

COURT PROCEEDINGS

EFTA COURT

JUDGMENT OF THE COURT

of 15 December 2011

in Case E-1/11

Dr A

(Free movement of persons — Directive 2005/36/EC — Recognition of professional qualifications — Protection of public health — Non-discrimination — Proportionality)

(2012/C 307/08)

In Case E-1/11, Dr A — 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 Statens helsepersonellnemnd (Norwegian Appeal Board for Health Personnel), concerning the interpretation of Directive 2005/36/EC and other EEA law, the Court, composed of Carl Baudenbacher, President, Per Christiansen and Páll Hreinsson (Judge-Rapporteur), Judges, gave judgment on 15 December 2011, the operative part of which is as follows:

- In principle, Directive 2005/36/EC precludes the authorities of EEA States from applying national rules providing for a right to deny an authorisation as a medical doctor to a migrant applicant from another EEA State who fulfils the requirements under the Directive for a right to mutual recognition of professional qualifications.
 - However, an EEA State may make an authorisation conditional upon the applicant having a knowledge of languages necessary for practising the profession on its territory.
 - Moreover, an EEA State may suspend or withdraw an authorisation to pursue the profession of a medical doctor based on information concerning the personal aptitude of a migrant doctor relating to the professional qualification other than language skills, such as the ones in question, only if such requirements are objectively justified and proportionate to achieve the objective of protecting public health and if the same information would also entail a suspension or withdrawal of authorisation for a national doctor. If such grounds for suspension or withdrawal are available to the competent authorities at the time of assessment, the authorisation may be denied.
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