

EFTA Surveillance Authority

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Implementation of Directive 2005/36/EC on the recognition of professional qualifications – justification for derogation according to art. 14 (2)

According to Article 14 (1) of the Directive 2005/36/EC on the recognition of professional qualifications, the host Member State under certain conditions may require the applicant to complete an adaptation period up to three years or to take an aptitude test. 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.

However, according to Article 14 (2) second subparagraph of the Directive, the Member State can derogate from the requirement given in the first subparagraph. In such case, the Member State shall inform the other Member States and the Commission in advance and provide sufficient justification for the derogation.

In accordance with the above, The Norwegian Ministry of Labour hereby call attention to and inform ESA that Norway consider it necessary to derogate from the principle of choice between an adaptation period and an aptitude test with respect to the professions of Diver, Diving Supervisor and Assistant Diver. These are all professions under the Norwegian Regulation of 30 November 1990, Regulation related to Diving.

The Norwegian Ministry of Labour considers that the adaptation period may represent an increased threat to the divers' health and safety. Professional diving is potentially hazardous, and is considered so physically and psychologically demanding that it can affect divers' health. Due to the inherent risks involved, the Norwegian authority has applied a regulation to establish a high level of safety for professional diving. Diving is mostly teamwork. Within the team, divers are depending on each other to make the operation run safely and efficiently. Consequently, it is our opinion that each and every dive team member needs the experience or training necessary to perform the assigned tasks safely. To include a less or differently qualified diver in the team, will represent added risk to all divers' health and safety.

Additionally, the ability to carry out an adaptation period depends on the willingness of the professional diving companies to take on such a task. That could prove to be difficult.

On this basis, the Norwegian Ministry of Labour considers that the justification above is sufficient for the derogation mentioned in Article 14(2).

According to Article 14 (2) the Member State shall also inform the other Member States about the derogation. Regarding this, The Norwegian Ministry of Labour would like to ask for ESAs response on how this will be communicated to the other Member States in accordance to Article 14 (2).

Yours sincerely

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Kunnskapsdepartementet/Ministry of Education and Research

Direktoratet for arbeidstilsynet/Directorate of Labour Inspection