refrain from repeating this action, else the Council, will be obliged by law to take further action.

Case status: Closed

- **MC/101/2010**

A complaint was raised from a patient's daughter about the unprofessional behaviour of a Medical Practitioner, who was also the daughter in law of the patient. The Medical Council carried out an extensive examination of the circumstances of the case and found that there was no case for further investigation.

Case status: Closed.

- **MC/103/2010**

Various adverts published on a number of village feast booklets illustrating full details of a Dental Surgeon, including a photograph, and the clinic opening hours were brought to the attention of the Medical Council. The Council informed the Dental Surgeon that these articles were interpreted as advertisement, hence being in breach of the Code of Ethics, and requested him/her to clarify his/her position. His/her reply triggered various issues that needed further clarification and thus the Dental Surgeon was requested to attend a meeting in front of the Council.

This meeting allowed the Dental Surgeon to better explain his/her position. In view of the explanation given, there was no need for the Council to proceed with its investigations. The Council was satisfied with the position taken by the Dental Surgeon provided that such situation does not repeat itself.

Case status: Closed

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- **MC/117/2010**

A complaint on improper conduct was filed by a private company against a Medical Practitioner who issued certification for sick leave to one of its employees. This case originated due to amendments needed in the Medical Certificate, which are still pending at the Department of Social Security. To that end, the Council found no improper conduct from the Medical Practitioner and decided that this case merits no further investigation.

Case status: Closed (same action as in MC/99/2010)

- **MC/129/2010**

It has been brought to the attention of the Medical Council that a Medical Practitioner has been incorrectly addressed as 'Professor' in a local newspaper. The Medical Council requested him/her to clarify his/her position. He/she confirmed of not being aware of this fact. Thus, the Medical Council requested him/her to take remedial action to inform the media and ensure that in future they refrain from referring to him/her as 'Professor'. The Medical Practitioner cooperated immediately, copying the Council in all the correspondence sent on this matter.

Case status: Closed

- **MC/130/2010**

An advert published on a village feast booklet illustrating full details of a Dental Surgeon and the clinic opening hours was brought to the attention of the Medical Council. The Council informed the Dental Surgeon that this article was interpreted as advertisement, thus being in breach of the Code of Ethics. He/she was advised to refrain from repeating this action, else the Council, will be obliged by law to take further action.

Case status: Closed

- **MC/131/2010**

A newspaper article written by a Medical Practitioner, published on local newspaper, was brought to the attention of the Medical Council since this was accompanied by the practitioner's photograph.

Since this was in breach of the Code of Ethics, the Medical Practitioner was requested to refrain from using his/her photograph in future, else, the Council will be obliged by law to take further action.

Case status: Closed

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## 10.2 Inquiries

The Council worked very hard to give out decisions about pending cases that it inherited from the previous Council as stated earlier in this report.

### 10.2.1 Inquiries Decisions Delivered

- **MC/79/2007**

A complaint was raised to the Medical Council by a patient against Dr Franco Mercieca, MC 0224, Dental Surgeon. The Medical Council started an Inquiry for alleged unethical and unprofessional conduct. By the end of the year 2009, the inquiry was at its final hearings.

On hearing the case, it proved evident that Dr Mercieca was attempting to justify his behaviour towards his patient. Dr Mercieca's replies were ambiguous on several occasions and his explanations concerned more his justification to use an expensive restorative material on the patient's teeth to justify the fee he claimed from him. The point in question concerned whether Dr Mercieca treated the patient against his/her wishes. The accused denied but his evidence is blatantly contradictory.

The patient recounts that on the date of the incident, in 2007, he/she walked into the dentist's clinic fifteen minutes before the clinic's official closing hour, because of a minor but urgent problem that had cropped up at that moment and that was causing him discomfort. However Dr Mercieca went further, treating other teeth which were evidently decayed and needed treatment but he was not asked to do this treatment on that occasion, especially with the use of injections which the patient refused to have. The Council also noted with reference to this issue that it is once again the word of the patient against that of Dr Mercieca. However the complainant never said that he/she does not take anaesthetic but that he/she takes it after being prepared for it. He/she repeated this on several occasions. On that day, the patient was not prepared for anaesthetic because he/she only went in for a filling but Dr Mercieca allegedly did other procedures other than a simple filling and he used anaesthetic, against the patient's will, without asking him/her whether he/she was on medication and this is evidenced by the fact that no medication notes are reported in the patient's medical records.

Dr Mercieca's behaviour was considered as unacceptable and against the interest of the patient, a priority to the medical profession. The Council decided that Dr Mercieca's behaviour was in breach of Article 5 of the *Ethics for the Medical Profession*, that is, that: "a doctor must by his conduct in all matters set a high standard".

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This case illustrates a situation where Dr Mercieca failed to:

- Take past medical history prior to start treatment.
- To take Radiographs.
- To inform the patient beforehand of the costs involved.
- Abide by the patient's consent regarding local anaesthetic.

Hence, considering the above, the Medical Council found Dr Franco Mercieca guilty of professional and ethical misconduct in terms of Article 32(1) (b) and (c) of Chapter 464 of the Laws of Malta. Consequently, the Council imposed a suspension of two (2) months, which will come into effect one (1) month from the date of the delivery of this judgement.

The Council delivered its decision open to the public, on Wednesday 19<sup>th</sup> May 2010, 'Meeting Room 4, Administration Block', Mater Dei Hospital, at 12.15pm. Both the complainant and Dr Mercieca, accompanied by his solicitor, were present. Upon the delivery of the decision, Mr Mercieca accused the Council that it did not weigh the facts professionally, and that he would file an appeal in Court. Judge Farrugia informed Dr Mallia, Dr Mercieca's solicitor that he cannot appeal, but had to institute a law suit.

Inquiry Status: Closed; *Dr. Mercieca is contesting the Medical Council's decision in the Civil Courts of Malta. This case is presently being heard in Court.*

- **MC/52/2008**

A complaint was filed in front of the Medical Council against a Medical Practitioner in respect to actions that constitute breach of Article 26 of the Code of Ethics: General Notice for the Guidance of Practitioners. After having discussed the submissions of both parties, the Council decided that this case merits an Inquiry. A sub-committee was appointed.

After various sittings, during which witnesses were heard, and both parties presented their submissions and concerns, it was decided that the Medical Practitioner being investigated is not guilty of the accusation filed in against him, that is, unethical behaviour. Still, the Medical Council concluded that the certificate issued by the Medical Practitioner to the patient's mother was professionally inaccurate.

The Medical Council delivered its decision, open to the general public, on Wednesday 28<sup>th</sup> July 2010, Meeting Room 2, Administration Block, Mater Dei Hospital, at 12.15pm. The Medical Council informed the Medical Practitioner that he/she was not found to be in breach of Article 26 of the Code of Ethics, but reprimanded him/her that it is his/her professional responsibility to ensure that certificates issued to patients are professionally accurate.

Inquiry status: Closed

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- **MC/79/2008**

A complaint was raised by a foreign patient in front of the Medical Council complaining about the unprofessional and unethical behaviour of a Medical Practitioner. After having discussed the submissions of both parties, the Council decided that this case merits an Inquiry. A sub-committee was appointed.

After hearing the evidence, the Medical Council, decided that the Medical Practitioner being investigated is not in guilty of the accusation filed against him, but he/she is to be given a reprimand, warning him/her not to repeat such action in the future. The decision was delivered on Wednesday 28<sup>th</sup> July 2010 at 12.00 (noon), Administration Block, Meeting Room 2, Mater Dei Hospital.

Inquiry status: Closed

## **10.2.2 Criminal Proceedings decided during 2010**

- **MC/07/2009**

The Medical Council received a letter from the Department of Health requesting the Council to state whether the criminal proceedings brought before the Court against a Medical Practitioner would lead to the withholding of the Licence to practice, issued by the Council. The Department of Health had previously referred the matter to the police who charged the Medical Practitioner before the Criminal Court.

The Medical Council decided to hold an Inquiry and a sub-committee was appointed. Both the Council and the Medical Practitioner were assisted by their solicitors. During these hearings, it was assured and proved that the Medical Practitioner has never repeated his past failures, since the beginning of these investigations, which dated back to 2002. These investigations also confirmed that he/she had no intention to violate the ethics of the medical profession.

The Medical Council arrived at its decision after analytically analysed the outcome of its investigations, including submission from the Medical Practitioner and the witnesses called to summon, in the light of the decision taken by the Courts of Magistrates.

The Medical Council delivered its decision open to the general public, on Wednesday 19th May 2010, 'Meeting Room 2, Administration Block', Mater Dei Hospital, at 12.00pm (noon). In conjunction to the recommendation given by the Courts of Magistrates, the Medical Council did not find the Medical Practitioner guilty, but advised him not to repeat the action being accused of.

Inquiry status: Closed



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## 10.2.3 Pending Inquires from previous years

- **MC/D/268**

The preliminary queries have been concluded. Complainant could not be contacted and inquiry had to be postponed several times. The last time the Council received a letter from the complainant was from an overseas address. Considering this situation, it was decided that this Inquiry cannot be continued.

Case status: Closed

- **MC/D/290(a)**

The Medical Council is still investigating a Medical Practitioner allegedly of having supported an application, submitted by another Medical Practitioner, to sit for a post-graduate examination abroad.

Case status: Pending

- **MC/D/290(b)**

The Medical Council is still investigating a Medical Practitioner for having set for a post-graduate examination by producing untruthful and deceptive declarations, and for having called himself/herself a specialist even though not approved by the Specialist Accreditation Committee.

The last sitting was held during the last quarter of this year, and thus the Council aims at delivering its decision by the first quarter of year 2011.

Case status: Pending

- **MC/D/295/2006**

The Medical Council is holding an inquiry on a Medical Practitioner who claimed to be a specialist without holding the specialisation certificate.

Case status: Pending

- **MC/43/2007**

An advocate from a legal firm reported a case to the Medical Council wherein two house physicians (with temporary licence) were involved in a quarrel between them. This case was also reported to the police who took the matter to Court. Medical Council asked the police to keep it posted of any decisions by the Law Courts.

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- **MC/43/2007 (cont.)**

Case status: pending for decision by the Law Courts

- **MC/89/2007**

A court case on a Medical Practitioner was brought to the attention of the Medical Council. Council is waiting for further information from the Courts on this case.

Case status: Pending

- **MC/124/2008**

The Medical Council was informed by the Italian Health Department that five dentists had submitted false qualifications with the logo of the University of Malta. The Medical Council informed the Commissioner of Police and also the Dean of the Faculty for Dentistry at the University of Malta. The case is being investigated by the Italian Fraud Police Section.

Case status: Pending

- **MC/16/2009**

A patient filed a complaint against the way she was treated by a Company Doctor for alleged unprofessional and unacceptable behaviour as regards to sick leave verification. After conducting its analysis and discussing the reply from the said Medical Practitioner the members of the Council agreed that in the present circumstances this case might need an Inquiry so as to be in a better position to take its decision.

However, following further evidence, it was decided that this case needs no further investigation.

Case status: Closed

- **MC/27/2009 (MC/78/2008 – Case considered closed)**

In view of the correspondence received from the complainant party, the Medical Council agreed to open the case for inquiry after the lapse of six months as stipulated in the standing orders. The subcommittee for this case was appointed. The Medical Council proceeded with the Inquiry during the whole year. It aims at concluding its sittings and delivering its decision by mid year 2011.

Case status: pending

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- **MC/56/2009**

A formal complaint was filed by a patient's relative against a Medical Practitioner with respect to the professional fees and the cost of medicines, during a consultation. This complaint was primarily addressed to the Malta Tourism Authority and the Department of Health. Having conducted its preliminary investigations, in 2009, the Medical Council decided that this case merits an Inquiry.

A subcommittee was appointed and the Council proceeded with its investigation, and the last hearing was held in November 2010. The Council aims at delivering its decision during the first quarter of year 2011.

Case status: Pending

- **MC/105/2009**

A formal complaint was filed against a Medical Practitioner for alleged professional misconduct during a consultation in a private hospital in Malta. The Medical Practitioner replied to the Medical Council investigations by submitting his/her position against the complaint filed. The Council evaluated both submissions, and saw that facts stated by the parties do not converge and that both have witnesses. Thus it was decided that this case merits an Inquiry.

The first hearing was set for 21st May 2010, but this was cancelled since, the complainant could not attend. The Registrar was informed that he/she will be away for some months.

Thus, the Registrar informed the complainant that considering the fact that he/she was abroad, the Council needs confirmation that it is still to proceed with the inquiry, and if so, he/she needs to be present for the first sitting. No reply was received.

The President outlined that since the complainant was not cooperating the case can be dropped. The Members thus decided that the case is to be considered closed.

Case status: Closed

## 10.2.4 Inquires started in 2010

- **MC/39/2010**

The Medical Council received a complaint against a Medical Practitioner for alleged unethical and unprofessional behaviour. Having conducted preliminary investigations, it was decided that this case merits an Inquiry. A Subcommittee was appointed and the first hearing was held in November 2010.

Case Status: Pending.

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## 10.3 Court Cases

- **MC/77/2008**

This was one of the most serious cases encountered by the Medical Council. A patient was to undergo an operation by two surgeons, one of them being Dr Johanna vant' Verlaat M.D., Ph.D., here being accused of failing to go to the operating theatre. It was agreed that Dr vant' Verlaat's behaviour was ethically and professionally unacceptable. The doctor/patient trust had been broken.

The members of the sub-committees issued a report and presented it to the Council for its decision. All members of the sub-committee were present during the decision.

**Decision by the Medical Council:** The Medical Council found that Dr vant' Verlaat was found guilty of professional misconduct and will be suspended from the register for three (3) months and fined €10,000 and that the suspension will start a month after the sentence was read by the President of the Medical Council. The penalty was approved nine votes in favour, two against and one abstention.

**Current Status of the case:** Dr. vant' Verlaat is contesting the Medical Council's decision in the Civil Courts of Malta. This case is presently being heard in Court.

- **MC/D/262**

This case illustrates a circumstance where Dr. Frank Portelli M.D., F.R.C.S., unethically acted on another Medical Practitioner (the complainant) leading to a series of conflicts. Dr. Portelli was found guilty of professional misconduct.

Dr. Portelli did not attend the hearing during which the sentence was delivered, and then personally collected the decision from the Medical Council's office. Various correspondence were also published on the local newspapers regarding the decision taken by the Council.

**Decision by the Medical Council:** Dr. Portelli was fined 10,000 Euros. If failing to pay within three (3) months, he was to be struck off the register.

**Current Status of the case:** Dr. Portelli filed an appeal in the Civil Courts contesting the Council's decision, but his appeal was turned down by a decision of the Civil Courts in favour of the Medical Council, delivered on 17<sup>th</sup> April 2010.

In the meantime, he filed a Constitutional Case against President of the Medical Council, and this still pending.

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## 11 Important Events and Achievements

### 11.1 Berlin Statement

On 29<sup>th</sup> September 2010, the Medical Council agreed to and became signatory to the Berlin Statement<sup>16</sup> but with reservations to Bullet Point 2 which read:

“- Examine in cooperation with the Competent Authorities appropriate competence assurance mechanisms (e.g. CPD/CME, revalidation, etc) for doctors. This will enhance trust in the recognition of professional qualifications and ensure patient safety by allowing competent authorities to assure themselves that the doctors they register have kept their skills and competence up to date since the award of their medical qualifications.”

The Medical Council Malta communicated that it does not have the infrastructure, in both financial and human resources to process competence assurance mechanisms.

### 11.2 Quality Assurance for the Foundation Programme

The Medical Council, Malta (as the regulatory body for the medical profession) has been entrusted with the Quality Assurance of the Malta Foundation Programme which is an affiliate of the UK Foundation Programme. The Medical Council appointed Dr Doreen Cassar and Dr Bryan Flores Martin for three (3) years starting from October 2009 with the responsibility to carry out this process. Both have gone on separate Quality Assurance visits of Foundation Programmes held by the GMC and PMETB in the UK as observers.

The Foundation Programme Malta is an affiliate of the UK Foundation School. In principle it follows the same aims, methodologies and assessment processes. As the Maltese health service and context is different to that of the UK, nomenclature and structure of the Malta Foundation School may not always be congruent. In essence the Malta Foundation School is quality managed by the Clinical Post-graduate Training Co-ordinating Committee (CPTCC) also known as the Foundation Board. The Malta Foundation School Management Committee quality controls the Foundation programme.

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<sup>16</sup> Annex 8: Berlin Statement

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The Medical Council's purpose is to quality assure the Foundation Programme such that its graduates are considered well prepared to be fully registered by the Council and to ensure that the Malta Foundation Programme retains its affiliation to the UK Foundation Programme.

## **Progress and Achievements**

- **UK Foundation Programme guidelines**

The Medical Council adopted the United Kingdom Foundation Programme (UKFP) guidelines, 'The New Doctor', for the F1 and F2 doctors, to be the standard competences requirements for full registration.

The GMC granted its permission provided that the Medical Council ensures that the regulations on the Foundation Programme fall under its jurisdiction, and are not confused with GMC regulation of the Foundation Programme in the United Kingdom. Whilst a Foundation Programme is being delivered in Malta, affiliated to the UKFP, it is important that at all times it is made clear that the regulation is being undertaken by the Medical Council Malta and not by the GMC.

- **Quality Assurance Process**

The Medical Council's Foundation Programme Quality Assurers carried out a quality assurance exercise of the Foundation School with extensive involvement of all parties concerned and information correlated with the school's own quality assurance data.

It is the aim of the Quality Assurance Committee to report its findings to the Medical Council by mid-year 2011. The report will give feedback to the Foundation School with recommendations and /or requirements. As agreed, the Medical Council will then forward this report to the GMC. The latter has reserved the right to use these reports (and possible visits by its own teams) to quality assure the Malta Foundation School and decide its future affiliation to the UKFP.

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## 13. The Way Forward

- **Guidelines of Penalties**

The Medical Council, with unanimous agreement, decided that there needs to be a set of guidelines on the penalties to be imposed during Inquiries. The Medical Council's legal adviser presented to the Council a paper advising on some sort of sentencing policy or sentencing guidelines where and when the Council arrives at the conclusion that any medical practitioner and/or dental Surgeon has been found guilty by a Board of Inquiry. The Medical Council was guided on the fact that there are pros and cons to having a sentencing policy, or better still, a sentencing guidelines.

The Medical Council will critically analyse and evaluate both options and proceed with adopting the best procedure through which its regulatory role may be exercised.

- **Code of Ethics**

The Medical Council intends to continuously update the Code of Ethics, with the aim of addressing the dynamic environment in which professionals operate.

- **Ethics on the Foundation Programme**

The Medical Council will draft a set of guidelines: Ethics on the Foundation Programme currently, in line with 'The New Doctor' UKFP Guidelines for the F1 and F2 doctors.

- **Examination for Non-EU Medical Practitioners and Dental Surgeons**

The Medical Council aims at meeting these requirements in a transparent and reliable way. It was decided that both examinations need to be restructured so as enhance the current procedure.

A subcommittee formed by Dr John Felice, Dr David Muscat (Examination for Dental Surgeons), Dr Doreen Cassar and Dr Alex Magri (Examination for Medical Practitioners) was set up in order to design an improved structure for the Medical Practitioners and Dental Surgeons Examinations. Members worked on this matter, reporting progress to the Council. It is aimed that the Examination structure is finalised by mid-year 2011.

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## 14. CONCLUDING NOTE

This report seeks to provide an overview of the main tasks performed by the Medical Council throughout the year. The Medical Council operates in a dynamic environment, which requires continuous dedication and commitment towards making medical regulation closer to citizens' needs, thus ensuring a regulatory system which is sensitive to local contexts and which meets the demands that a modern society places on it.

Svetlana Cachia Bcom Hons (Public Policy)

Registrar

Medical Council – Malta



# Medical Council - Malta

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## Annex 1

18<sup>th</sup> May 2010

### MEDICAL COUNCIL – ELECTIONS MARCH/APRIL 2010

#### Report by the Election Commissioners

The Election Commissioners were appointed by resolution of the Medical Council meeting held on the 17<sup>th</sup> March 2010 for the period of one year.

#### Members:

Dr George Depasquale, M.D.

Dr Joseph Farrugia, M.D.

Dr Roy Schembri Wismayer, M.D., D.C.P.D.Bact.

The event proceeded according to the provisions of the Subsidiary Legislation 464.04, Medical Council (Elections) Regulations, Legal Notice 35 of 2004.

The Commission caused a notice to be published in the Government Gazette on Thursday 18<sup>th</sup> March 2010, and all local daily newspapers on Saturday 20<sup>th</sup> March 2010, for the nominations of five (5) licensed medical practitioners at least one of whom must be a hospital-based specialist and another, a general practitioner, and two (2) licensed dental surgeons in accordance was publish on the Government Gazette. This was also uploaded online on the Medical Council site.

The Nominations were received by the Registrar of the Medical Council at the Medical Council Office, 181, Melita Street, Valletta, on Friday 26<sup>th</sup> March 2010 and Monday 29<sup>th</sup> March 2010, between 8.15 and 15.15. Nomination forms for candidates could be obtainable from this office and from the office of the Medical Administrator, Gozo General Hospital, Gozo, or from [www.ehealth.gov.mt](http://www.ehealth.gov.mt).

The registrar received five (5) Nominations for the Medical Practitioners and three (3) Nominations for the Dental Surgeons. These were:

#### Medical Practitioner:

- Dr Michael J. Boffa, M.D., M.R.C.P.(UK), F.R.C.P.(Lond), C.C.S.T.(Derm)(UK), M.Sc.(Derm)(Lond), D.Derm.(Lond), D.G.U.M. (Lond)
- Dr Doreen Cassar M.D., Dip W.H.(ICGP), Dip PC & GP(Ulster), M.M.C.F.D
- Dr John Cauchi, B Sc., M.D., F.R.C.S. (Ed), F.R.C.S (Paed Surg)
- Dr Bryan Flores Martin, M.D.(Malta), M.M.C.F.D, Cert. Diab (ICGP)
- Dr Paul Soler, M.D.(Malta), M.R.C.P.(UK)

#### Dental Surgeons:

- Dr Anthony Charles B.Ch.D
- Dr Herbert Messina Ferrante, B.Ch.D.(Malta), L.D.S.R.C.S.(Eng), F.I.C.D.(USA)
- Dr David Muscat, B.D.S.(Lond)

The number of applications received from the Medical Practitioner was the number needed to fill the vacancies. Therefore elections were not held, and the five applicants were appointed. The nominations received for the Dental Surgeons members exceeded the number of vacancies on the Council and thus an election was needed.

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The ballots for the election for two (2) licensed Dental Surgeons as members of the Medical Council were held by postal ballot according to the mentioned regulation. These were sent between 30<sup>th</sup> March and 1<sup>st</sup> April 2010, together with a covering letter stating the following regulations:

1. Dental Surgeons are to vote by placing a cross (X) against the names of not more than two (2) candidates respectively. Voting for more candidates or putting any other mark on the ballot paper, will invalidate the vote.
2. The ballot paper was to be received by not later than Friday 16<sup>th</sup> April, 2010 at 15.00 addressed to: Medical Council, P. O. Box 115, Triq I-Ifran, Valletta, VLT 1458. Votes received later than this date and time will not be taken into account.
3. More than one vote per envelope, or any other enclosed material with the ballot paper will also render votes invalid.
4. Votes are not transferable and solely intended for the use of the addressee.

The three (3) candidates were informed that the counting will take place on Friday 16<sup>th</sup> April 2010 at 3.30pm, 181, Melita Street Valletta, and that they or their representative could attend.

Votes were collected on the Friday 16<sup>th</sup> March, 2010.

Recapitulation of Ballot Papers for Dental Surgeons:

- Total number of votes posted: 182
- Total number of votes received: 113
- Total number of invalid votes: 6
- Total number of valid votes: 107

Results:

- Dr Anthony Charles Not Elected
- Dr Herbert Messina Ferrante Elected
- Dr David Muscat Elected

Svetlana Cachia Bcom Hons (Public Policy)  
Registrar Medical Council

obo Dr George Depasquale, M.D.  
Dr Joseph Farrugia, M.D.  
Dr Roy Schembri Wismayer, M.D., D.C.P. (Lond), Dip.Bact (Lond), A.M.C.A.P.  
*Election Commissioners Medical Council*

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Annex 2:

9<sup>th</sup> August 2010

## REPRESENTATIVE OF THE MEDICAL COUNCIL ON THE APPEALS COMMITTEE

### Report by the Election Commissioners

The Election Commissioners were appointed by resolution of the Medical Council meeting held on the 17<sup>th</sup> March 2010 for the period of one year.

Members:

Dr George Depasquale, M.D.

Dr Joseph Farrugia, M.D.

Dr Roy Schembri Wismayer, M.D., D.C.P.D.Bact.

The event proceeded according to the provisions of Article 49(1) (e) (i) of the Health Care Professions Act, 2003 (Cap 464). Dr Norbert Vella MD, MRCP, Cert. Neurology ABPN, was informed that his post as representative of the Medical Profession on the Appeals Committee will expire on the 20<sup>th</sup> July 2010, and that a call for nominations will be issued by the Medical Council to fill this post.

The Commission caused a notice to be published in the Government Gazette on Friday 23<sup>rd</sup> July 2010, and all local daily newspapers on Tuesday 26<sup>th</sup> July, 2010 for the nominations of one professional regulated by the Medical Council to sit on the Appeals Committee. This was also uploaded online on the Medical Council's website.

The Nomination forms could be obtained from the Medical Council's Office, 181, Melita Street, Valletta; from the office of the Medical Administrator, Gozo General Hospital, Gozo; or from the Medical Council's site at [https://ehealth.gov.mt/HealthPortal/others/regulatory\\_councils/medical\\_council/medical\\_council.aspx](https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/medical_council/medical_council.aspx).

The Nominations were received by the Registrar of the Medical Council at the Medical Council Office, on Thursday 5<sup>th</sup> August 2010 and Friday 6<sup>th</sup> August 2010, between 8.15 and 15.15.

The Registrar received one (1) nomination by the deadline of 15.15 hours of the 6<sup>th</sup> August 2010, and thus this vacancy was filled uncontested.

**Dr Joseph Xuereb**, MD (Malta) T(GP), MRCGP, FRCGP (UK), Medical Council Registration Number 366, Specialist in Family Medicine, was elected uncontested for the vacancy on the Appeals Committee for the period of three (3) years as from **6<sup>th</sup> August 2010 till 5<sup>th</sup> August 2013**.

Svetlana Cachia BCom Hons (Public Policy)  
Registrar Medical Council

obo Dr George Depasquale, M.D.  
Dr Joseph Farrugia, M.D.  
Dr Roy Schembri Wismayer, M.D., D.C.P. (Lond), Dip.Bact (Lond), A.M.C.A.P.  
*Election Commissioners Medical Council*

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## Annex 3:

### Code Meeting Paris 4<sup>th</sup> June 2010

This meeting was scheduled for the 23<sup>rd</sup> / 24<sup>th</sup> April but due to air-traffic problems it had to be postponed with a change of venue.

I represented the Medical Council and was formally introduced as such. A very cordial welcome was accorded having already had the opportunity of an informal introduction during the pre-meeting coffee.

The meeting was attended by 12 European Countries and 21 participants.

The minutes of November meeting were adopted without modification.

In matters arising out was an interesting item which seems that up till now is STATUS QUO. The relationship between CODE and CED (Council of European Dentists) was discussed following a letter. The CODE Presidency sent to Dr Wolfgang Doneus, CED President, requesting a possible meeting between the two organisations. The latter's reply was that the CED would be discussing the subject in their next meeting on 28<sup>th</sup> / 29<sup>th</sup> May. Though it seemed that CED were not so eager to share a table for discussion, CODE delegates were of the opinion that further attempts for dialogue should be followed up.

An important item was that CODE was to be substituted by **FEDCAR**, i.e., Federation of European Dental Competent Authorities and Regulations.

It was to be registered under the French Law due to expense involved and practicability. The Statute was approved unanimously. Only members of the EU can be full members of FEDCAR with full voting rights.

#### **The aims of the Federation are to:**

Promote the safety of dental patients across Europe by facilitating the sharing of information and good practice in the regulation of dental professionals, and by developing shared opinions on and approaches to new initiatives and legislation at the European Level.

- Promote a high standard of dental care in Europe

Contribute to the safe facilitation of dental professionals' mobility with the EU.

Noteworthy was a letter from Anna Lella from the Supreme Medical Council informing that they will not join CODE but will be following our work.

**The 2<sup>nd</sup> Session** dealt with the 'Assessment of Directive 2005/36 EC' by the President Martin Holohan.

Of particular importance to note was the 'linguistic Knowledge' giving it an importance to be considered in its own right. The recommendation was that any dentists must be able to speak

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the language of the country / region where he / she practices and have a sufficient knowledge of the specific vocabulary that can be needed to liaise with other medical stakeholders in particular in case of emergency.

Competent authorities, professional associations and the general public will be involved in the process which is expected to close in 2011.

**The 3<sup>rd</sup> Session** presented by Barney Murphy, vice President of the Dental Council of Ireland presented the results of how **EU member states deal with applications for registration** as a dentist from EU nationals and persons entitled, to be treated as such who have obtained their primary qualifications in a 3<sup>rd</sup> Country an interesting analysis of responses took place.

**The 4<sup>th</sup> Session:** The debate entered in **Dental Tourism**. A discussion ensued and amended resolution was passed anonymously.

**The members of FEDCAR agree to:**

- (a) Collaborative efforts aimed at improving patient access to safe dental treatment while emphasising the importance of regular dental care;
- (b) Respond to issues, as they evolve related to Dental Tourism;
- (c) Advocate, when satisfied that there may be a case to answer, through their competent authority on behalf of a member of the public when a complaint arises as a result of alleged substandard treatment carried out abroad in another country;
- (d) Ensure that the economic benefits of Dental Tourism are supported by a solid legal regulating framework and strong ethical standards as well by high quality oral health care services.

**The 5<sup>th</sup> Session** dealt with **Dental auxiliaries** namely dental technicians and hygienists. The situation of the different countries was read out with Malta stating that the Medical Council does not register dental technicians and hygienist though they fall under the Council for Professions Complementary to Medicine.

**The 6<sup>th</sup> Session** dealt with the exchange of information on fitness to practice, most countries stating that no such information can be divulged, though things may change in the future.

Before winding up a report about the result of the **HPCB survey in the Portugal agreement** was handed out to the participants present as some had left the meeting. The Portugal agreement is a collaborative voluntary work programme for professional health care regulations from within Europe. It was achieved at the 2007 HPCB Autumn meeting in Lisbon. This agreement sets out a range of actions that provide a framework for voluntary cooperation and the development of professional health care regulation in Europe.

**The Internal Market Information (IMI)** system referred to in the report helps competent authorities to exchange information, but regulations do not always have access to the system.

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**IMI users identified a number of obstacles including:**

1. Trained staff to operate a complicated system.
2. Difficulty of obtaining information outside the system due to restrictive questions format.
3. Inability to transfer request for information, if the organisation does not the correct competent authority.
4. Difficulties related to the fact that some competent authorities are not listed on IMI.
5. Data protection laws prevent the exchange of information in some countries.

Suggestions were made to improve the system amongst which the most significant was making IMI compulsory for all competent authorities subject to directive 2005/36/EC,

The next meeting is to be held in Spain, Madrid, 4<sup>th</sup> / 5<sup>th</sup> November 2010.

Dr Herbert Messina Ferrante  
BChD (Malta) LDSRCS (Eng) FICD (USA) FRSH (Lond)

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## Annex 4:

### Informal Network Competent Authorities for Doctors Meeting of the 2<sup>nd</sup> July 2010 at GMC London

#### Introduction

The Informal Network Competent Authorities for Doctors met on July 2<sup>nd</sup> 2010 to discuss the experience reports from member states on the Recognition of Professional Qualifications. A questionnaire had been sent to all Competent Authorities of member states. The replies to this questionnaire gave important information about the processes and difficulties each member state is experiencing. This meeting focused on the sharing of this information so that the EU Directive 2005/36/EC can be improved.

#### Participants

Austria	Belgium
Cyprus	Denmark
Estonia	France
Germany	Hungary
Luxembourg	Malta
The Netherlands	Poland
Portugal	Slovenia
Sweden	United Kingdom

#### Observers

European Commission: Jurgén Tiedje, DG Internal Market and Services  
An Baeyens, DG Internal Market and Services

Dr Doreen Cassar represented the Medical Council Malta at this meeting.

#### Procedure of Meeting

- Nail Dickson from the GMC formally welcomed all delegates and spoke about the three pillars of the GNC namely: Patient Safety Organisation, Regulation of Medical Education and Fitness to Practice for Medical Doctors.
- Jurgén Tiedje from the European Commission spoke about the EU as a regulator who has undertaken a serious exercise that has to come to fruition by 2012. 2012 coincides with the 20<sup>th</sup> anniversary of the Single Market. The EU Community Laws are now of a certain age. This fact necessitated the gathering of evidence for the EU Directive 2005/36/EC. There will be a EU National Governments meeting on the 26<sup>th</sup> October that will discuss how to relaunch the Internal Market.

The processes leading to this meeting are as follows:

1. Agreed experience reports will become public documents
2. All reports have to be finalised by September 17<sup>th</sup> , this is a first step in the evaluation exercise and more is to come

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3. Terms of reference for a study on EU Directive 2005/36/EC will be ready by the end of June
  4. This study will examine the interaction between
    - Education reforms and registrations
    - Bologna Process
    - European Qualification Process
  5. Questions about
    - the Bologna Process,
    - the minimum hours of study
    - the European credit transfer System (ECTS)
    - and if we should continue with input or output delivery of educational requirements will be addressed.
  6. End of August will see the closure of the tender of study

A book on the implementation of the Directive will be issued.

Mr Tiedje also explained Ms Baeyens and his presence at the meeting. As EU Commission representatives they were there in an observer capacity and would not be taking part in any discussion.

## **Areas of Discussion**

The meeting discussed four areas that are included in EU Directive 2005/36/EC:

- Session 1: Recognition procedure – migration on a permanent basis
- Session 2: Temporary mobility
- Session 3: Minimum Training Requirements
- Session 4: Administrative cooperation and other observations

## **Summary of outcomes**

### **Session 1: Recognition procedure – migration on a permanent basis**

Most member states have no problems with this area. France insists on having face to face meetings with applicants. France takes 1 month for automatic registration and 3 months for the general system. France proposed a harmonisation of training in the EU so that there will be better equivalence. They also propose a harmonisation of 'Title' for faster harmonisation and better patient safety. In France applications for 3<sup>rd</sup> Countries are dealt with by testing the applicant, asking for 3 years of work in an approved service after which the French commission reviews the application and experience of the applicant. This is because they find difficulty in the equivalence of the standard of practice and if they should give full registration or not.

In the Netherlands 3<sup>rd</sup> Country applications have been studied and are found to produce patient safety problems and substantial mortality due to lack of communication.

They have thus devised 4 tests:

- Communication skills
- Basic medical knowledge
- Clinical knowledge
- Clinical skills using simulated patients



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Using this system the Netherlands now have an objective assessment which is outcome based and gives specific advice on the additional education required of the applicant. This system also decreased the additional training time required from three years to one and a half years. Netherlands also mentioned the problems with lack of knowledge of the language.

Malta took up this issue and explained the problem the Directive creates for countries that have two official languages but patients mainly use the mother tongue. The issue of patient safety in this scenario was highlighted.

The EU Commissioners intervened and wanted more information about this situation as the EU had not recognised this state of affairs. They were under in impression that no doctor could practice in Malta unless employed by the state. The situation in Malta of having a state run service and a fee for service sector on which no employer could enforce language parameters was explained. Although the Medical Council Malta could advise employers to have a language test, the Medical Council had no jurisdiction over professionals who once registered sat up work in the private sector.

Malta also spoke about the problem with false documents being found and the referral of this problem to the police. France immediately took up this issue and said that they too have experienced this problem.

The UK emphasised that electronic certificates can cause problems but are a must when a heavy load of applications has to be processed. The GMC deals with this by having random sampling to check for false documents.

## **Session 2: Temporary mobility**

A round table discussion was held on this issue.

Sweden spoke of a situation like Malta with language problems in professionals using the temporary mobility clause.

Mr Tiedje is to take up this problem of the Directive and to try to mangle this by changing the directive to include a Directive to Employers to have language tests. The situation of Malta will be looked into further.

Malta highlighted that the word 'Temporary' has a wide meaning. It posed the question 'when does temporary become more that just that?' this due to the fact that in Malta there are professionals coming over with tourists on a temporary basis but come so frequently that their stay out of the host country is temporary. The EU Commissioners also said that they had not recognised this situation and would be looking into it further.

Cyprus also said that they are facing a similar situation.

## **Session 3: Minimum Training Requirements**

Germany considers no specialist training that is less than 5 years. This causes problems for migrating specialist to register in Germany. It is more so in the sub specialities. In Germany

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there is 24 months of internal medicine prior to any speciality training. After this it is a minimum of 4 years for sub-speciality training.

Germany face problems as not all sub specialities are listed in Annex V of the Directive. They propose that the EU finds a balance between two conflicting interests that of Mobility and that of Patient Safety. Germany proposes a database of training curricula for speciality training in the EU.

The wording of the directive 'adequate knowledge', 'sufficient understanding' and 'suitable experience' is too general and Germany wants more specific wording so that one can check the minimum requirements of the Directive.

Denmark followed up on this and spoke of Trust being good but Control being better.

Denmark concluded that the minimum requirements for training can be changed and that if member states reach commonality there would be no need for a law to be passed.

A discussion followed, the main points being:

- there is a need to move to a competency based outcome for education
- regulatory boards need to achieve conformity
- no assurances for the above could be made at this stage
- trust is good but this cannot be as there is no equivalent quality assurance of education programmes in the EU
- the issue of training in one country and taking exams in another member state was made. There needs to be eligibility criteria to sit for exams in these situations.
- in most member states CPD is a must but not in all. This will cause problems for the countries whose regulatory body does not require CPD.
- revalidation has come in force in most EU countries so what about the others
- there is to be a 5 year system to get evidence on this topic.

Malta expressed that although competency based outcome is the way forward one must be careful insisting in having conformity in speciality programme time lines. This is because of the issue of case mix and case volume being different in different member states. No country should be disadvantaged because of commonality. Outcome based competency meant that doctors are to be fit and safe to practice.

## **Session 4: Administrative cooperation and other observations**

Poland spoke of the problem of certification by UEMS and asked what they should do in processing applications having had education in the Netherlands and an examination in France. They also mentioned the problem of having to process certification of specialities when the speciality does not have a minimum training requirement.

The latter problem is especially seen in countries where there is a first degree level and a second degree level. Both levels are claimed to be specialist level doctors but this is not so in the directive where the title of specialist is specified.

Hungary spoke of the Internal Market Information System (IMI) being an invaluable tool for Competent Authorities. They suggested that the EU should make it compulsory for all Competent Authorities to use. They also proposed that there will be deadlines and sanctions if one does not use IMI.

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Hungary also spoke of the Professional Card which is used in their country. This contains personal data, the date of qualification and validation of registration. However this card does not give information about training requirements nor professional status. They suggested that the only genuine and up to date source is the online register. Hungary also said that their Authority does not test for language.

The UK proposed the use of the IMI to ensure that no false document is accepted by Competent Authorities. This system offers challenges and opportunities but needs to be used. With regards to professional cards the UK recognises that these facilitate mobility but they also are many challenges that are a financial burden and for success all competent authorities need to have a system that reads the chip. The UK feels that introduction of the professional card is a duplication of what the IMI does.

The UK quoted Article 53 'Persons benefitting from recognition of professional qualifications shall have knowledge of language necessary for practising in the host member state. Language knowledge may be assessed in cases of doubt but assessments must be proportionate, appropriate and not systematic'. The UK would like discretion to assess the language proficiency of all potential registrants where the GMC considers it to be in the interest of patient safety. The GMC is committed to work with EU institutions and other Competent Authorities to achieve the necessary legislative changes and or guidance for this issue.

Doreen Cassar  
Medical Council, Malta Representative  
Informal Network Competent Authorities for Doctors  
Meeting of the 2<sup>nd</sup> July 2010 at GMC London

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## Annex 5:

### **The Meeting of the European Dental Competent Authorities, Radisson Blu Portman Hotel London Wednesday 8 September 2010, Attended by Dr David Muscat**

The meeting was attended by fourteen delegates from Europe most of whom were lawyers. The only two dentists were Dr David Muscat from Malta and Dr Gilbert Bouteille from France. The latter had two interpreters.

The meeting was introduced by Mr. Ian Todd GDC interim chief executive and then presented by Mr. Patrick Kavanagh from the GDC.

Mr. Todd started by stating that minimum standards have to apply across the board to allow freedom of movement. Dentists have to be properly trained. Language is important. Since dentists are well paid in the UK and there is still a demand for dentists there are many registrations but this will decrease in future years.

In 2009 the UK registered 841 EEA dentists and in 2010 so far have registered 658 EEA dentists. EEA dentists represent 16% of the overall registered dentists per year.

The NARIK system was originally part of the GDC. The NARIK is the National Accreditation Service for Overseas Qualifications. NARIK gives equivalence to an overseas qualification in the UK.

There followed a discussion on EXPERIENCE REPORTS OF REFUSING TO REGISTER APPLICANTS WITH FIRST DEGREES OUTSIDE THE EU and of compensatory measures for non EU degrees.

**FRANCE:** Foreign degrees go through a certificate of competence. The IMI system is used a lot and information is shared. Negative decisions re registration are costly in terms of handling. An appeal has cost implications. There are few appeals. Non EU dentists have to work 3 years in country origin first degree before being registered in France.

**UK:** There is very little difficulty in automatic recognition. A negative decision is a more costly and complex process. Applicants may not understand or may misinterpret decisions. There were 40 appeals in 3 years. Each appeal costs £8000. The UK does not pursue the applicant for recovery of costs.

A shortfall in the course has to be made up by an aptitude test. This test can only be taken 4 times.

**POLAND:** Registration is administered by the Ministry of Health. There is only one case of appeal still pending. A complaint is filed to an administrative court which looks at formal errors and not subject matter. If an error is found, the case is returned to the competent authority. For non EU degrees the centre of Medical Examinations organizes state exams and state specialist exams. There is either a test or an adaptation period at a credited institution.

**IRELAND:** The Irish have limited experience with this. Refusals are usually as insufficient information is given. The Irish say that they register both EU and non EU applicants if they have an EU degree.

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**DENMARK:** Appeals are to the Ministry of Health. There are not many rejections in the system. In Denmark an aptitude test can be taken 3 times and one has to apply to the Board for a 4<sup>th</sup> attempt.

One has to look at the cost/benefit ratio in the compensation measures. The derogation is to an aptitude test but there is a difficulty in generating such a test. The dentist has to undertake an adaptation period.

**GERMANY:** Due to the different states it is not easy to compare. An aptitude test in German is conducted. Private companies offer a preparation Course.

**PORTUGAL:** The ministry registers dentists but it has no legal power to provide a test. This is done by the University where an equivalence test is conducted. The Portuguese delegate Dr. Filipa Carvalho Marques cited an example of a dentist from Belarus (non EU Citizen) who qualified in Poland before the EU accession of Poland and was refused. He is appealing under directive 2005/36/EU. He has not been registered. The 'acquired rights' issue is up to the state concerned.

**MALTA:** One chance at test

**EUROPEAN COMMISSIONER FOR AUDIT:** Mr. Jurgen Tiedje, head of unit regulated professions of the European commission stated that one has to look at the code of conduct of the states. An aptitude test should be held at least twice yearly. The code of conduct is not legally binding. There are a series of suggested service levels that reflect best practice. How is each state behaving under the directive?

**BILATERAL AGREEMENTS ON RECOGNITION:** UK used to recognize former colonies like Canada, Australia, New Zealand and South Africa but no longer.

SPAIN has an automatic recognition with Colombia but the dentist does not also have the automatic right to live there.

PORTUGAL has no bilateral agreements and is worried about the above.

POLAND was part of the Prague Convention of the former eastern bloc countries such as the Ukraine and the other republics of the former Soviet Union. The convention was enforced even after EU accession. Nowadays the Polish Ministry of Health checks whether the diplomas are authentic or not. Some countries were out of date and there was no harmonization of training.

**EU COMMISSIONER:** Public protection should be the basis of legislation. The directive leaves it open to member states but you must say NO to dentists who do not have minimum requirements. A safeguard is 3 years practice post qualification (article 2).

The first member state to which the dentist applies has to check as to whether the dentist fulfills the requirements. We must move towards common criteria in EU states.

After 3 years of full time practice the case goes to a national co-coordinator and then the competent authority in the member state will confirm the 3 years.

**POLAND:** Dentist and doctors who have not worked for 5 years need re training. The Polish feel that a transposition of national law can solve this.

## **TEMPORARY REGISTRATIONS**

The EU Commissioner made it very clear that the definition means 'up to one year' and not 3 months etc. The declaration should be on the duration and frequency.

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## **TRAINING**

EU COMMISSIONER –There has to be a minimum harmonization of training and compulsory training in subjects and a defined outcome. The duration and accreditation system need a much wider debate.

**UK:** With the BDS there is an emergency exit degree e.g. After 3 years you can qualify as a non practicing degree. E.g. Bachelor of Dental Science- you cannot touch the patient.

On the 14<sup>th</sup> October 2010 the European Parliament will be looking at minimum standards. The EU is dealing with minimal harmonization and not looking for a golden standard. They are viewing this from a labor market point of view and not from a university degree viewpoint e.g. What does one say to those who qualified in the 1990's –you are out of date ?

## **CONTINUING PROFESSIONAL DEVELOPMENT**

IRELAND not mandatory but if there is disciplinary action CPD done will be taken into consideration

DENMARK no mandate to enforce

UK good system with both verifiable and non verifiable CPD in core subjects over a 5 year cycle. Annual returns are asked for and there is a 5 year compulsory return. Dentists with no CPD are removed from the register. CPD has clear learning objectives.

POLAND mandatory with credit points in place. There are no direct sanctions but CPD taken into consideration.

PORTUGAL is in favour of CPD. They cannot apply sanctions as goes against the constitution.

FRANCE has a points system. There is an obligation in the code of conduct. If there is a problem, penalties will apply.

BELGIUM not mandatory.

## **EUROPEAN COMMISSION**

Nurses are keen on CPD and pharmacists have mixed feelings. In the EU CPD not yet mandatory

MALTA not mandatory but the Dental Association of Malta of which Dr David Muscat is Vice President and Public relations Officer organizes CPD via its numerous lectures and courses. CPD Credit certificates issued by the DAM are used by our professionals abroad such as the UK where they are also registered. The Dental Association of Malta also has an excellent indexed journal The Dental Probe. Dr David Muscat is also the editor of this journal. The journal features cases and articles by both local and foreign eminent dentists and doctors and can also be used for CPD in the future. The Journal is sent to all corners of the Globe. Several copies were distributed at the meeting .There was great praise for the Maltese journal which will now be sent to the Portuguese and French dental associations.

Dr Muscat pointed out that the implementation of CPD is simply a matter of logistics. One needs to police it and that requires staff and money. Dr Muscat reminded the British that they had raised their GDC registration fee astronomically when he was working in the UK and the reason was 'the CPD implementation'. The British say that they only employ 3 full timers to administer CPD for 37,000 dentists. However their registration fee remains very high.

## **THE EUROPEAN ELECTRONIC HEALTH PROFESSIONALS SMART CARD**

Dr Muscat pointed out that the Council of European dentists May 2010 CED resolution in their review of directive 2005/36/EC stated that 'the professional card would not facilitate migration as the situations where they may use them would be very limited and without guarantee that the data was accurate, updated and trustworthy.'

The EU commissioner stated that there is a study on the feasibility of the chip in regard to a Belgian company. The cost of the card implementation is about 4 euro without chip and

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considerably more with certification of electronic signatures. Implementation at a national level will be a problem. All competent authorities would deliver such a card. The SMART card is more ambitious. It can be shown to employers. With the card you will know whom to contact in the country of origin. One has to see whether the card can 'stand alone'. The Germans have a card with a digital code. The British state that they cannot connect this to the annual Practising Certificate.

## **ELECTRONIC REGISTRATION**

Mr. Jurgen Tiedje stated that all countries must move towards electronic registration only.

Dr David Muscat strongly disagreed with this and stated that in Malta we have had cases of false Dental degrees we have noticed and which we have alerted the Italian Police about. Also I pointed out that at a recent meeting I had with 'The Malta Qualifications Council' the officials there made a strong point that one has to scrutinize every single notarial certified copy of degree as one would a banknote with all the markings and details. Also I pointed out that there are also corrupt notaries and one must question everything.

## **LANGUAGE SKILLS**

Mr. Jurgen Tiedje stated that language must never be used a barrier. Dr David Muscat stated that the Council of European Dentists has recommended that there should be a standardized method to evaluate the knowledge of host member State Language e.g. a committee of 3 members where one is a dentist. An accurate and medical and dental history is taken for a case and a treatment plan explained to the patient in the language of that country. Language is important to safeguard patient's interests and the dentist protected from any misunderstandings or dispute.

Dr Muscat advised the group that there are British patients coming to Malta to him for dental treatment as they cannot understand their foreign dentist in the UK who has to communicate with an interpreter. He also pointed out that there are many patients in Maltese and Gozitan villages who speak no English and there could be misunderstandings. There has to be knowledge of Maltese to protect the patient, for example, a penicillin allergy. Who is responsible if the patient dies from an allergic reaction?

Mr. Tiedje then agreed that there is a uniform agreement that the language test needs to be implemented.

Examples of language requirements in other countries are

CZECH language test

HUNGARY aptitude test in Hungarian

ESTONIA is responsibility of employer. The Estonian language Board carries out an inspection.

AUSTRIA needs a very good language of German to pass an aptitude test. Proof of language skills required.

LUXEMBOURG says that language skills are not checked.

Dr Muscat produced a statement by Dr Yvette Zahra, a dentist from Malta who was asked to pass three language exams, German, French and Luxembourg when she tried to get registered in Luxembourg. She ended up working as a secretary and eventually returned to Malta. The Maltese will not tolerate this shabby treatment of its graduates.

Dr David Muscat BDS (Lon)  
Medical Council of Malta

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## Annex 6:

### **Minutes of the 3rd Meeting the Informal Network of Competent Authorities for Doctors, Berlin, 13 September 2010**

The third meeting of the Informal Network of Competent Authorities for Doctors was hosted by the German Medical Association (Bundesärztekammer) on 13 September 2010 in Berlin.

Dr Ulrich-Frank Montgomery, Vice-President of the German Medical Association and President of the State Chamber of Physicians of Hamburg, welcomed the 39 participants from 18 competent authorities. Jürgen Tiedje and An Baeyens from the European Commission Directorate General for the Internal Market and Services attended as observers.

The meeting was chaired at the outset by Dr Montgomery and later on by Dr Ramin Parsa-Parsi, Head of the Department for International Affairs, German Medical Association.

Participants approved the note of the second meeting in London (2 July 2010) with the amendments added by Austria and Hungary.

The participants were informed that a statement had been drafted by the Conseil National de l'Ordre des Médecins (CNOM), the General Medical Council (GMC) and the German Medical Association (BÄK) with the aim to support the future cooperation between the competent authorities as well as informing the Commission about the outcome of the network process.

The statement should be further developed during the meeting. The final statement would be sent to the competent authorities of all the other EU member states for endorsement.

Jürgen Tiedje, Head of Unit Professional Qualifications (DG Internal Market and Services), mentioned the 17 September deadline for responses to the Commission questionnaire. The final evaluation will take place in autumn 2011. The final review of the implementation report of the Directive is expected in 2012. He also noted forthcoming activities concerning the Directive:

- 26 October 2010: Interparliamentary Committee Meeting, European Parliament – National Parliaments, Internal Market and Consumer Protection Committee
- Study on the Bologna Process and the European Qualifications Framework and ECTS (European Transfer and Accumulation System)

## **Section A: Recognition Procedure in case of migration on a permanent basis**

### **Presentation 1: Fraudulent documentation – The GMC experience, Claire Barton (GMC):**

Ms Barton reported example cases of fraudulent documentation and other identity fraud instances. She underlined that acceptable proof of identity is e.g. an original valid passport, which makes it possible to ensure facial recognition and nationality. She mentioned the Code of Conduct about not sighting originals, Case Law ECJ ruling C-298/99 and asked whether it is necessary to revisit the Code of Conduct in the name of patient safety.

She noted that there is very limited exchange regarding notifications from other EU member states. The GMC has more exchange with non-European countries such as the US, Australia,



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Canada, South Africa. At the same time, the IMI system is a useful tool to communicate with other regulators. However, a proactive use is not possible and it is not suitable in every case. Additionally, not all organisations are linked to IMI. Primary source verification is done on qualifications and on Certificates of Good Standing too.

## **Presentation 2: Recognition of “third country” professional qualifications of doctors in Poland, Marek Szweczyński (Polish Chamber of Physicians and Dentists)**

Mr Szweczyński presented the recognition procedures with regard to non-EU basic medical qualifications. The general system of recognition of the EU Directive 2005/36/EC is transposed in national legislation in Poland and applicable in case of fulfilment of requirements of Art. 3(3) of the Directive 2005/36/EC. The competent authority is the Ministry of Health. He described the procedure of application of non-EU basic medical training qualifications. Under the general system of recognition there has been no application of “third country” diplomas yet.

Mr Szweczyński also described the national procedures of non-EU specialist diplomas under the premises of Art. 3(3) of the EU Directive 2005/36/EC and outlined the competent authorities and legal basis for recognition in Poland. Holders of non-EU specialist diplomas have to apply to the Minister of Health through the Medical Centre of Postgraduate Training (MCPT).

Dr Montgomery noted that the recognition procedure in cases of “third country” specialist diplomas is very difficult. Doctors in Germany are qualified and then officially registered as physicians, the speciality title then comes on top of the basic qualification.

Norway underlined that “third country” specialist diplomas are evaluated on a case-by-case basis.

The Netherlands noted that the minimum duration of specialist training set up in the EU Directive 2005/36/EC quite often differs from the national specialist training duration which takes longer than the minimum training periods of the Directive.

Dr Montgomery highlighted problems of certification. Malta, UK, Norway, Germany and France mentioned experiences of fraud. They require applicants to show originals, certified copies might be issued by fraudulent authorities. France noted that even originals might be falsified. According to Dr Montgomery, the State Chamber of Physicians of Hamburg requires doctors to present original certificates when the so-called “Arztausweis” (membership and status certificate) is issued.

## **Section B: Temporary Mobility (self-employed and employed doctors)**

### **Presentation 3: Temporary Mobility – Perspectives from Malta, Doreen Cassar (Medical Council of Malta)**

Ms Cassar noted that the definition of “temporary” and “permanent establishment” is quite difficult. She asked whether the provision of temporary services increased or reduced medical errors. The provision of temporary services should take place after fulfilment of prior declaration requirements. At the same time, she underlined that there is a need to define on a common basis what “temporary” means. This is not as clearly defined as the disciplinary rules with regard to the provision of temporary services. UK, Malta and Austria underlined the need for clarification regarding “temporary” mobility.

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Malta and UK agreed to find an appropriate wording for the agreement.

Mr Tiedje noted that the EU Commission would not look for guidance with regard to limited time periods.

## **Presentation 4: Temporary mobility in France, Marie Colegrave-Juge, Adam Tornay (CNOM, CNOM Brussels)**

Ms Colegrave-Juge and Mr Tornay outlined the requirements in cases of provision of temporary services in France. Sufficient language knowledge is required, but they asked how to deal with it in practice. They explained the application procedures and necessary documents to be submitted at the CNOM. The legal basis in France is Article L.4122-7 Public Health Code. The applicant must have EU-citizenship and be established in an EU member state. A prior declaration and the documents have to be submitted to the CNOM before the first provision of service takes place. Service providers are registered in France in a special database. Ms Colegrave-Juge and Mr Tornay gave an overview of the numbers and nationalities of physicians who provide temporary services in France. The definition of “temporary/occasional” is decided on a case-by-case basis.

## **Section C: Minimum Training Requirements**

### **Presentation 5: Considering the content of specialist training in the recognition procedure, Alexander Jäkel (German Medical Association)**

Mr Jäkel presented Germany's experience with minimum training requirements. Content and notified titles are not always comparable with other member states. In addition to the different length of specialist medical training across Europe, there are still some old and obsolete entries for Germany in annex V of the EU Directive 2005/36/EC. Mr Jäkel underlined that missing details about duration and content of national specialist training curricula are a cause for concern. He also presented examples of the so-called “tourism” in the field of specialist medical training. He suggested creating a specific database containing the curricula of specialist medical training. This would be a helpful tool for a better exchange of information and a better knowledge of contents of specialist medical training in the member states. The special database should not be a harmonisation tool, but should clarify details and existing differences regarding length and content of specialist medical training. It could also enhance transparency and patient safety.

Austria indicated that more information exchange regarding contents of specialist training might be useful only in the case of the general system of recognition. However, the automatic recognition system does not need any additional content related information.

The Netherlands mentioned the example of the specialty “radiology”. The specialist training in the Netherlands has a longer duration than the required minimum period of training in the Directive. In cases of automatic recognition, the competent authority in the Netherlands writes a letter containing additional information regarding shorter or longer duration of specialist training (sort of “advice”) to the employer. The Netherlands underlined that there is need for clarification as to what the member states want to do with such a database.

Denmark welcomed the idea of the special database for the national specialist curricula.

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Poland noted that it makes no sense to create a database for the national curricula. He underlined that from a regulative point of view there was no reason for a database.

Mr Tiedje doubted whether such a database would be a useful tool. He asked whether the entries for Germany would be harmonised or “fractional” (for each of the 16 “Länder”?)

Ms Baeyens underlined that automatic recognition is based on the minimum duration of training. It is not possible to harmonise the scope of activity. However, for the specialties that are not entered in Annex V the suggested database might be a positive tool. It could also be helpful for the application of the general system of recognition.

## Sections D and E: Administrative Cooperation and Other Observations

### **Presentation 6: Administrative cooperation and active information sharing, Karin Rösel-Schmid (Austrian Medical Chamber)**

Ms Rösel-Schmid described IMI as a useful tool for facilitating the administrative cooperation between the competent authorities in the member states. In Austria, IMI is used for the verification of documents which are in doubt, as well as for questions in cases of Certificates of Good Standing which are older than 3 months and questions regarding specialty titles differing from entries in annex V of the EU Directive 2005/36/EC. She provided statistical data concerning the contact with relevant countries via IMI as well as the administrative length of IMI requests and responses. However, the intensive use of IMI is decreasing for administrative and time related reasons. Sometimes it takes less time to call the contact points directly and get the information needed for further clarification. She made proposals for the improvement of IMI, e.g. the creation of a more user-friendly structure. At the same time she suggested that the competent authorities should be registered on a mandatory basis with the IMI system. She also mentioned the case of physicians suspended in Austria trying to migrate to other member states, especially Germany and Switzerland and outlined that the Austrian Medical Chamber informs the host member state in a proactive way.

However, other member states have different approaches. She stressed the need for a proactive alert of all member states and mentioned that the active sharing of information is very often not possible due to national data protection reasons.

The presentations were followed by a discussion and common elaboration of the joint statement. The document was discussed paragraph by paragraph and amended according to the found agreement. The final version, the so-called “Berlin Statement” was adopted unanimously (see enclosures). The time given for checking the joint statement should be 3 weeks for participants. An Baeyens from the EU Commission mentioned early October as the deadline for the Commission.

Dr Parsa-Parsi suggested a similar meeting in about 6 – 10 months and all the participants agreed to hold another meeting in 2011. A host EU member country for the upcoming meeting still needs to be confirmed.

Enclosures:

Participants' list Meeting 13 September 2010

Berlin Draft Statement

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## Annex 7:

### Presentation 3: Temporary Mobility Perspective from Malta, by Dr Doreen Cassar

#### Agenda:

- Principles of Directive 2005/36/EC – Temporary Mobility
- Strengths
- Concerns
- Conclusions

#### Directive 2005/36/EC

- Nationals of Member States have a **right** to pursue a profession in a **self employed** or **employed** capacity in a MEMBER STATE other than the one in which they have obtained their professional qualifications'
- 'Aimed in particular at making the free provision of services within the Community, **as simple as** within an individual Member State'
- 'Access the profession and pursue it ...**with the same rights as nationals without prejudice to compliance** ....'
- '...cross border provision of services on a **Temporary** or Occasional Basis on one hand , and for **Establishment** on the other, the criteria for distinguishing these two concepts....**should be clarified**...'
- The facilitation of service provision has to be ensured in the context of **strict respect for public health and safety and consumer protection**. Therefore specific provision should be envisaged for regulated professions having public health or safety implications which provide services on a temporary or occasional basis.
- Host member states may, where necessary and in accordance to Community Law, provide for **declaration** requirements.
- The service provider should be **subject to** the application of disciplinary **rules** of the Host Member State ....'

#### Strengths of Directive

- Allows true concept of ONE Community
- Keeps prejudice to a minimum
- Gives the individual responsibilities
- Allows Member States to safeguard public health and safety

#### Malta – the benefits from Directive

- Opens up borders for Maltese medical professionals
- The grass is greener on the other side
- Opportunities for academic knowledge transfer on temporary basis
- Opportunities for temporary access to medical services not otherwise present on the island

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## Concern 1

- The Directive puts the responsibility on Host Member States to set (prior) declaration requirements
- Information is readily available
- These are not always respected – it is the professional who has to seek this information

## Question 1

- Is the concept of Freedom of Movement/ temporary movement marketed without the responsibilities it entails?
- Are all Competent Authorities informing their members of their rights of free movement and the responsibilities this puts on each professional?

## Concern 2

- Temporary is not well defined
- Malta has some professionals who offer services 6 months out of 12 under the Temporary or Occasional Basis title

## Questions 2

- Where does temporary service stop and establishment begin?
- Should there be a distinction between temporary/occasional basis and establishment of practice

**'Strict respect for public health and safety and consumer protection'**

## Concern 3 - Questions 3

- Medical decision making is context specific
- Medical environment is prone to error
- To reduce error one must target
  - Specific causes of error
    - Patient
    - Drug
    - Dose
    - Time
  - Behavioural norms

**'The service provider should be subject to the application of disciplinary rules of the Host Member State'**

## Concern 4

- Does temporary service provision allow knowledge of the host medical environment?
- Is temporary service provision likely to reduce or increase medical error?
- Can Competent Authorities safeguard consumers from medical errors?
- Should Competent Authorities safeguard consumers from medical errors?

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## Competent Authorities

Temporary services - Freedom of Movement  
Public health safety and consumer protection  
One Community

## Conclusions

- Competent Authorities need to inform members of requirement of prior declaration and responsibility of knowledge of host medical environment
- Need common definition of temporary? < 6 weeks
- Regulations and ethical codes need to emphasise knowledge of the host medical environment
- Disciplinary rules need a common front with regard to temporary service

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## Annex 8: Berlin Statement

Informal Network  
Competent Authorities for Doctors

### **Berlin Statement 13 September 2010**

#### **European Commission's evaluation of Directive 2005/36/EC on the mutual recognition of professional qualifications**

Since May 2010 the informal network of competent authorities for the recognition of Professional qualifications for doctors has held a series of meetings to discuss and share their experiences with the implementation of Directive 2005/36/EC on the mutual recognition of professional qualifications.

The network has brought together 28 competent authorities from 23 member states to stimulate discussions and support the drafting of national experience reports on the Directive.

The network agrees that the system of automatic recognition provided by Directive 2005/36/EC has proven successful in facilitating the recognition of medical qualifications within the European Economic Area.

The network has also shown that with a high level of doctor mobility around Europe, competent authorities are keen to work cooperatively and collaboratively to contribute to safe healthcare in Europe, and declare their intention to continue their collaboration within the structures of the informal network. To enhance transparency within the recognition of professional qualifications competent authorities intend to work together voluntarily to create a repository of detailed information on the content of medical training for each specialty. This may include historical information of titles and name of documents.


Competent authorities see the Commission's current evaluation of Directive 2005/36/EC as a valuable opportunity to highlight a number of areas that would benefit from further examination to ensure that professional mobility is maintained and to enhance patient safety. We would like to express our appreciation of the open and co-operative approach undertaken by the Commission in the course of the evaluation process.

Further to our meetings and the exchange of experiences in relation to the evaluation of the Directive we call on the Commission to:

- Continue to facilitate the identification of competent authorities responsible for the recognition of qualifications for doctors; require competent authorities to be listed on the Internal Market Information system (IMI); oblige competent authorities to respond to all queries in an appropriate timeframe regardless of whether they are sent through IMI or through other means; develop and improve IMI to allow competent authorities to carry out primary source verification of documents.

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- Examine in cooperation with the Competent Authorities appropriate competence assurance mechanisms (e.g. CPD/CME, revalidation, etc.) for doctors. This will enhance trust in the recognition of professional qualifications and ensure patient safety by allowing competent authorities to assure themselves that the doctors they register have kept their skills and competence up to date since the award of their medical qualifications.
  - Consider including the Certificate of Current Professional Status / Certificate of Good Standing to the documents listed in Annex VII.
  - Explore mechanisms, such as the alert mechanism provided for by the Services Directive, that will improve the exchange of information about doctors that has a bearing on patient safety in Europe and on professional competence. Facilitate the identification of competent authorities responsible for taking regulatory action against doctors<sup>1</sup> to ensure that only those doctors that are fit and safe to practise avail themselves of the benefits of freedom of movement within the EEA.
  - Ensure that there is legal clarity about regulatory responsibility in instances of cross-border provision of services. This should also be considered in the light of developments in the field of telemedicine and remote diagnosis, where neither the patient nor the doctor physically moves.
  - Provide clarification about the term 'temporary and occasional'; support competent authorities in developing a common framework that will assist them in dealing with recognition in cases of subsequent applications for temporary and occasional provision of services (e.g. seasonal mobility).
  - Examine the language provisions in the Directive to address the concerns of competent authorities in relation to language proficiency of migrant doctors in the interest of patient safety.
  - Examine within the course of the revision of the Directive the increasing occurrences of false documents and fraud and find means of combating these effectively.

Further information and concrete case studies and examples in support of this statement are contained in the national experience reports submitted by competent authorities to the European Commission in September 2010.



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<b>Competent authorities in support of the Berlin statement</b>	
<b>Austria</b>	Österreichische Ärztekammer
<b>Cyprus</b>	IATPIKO ΣΥΜΒΟΥΛΙΟ ΚΥΠΡΟΥ
<b>Czech Republic</b>	Ministerstvo zdravotnictví
<b>Denmark</b>	Sundhedsstyrelsen
<b>Estonia</b>	Tervisemet
<b>Finland</b>	Sosiaali- ja terveystieteiden valvonta- ja valvontavirasto, Valvira
<b>France</b>	Conseil National de l'Ordre de Médecins Ministère de la Santé
<b>Germany</b>	Bundesärztekammer
<b>Hungary</b>	Egészségügyi Engedélyezési és Közigazgatási Hivatal
<b>Ireland</b>	Medical Council
<b>Italy</b>	Ministero del lavoro, della salute e delle politiche sociali
<b>Latvia</b>	Latvijas Ārstu biedrība
<b>Lithuania</b>	Sveikatos apsaugos ministerija
<b>Luxembourg</b>	Ministère de la Santé
<b>Malta</b>	Kunsill Mediku
<b>The Netherlands</b>	Koninklijke Nederlandsche Maatschappij tot bevordering der Geneeskunst Ministerie van Volksgezondheid Welzijn en Sport - BIG register
<b>Norway</b>	Statens autorisasjonskontor for helsepersonell
<b>Portugal</b>	Ordem dos Médicos
<b>Romania</b>	Colegiul Medicilor din Romania
<b>Slovenia</b>	Ministrstvo za zdravje
<b>Spain</b>	Ministerio de Sanidad y Política Social
<b>Sweden</b>	Socialstyrelsen
<b>UK</b>	General Medical Council

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## Annex 9:

### Minutes of the FEDCAR Meeting, 5<sup>th</sup> November 2010, Madrid

#### 1 -Internal Affairs

New treasurer: Dominique Champeval (LUX).

Fees: 200€

New presidency: H. Pezo, Croatia, in 2011 and A. Lockyer, UK, in 2012.

The new web-site in preparation has been accepted (G. Bouteille (FR) stressed that everyone is invited to participate to its administration).

#### 2- FEDCAR's missions and relationship with Council of European Dentists ('CED')

FEDCAR's missions have been clarified in 2006. Competent Authorities (hereafter 'CAs') are in charge of (1) Qualifications, (2) Registration, (3) Regulation of the professional exercise and (4) Ethics (code and disciplinary measures).

On this basis:

A - It is important to invite all the European CAs - in addition to the current FEDCAR's members - to our next meeting in Dubrovnik in May 2011 (this includes for instance the competent ministries).

B - The concerns of the Spanish Dental Council presented at the beginning of the meeting cannot be all taken on board of FEDCAR's activity, namely:

- inadequate *numerosus clausus* of dentists (decided at a federal level) to national demography;
- actions undertaken by dental technicians to promote their activity to the EU Legislator;
- need to report on CAFCAM and other devices assisting professionals in the creation of prothesis so as to draw a clearer limit on dentists' and dental technicians' competences.

C - It is important to reinsure CED there is no willingness to usurp its mission to the EU.

In addition to the relaunch of a dialogue between FEDCAR's and CED's board by the new FEDCAR's presidency (former attempts by FEDCAR President were made in vain), it is also important to set up such a dialogue at a domestic level (i.e. to approach national delegates to clarify respective roles). At the next meeting in Dubrovnik in May 2011, the outcome of those approaches will be reported.

#### 3 - Revision of Directive 2005/36 on Recognition of Professional Qualifications (hereafter 'the Directive')

Issues where a consensus among members should be agreed on (without being exclusive of further national opinions on some other provisions) regarded the needs:

- to update Annex V (in this field, it was clear during the meeting that each domestic CA has different priorities; whether a consensus could also be reached on the detailed list of updating remains to be decided);
- to improve the monitoring of free provision of healthcare services;
- to enhance the demonstration of language skills;

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- to facilitate the circulation of CAs' decisions on disciplinary sanctions, probably through a compulsory use of IMI.

The Spanish Dental Council also insisted on the need to revise the current definition of dental acts provided in Article 36(4) of the Directive.

A public consultation is opened until February 2011 on the Single Market Act initiated by the Commission. This Act refers to the Directive, to the Commission's priority to launch a professional card and to the Commission's proposal to issue a 'European Skills Passport' embedding the 'continuing vocational training' of professionals (see proposals n°33 et 35 of the Single Market Act). FEDCAR could circulate a draft answer proposed by the board to its members and then answer to the consultation.

The Commission prepares a Steering Group relating to the Professional Card (30 seats, registration opened until 29 November). Mr Tiedje (DG Market) indicated it was in principle opened solely to professionals associations. FEDCAR is of the opinion that CAs should be part of it. Contact should be taken with Mr Tiedje ASAP to discuss the issue.

A public consultation on the revision of the Directive will be launched by the end of the year. Once the consultation is opened, a short submission by each member could be conveyed to FEDCAR so as to prepare a common position paper on the issue.

## 4- Draft Directive on Patients' Rights in Cross-border Healthcare

Two salient points emerged from the discussion:

Draft Article 5(2)(d) requests a professional insurance from the practitioner providing healthcare services to cross-border patient. However, currently, such a professional insurance is not even compulsory in every Member State for dentists (e.g. not compulsory in Italy; highly recommended in UK; recently mandatory in Luxembourg).

Draft Article 10(2)(c) requests a more reactive and automatic communication of disciplinary measure than in Directive 2005/36; it has not decided whether FEDCAR should take position on this issue (accepting the strengthening of this measure or preferring the *statu quo* of Directive 2005/36)."

Cédric Grolleau  
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Tel.: +32 2 788 21 87, <http://www.fedcar.eu>

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## Annex 10:

**HPCB 2010 Meeting**  
**The Future of Professional Qualifications:**  
**Balancing Mobility and Patient Safety**  
**Monday, 29<sup>th</sup> November 2010, Budapest, Hungary**

On November 29<sup>th</sup>, 2010, in representation of the Medical Council (Malta), I attended the Budapest Health Care Professionals Cross Borders Meeting, *The Future of Professional Qualifications: Balancing Mobility with Patient Safety*.

The meeting was held at the Office of Health Authorisation and Administrative Procedure, Ministry of National Resource, Budapest, Hungary, and was attended by representatives of the regulatory bodies of twenty-one European Union countries (and EEA), together with representation of the London College of Hygiene and Tropical Medicine, Hungarian Government, EU Parliament and the EU Commission, DG Internal Markets and Services.

The meeting was an opportunity to discuss revision of Directive 2005/36/EC and the European Commission's current evaluation process.

Following the formal introductory addresses, the reports from the Informal Networks of Competent Authorities from nurses, midwives, pharmacists, dentists and doctors were illustrated and discussed. The contributions by Dr D. Cassar and Dr D. Muscat in their respective categories were noted. All reports insisted that patient safety should at all times be given precedence over the mobility of national across the EU. This included emphasis on proper scrutiny of professional qualifications, EU Professionals' Card and knowledge of the official language.

The above contrasted sharply with the information given by Jurgen Tiedje, Head of Unit for Professional Qualifications, DG MARKT. Mr Tiedje emphasised that for the Commission, the current regulations and requirements were regarded as a hindrance to free movement and promised all that with the forthcoming revision, these needed to be further limited. During the subsequent discussion all present were opposed to this position. A second aspect discussed by Mr Tiedje was the institution of a working group which deliberately excluded regulatory bodies to decide on the future of the professionals' identification card.

Discussions were also held with Dr G. M. Righetti, president of the Latina Order of Doctors and Dentist and S. Costa of the Cyprus Medical Council on the possibility of the three joining to create a common site for an alternative professional identification site. Dr Righetti had to pursue the matter in the near future.

Dr B. Flores Martin MD, MMCFD  
Specialist in Family Medicine,  
Council Member

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## Annex 11:

### **The European Commission Meeting in Brussels On the Recognition of Professional Qualification Report by Dr David Muscat**

The meeting was held in Brussels on Tuesday 7<sup>th</sup> December 2010 and was attended by Mrs. Shirley Micallef from The Malta Qualifications Council accompanied by Professor Lillian Azzopardi from The Pharmacy Council and Dr David Muscat from the Medical Council of Malta.

#### **INTRODUCTION**

The meeting was presided by Mr. Jurgen Tiedje, EU commissioner for audit and was attended by delegates from most countries within the European Union. The meeting was backed up by an army of over 36 interpreters.

After welcoming all present, the president stated that the recognition of qualifications is sometimes left to the competent authorities or else done on a case by case basis. There are group coordinators and they all have to observe a code of conduct.

There have been delays in transposition as there has been reticence on the part of some states. There may need to be a more flexible arrangement regarding doctors and nurses.

Enlargement in 2004 and 2007 went well in this area and the IMI system is showing a lot of potential. The 'Single Market Act' is on offer. It is not a final decision but it is launching a European debate.

#### **A.THE PROFESSIONAL CARD**

##### **Current Reflections**

1. A simplification tool for mobility in the EU with simplification of requirements and an acceleration of procedures.
2. An enhanced confidence for the competent authorities, involving rapid access for host member state to reliable migrant information and a strong communication link between home and host competent authorities.
3. A guarantee of trust for employers and consumers as there is easy identification of professionals and as assurance of the proper qualifications of the professional.
4. The card is OPTIONAL, that is, it will be issued to the migrating professional if he/she requests it.
5. The card will be issued by the competent authority of the home member state.
6. The card will be paid for by each state. That is, NOT the EU.
7. There will be great communication between members states embedded in the IMI.
8. The card will have a stipulated validity, for example, 3 years.
9. It will be called a 'professional card' or a 'professional passport'
10. The format will be either a plastic card or an electronic certificate.

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## THE ROLE OF THE HOST MEMBER STATE

1. For temporary mobility the card may replace the current prior declaration and accompanying documents
2. For the establishment-the recognition procedure is speeded up from 3 months to say 1 month. The card will do away with current information and document requirements. This could however create a legal presumption that the professional is fully qualified in the home member state to exercise the profession-unless the member state opposes.
3. There is a move to set up a Steering group and this was positively received by all countries to develop common features of a European professional card and all the logistical aspects such as possible IMI use, document translation and card format etc..
4. The composition of the steering group will be inter-professional with 15 representatives from professional organizations of high mobility. Malta has applied to be part of this steering group. There will be 5 representatives from national competent authorities with 3 coordinators.

The first meeting will be on 10 January. The president explained that the doctors, dentists and architects in Europe were not so keen on the card and he may exclude them from the group. I however still put the name of the Medical council of Malta down, but it is the decision of Mr Jurgen Tiedje that will prevail. The only 2 countries where the dentists were interested in forming part of the steering group were France and Malta. Regarding the doctors only the UK and France put their name down.

The steering group is to start afresh regarding the card with a possible opinion on the card by July. There will be NO TRANSLATION so all the steering group members will have to be proficient in English. The Italians were the only country to object to this. The group is purposely being kept small. 'Challenging people' are needed on this group –not 'yes men' as otherwise there will be of no use.

## COMMENTS FROM SEVERAL STATES ON THE DAY

1. UK -Does the professional card have any added value if the IMI system is working well?
2. Denmark- is the card 'a full authorization?'
3. President- should be a link to IMI and can be for all professionals rather than just migrating. Maybe also automatic translation included.
4. Germany- could be an added value to the card. Idea is on right lines. Some associations in some countries may have vested interests which may not serve mobility.
5. Malta supports the card.
6. Poland –agrees that card supports mobility.
7. France-a positive idea which covers a wide field.
8. Hungary –supports steering group on card.
9. Netherlands-study group needs to have impact assessment.
10. President- The subject will be taken up as a green paper (a consultation document) and then we will work on a formal impact assessment.

## MINIMUM TRAINING REQUIREMENTS IN THE EU

The GHK Company has been commissioned to carry out a study to examine whether education and training reforms are affecting and could improve the recognition of professional

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qualifications regulated by directive 2005/36/EC. The idea is to facilitate the evaluation of this directive in the light of the new reforms mainly the Bologna agreement, the Tuning project etc.

There are 7 professions involved. The problem is that the competent authorities for qualifications are not the same as the competent authorities for training.

The minimum duration for doctors and nurses must be defined by X years or Y training hours and can be interpreted in several ways but should be equivalent.

That is, X training years = Y training hours

There is a need to update the compulsory subjects for nurses and also prior learning needs to be checked, that is, if a nurse then does a course to become a doctor-what part of the previous teaching needs to be recognized.

CPD also needs to be taken into consideration. The problem is complex and will involve a workshop.

## COMMENTS BY VARIOUS COUNTRIES:

- IRELAND: want an increase in the minimum training requirements
- AUSTRIA: the linguistic skills of the professional concerned should be checked. Regarding specialist training the Austrians want the 3 years training to be increased to 4 years. CPD must be linked to minimum requirements. One needs a proper level of expertise in each profession so each one has to fit in with the country of origin.
- HUNGARY: think there has to be a workshop on minimum training requirements
- SWEDEN: is in favor of a workshop in May. One needs to link with the Bologna process.
- Czech Republic: does not want an increase in the number of years for specialization of doctors.
- DENMARK: there should be a certain level of harmonization but this should not create further barriers as this may have a knock-on effect. The Danish support the workshop. The Danish have in fact already implemented the Bologna process. The Danish have no intention of increasing the minimum duration for midwives and nurses from 3 to 4 years. In terms of CPD one needs to bring in the health ministry to examine the exact content of CPD.
- GERMANY: harmonization may decrease mobility
- SPAIN: there are new approaches to training, for example. Sunday courses – these may appear to be OK but are they?
- FRANCE: one needs to clarify the link with the Bologna process.
- UK: the resource implication is significant. The linguistic skills issue is to be kept separate.
- POLAND: one needs to take into account the Bologna process in relation to this. Also one needs to look at the European qualifications framework. The Bologna process should be in tandem with the European qualifications Framework. There needs to be harmonization of training after the initial qualification.
- MALTA: in Malta we encounter linguistic problems. We are in favor of the workshop. One needs to have an input from educational institutions. CPD should be compulsory. It may well hinder mobility but we feel that this will be beneficial to the professional and the citizen. One needs to ascertain which bodies are responsible for CPD-the University or Professional Associations. Not all member states seem to be in line with harmonisations and they need to be.
- THE PRESIDENT JURGEN TIEDJE-LANGUAGE SKILLS: Language skills and third country diplomas are a subject on their own. The European Qualifications Framework is up to each state but the EU Parliament has no right to enforce this as the EQF is under The National Education Policy of each country and the recommendation cannot be enforced, but since education reforms have taken place it is relevant.

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## **GHK RESEARCH-commissioned by EU-will be looking at the following:**

### **1. THE BOLOGNA PROCESS**

Understand the impact, identify sectors most to benefit, set out methods to achieve convergence of qualifications content rather than harmonization of training. In particular reference to doctors, as a regulated profession benefiting from automatic recognition-one has to

- a. Define the added value of the 3 cycle structure for recognition of doctors' qualifications compared to the integrated cycle.
- b. Define the potential further added value in using ECTS credits rather than in teaching hours for doctors' qualifications.
- c. Determine whether the recognition based on the harmonization of content and duration of recognition based on learning outcomes would better guarantee automatic recognition.

2 QUALIFICATION LEVELS-WOULD A 5 OR AN 8 LEVEL SYSTEM BE BETTER THAN a system without levels so as to facilitate better recognition of qualifications. Also how do you deal with qualifications before 2012?

3 There is to be a survey of education ministries in all member states and a survey of competent authorities for the recognition of professional qualifications.

4 The survey of competent authorities will be between mid-February and end-March 2011. Doctors are top of the list. Questions will be on automatic recognition. There will be a detailed case study on 8 professions in 17 sample states. Malta is not included in this sample list. The key issues of the GHK study are to establish a baseline of information. Also to study the variations in the implementation of education and training reforms.

5 A study will also be carried out on the diversity of organizations involved in the recognition of qualifications and will also look into what information competent authorities use to recognize qualifications.