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Judgment in Case E-1/11 (Dr A)

AN EEA STATE MAY ONLY UNDER CERTAIN CONDITIONS DENY DOCTORS TRAINED IN OTHER EEA STATES AUTHORISATION TO PRACTICE

In a judgment delivered today, the EFTA Court gave an Advisory Opinion on a question referred to it by the Norwegian Appeal Board for Health Personnel (Statens helsepersonellnemnd) regarding the interpretation of Directive 2005/36/EC and other EEA law.

The complainant in the case before the Appeal Board was trained as a medical doctor in Bulgaria and has an additional specialisation in psychiatry. Her application for an authorisation as a medical doctor in Norway was accompanied by a statement from the Bulgarian authorities confirming that she was covered by Directive 2005/36/EC, on the basis of her education and professional experience as a medical doctor in Bulgaria.

In the proceedings before the Appeal Board, the complainant is appealing against a decision of the Norwegian Registration Authority for Health Personnel to reject her application, on the basis of her alleged lack of necessary aptitude, and only grant her a one year licence which would allow her to work as a subordinate medical doctor.

The Court found that an EEA State is not permitted under the Directive to make the recognition of professional qualifications of doctors meeting the criteria of the Directive subject to any further conditions. The system of automatic recognition would be jeopardised if it were open to EEA States at their discretion to question the merits of a decision taken by the competent authorities of another EEA State to award the formal evidence of qualification. Nonetheless, an EEA State may make an authorisation to practice medicine conditional upon the applicant having the linguistic knowledge necessary for practising the profession on its territory.

As for other factors concerning personal aptitude of a migrant applicant, the Court noted that the effect of recognition of professional qualifications by the host EEA State is that the beneficiary is allowed to gain access to the same profession as that for which he was qualified in the home EEA State, and to pursue it in the host EEA State under the same conditions as its nationals. However, this is without prejudice to compliance by the migrant professional with any non-discriminatory conditions of pursuit which might be laid down by the authorities of the host State provided that these were objectively justified and proportionate, *inter alia*, with regard to ensuring a high level of health and consumer protection.

Accordingly, the EEA States retain the competence to take disciplinary action and impose criminal sanctions against migrant medical professionals and, where appropriate, to suspend or withdraw the authorisation to practise if the respective conditions under national law are fulfilled, provided that the general principles of EEA law are respected. Thus, on the condition that the relevant information that led to the refusal of the complainant's application would have given grounds for a suspension or withdrawal of an existing authorisation in compliance with EEA law, national authorities could not be obliged to grant an authorisation when there was a necessity to revoke it.

The full text of the judgment may be found on the Internet at: www.eftacourt.int.

This press release is not an official document. Please note that the Court may not comment on the case.