



JUDGMENT OF THE COURT

10 November 2021*

(Free movement of persons and services – Directive 2005/36/EC – Evidence of formal qualifications – Issuance of evidence – Competent authority)

In Case E-17/20,

REQUEST to the Court under Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice by Reykjavík District Court (*Héraðsdómur Reykjavíkur*), in the case between

Zvonimir Cogelja

and

the Directorate of Health (*Embætti landlæknis*),

concerning the interpretation of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, and in particular Article 25, in conjunction with Articles 3(1)(c), 21 and 26 of that directive, as adapted to the Agreement on the European Economic Area,

THE COURT,

composed of: Páll Hreinsson, President, Per Christiansen (Judge-Rapporteur) and Bernd Hammermann, Judges,

Registrar: Ólafur Jóhannes Einarsson,

having considered the written observations submitted on behalf of:

- the Directorate of Health, represented by Einar Karl Hallvarðsson, State Attorney General, acting as Agent;
- the Norwegian Government, represented by Kaija Bjelland, Hilde Ruus, Kine Sverdrup Borge and Tone Hostvedt Aarthun, acting as Agents;

* Language of the request: Icelandic. Translations of national provisions are unofficial and based on those contained in the documents of the case.

- the Austrian Government, represented by Albert Posch, Julia Schmoll and Elizaveta Samoiloova, acting as Agents;
- the EFTA Surveillance Authority (“ESA”), represented by Romina Schobel, Catherine Howdle and Carsten Zatschler, acting as Agents; and
- the European Commission (“the Commission”), represented by Lorna Armati, Julie Samnadda and Hans Christian Støvlbæk, acting as Agents,

having regard to the Report for the Hearing,

having heard oral argument on behalf of Zvonimir Cogelja, represented by Gunnar Sturluson, Attorney-at-Law; the Directorate of Health, represented by Einar Karl Hallvarðsson; the Norwegian Government, represented by Hilde Ruus and Kaija Bjelland; ESA, represented by Romina Schobel and Carsten Zatschler; and the Commission, represented by Lorna Armati and Julie Samnadda, at the remote hearing on 4 May 2021,

gives the following

Judgment

I Legal background

EEA law

- 1 Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ 2005 L 255, p. 22) (“the Directive”) was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 142/2007 (OJ 2008 L 100, p. 70, and EEA Supplement 2008 No 19, p. 70), which amended Annex VII (Mutual recognition of professional qualifications) and inserted the Directive as point 1 of that Annex. Constitutional requirements were indicated by Norway, Iceland and Liechtenstein. The requirements were fulfilled on 14 May 2009 and the decision entered into force on 1 July 2009.
- 2 The Directive was amended in the European Union by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (OJ 2013 L 354, p. 132). The latter directive was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 94/2017 (OJ 2019 L 36 p. 52, and EEA Supplements 2019 No 11 p. 62). Constitutional requirements were indicated by Norway, Iceland and Liechtenstein. The requirements were fulfilled on 28 November 2018 and the decision entered into force on 1 January 2019. At the material time, that is prior to the entry into force of Directive 2013/55/EU, the Directive read as follows:

3 Recital 1 of the Directive read:

Pursuant to Article 3(1)(c) of the Treaty, the abolition, as between Member States, of obstacles to the free movement of persons and services is one of the objectives of the Community. For nationals of the Member States, this includes, in particular, the 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. In addition, Article 47(1) of the Treaty lays down that directives shall be issued for the mutual recognition of diplomas, certificates and other evidence of formal qualifications.

4 Recital 3 of the Directive read:

The guarantee conferred by this Directive on persons having acquired their professional qualifications in a Member State to have access to the same profession and pursue it in another Member State with the same rights as nationals is without prejudice to compliance by the migrant professional with any non-discriminatory conditions of pursuit which might be laid down by the latter Member State, provided that these are objectively justified and proportionate.

5 Recital 12 of the Directive read:

This Directive concerns the recognition by Member States of professional qualifications acquired in other Member States. It does not, however, concern the recognition by Member States of recognition decisions adopted by other Member States pursuant to this Directive. Consequently, individuals holding professional qualifications which have been recognised pursuant to this Directive may not use such recognition to obtain in their Member State of origin rights different from those conferred by the professional qualification obtained in that Member State, unless they provide evidence that they have obtained additional professional qualifications in the host Member State.

6 Recital 20 of the Directive read:

*To allow for the characteristics of the qualification system for doctors and dentists and the related *acquis communautaire* in the area of mutual recognition, the principle of automatic recognition of medical and dental specialities common to at least two Member States should continue to apply to all specialities recognised on the date of adoption of this Directive. To simplify the system, however, automatic recognition should apply after the date of entry into force of this Directive only to those new medical specialities common to at least two fifths of Member States. Moreover, this Directive does not prevent Member States from agreeing amongst themselves on automatic recognition for certain medical and dental specialities common to them but not automatically recognised within the meaning of this Directive, according to their own rules.*

7 Article 1 of the Directive, entitled “Purpose”, read:

This Directive establishes rules according to which a Member State which makes access to or pursuit of a regulated profession in its territory contingent upon possession of specific professional qualifications (referred to hereinafter as the host Member State) shall recognise professional qualifications obtained in one or more other Member States (referred to hereinafter as the home Member State) and which allow the holder of the said qualifications to pursue the same profession there, for access to and pursuit of that profession.

8 Points (c) and (d) of Article 3(1) of the Directive, entitled “Definitions”, read:

For the purposes of this Directive, the following definitions apply:

(c) ‘evidence of formal qualifications’: diplomas, certificates and other evidence issued by an authority in a Member State designated pursuant to legislative, regulatory or administrative provisions of that Member State and certifying successful completion of professional training obtained mainly in the Community. Where the first sentence of this definition does not apply, evidence of formal qualifications referred to in paragraph 3 shall be treated as evidence of formal qualifications;

(d) ‘competent authority’: any authority or body empowered by a Member State specifically to issue or receive training diplomas and other documents or information and to receive the applications, and take the decisions, referred to in this Directive;

9 Article 4 of the Directive, entitled “Effects of recognition”, read:

1. The recognition of professional qualifications by the host Member State allows the beneficiary to gain access in that Member State to the same profession as that for which he is qualified in the home Member State and to pursue it in the host Member State under the same conditions as its nationals.

2. For the purposes of this Directive, the profession which the applicant wishes to pursue in the host Member State is the same as that for which he is qualified in his home Member State if the activities covered are comparable.

10 Article 21(1) of the Directive, entitled “Principle of automatic recognition”, read:

Each Member State shall recognise evidence of formal qualifications as doctor giving access to the professional activities of doctor with basic training and specialised doctor, as nurse responsible for general care, as dental practitioner, as specialised dental practitioner, as veterinary surgeon, as pharmacist and as architect, listed in Annex V, points 5.1.1, 5.1.2, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.6.2 and 5.7.1 respectively, which satisfy the minimum training conditions referred to in Articles 24, 25, 31, 34, 35, 38, 44 and 46 respectively, and shall, for the

purposes of access to and pursuit of the professional activities, give such evidence the same effect on its territory as the evidence of formal qualifications which it itself issues.

Such evidence of formal qualifications must be issued by the competent bodies in the Member States and accompanied, where appropriate, by the certificates listed in Annex V, points 5.1.1, 5.1.2, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.6.2 and 5.7.1 respectively.

The provisions of the first and second subparagraphs do not affect the acquired rights referred to in Articles 23, 27, 33, 37, 39 and 49.

11 Article 25(1) to (4) of the Directive, entitled “Specialist medical training”, read:

1. Admission to specialist medical training shall be contingent upon completion and validation of six years of study as part of a training programme referred to in Article 24 in the course of which the trainee has acquired the relevant knowledge of basic medicine.

2. Specialist medical training shall comprise theoretical and practical training at a university or medical teaching hospital or, where appropriate, a medical care establishment approved for that purpose by the competent authorities or bodies.

The Member States shall ensure that the minimum duration of specialist medical training courses referred to in Annex V, point 5.1.3 is not less than the duration provided for in that point. Training shall be given under the supervision of the competent authorities or bodies. It shall include personal participation of the trainee specialised doctor in the activity and responsibilities entailed by the services in question.

3. Training shall be given on a full-time basis at specific establishments which are recognised by the competent authorities. It shall entail participation in the full range of medical activities of the department where the training is given, including duty on call, in such a way that the trainee specialist devotes all his professional activity to his practical and theoretical training throughout the entire working week and throughout the year, in accordance with the procedures laid down by the competent authorities. Accordingly, these posts shall be the subject of appropriate remuneration.

4. The Member States shall make the issuance of evidence of specialist medical training contingent upon possession of evidence of basic medical training referred to in Annex V, point 5.1.1.

12 Article 26 of the Directive, entitled “Types of specialist medical training”, read:

Evidence of formal qualifications as a specialised doctor referred to in Article 21 is such evidence awarded by the competent authorities or bodies referred to in Annex V, point 5.1.2 as corresponds, for the specialised training in question, to the titles in use in the various Member States and referred to in Annex V, point 5.1.3.

The inclusion in Annex V, point 5.1.3 of new medical specialties common to at least two fifths of the Member States may be decided on in accordance with the procedure referred to in Article 58(2) with a view to updating this Directive in the light of changes in national legislation.

13 Article 50(1) to (3) of the Directive, entitled “Documentation and formalities”, read:

1. Where the competent authorities of the host Member State decide on an application for authorisation to pursue the regulated profession in question by virtue of this Title, those authorities may demand the documents and certificates listed in Annex VII.

The documents referred to in Annex VII, point 1(d), (e) and (f), shall not be more than three months old by the date on which they are submitted.

The Member States, bodies and other legal persons shall guarantee the confidentiality of the information which they receive.

2. In the event of justified doubts, the host Member State may require from the competent authorities of a Member State confirmation of the authenticity of the attestations and evidence of formal qualifications awarded in that other Member State, as well as, where applicable, confirmation of the fact that the beneficiary fulfils, for the professions referred to in Chapter III of this Title, the minimum training conditions set out respectively in Articles 24, 25, 28, 31, 34, 35, 38, 40, 44 and 46.

3. In cases of justified doubt, where evidence of formal qualifications, as defined in Article 3(1)(c), has been issued by a competent authority in a Member State and includes training received in whole or in part in an establishment legally established in the territory of another Member State, the host Member State shall be entitled to verify with the competent body in the Member State of origin of the award:

(a) whether the training course at the establishment which gave the training has been formally certified by the educational establishment based in the Member State of origin of the award;

(b) whether the evidence of formal qualifications issued is the same as that which would have been awarded if the course had been followed entirely in the Member State of origin of the award; and

(c) whether the evidence of formal qualifications confers the same professional rights in the territory of the Member State of origin of the award.

- 14 The entry concerning Iceland in Point 5.1.1 of Annex V to the Directive, entitled “Evidence of formal qualifications in basic medical training” for a “DOCTOR OF MEDICINE”, read:

Country	Evidence of formal qualifications	Body awarding the qualifications	Certificate accompanying the qualifications	Reference date
Ísland	Embættispróf í læknisfræði, candidatus medicinae (cand. med.)	Háskóli Íslands	Vottorð um viðbótarnám (kandidatsár) útgefið af Heilbrigðis- og tryggingamálaráðuneytinu	1 January 1994

- 15 The entry concerning Iceland in Point 5.1.2 of Annex V to the Directive, entitled “Evidence of formal qualifications of specialised doctors”, read:

Country	Evidence of formal qualifications	Body awarding the qualifications	Reference date
Ísland	Sérfræðileyfi	Heilbrigðis- og tryggingamálaráðuneyti	1 January 1994

- 16 The entry concerning plastic surgery training in Iceland in Point 5.1.3 of Annex V to the Directive, entitled “Titles of training courses in specialised medicine”, read:

Country	Plastic surgery
	Minimum period of training: 5 years
	Title
Ísland	Lýtalækningar

II Facts and procedure

- 17 Mr Cogelja is a Swedish national and doctor, resident in Sweden. He completed his medical studies at the Karolinska Institut in Stockholm, Sweden, in 2003. He received a licence to practise as a medical doctor from the Swedish National Board of Health and Welfare on 16 November 2005. After receiving his licence, Mr Cogelja undertook specialist studies in plastic surgery.
- 18 Between 2005 and 2009, Mr Cogelja worked for up to 41 months in general medicine at a hospital in Ystad, Sweden. According to the referring court, he worked in a general surgical ward. In 2009, Mr Cogelja worked for six months in plastic surgery at the Akademikliniken in Stockholm, Sweden. The same year, he also worked for four months in plastic surgery at the University Hospital in Linköping, Sweden.
- 19 In 2010, Mr Cogelja worked for seven months in plastic surgery at the Telemark Hospital in Skien, Norway. From 2011 to 2012, he worked for 12 months in plastic surgery at the Centre for Plastic Surgery in Meggen, Switzerland. Between 2012 and 2014, Mr Cogelja worked for 25 months in the Fachklinik Hornheide in Munster, Germany. According to the request, his employment in Munster consisted of working in the department of reconstructive and aesthetic plastic surgery and hand surgery.
- 20 Based on the practical experience mentioned above, Mr Cogelja submits that he has pursued specialist training for a total of seven years and eleven months.
- 21 On 15 November 2013, the Icelandic Directorate of Health granted Mr Cogelja an unrestricted licence to practise as a doctor in Iceland, with reference to the licence he had received from the Swedish National Board of Health and Welfare. On 2 October 2014, Mr Cogelja received authorisation from the Icelandic Directorate of Health to use the professional designation “specialist in plastic surgery” and to practise as a plastic surgeon in Iceland. This specialist licence was issued under Icelandic law. It must be noted that Mr Cogelja has not previously lived, studied or worked in Iceland. In an email of 20 January 2016, the Icelandic Directorate of Health confirmed that the licence issued to Mr Cogelja corresponded to the requirements specified in points 5.1.2 and 5.1.3 of Annex V to the Directive.
- 22 On 9 February 2018, Mr Cogelja requested that the Icelandic Directorate of Health issue a certificate attesting to his professional qualifications and confirm that the training he had undertaken met the requirements of the Directive, in other words to issue a Certificate of Current Professional Status. He had previously received such certificates from the Icelandic Directorate of Health on 17 February 2015 and 30 June 2015.
- 23 By an email of 20 March 2018, the Icelandic Directorate of Health rejected Mr Cogelja’s request for a new certificate. The Icelandic Directorate of Health considered that it could only confirm that Mr Cogelja had received a licence to practise plastic surgery in Iceland. It was unable to attest that his training had been in accordance with the requirements of the Directive. The Icelandic Directorate of Health also noted that ESA had indicated that the procedure for issuing specialist licences in Iceland had

not been in conformity with the Directive. As a consequence, the Icelandic Directorate of Health had changed its practice on 14 December 2017 and published a press release to that effect on its website.

- 24 According to the request, the evidence in the main proceedings includes a letter dated 24 August 2018 from ESA to the Icelandic Ministry of Foreign Affairs. That letter states that the Directive does not authorise an EEA State to issue a specialist licence (such as evidence of formal qualifications) or a certificate of conformity stating that training is in conformity with the requirements of the Directive unless that EEA State itself organises such training courses in full. In other words, ESA took the view that where an EEA State had not organised the training, it could only grant individuals licences or authorisations to practice the profession on its own territory.
- 25 According to the request, the parties to the main proceedings do not dispute the fact that training in plastic surgery, as a specialist medical discipline, is not available in Iceland.
- 26 On 29 October 2018, Mr Cogelja lodged an appeal with the Icelandic Ministry of Health challenging the Icelandic Directorate of Health's rejection of his request. The Icelandic Ministry of Health upheld the rejection by a decision of 14 June 2019. Subsequently, Mr Cogelja brought the present action on 3 September 2019, in which he argues that the Icelandic Directorate of Health's rejection must be annulled.
- 27 Reykjavík District Court decided to stay proceedings and make a request to the Court for an advisory opinion pursuant to Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. The request, dated 8 December 2020, was registered at the Court on the same day.
- 28 Reykjavík District Court has referred the following question to the Court:

Does Article 25 of Directive 2005/36/EC on the recognition of professional qualifications (see also point (c) of the first paragraph of Article 3, and Articles 21 and 26 of that directive), require that an EEA State that issues evidence of qualifications (called a "specialist licence" (Icelandic: sérfræðileyfi)) for a doctor that enjoys automatic recognition in other EEA States must itself administer the training, recognition of which is sought through the issuance of such evidence, with the result that an EEA State is not to issue such evidence if the training did not take place in that State?

- 29 Reference is made to the Report for the Hearing for a fuller account of the legal framework, the facts, the procedure and the proposed answers submitted to the Court. Arguments of the parties are mentioned or discussed hereinafter only insofar as they are necessary for the reasoning of the Court.

III Answer of the Court

- 30 The case at issue concerns a request for issuance of evidence of formal qualifications which the holder may then use as a basis to apply for recognition as a specialised doctor

in the EEA under the Directive. By its question, the referring court essentially asks whether Article 25 of the Directive requires an EEA State itself to administer specialist training in order for it to issue evidence of formal qualifications, even if specialist training in the subject of qualification does not take place in the State in question.

- 31 In its request, the national court refers to “*evidence of formal qualifications (called a “specialist licence” (Icelandic: sérfræðileyfi))*”. The wording of the request equates the specialist licence issued to Mr Cogelja with evidence of formal qualifications under the Directive. However, based on the facts as presented in the request, the Icelandic Directorate of Health considers the specialist licence merely as an authorisation to practice plastic surgery in Iceland. It follows from the request that the Directorate of Health was unable to attest that Mr Cogelja’s training had been in accordance with the Directive’s requirements.
- 32 The Court finds it appropriate to observe the distinction between a licence issued under national rules that provides only for authorisation to practice in Iceland, which does not constitute evidence of formal qualification, on the one hand, and, on the other hand, evidence of formal qualifications issued in accordance with the Directive, which can be used to obtain recognition.
- 33 Point (c) of Article 3(1) of the Directive defines “evidence of formal qualifications” as diplomas, certificates and other evidence issued by an authority in an EEA State designated pursuant to legislative, regulatory or administrative provisions of that State and certifying successful completion of professional training obtained mainly in the EEA. The definition does not include a certificate issued by an EEA State which does not attest to any education or training covered by the education system of that EEA State and is not based on either an examination taken or professional experience acquired in that State (compare the judgment in *Consiglio Nazionale degli Ingegneri*, C-311/06, EU:C:2009:37, paragraph 58).
- 34 If the “specialist licence” at issue in the main proceedings is a licence that only gives authorisation to practice in Iceland, the issuance of such licence does not provide evidence of formal qualifications under the Directive. However, if the “specialist licence” is meant to constitute evidence of formal qualifications and is listed as such in Annex V to the Directive, and thus is meant to confer a right to mutual recognition in other EEA States, the issuance of such licence must be done in accordance with the requirements in the Directive.
- 35 Article 25 of the Directive sets out the coordinated minimum training requirements for admission to specialist medical training and what such training should include. That article must be read in the light of the general scheme of the Directive and in conjunction with Articles 21, 24 and 26 on the automatic recognition of medical training.
- 36 According to the first paragraph in Article 1 of the Directive, the purpose of mutual recognition of qualifications is to ensure that an EEA State – the host State – which makes access to or pursuit of a regulated profession in its territory contingent upon possession of specific professional qualifications, recognises professional qualifications

obtained in another EEA State – the home State – and which allow the holder to pursue the same profession there. The system of mutual recognition is adopted to give effect to the free movement of persons and services, as noted in recital 1 of the Directive.

- 37 The Directive operates on the premise that the free movement and mutual recognition of doctors' formal qualifications will be based on the principle of automatic recognition of the respective evidence on the basis of coordinated minimum conditions for training. Accordingly, access in the EEA States to the professions of doctor, is made conditional upon the possession of a given qualification ensuring that the person concerned has undergone training which meets the minimum conditions laid down in the Directive (see Case E-1/11 A [2011] EFTA Ct. Rep. 484, paragraph 65).
- 38 Article 21 of the Directive provides for the automatic recognition of evidence of formal qualifications for certain professions on the basis of coordinated minimum conditions for training, including those for doctors, both in terms of basic and specialist training. This system is based on the mutual trust between the EEA States regarding the professional qualifications that are awarded by other EEA States, for the professions covered by the Directive (compare the judgment in *Preindl*, C-675/17, EU:C:2018:990, paragraph 31 and case law cited). Automatic recognition will be unconditional and does not involve any substantive examination by the host EEA State of the evidence of formal qualifications.
- 39 It follows from Article 21(1) of the Directive that evidence of formal qualifications as a specialised doctor must be issued by the competent authority. The competent authority must ensure that the qualitative and quantitative training requirements laid down by the Directive are fully complied with. When exercising its powers, the competent authority must consider the fact that the evidence of formal qualifications will enable its holder to move and to practise a medical specialisation in all EEA States (compare the judgment in *Preindl*, cited above, paragraphs 34 and 35 and case law cited).
- 40 Pursuant to Article 50(1) of the Directive the competent authorities of the host EEA State, which decides on an application for authorisation to pursue the regulated profession, may demand the documents and certificates listed in Annex VII to the Directive. According to Article 50(2), in the event of justified doubts, the host EEA State may require from the competent authorities of the applicant's home EEA State confirmation of the authenticity of the attestations and evidence of formal qualifications. Therefore, the competent authority in the home EEA State that issues the evidence of formal qualifications must make available the documents and formalities as listed in Annex VII.
- 41 Further, it follows from Article 50(3) of the Directive that in cases of justified doubt, where evidence of formal qualifications has been issued by a competent authority in an EEA State and includes training received in another EEA State, the host EEA State is entitled to verify the information listed in points (a) to (c) of that paragraph. The competent authority issuing evidence of formal qualifications must therefore be able to provide supporting documents confirming the fulfilment of minimum training

requirements and, if the training was received partly or wholly in another EEA State, the verification laid down in Article 50(3).

- 42 The Directive's minimum requirements for specialist medical training are set out in Article 25. According to Article 25(4), issuance of evidence of such training is contingent upon the possession of evidence of basic medical training referred to in point 5.1.1 of Annex V to the Directive. It follows from the first paragraph of Article 26 that evidence of formal qualifications as a specialised doctor referred to in Article 21 is such evidence awarded by the competent authorities or bodies referred to in Annex V points 5.1.2 and 5.1.3.
- 43 Article 25(2) and (3) of the Directive establishes that specialist medical training – which comprises both theoretical and practical training – must be given under the supervision of a competent authority and must take place in an establishment recognised for that purpose by the competent authorities. Such training must be given on a full-time basis for a minimum duration of five years (point 5.1.3 of Annex V) and in such a way that the trainee specialist devotes all professional activity to the practical and theoretical training throughout the entire working week and throughout the year. Article 25(3) also explicitly states that training must entail participation in the full range of medical activities of the department where the training is given, including duty on call, in accordance with the procedures laid down by the competent authorities. Thus, Article 25 presupposes that the competent authorities lay down additional procedures for the training in question.
- 44 Accordingly, it follows from the description of specialist medical training in Article 25 and the scheme of the Directive that the issuance of evidence presupposes the existence of a curriculum or its equivalent at the national level prescribing a comprehensive programme of education and training.
- 45 For an EEA State to issue evidence of formal qualifications in compliance with Article 25, it is decisive that the EEA State is able to assess and confirm that the requirements for issuing the evidence of formal qualifications are fulfilled. As argued by ESA and the Commission, this is possible if that EEA State offers specialist medical training within its own territory that fulfils the minimum requirements under the Directive.
- 46 In addition, it follows from point (c) of Article 3(1) and Article 50(3) of the Directive that EEA States may also issue evidence of formal qualifications based on training in one or more other EEA States, even if the training was received in its entirety in an establishment legally established in the territory of another EEA State. The purpose of recognition under the Directive does not depend on where in the EEA the training has been provided; rather, it is decisive whether the training complied with the qualitative and quantitative training requirements of the Directive (compare the judgment in *Tennah-Durez*, C-110/01, EU:C:2003:357, paragraphs 52 and 53). The possibility to study, train and work in one or more EEA States is fundamental to the idea of the internal market and the free movement of workers. Consequently, there is no requirement that all or parts of the training attested to by the evidence must solely take

place in the EEA State issuing that evidence. The automatic recognition system under the Directive presupposes a foundation for confidence between the respective competent authorities.

- 47 Therefore, if an EEA State does not offer the training on its own territory and seeks to issue evidence of professional qualifications based on training, the competent authority in that State must be able to make the necessary verification for the proper functioning of the Directive. As ESA and the Commission have submitted, such an ability could for example be provided by a curriculum, a comprehensive programme or system of benchmarks, but also through a homologation agreement (compare the judgment in *Commission v Greece*, C-274/05, EU:C:2008:585, paragraphs 18 to 25). In such circumstances, the competent authority of the home EEA State must establish a programme or plan for the curriculum and comprehensive training which demonstrates compliance with the requirements for specialist medical training in Article 25.
- 48 In the light of the foregoing, if an EEA State does not have in place a system that secures compliance with the requirements under the Directive, for example by a curriculum or its equivalent prescribing a comprehensive programme of education and training, there is no basis for issuing evidence of formal qualifications as referred to in point 5.1.2 of Annex V to the Directive.
- 49 The answer to the question referred must therefore be that, in order for the competent authority of an EEA State to issue evidence of formal qualifications for specialist medical training in compliance with Article 25 of the Directive, it must be able to assess and confirm that the requirements for issuing the evidence of formal qualifications are fulfilled. This is possible if the EEA State offers specialist medical training that fulfils the minimum requirements under the Directive within its own territory. Otherwise, that competent authority must have in place a system that secures the verification of compliance with the requirements laid down in Article 25 of the Directive, for example by having in place a curriculum or its equivalent prescribing a comprehensive programme of education and training. If not, that competent authority may not issue such evidence of formal qualifications under the Directive.

IV Costs

- 50 The costs incurred by the Norwegian Government, the Austrian Government, ESA and the Commission, which have submitted observations to the Court, are not recoverable. Since these proceedings are a step in the proceedings pending before the national court, any decision on costs for the parties to those proceedings is a matter for that court.

On those grounds,

THE COURT

in answer to the question referred to it by Reykjavík District Court gives the following Advisory Opinion:

In order for the competent authority of an EEA State to issue evidence of formal qualifications for specialist medical training in compliance with Article 25 of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, it must be able to assess and confirm that the requirements for issuing the evidence of formal qualifications are fulfilled. This is possible if the EEA State offers specialist medical training that fulfils the minimum requirements under Directive 2005/36/EC within its own territory. Otherwise, that competent authority must have in place a system that secures the verification of compliance with the requirements laid down in Article 25 of Directive 2005/36/EC, for example by having in place a curriculum or its equivalent describing a comprehensive programme of education and training. If not, that competent authority may not issue such evidence of formal qualifications under Directive 2005/36/EC.

Páll Hreinsson

Per Christiansen

Bernd Hammermann

Delivered in open court in Luxembourg on 10 November 2021.

Ólafur Jóhannes Einarsson
Registrar

Páll Hreinsson
President