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Judgment in Case E-4/20 *Mr. Haugland and Others v The Norwegian Government*

RECOGNITION OF PROFESSIONAL QUALIFICATIONS – PSYCHOLOGIST

In a judgment delivered today, the Court answered questions referred by Borgarting Court of Appeal (*Borgarting lagmannsrett*) regarding the interpretation of Directive 2005/36/EC on the recognition of professional qualifications (“the Directive”). Mr. Haugland and others hold a Master’s degree in psychology from Hungary. Since 2016, candidates holding a Hungarian Master’s degree have had their application for a licence to practice as a psychologist in Norway rejected. The case before the referring court concerns a class action by which Mr. Haugland and others brought proceedings against the Norwegian Government, represented by the Ministry of Health and Care Services, seeking to have the decisions rejecting their applications annulled and to be awarded compensation.

Borgarting Court of Appeal sought guidance on the relevant factors for assessing whether two professions are the “same profession” for the purposes of the Directive. The Court held that in order for the professions to be regarded as the same, the activities they cover must be comparable. Any relevant differences in the scope and nature of those activities must be considered. If the activities are comparable, the professions will be regarded as the same for the purposes of the Directive. Pursuing certain activities for a limited time, as part of training subject to the condition of commitment to further studies, cannot be considered the pursuit of a profession. Differences in degree of independence and patient responsibility may be relevant when determining the exact scope or nature of activities in assessing whether the two professions are the “same profession”.

The Court also found that the possibility of requiring compensation measures under Article 14 of the Directive cannot have any bearing on the interpretation of the “same profession”.

Furthermore, the Court found that the expression “specifically geared to the pursuit of a given profession” in point (e) of Article 3(1) of the Directive must be construed as covering training that is specifically designed to prepare candidates to exercise a given profession. It does not cover qualifications that give access to a wide range of professions, or merely attest, inter alia, academic competence within a given field.

Finally, the Court held that applicants who do not fulfil the requirements for recognition under the Directive may rely on Articles 28 and 31 EEA. The host State must compare all diplomas, certificates and other evidence of formal qualification and relevant professional experience of the applicant, with its own requirements to pursue the profession in question. If the applicant’s knowledge, qualifications, and professional experience are not equivalent, or only partially correspond to those required, the host State must specify what training is lacking in order to facilitate the effective exercise of the fundamental freedoms guaranteed by the EEA Agreement.

The full text of the judgment may be found on the Court’s website: www.eftacourt.int.

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