

## **EFTA COURT**

### **Request for an Advisory Opinion from the EFTA Court by Borgarting Lagmannsrett dated 11 May 2020 in the case of Tor-Arne Martinez Haugland v The Norwegian Government**

**(Case E-4/20)**

A request has been made to the EFTA Court dated 11 May 2020 from Borgarting Lagmannsrett (Borgarting Court of Appeal), which was received at the Court Registry on 11 May 2020, for an Advisory Opinion in the case of Tor-Arne Martinez Haugland v The Norwegian Government on the following questions:

- 1. In connection with the assessment of “same profession”, see Articles 1 and 4 of the Directive, answers are requested to the following questions:**
  - a. What is the legal assessment and what are the legally relevant factors in the determination of whether a profession in the State where the qualification was obtained and that in the host State constitute the “same profession”?**
  - b. In the determination of “same profession”, must the host State take account of professional activities which the applicant in question may pursue in the State where the qualification was obtained, only under supervision and on the condition that the applicant has commenced a course of further education and training or undertaken to commence such a course of education and training within two years? If so, is it of any consequence that the applicant has opted not to commence or undertake to commence such a course of further education and training?**
  - c. What importance does differences in degree of independence in pursuing a profession and responsibility for patients have in the determination of whether it is the “same profession”?**
- 2. Does the possibility of requiring compensation measures, see Article 14 of Directive 2005/36/EC, have any bearing on the interpretation of what constitutes “same profession”? If so, what importance does this have?**

- 3. What is the specific legal assessment under Article 2(1)(e) of Directive 2005/36/EC, which provides that regulated education and training must be “specifically geared to the pursuit of a given profession”?**
  
- 4. In connection with Articles 28 and 31 of the EEA Agreement, answers are requested to the following:**
  - a. Where an applicant does not fulfil the requirements for having qualifications recognised under Article 13 of the Professional Qualifications Directive, read in conjunction with Article 14, may the applicant rely on Articles 28 and 31 of the EEA Agreement as a basis for pursuing the regulated profession in the host State?**
  - b. If question a is answered in the affirmative, what is then the legally relevant assessment for the examination under Articles 28 and 31?**