

Case No:75552  
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EFTA SURVEILLANCE  
AUTHORITY

## EFTA SURVEILLANCE AUTHORITY DECISION

Of 4 July 2017

closing a complaint case arising from an alleged failure by Norway to comply with Article 25 of Directive 2005/36/EC discriminating against doctors having performed their undergraduate medical studies in another EEA State

### THE EFTA SURVEILLANCE AUTHORITY

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, in particular Article 31 thereof,

Whereas:

On 18 June 2014, the EFTA Surveillance Authority (“the Authority”) received a complaint against Norway alleging that Norway discriminates between medical doctors with a foreign diploma and medical doctors with a diploma obtained in Norway.

According to the complaint, Norway has a database comprising the names of all doctors who have concluded their basic medical studies and are searching for a specialisation training. In the database, there is a field for “Approved turnus”, which is a practical training of 18 months required under Norwegian legislation to be undertaken by everyone studying medicine in Norway. This field is automatically set to “No” for doctors that have studied in other EEA States and have not completed their turnus in Norway, even though they have completed all the required training in the EEA State of their undergraduate medical studies.

Thus, according to the complaint, the database leads to discrimination between doctors who have undertaken their basic medical studies in Norway and doctors who have performed their basic medical studies in another EEA State.

Since the receipt of the complaint, there has been frequent formal and informal contact between the Authority and the Norwegian Government, including a meeting held in Brussels on 10 June 2015 (also regarding case No. 76267). At this meeting, the Health Personnel Registry (Helsepersonellregisteret) operated by SAK (Statens Autorisasjonskontor for helsepersonell) was discussed in detail.

From November 2015 to October 2016, several emails were exchanged between the Ministry of Health and Care Services and the Authority. In addition, several telephone conferences were organised in order to find a solution concerning the wording and the

fields used in the database. The case was discussed at the last package meeting in November 2016.

Doctors are among the professionals subject to the automatic recognition of professional qualifications for sectoral professions. According to Directive 2005/36/EC,<sup>1</sup> basic medical training and general practitioner training are automatically recognised throughout the EEA. Therefore, any limitation to that right would be considered an infringement of Directive 2005/36/EC.

The Authority notes that, following an analysis, the Norwegian legislation does not contain any direct or indirect discrimination based on nationality. According to national law, doctors who have studied and passed their exams in a Norwegian university have to complete a turnus before being able to start their specialisation. The requirement for doctors who have graduated in another EEA State is to have completed their basic medical studies in the EEA State where they have studied. There is no requirement for them to perform the Norwegian turnus and they can directly register as trainee specialists.

However, the wording and set up of the database could lead to a misunderstanding of the qualifications of doctors with basic medical training in another EEA State and potentially *de facto* exclude them.

The selection of candidates for specialisation is done mainly by medical institutions. In order to be accepted as a trainee specialist, if the doctor has studied in Norway, he/she must have completed a turnus. Doctors with a basic medical training who had studied abroad had a “no” entry in the database regarding their turnus while there was no mention of the fact that they had studied in another EEA State where no turnus was required. In reality, this negative entry did not mean that they had not completed their turnus, rather that they were not required to perform it according to the curriculum of medical studies in the EEA State where they had undertaken their undergraduate medical studies. However, this entry was misleading for Norwegian medical institutions selecting doctors from this database and hiring them for specialisation. These institutions did not call graduate doctors from other EEA States for interviews for the reason that they were under the erroneous impression that those doctors had not yet performed their turnus, which is a prerequisite for starting a specialisation in Norway.

There were instances of candidates with diplomas from other EEA States being excluded. However, as soon as these cases were brought to the attention of the competent Norwegian authorities, the latter reacted promptly to rectify the situation.

As stated above, in order to find a solution, several meetings were held to discuss the content of the database. The text accompanying the entry in the database regarding the turnus for doctors who have studied in another EEA State was changed in order to ensure a better understanding of the legal situation by the Norwegian medical institutions. The new wording differentiates clearly between the two situations, i.e. doctors having studied in Norway and those having studied abroad, and draws the attention of the medical institutions to this specific matter.

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<sup>1</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, JO L 255 du 30.9.2005, p. 22–142, Decision of the EEA Joint Committee No 142/2007 of 26 October 2007 amending Annex VII (Mutual recognition of professional qualifications) and Protocol 37 to the EEA Agreement.

Finally, it should be mentioned that the current system, involving the obligation to perform a turnus, will be replaced in the near future when new legislation regarding specialisation for doctors is implemented in Norway.<sup>2</sup>

Following receipt of the information referred to above, it appears that the database in question has been amended and that the current situation ensures compliance with the requirements laid down in Directive 2005/36/EC.

By letter of 18 January 2017 (Doc No 835998), the Internal Market Affairs Directorate informed the complainant of its intention to propose to the Authority that the case be closed. The complainant was invited to submit any observations on the Internal Market Affairs Directorate's assessment of the complaint or present any new information by 18 February 2017.

By email of 30 January 2017, the complainant replied to this letter. He considers that the current system still entails discrimination and should be changed. The database should be amended in order to eliminate any difference between doctors who have obtained their basic medical training in Norway and doctors who have graduated in another EEA State. The complainant alleges that hospitals might use this distinction in order to favour students who have obtained their basic medical training in Norway. However, the Authority has investigated every case brought to its attention and no case of discrimination has been found for the time being. Therefore, the Authority does not consider that this reply alters the conclusions set out in its letter of 18 January 2017. For the reasons mentioned in the letter, the Authority does not consider that the measure is a discriminatory system established to limit the number of candidates who have studied outside Norway. In addition, the development of the new educational system for specialised doctors will be analysed in the months to come. This analysis will provide the Authority with the opportunity to revisit the concerns raised by the complainant.

There are, therefore, no grounds for pursuing this case further. The Authority may, however, revert to the matter should any relevant developments occur in EEA or EU law.

HAS ADOPTED THIS DECISION:

The complaint case arising from an alleged failure by Norway to comply with Article 25 of Directive 2005/36/EC, is hereby closed.

For the EFTA Surveillance Authority

For Sven Erik Svedman  
President

Frank J. Büchel  
College Member

*This document has been electronically signed by Helga Jonsdottir, Frank J. Buechel.*

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<sup>2</sup>[https://www.regjeringen.no/contentassets/03dfc2e52320449097f1d41bf61d716d/spesialistforskriften\\_leger-tannleger.pdf](https://www.regjeringen.no/contentassets/03dfc2e52320449097f1d41bf61d716d/spesialistforskriften_leger-tannleger.pdf)