



Luxembourg, 5 December 2024

## PRESS RELEASE 14/2024

### **Judgment in Case E-15/23 *K v National Office for Health Service Appeals* (*Nasjonalt klageorgan for helsetjenesten*)**

#### **CROSS-BORDER HEALTHCARE REIMBURSEMENT**

In a judgment delivered today, the Court answered questions referred to it by the National Insurance Court (*Trygderetten*), concerning the Patients' Rights Directive,<sup>1</sup> the Professional Qualifications Directive<sup>2</sup> and the freedom to provide services guaranteed under the EEA Agreement. In the main proceedings, Norwegian authorities rejected K's application for reimbursement of dental treatment in Poland based on the treating dentist's lack of specialisation. K challenged that decision before the National Office for Health Service Appeals, and has subsequently appealed to the National Insurance Court.

The Court was essentially asked whether a national rule that requires healthcare practitioners to have a specific specialisation for the reimbursement of cross-border healthcare is compatible with EEA law. In addition, the National Insurance Court queried the significance of the professional specialisations listed in Annex V of the Professional Qualifications Directive in determining whether the specialisation requirement was fulfilled.

The Court found that national conditions for reimbursement of cross-border healthcare must not discriminate or constitute obstacles to the free movement of patients unless objectively justified under the Patients' Rights Directive. Even if a specialisation requirement accepts equivalent foreign qualifications, it may nevertheless amount to an obstacle if it in practice represents an unjustified additional burden on patients seeking treatment abroad. This may be particularly true if patients must provide extensive documentation of the practitioner's qualifications and the burden of proof for the acceptance of these qualifications falls on the patient. Such a restriction can only be justified by planning requirements relating to the object of ensuring sufficient and permanent access to a balanced range of high-quality treatment in the EEA State concerned, or to the wish to control costs and avoid, as far as possible, any waste of financial, technical and human resources.

The Court further held that the specialisations listed in the Professional Qualifications Directive may be sufficient proof of competence. However, since the list is not conclusive, it cannot be considered necessary to prove substantive competence.

The advisory opinion is a step in the proceedings pending before the National Insurance Court, which will ultimately decide whether K will be reimbursed.

The full text of the judgment may be found on the Court's website: [www.eftacourt.int](http://www.eftacourt.int)

This press release is an unofficial document and is not binding upon the Court.

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<sup>1</sup> Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare

<sup>2</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications