

Brussels, 25 September 2024  
Case No: 91996  
Document No: 1459443  
Decision No: 152/24/COL

Norwegian Ministry of Health and Care Services  
Postboks 8011 Dep  
0030 Oslo  
Norway

Dear Sir or Madam,

**Subject: Letter of formal notice to Norway concerning the lack of compensation measures for the recognition of health professionals, in particular nutritionists, in Norway**

## 1 Introduction

By a letter dated 9 April 2024 (Doc No 1448536), the EFTA Surveillance Authority (“the Authority”) informed the Norwegian Government that it had opened an own initiative case regarding the non-availability of aptitude tests as compensation measure for, the profession of nutritionist (in Norway: clinical nutritionist - *klinisk ernæringsfysiolog*). The Authority became aware of problems in that respect in the context of an enquiry by a foreign nutritionist who wanted to have her foreign qualifications recognized in Norway (Case No 91260).

The issue in this case is that Norway does not to offer a choice between an aptitude test or supervised practice (“adaptation period”) as required by EEA law, but only provides for on an adaptation period. Moreover, these adaptation periods were only accepted by the competent authorities in specific limited institutions (university hospitals) in Norway, where the applicants do not have a clear prospect when they would get access to such practice or if at all. This issue formed the subject matter of the aforementioned enquiry submitted by a nutritionist having obtained her professional qualifications in another EEA State. It appears however that other (if not all) health professionals wishing to recognise their professional qualifications in Norway face the same challenges.

## 2 Correspondence

By the same letter, the Authority requested information about how aptitude tests and supervised practice periods are provided for in relation to all health professionals requesting recognition of their foreign qualifications in Norway. In its reply from 13 May 2024 (Doc No 1456502), the Norwegian Government outlined the legal basis for these compensation measures, but, at the same time, confirmed that, in practice, the Norwegian Directorate of Health does not currently offer aptitude tests for any of the health professions. There has been a pilot project between 2019-2023 to provide such for nutritionists, but still today, no aptitude tests are available.

The Norwegian Government also pointed out that, as to adaptation periods, the relevant training institutions are currently not informed about providing such supervised practice periods for nutritionists. Moreover, the Directorate of Health would in general not have any

pre-approved placements and not engage in dialogue with training institutions about securing applicants supervised practice periods.

### 3 Relevant EEA law

Directive 2005/36/EC on the recognition of professional qualifications<sup>1</sup> as amended by Directive 2013/55/EU<sup>2</sup>, sets out the condition of recognition under the general recognition system in its Articles 13 and 14 in the following way:

#### *“Article 13 - Conditions for recognition*

1. If access to or pursuit of a regulated profession in a host Member State is contingent upon possession of specific professional qualifications, the competent authority of that Member State shall permit applicants to access and pursue that profession, under the same conditions as apply to its nationals, if they possess an attestation of competence or evidence of formal qualifications referred to in Article 11, required by another Member State in order to gain access to and pursue that profession on its territory.

[...]

#### *Article 14 - Compensation measures*

1. Article 13 shall not preclude the host Member State from requiring the applicant to complete an adaptation period of up to three years or to take an aptitude test if:

(a) the training the applicant has received covers substantially different matters than those covered by the evidence of formal qualifications required in the host Member State;

(b) the regulated profession in the host Member State comprises one or more regulated professional activities which do not exist in the corresponding profession in the applicant's home Member State, and the training required in the host Member State covers substantially different matters from those covered by the applicant's attestation of competence or evidence of formal qualifications.

2. If the host Member State makes use of the option provided for in paragraph 1, it must offer the applicant the choice between an adaptation period and an aptitude test.

Where a Member State considers, with respect to a given profession, that it is necessary to derogate from the requirement, set out in the previous subparagraph, that it give the applicant a choice between an adaptation period and an aptitude test, it shall inform the other Member States and the Commission in advance and provide sufficient justification for the derogation.

---

<sup>1</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.9.2005, p. 22–142. Incorporated into the EEA agreement by Decision No 142/2007 (OJ L 100, 10.4.2008, p. 70 and EEA Supplement No 19, 10.4.2008, p. 70), e.i.f. 1.7.2009.

<sup>2</sup> 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 ('the IMI Regulation') Text with EEA relevance, OJ L 354, 28.12.2013, p. 132–170. Incorporated into the EEA agreement by Decision No 94/2017 (OJ L 36, 7.2.2019, p. 52 and EEA Supplement No 11, 7.2.2019, p. 62), e.i.f. 1.1.2019.

Where the Commission considers that the derogation referred to in the second subparagraph is inappropriate or that it is not in accordance with Union law, it shall adopt an implementing act, within three months of receiving all necessary information, to ask the relevant Member State to refrain from taking the envisaged measure. In the absence of a response from the Commission within that deadline, the derogation may be applied.

3. By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph 2, for professions whose pursuit requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity, the host Member State may stipulate either an adaptation period or an aptitude test.

This applies also to the cases provided for in Article 10 points (b) and (c), in Article 10 point (d) concerning doctors and dental practitioners in Article 10 point (f) when the migrant seeks recognition in another Member State where the relevant professional activities are pursued by nurses responsible for general care or specialised nurses holding evidence of formal qualifications as a specialist who have taken part in the training leading to the possession of the titles listed in Annex V, point 5.2.2 and in Article 10 point (g).

In the cases covered by Article 10 point (a), the host Member State may require an adaptation period or an aptitude test if the migrant envisages pursuing professional activities in a self-employed capacity or as a manager of an undertaking which require the knowledge and the application of the specific national rules in force, provided that knowledge and application of those rules are required by the competent authorities of the host Member State for access to such activities by its own nationals.”

Article 3(1), letters (g) and (h), of the Directive **defines** the two concepts in the following way:

“(g) “adaptation period”:

the pursuit of a regulated profession in the host Member State under the responsibility of a qualified member of that profession, such period of supervised practice possibly being accompanied by further training. This period of supervised practice shall be the subject of an assessment. The detailed rules governing the adaptation period and its assessment as well as the status of a migrant under supervision shall be laid down by the competent authority in the host Member State.

The status enjoyed in the host Member State by the person undergoing the period of supervised practice, in particular in the matter of right of residence as well as obligations, social rights and benefits, allowances and remuneration, shall be established by the competent authorities in that Member State in accordance with applicable Community law.

(h) “aptitude test”:

a test of the professional knowledge, skills and competences of the applicant, carried out or recognised by the competent authorities of the host Member State with the aim of assessing the ability of the applicant to pursue a regulated profession in that Member State.

In order to permit this test to be carried out, the competent authorities shall draw up a list of subjects which, on the basis of a comparison of the education and training

required in the host Member State and that received by the applicant, are not covered by the diploma or other evidence of formal qualifications possessed by the applicant.

The aptitude test must take account of the fact that the applicant is a qualified professional in the home Member State or the Member State from which the applicant comes. It shall cover subjects to be selected from those on the list, knowledge of which is essential in order to be able to pursue the profession in question in the host Member State. The test may also cover knowledge of the professional rules applicable to the activities in question in the host Member State. The detailed application of the aptitude test and the status, in the host Member State, of the applicant who wishes to prepare himself for the aptitude test in that Member State shall be determined by the competent authorities in that Member State.”

#### 4 Relevant national law

The Regulation on authorisation, license and specialist approval for healthcare personnel with professional qualifications from other EEA countries or from Switzerland (*“Forskrift om autorisasjon, lisens og spesialistgodkjenning for helsepersonell med yrkeskvalifikasjoner fra andre EØS-land eller fra Sveits”*) incorporates the relevant parts of the Directives<sup>3</sup>:

Article 15, first paragraph, of the Regulation states that the Norwegian Directorate of Health may require the applicant to undergo either a practice period of up to three years under supervision, or to pass an aptitude test. Article 15, fifth paragraph, of the Regulation states that the applicant can choose between aptitude test and supervised practice.

**“§ 15. Special requirements that may be imposed due to the duration, content and level of the education<sup>4</sup>**

The Norwegian Directorate of Health can require that the applicant undergo either a trial period of no more than three years under supervision or pass an aptitude test if

- a. the applicant's education is significantly different from the education provided for the profession in question in Norway, or
- b. the profession in question in Norway includes legally regulated professional activities that are not included in a comparable form in the corresponding profession in the applicant's home state, and a special education is required in Norway that is significantly different from the applicant's education.

Education as mentioned in the first paragraph is significantly different from the applicant's education when the applicant lacks knowledge in areas that are crucial for the practice of the profession and the applicant's education shows important differences in terms of duration or content compared to education required in Norway.

By trial period is meant the exercise of a legally regulated profession under the supervision of a qualified practitioner of this profession. The period of practice under supervision must be subject to an assessment. Such a supervision period may be supplemented with further education.

---

<sup>3</sup> Available in lovdata: [https://lovdata.no/dokument/SF/forskrift/2008-10-08-1130/KAPITTEL\\_3#KAPITTEL\\_3](https://lovdata.no/dokument/SF/forskrift/2008-10-08-1130/KAPITTEL_3#KAPITTEL_3).

<sup>4</sup> Unofficial translation.

Aptitude test means a test of the applicant's professional knowledge to assess the applicant's ability to exercise a legally regulated profession as mentioned in section 13. The test is organized by the Directorate of Health. The Directorate of Health must draw up a list of subjects which, on the basis of a comparison between the education and training required in Norway and the education or training the applicant has, are not covered by the degree certificate or other qualification certificate the applicant has. The suitability test must take into account that the applicant is a qualified professional in the home state or the most recent state of residence. The test must include subjects chosen from the list, and knowledge of which is an essential prerequisite in order to be able to practice the profession in question. The test may also include knowledge of regulations that apply to the practice of the profession in question in Norway. The applicant must be given the opportunity to take the aptitude test no later than six months after the directorate has decided that the applicant must take such a test.

Before a decision on a trial period or aptitude test is made, it must be assessed whether the knowledge the applicant has acquired through professional experience fully or partially compensates for the significant discrepancy in and between the educations.

Applicants can choose between a trial period and an aptitude test. The Norwegian Directorate of Health must nevertheless choose between a trial period or an aptitude test in the following cases:

- a. for doctors with basic medical education, medical specialists, nurses, dentists, dental specialists, midwives and pharmacists who do not meet the requirements for practice to acquire rights as mentioned in the EU's professional qualifications directive articles 23, 27, 33, 37, 39, 43 and 49,
- b. for approval of the relevant specialty for doctors and dentists, who can present formal documentation that the person concerned is a specialist who must have participated in education leading to a title as mentioned in the EU's occupational qualifications directive annex V point 5.1.1, 5.2.2, 5.3. 2, 5.4.2, 5.5.2, 5.6.2 and 5.7.1,
- c. for applicants who have professional qualifications from a third country that are recognized by another EEA member state or Switzerland and who can document three years of practice in the relevant profession from this state.”

## 5 The Authority's assessment

### 5.1. *The concept of recognition of professional qualifications*

Directive 2005/36/EC constitutes the European legal framework for the recognition of professional qualifications. This Directive only applies in cross-border cases where the professional who is fully qualified to access their profession in the home State seeks to exercise his professional activities in another EEA State (see Article 1 in conjunction with Article 4(1) of the Directive).<sup>5</sup>

The Directive contains two main concepts of recognition: an automatic recognition based on minimum harmonisation of training requirements (automatic recognition system) and a mutual recognition based on a substantive comparison of training and professional experience of the individual applicant and the training requirements in the host Member State (general system of recognition). The latter allows for the possibility of proportionate compensation measures in case of substantial differences in training or reserved activities.

---

<sup>5</sup> CJEU Case C-225/95, *Kapasakalis*, ECLI:EU:C:1998:332.

The general system of recognition establishes that the competent authority of the Member State, in which the professional wishes to practise (the host State), must permit access to and pursuit of the profession in question, under the same conditions that apply to its nationals, to applicants possessing the evidence of formal qualifications required by another EEA State (the home State) in order to gain access to and pursue that profession on its territory (see Article 13 of the Directive). Accordingly, as the Court of Justice of the EU has clarified, a diploma is not recognized on the basis of the intrinsic value of the education and training to which it attests, but because it gives the right to take up a regulated profession in the State where it was awarded.<sup>6</sup>

However, the competent national authorities of a host State are allowed to assess whether the knowledge and qualifications acquired in the home State by a professional are sufficient. If the difference in training and/or reserved activities is substantial, the host Member State may apply compensation measures that may not go beyond what is specified in Article 14 of the Directive.<sup>7</sup>

In any event, the recognition process needs to be proportionate in terms of procedures and requirements. Compensatory measures must be restricted to those cases where they are proportionate to the objective pursued (see Article 14(5) of the Directive).

#### *5.2. The application of compensation measures as foreseen in Article 14 of the Professional Qualifications Directive and the related Guide of Conduct for national administrations*

According to Article 14, paragraph 2, first sentence, of the Directive, if the host State makes use of compensation measures, it must offer the applicant the choice between an adaptation period and an aptitude test. The rest of Article 14(2) and (3) contain exceptions to the choice of compensation measures. Those concern, in the field of health, professionals with third country diplomas, professionals of the sectoral system that exceptionally fall under the general system (doctors, nurses, dentist, midwives and pharmacists) and professionals where the difference of education is more than two levels as set out in Article 11 of the Directive (see Article 14(3) of the Directive). None of these exceptions apply to medical professions in general or specifically to nutritionists which are particularly at issue in the present case, which are thus not covered by these exceptions. In addition, an EEA State could also request an explicit derogation for a specific profession from the European Commission / the Authority on the basis of Article 14(2) of the Directive. Norway has however not requested an explicit specific exception for any health profession from the Authority.

According to Article 14(1) of the Directive, a compensation measure can either be an adaptation period or an aptitude test. An adaptation period constitutes the pursuit of a regulated profession in the host State under the responsibility of a qualified member of that profession, which is possibly accompanied by further training (see definition in Article 3(1)(g) of the Directive). An aptitude test is a test of the professional knowledge, skills and competences of the applicant, carried out or recognised by the competent authorities of the host State with the aim of assessing the ability of the applicant to pursue a regulated profession in that State. It can be theoretical or practical (see definition in Article 3(1)(h) of the Directive).

Either of the compensation measures can only be imposed where (i) the matters covered by the education and training received differ substantially from those covered by the diploma required in the host Member State, or (ii) the profession regulated in the host Member State comprises one or more regulated professional activities which are not part

---

<sup>6</sup> CJEU Cases C-102/02 *Beuttenmüller*, ECLI:EU:C:2004:264, paragraph 52, and C-330/03 *Colegio de Ingenieros de Caminos*, ECLI:EU:C:2006:45, paragraph 19.

<sup>7</sup> CJEU Case C-729/17, *Commission / Greece*, ECLI:EU:C:2019:534, paragraphs 91-92.

of the profession in the home State and that difference between the professional activities in the two EEA States concerned corresponds to different specific training (see Article 14(1) of the Directive).<sup>8</sup> “Substantially different matters” means matters in respect of which knowledge, skills and competences acquired are *essential* for pursuing the profession and with regard to which the training already received by the applicant has significant differences in terms of content from the training required by the host Member State (see definition in Article 14(4) of the Directive).

If the host State intends to require from the applicant to complete an adaptation period or take an aptitude test, it must first ascertain whether the knowledge, skills and competences acquired by the applicant in the course of his professional experience or through lifelong learning, and formally validated to that end by a relevant body, in any EEA State or in a third country, is of such nature as to cover, in full or in part, the substantially different matters.<sup>9</sup>

Chapter III of the Guide of Conduct adopted by the Group of Coordinators<sup>10</sup>, which is the Committee assisting the European Commission with the implementation and application of the Professional Qualifications Directive, where also the EEA EFTA States are members with observer status, contains further specifications on compensation measures. The guide identifies as acceptable practice, at its point 9, the following obligations of the competent authorities in relation to **aptitude tests**:

- “(a) Frequency: according to demand, at least two sessions a year; [...].
- (b) A list of the national bodies responsible for organising aptitude tests must be made available to the candidate by the competent authority.
- (c) In order to enable the migrant to make a choice between a test and a training period, he/she must be informed, without delay, by the competent authority, of the essential element concerning the content and organisation of the test (time allowed, written and/or oral tests, options, etc.).
- (d) Once the migrant has opted for the test, he/she must be notified, without delay, by the competent authority of the administrative formalities to be completed in order to enrol for the aptitude test; it must be possible to provide an enrolment form for the aptitude test.
- (e) Migrants are allowed to re-sit the test. The rules governing the number of times candidates may take the test should take account of national practice (with due regard for the principle of non-discrimination).”

Everything that is less than the efforts expressed at points (a) – (e) is not considered as an acceptable practice. The Authority considers that this description of practice expresses the requirements upon a host State under Article 14. Failing to provide for these obligations in relation to aptitude tests entail a disproportionate burden for the applicant.

As a best practice, upon request, for the purpose of preparation for an aptitude test, the competent authority could provide also a contact point of information on any preparatory courses provided, lists of recommended reading and sample test papers to the applicant (see best practice point (a) under point 9 of the guide).

For **adaptation periods**, a similar list exists under point 11 of the guide, enumerating the following obligations of the competent authorities as an acceptable practice:

- “(a) In order to enable the migrant to make a choice between a test and a training period, he/she must be notified, without delay, by the competent authority of the

<sup>8</sup> See also CJEU Case C-136/07, *Commission / Spain*, ECLI:EU:C:2008:569, paragraph 53.

<sup>9</sup> See, i.e. CJEU Case C-422/09, *Vandourou*, ECLI:EU:C:2010:732, paragraph 67 and case law referred to there.

<sup>10</sup> OJ L 255, of 30.9.2005.

essential elements concerning the content and organisation of the adaptation period.

(b) Once the migrant has opted for the adaptation period, he/she must be notified, without delay, by the competent authority of the administrative formalities to be completed for enrolment for the adaptation period.

(c) Where this is possible within the host country's national structures, the migrant may receive payment during the adaptation period; however, this does not constitute a right; in any case he/she must receive information on this issue.

(d) If a statute for a trainee has been defined at national level, it must also be applicable to migrants on the grounds of the principle of equal treatment.

(e) The host Member State may confer responsibility for organising adaptation periods on authorised establishments and/or training supervisors. However, the arrangements for the adaptation period should not be so daunting that they constitute an indirect and disproportionate obstacle for the migrant (e.g.: too far to travel to the place of the training period, over-restrictive conditions, etc.).

A list of establishments/people responsible for adaptation periods for the profession that the migrant wishes to exercise should be made available to him.”

Everything that is less than the efforts expressed at points (a) – (e) is not considered as an acceptable practice by the competent authorities. The Authority considers that this description of practice expresses the requirements upon a host State under Article 14. Failing to provide for these obligations in relation to adaptation periods entail a disproportionate burden for the applicant.

The best practice would be that the migrant would be free to choose a training supervisor and the place where the adaptation period would be spent. Or, at least, in case of difficulties in finding a place for the adaptation period, the contact point or the competent authority would assist the migrant to find one (see best practice points (a) and (b) under point 11 of the guide).

### *5.3. The application of compensation measures in Norway for health professions in practice*

#### *5.3.1. Administrative practice of a consistent and general nature of not providing aptitude tests for health professions in Norway*

It is undisputed that the Norwegian Regulation on authorisation, license and specialist approval for healthcare personnel with professional qualifications from other EEA countries or from Switzerland clearly includes in its §15 the possibility of an aptitude test and an adaptation period together with the possibility for the applicant to choose one, as required by Article 14(1) and (2) of the Directive.

However, it is the Authority's understanding on the basis of information provided by the Norwegian Government that in practice these rights and obligations are not followed by the competent authorities. According to settled case law of the CJEU and the EFTA Court, a failure to fulfil obligations under the EEA Agreement may arise due to the existence of an administrative practice which infringes EEA law when the practice is, to some degree, of a consistent and general nature.<sup>11</sup>

Such consistent administrative practice can be established for the profession of nutritionist by the individual person enquiring the situation with the Authority and the explicit

---

<sup>11</sup> See EFTA Court Case E-6/12, *EFTA Surveillance Authority v Norway*, paragraphs 58 to 63, and case-law referred to there.



confirmation of this as being the general situation for all health professions by the Norwegian Government in its letter of 13 May 2024.

In addition, the Authority has scrutinised the data provided by the Norwegian Government into the Database of Regulated Professions, which is administered by the European Commission<sup>12</sup>, reporting on recognition decisions taken for 21 professions subject to the general system of recognition under the Directive that can be considered to be health professions in Norway, or at least, to fall in the competence of the Ministry of Health and Care Services.<sup>13</sup> From that data, it emanates that in the period between 2017-2024, no applicant has ever undergone an aptitude test, while there were more than 100 cases that underwent an adaptation period.

Since normally among applicants for recognition the aptitude test is the preferred option (compared to other EEA States), because it is passed much faster and placements for adaptation periods are limited, the numbers seem to confirm the statement of the Norwegian Government that no aptitude tests are available in Norway for health professions.

In the light of the above, it must be concluded that the administrative practice of the Norwegian competent authorities of not providing a possibility for an aptitude test for the recognition procedure under the general system of recognition for health professions, is a breach of Article 14(1) and (2) of Directive 2005/36/EC.

For purposes of illustration, the gravity of such lack of choice shall be outlined here specifically for the profession of nutritionist, although the problem will be similar for all health professions subject to the general system of recognition.

The following data can be extracted from the Database of Regulated Professions concerning recognition decisions by the Norwegian authorities in the years 2017-23:

	total decisions taken by NO	positive	negative	neutral	undergoing adaptation period	Positive or negative decisions after compensation measure
2017	13	7	4	2	0	0
2018	27	7	9	11	0	0
2019	16	2	0	14	0	0
2020	23	2	0	21	0	0
2021	7	1	0	6	0	0
2022	10	0	1	9	3	0
2023	12	1	5	6	0	0

<sup>12</sup> Public access to the data base of regulated professions to be found here:

<https://ec.europa.eu/growth/tools-databases/regprof/>.

<sup>13</sup> Ambulansearbeider, apotektekner, audiograf, bioingeniør, ergoterapeut, fotterapeut, fysioterapeut, helsefagarbeider, helsesekretær, hjelpepleier, kiropraktor, klinisk, ernæringsfysiolog, manuellterapeut, naprapat, omsorgsarbeider, optiker, ortopediingeniør, ortoptist, osteopat, paramedisiner, perfusjonist, psykolog, radiograf, reseptarfarmasøyt, tannhelsesekretær, tannpleier, tanntekner, vernepleier.

<b>2020-23</b>	<b>108</b>	<b>20</b>	<b>19</b>	<b>69</b>	<b>3</b>	<b>0</b>

The data of the last seven years shows that of in total 108 decisions of recognition of a foreign nutritionist were taken by the Norwegian authorities, of which 20 applicants got a positive decision and 19 were explicitly refused. The “neutral decisions” represent those decision where in principle a recognition could take place, but the applicant had to undergo a compensation measure (“decisions under assessment”) or appeals procedures are pending (assumably where the first decision was negative). It is the Authority’s understanding that this was the case for 69 applicants.

The data shows that no applicant has ever got access to an adaptation test. Moreover, only three of these 69 applicants ever entered an adaptation period and none of them has ever received a positive or negative decision afterwards. This means that the three are either still waiting to start or are still active in the adaption period. These 69 also cover applicants that have abandoned the recognition process, e.g. because they have not found a placement within a reasonable time-period. It must be emphasised that these applicants usually are already present in Norway to seek for placements and cannot work in their profession and must, insofar as they will be considered non-economically active persons, comply with requirements of Directive 2004/38/EC on the right of citizens of the Union and their family members in order to move and reside freely within the territory of the Member States.<sup>14</sup>

The fact that no “decision after a compensation measure”, either positive or negative, was taken by the competent authorities shows that no applicant has ever finalised any compensation measure, aptitude test or adaption period, in the last seven years. This means that in total more than 60% of applicants during that period could not get a recognition of their professional qualifications due to the non-availability of effective compensation measures in Norway.

### *5.3.2 The situation of foreign nutritionists undergoing an adaptation period*

Article 3(1)(g) of the Directive requires that the status enjoyed in the host State by the person undergoing the period of supervised practice, in particular, in the matter of right of residence as well as obligations, social rights and benefits, allowances and remuneration, shall be established by the competent authorities in that State in accordance with applicable EEA law.

The Authority is not aware of any such information provided by the Norwegian competent authorities to potential applicants either in general on the website, by way of guidelines or administrative circulars or on individual level. This impression is confirmed by the enquirer who stated essentially that the competent authorities did not provide any more specific information except that it is necessary to do an adaptation period at a university hospital, but would not interact further support the applicant or interact with the potential training institutions.<sup>15</sup> The latter has also been acknowledged by the Norwegian Government in its letter dated 13 May 2024.

<sup>14</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158, 30.4.2004, p. 77.

<sup>15</sup> SOLVIT case of the inquirer No 4880/23/IT, which was closed as unresolved on the basis of these reasons.

In general, the Authority finds, in light of the information provided by the Norwegian government, that the Norwegian competent authorities provide less support to applicants for recognition of professional qualifications than is required by Article 3(1)(g) of Directive 2005/36/EC and what is considered an acceptable administrative practice under the adopted Guide of Conduct under point 11, specifying Article 14(1) and (2) of the Directive. This passivity of the competent authorities results in the fact that in the last seven years no nutritionist was able to complete an adaptation period in Norway (see data in the table presented under point 5.3.1 above). Since there is also no possibility to opt for an aptitude test, the imposition of an adaptation period by the competent authorities equals a dead-end street for foreign nutritionists who apply for the recognition of their professional qualifications.

The Authority has no reason to believe that this differs for other health professions subject to the general system of recognition.

Thus, in the light of the above, the non-provision of information and support by the competent authorities for the purpose of enabling realistically nutritionists and other health professionals to undergo and aptitude test, Norway also fails to fulfil its obligations arising from Article 3(1)(g) in conjunction with Article 14(1) and (2) of Directive 2005/36/EC.

## 6 Conclusion

Accordingly, as its information presently stands, the Authority must conclude that, by maintaining the administrative practice of not providing any aptitude tests as a compensation measure for health professions in general and not providing any support to nutritionists for a realistic possibility to access an adaptation period, Norway has failed to fulfil its obligation arising from Articles 14(1) and (2) in conjunction with 3(1)(g) of Directive 2005/36/EC respectively, as amended by Directive 2013/55/EU, as adapted to the EEA Agreement by Protocol 1 thereto.

In these circumstances, and acting under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Authority requests that the Norwegian Government submits its observations on the content of this letter *within two months* of its receipt.

After the time limit has expired, the Authority will consider, in the light of any observations received from the Norwegian Government, whether to deliver a reasoned opinion in accordance with Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

For the EFTA Surveillance Authority

Arne Røksund  
President

Stefan Barriga  
Responsible College Member

Árni Páll Árnason  
College Member

Melpo-Menie Joséphidès  
Countersigning as Director,  
Legal and Executive Affairs

*This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.*